

## Chapter 859

H.B. No. 2567

### AN ACT

relating to forest pest control.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 152.001, Natural Resources Code, is amended to read as follows:

Sec. 152.001. POLICY. It is the public policy of the State of Texas to mitigate and control [~~forest~~] pests [~~in or~~] threatening forest land [~~forests~~] in this state in order to protect associated ecological [~~forest~~] resources, enhance the health [~~growth~~] and maintenance of forests, promote stability of forest-using industries, ensure public safety [~~protect recreational wildlife uses~~], and conserve the ecosystem [~~other~~] values of the forest.

SECTION 2. Sections 152.003(1), (2), (3), (6), and (7), Natural Resources Code, are amended to read as follows:

(1) "Service" means the Texas A&M Forest Service.

(2) "Forest pests" means native insects and diseases, nonnative invasive insects and diseases, and noxious and invasive plants included on a list under Section 71.151, Agriculture Code, that are harmful, injurious, or destructive to forests or trees and whose damage, if uncontrolled, is of considerable economic and environmental importance [~~, and includes:~~

~~[(A) pine bark beetles of the genera Dendroctonus, Ips, Pissodes, and Hyllobius,~~

~~[(B) sawflies of the genus Neodiprion,~~

1                    [~~(C) defoliators in the genera Datana,~~  
2 ~~Malacosoma, Hyphantria, Diapheromera, and Galerucella,~~  
3                    [~~(D) pine shoot moth of the genus Rhyacionia,~~  
4                    [~~(E) wilt of the genus Chalora, and~~  
5                    [~~(F) rots of the genera Fomes and Polyporus].~~

6                    (3) "Forest land" means land with at least 10 percent  
7 cover by live trees of any size, including land that formerly had  
8 that amount of tree cover and will be naturally or artificially  
9 regenerated [~~on which the trees are potentially valuable for timber~~  
10 ~~products, protection of watersheds, wildlife habitat, recreational~~  
11 ~~uses, or for other purposes], but does not include land within the~~  
12 incorporated limits of a village, town, or city.

13                    (6) "Infestation" means actual infestation or  
14 infection at conditions beyond normal proportion causing [~~abnormal~~  
15 ~~epidemic]~~ loss to forests [~~present or future commercial timber~~  
16 ~~supply or both].~~

17                    (7) "Landowner" and "owner" mean a person who owns  
18 forest land or has forest land under the person's [~~his~~] direction  
19 irrespective of ownership.

20                    SECTION 3. The heading to Subchapter B, Chapter 152,  
21 Natural Resources Code, is amended to read as follows:

22                    SUBCHAPTER B. POWERS AND DUTIES OF [~~THE~~] TEXAS A&M FOREST SERVICE

23                    SECTION 4. Section 152.016, Natural Resources Code, is  
24 amended to read as follows:

25                    Sec. 152.016. PROCEDURES FOR CONTROL. [~~(a)~~] As soon as  
26 practicable after the hearing, the service shall promulgate  
27 procedures to be followed for the control of the infestation and

1 shall[+

2           ~~[(1) mail a copy to all appearing at the hearing and to~~  
3 ~~all to whom notices were originally sent, and~~

4           ~~[(2)]~~ publish a copy in a newspaper circulated in the  
5 affected area in the same manner as publication of preliminary  
6 notice.

7           ~~[(b) Publication as provided in Subsection (a) of this~~  
8 ~~section is notice to each landowner and each tract of land in the~~  
9 ~~affected area on the date of publication.]~~

10           SECTION 5. Sections 152.018(a), (b), and (c), Natural  
11 Resources Code, are amended to read as follows:

12           (a) The notice required by Section 152.017 ~~[of this code]~~  
13 shall inform the landowner of:

14                   (1) the facts found to exist;

15                   (2) the landowner's ~~[his]~~ responsibilities for the  
16 control measures;

17                   (3) the control technique recommended;

18                   (4) the law under which control must be accomplished;

19 and

20                   (5) the authority of the service in the event the  
21 landowner takes no action toward controlling the pest.

22           (b) The notice may be given by:

23                   (1) personal delivery to ~~[service on]~~ the landowner or  
24 ~~[on]~~ the person having control of the forest land;

25                   (2) registered or certified mail directed to the  
26 landowner or person having control of the forest land at that  
27 person's ~~[his]~~ last known address; or

1 (3) if the identity or ~~[person or his]~~ address of the  
2 landowner or person having control of the forest land is unknown:

3 (A) [r] publication in one issue of a newspaper  
4 of general circulation in the county in which the land is located;  
5 or

6 (B) posting notice on the county's Internet  
7 website or on a bulletin board at a place convenient to the public  
8 in the county courthouse for the county in which the land is  
9 located.

10 (c) A published or posted notice under Subsection (b) must  
11 ~~[of this section shall]~~ include the information specified in  
12 Subsection (a) ~~[of this section]~~, state the name of the owner, if  
13 known, and briefly describe the land to which the notice applies.

