

Chapter 153

H.B. No. 306

1 AN ACT
2 relating to the creation of an open burn pit registry for certain
3 service members and veterans.

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

5 SECTION 1. This Act shall be known as the Service Member and
6 Veteran Open Burn Pit Registry Act.

7 SECTION 2. Subtitle D, Title 2, Health and Safety Code, is
8 amended by adding Chapter 99 to read as follows:

9 CHAPTER 99. OPEN BURN PIT REGISTRY

10 Sec. 99.001. DEFINITIONS. In this chapter:

11 (1) "Airborne hazard" means an airborne environmental
12 contaminant, including open burn pit smoke, oil well fire smoke,
13 sand, dust, or other particles, that may cause short-term or
14 long-term health effects to a person exposed to the contaminant.

15 (2) "Open burn pit," also known as an "open air burn
16 pit," means a site used for solid waste disposal by burning the
17 waste in the outdoor air without the use of a commercially
18 manufactured incinerator or other equipment specifically designed
19 and manufactured for burning solid waste.

20 (3) "Service member" means an individual who is
21 currently serving in:

22 (A) the armed forces of the United States;

23 (B) an auxiliary service of one of the armed
24 forces of the United States, including the National Guard; or

1 (C) the state military forces as defined by
2 Section 431.001, Government Code.

3 (4) "Veteran" means an individual who served in:

4 (A) the armed forces of the United States;

5 (B) an auxiliary service of one of the armed
6 forces of the United States, including the National Guard; or

7 (C) the state military forces as defined by
8 Section 431.001, Government Code.

9 Sec. 99.002. RULES; MEMORANDUM OF UNDERSTANDING. (a) The
10 executive commissioner shall adopt the rules necessary to
11 administer this chapter and may enter into a memorandum of
12 understanding with the United States Department of Veterans Affairs
13 as necessary to administer this chapter.

14 (b) A memorandum of understanding entered into under
15 Subsection (a) must ensure that the United States Department of
16 Veterans Affairs will maintain the confidentiality of a service
17 member or veteran's personally identifying information that is
18 submitted by the department to the Department of Veterans Affairs
19 under this chapter.

20 Sec. 99.003. OPEN BURN PIT REGISTRY. (a) For outreach and
21 education related to exposure to open burn pit smoke or other
22 airborne hazards by service members and veterans in this state, the
23 department shall create and maintain an open burn pit registry of
24 service members and veterans who were exposed to open burn pit smoke
25 or other airborne hazards during their military service in:

26 (1) the Southwest Asia theater of operations on or
27 after August 2, 1990;

- 1 (2) Operation Desert Shield or Desert Storm;
2 (3) Djibouti, Africa, on or after September 11, 2001;
3 (4) Operation Enduring Freedom, Iraqi Freedom, or New
4 Dawn; or
5 (5) any other conflict or theater identified by the
6 United States Department of Veterans Affairs.

7 (b) The department shall include for each entry in the open
8 burn pit registry:

9 (1) the service member's or veteran's name, address,
10 telephone number, and e-mail address;

11 (2) the location of the service member's or veteran's
12 service and the period of service;

13 (3) any medical condition or death of the service
14 member or veteran that may be related to exposure to open burn pit
15 smoke or other airborne hazards; and

16 (4) any other information that the department or the
17 United States Department of Veterans Affairs considers necessary.

18 (c) The department shall:

19 (1) share the information included in the department's
20 open burn pit registry with the United States Department of
21 Veterans Affairs Airborne Hazards and Open Burn Pit Registry; and

22 (2) electronically link the open burn pit registry
23 created under this chapter with the federal registry.

24 Sec. 99.004. VOLUNTARY REGISTRATION. A service member or
25 veteran described by Section 99.003, or a family member of that
26 service member or veteran, may voluntarily register a case of
27 exposure to open burn pit smoke or other airborne hazards with the

1 department for inclusion in the registry.

2 Sec. 99.005. CONFIDENTIALITY. Entries and information
3 obtained under this chapter are confidential and are not subject to
4 disclosure under Chapter 552, Government Code, are not subject to
5 subpoena, and may not otherwise be released or made public except to
6 the United States Department of Veterans Affairs as provided by
7 Section 99.003.

8 Sec. 99.006. OPEN BURN PIT INFORMATION. The department,
9 with the assistance of the Texas Veterans Commission, shall develop
10 and include on its Internet website information to inform service
11 members, veterans, and their families about the:

12 (1) registration and use of the department's open burn
13 pit registry and the United States Department of Veterans Affairs
14 Airborne Hazards and Open Burn Pit Registry;

15 (2) most recent scientific developments on the health
16 effects of exposure to open burn pit smoke and other airborne
17 hazards and the status of any illness or condition that is presumed
18 to be caused by exposure to open burn pit smoke or other airborne
19 hazards as designated by the United States Department of Veterans
20 Affairs;

21 (3) availability of any treatment offered by the
22 United States Department of Veterans Affairs for an illness or
23 condition that may be caused by exposure to open burn pit smoke or
24 other airborne hazards;

25 (4) process for applying to the United States
26 Department of Veterans Affairs for service-related disability
27 compensation for an illness or condition that may be related to

1 exposure to open burn pit smoke or other airborne hazards,
2 including the methods for documenting the illness or condition; and
3 (5) manner of appealing to the United States
4 Department of Veterans Affairs an existing service-related
5 disability rating decision or requesting an increased
6 service-related disability rating based on an illness or condition
7 that may be related to exposure to open burn pit smoke or other
8 airborne hazards.

9 Sec. 99.007. REPORT. Not later than December 1 of each
10 even-numbered year following the creation of the registry, the
11 department shall submit a report to the appropriate standing
12 committees of the house of representatives and senate that
13 includes:

14 (1) an assessment of the effectiveness of collection
15 and maintenance of information on the health effects of exposure to
16 open burn pit smoke and other airborne hazards; and

17 (2) any recommendation to improve the collection and
18 maintenance of information about the health effects of exposure to
19 open burn pit smoke and other airborne hazards.

20 SECTION 3. (a) Not later than March 1, 2020, the executive
21 commissioner of the Health and Human Services Commission shall
22 adopt the rules and enter into any memorandum of understanding
23 necessary to administer this Act.

24 (b) Notwithstanding Section 99.007, Health and Safety Code,
25 as added by this Act, the Department of State Health Services shall
26 submit an initial report under that section not later than December
27 1, 2020.

1 SECTION 4. The Department of State Health Services is
2 required to implement a provision of this Act only if the
3 legislature appropriates money specifically for that purpose. If
4 the legislature does not appropriate money specifically for that
5 purpose, the department may, but is not required to, implement a
6 provision of this Act using other appropriations available for that
7 purpose.

8 SECTION 5. This Act takes effect September 1, 2019.