14 SECTION 6. Section 152.019, Natural Resources Code, is  
15 amended to read as follows:

16 Sec. 152.019. NOTICE TO FOREST OWNER. If the landowner has  
17 notified the service of a forest owner under ~~[given notice to the~~  
18 ~~service of an interest in the forest on his land owned by another,~~  
19 ~~as provided for in]~~ Section 152.064 ~~[of this code]~~, the service  
20 shall furnish the same information to the forest owner that it is  
21 required by ~~[the provisions of]~~ this chapter to give to the  
22 landowner.

23 SECTION 7. Section 152.020(a), Natural Resources Code, is  
24 amended to read as follows:

25 (a) A landowner shall inform the ~~[The]~~ service of measures  
26 taken ~~[shall keep informed of what is done]~~ by the landowner to  
27 ~~[take measures to]~~ control the infestation and the results of those

1 measures [~~result of it~~].

2 SECTION 8. Section 152.021, Natural Resources Code, is  
3 amended to read as follows:

4 Sec. 152.021. CONTROL MEASURES APPLIED BY [~~FOREST~~] SERVICE.  
5 If the landowner or another person fails to apply the pest control  
6 measures prescribed by the service not later than the 10th day after  
7 the date [~~are not applied by the landowner or any other person~~  
8 ~~within 10 days from the time~~] notice is given under Section 152.014  
9 or 152.018, [~~as provided in this chapter, exclusive of the date the~~  
10 ~~notice is given, representatives of~~] the service may contact the  
11 landowner to offer further assistance or may [~~shall~~] enter the land  
12 and have the forest pests controlled [~~or destroyed~~].

13 SECTION 9. Section 152.022, Natural Resources Code, is  
14 amended to read as follows:

15 Sec. 152.022. EXPENSE OF CONTROL MEASURES TAKEN BY SERVICE.  
16 (a) The landowner shall pay [~~Except as provided in Subsection (b)~~  
17 ~~of this section,~~] all charges and expenses of [~~destruction or~~  
18 control measures taken by the service [~~shall be paid by the owner of~~  
19 ~~the land on which the infestation occurred~~].

20 (b) The service shall charge amounts consistent with  
21 current commercial rates for control measures taken [~~If the tract~~  
22 ~~with respect to which the service conducted control measures~~  
23 ~~contains 50 acres of forest land or less and the landowner in whose~~  
24 ~~name the record title to the land stands owns no more than 50 acres~~  
25 ~~of forest land in the county in which the infestation occurred, the~~  
26 ~~cost of control shall be borne~~] by the service.

27 SECTION 10. Section 152.023, Natural Resources Code, is

1 amended to read as follows:

2       Sec. 152.023. CLAIM AGAINST LANDOWNER. The amount charged  
3 for [~~If~~] control measures taken [~~is undertaken~~] by the service [~~7~~  
4 ~~the cost, not to exceed \$10 for each infested acre or part of an acre~~  
5 ~~on which control measures have been employed,~~] constitutes a legal  
6 claim against the landowner, but does not constitute a lien on any  
7 land owned by the landowner.

8       SECTION 11. Section 152.025, Natural Resources Code, is  
9 amended to read as follows:

10       Sec. 152.025. LANDOWNER REIMBURSEMENT.     (a) If the  
11 landowner has notified the service of a forest owner under Section  
12 152.064, the landowner is entitled to reasonable reimbursement from  
13 the forest owner [~~given the service notice of an interest owned by~~  
14 ~~another in the forest on his land and the landowner has made~~  
15 ~~expenditures~~] for amounts:

16             (1) spent by the landowner for pest control measures  
17 under [~~purposes as provided in~~] Section 152.062; or

18             (2) [of this code, or has] paid on a legal claim  
19 [~~against him~~] under [~~the provisions of~~] Sections 152.022 through  
20 152.024 [~~of this code, the landowner is entitled to a reasonable~~  
21 ~~reimbursement for the expenses from the forest owner~~].

22       (b) The amount of reimbursement paid by a forest owner under  
23 Subsection (a) shall be proportional to the interest owned in the  
24 forest by the forest owner.

25       SECTION 12. Section 152.061, Natural Resources Code, is  
26 amended to read as follows:

27       Sec. 152.061. GENERAL DUTY OF LANDOWNER. Each owner of

1 forest land shall control the forest pests on land owned by the  
2 person [~~him~~] or under the person's [~~his~~] direction as provided in  
3 this chapter.

4 SECTION 13. Section 152.062, Natural Resources Code, is  
5 amended to read as follows:

6 Sec. 152.062. DUTY TO APPLY CONTROL MEASURES. Not later  
7 than the 10th day after the date [~~Within 10 days after~~] notice is  
8 given under [~~as provided in~~] Section 152.014 or 152.018 [~~of this~~  
9 ~~code, exclusive of the date the notice is given~~], each affected  
10 landowner shall commence diligently to take measures to control the  
11 infestation as prescribed and continue this activity with all  
12 practical expedition and efficiency under the direction of the  
13 service.

14 SECTION 14. Section 152.063(a), Natural Resources Code, is  
15 amended to read as follows:

16 (a) The landowner shall notify the service of the  
17 landowner's [~~his~~] actions and the result of those [~~his~~] actions.

18 SECTION 15. Section 152.064, Natural Resources Code, is  
19 amended to read as follows:

20 Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. If all or  
21 part of the standing trees are owned by someone other than the  
22 landowner, either by a present right or by a future right under the  
23 terms of a valid existing contract, the landowner shall notify the  
24 service of that fact and furnish the name and address [~~names and~~  
25 ~~addresses~~] of each [~~the~~] forest owner not later than the 10th day  
26 after the date the landowner receives [~~within 10 days after~~  
27 ~~receiving the~~] notice from the service under [~~as provided for in~~]

1 Section 152.014 or 152.018 [~~of this code~~].

2 SECTION 16. Section 152.105, Natural Resources Code, is  
3 amended to read as follows:

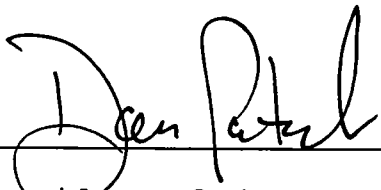
4 Sec. 152.105. INJUNCTIVE RELIEF FOR LANDOWNER. If the  
5 final judgment in an action seeking relief from a notice is in favor  
6 of the landowner, the landowner may be entitled to injunctive  
7 relief against the use of any control measures on the landowner's  
8 ~~his~~ forest land by the service until a ~~such~~ time determined by  
9 ~~as~~ the court [~~may determine~~].

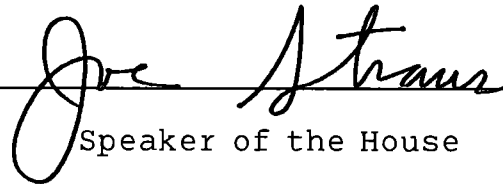
10 SECTION 17. Section 152.003(9), Natural Resources Code, is  
11 repealed.

12 SECTION 18. This Act takes effect September 1, 2017.

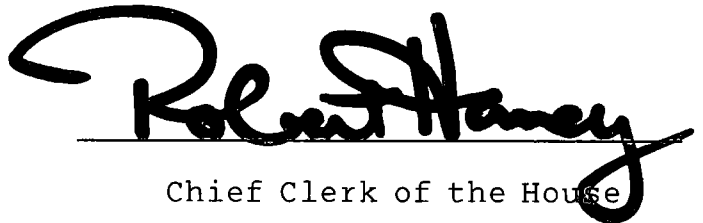


H.B. No. 2567

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 2567 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2567 on May 21, 2017, by the following vote: Yeas 134, Nays 2, 2 present, not voting.

  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 2567 was passed by the Senate, with amendments, on May 19, 2017, by the following vote: Yeas 31, Nays 0.


  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 6-10-2017

Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3 PM O'CLOCK

JUN 15 2017  
  
\_\_\_\_\_  
Secretary of State

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 20, 2017**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2567** by Bailes (Relating to forest pest control.), **As Passed 2nd House**

**No fiscal implication to the State is anticipated.**

The bill would amend the Natural Resources Code to provide clarifications and changes to various procedures and requirements related to forest pest control. Based on the analysis of the Texas A&M Forest Service, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. The bill would take effect September 1, 2017.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 576 Texas A&M Forest Service

**LBB Staff:** UP, SD, JN, SZ, DEH

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 16, 2017**

**TO:** Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2567** by Bailes (Relating to forest pest control.), **Committee Report 2nd House, Substituted**

**No fiscal implication to the State is anticipated.**

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**Source Agencies:** 576 Texas A&M Forest Service

**LBB Staff:** UP, JN, SZ, DEH

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 10, 2017**

**TO:** Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** HB2567 by Bailes (Relating to forest pest control.), As Engrossed

<b>No fiscal implication to the State is anticipated.</b>
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**Local Government Impact**

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**Source Agencies:** 576 Texas A&M Forest Service

**LBB Staff:** UP, JN, SZ, DEH

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 20, 2017**

**TO:** Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2567** by Bailes (relating to forest pest control.), **Committee Report 1st House, Substituted**

**No fiscal implication to the State is anticipated.**

The bill would amend the Natural Resources Code to provide clarifications and changes to various procedures and requirements related to forest pest control. Based on the analysis of the Texas A&M Forest Service, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. The bill would take effect September 1, 2017.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 576 Texas A&M Forest Service

**LBB Staff:** UP, JN, SZ, DEH

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 2, 2017**

**TO:** Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** HB2567 by Bailes (Relating to forest pest control.), As Introduced

**No fiscal implication to the State is anticipated.**

The bill would amend the Natural Resources Code to provide clarifications and changes to various procedures and requirements related to forest pest control. Based on the analysis of the Texas A&M Forest Service, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. The bill would take effect September 1, 2017.

**Local Government Impact**

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**Source Agencies:** 576 Texas A&M Forest Service

**LBB Staff:** UP, SZ, DEH, JN