

1-1 By: Bailes (Senate Sponsor - Nichols) H.B. No. 2567
1-2 (In the Senate - Received from the House May 5, 2017;
1-3 May 8, 2017, read first time and referred to Committee on
1-4 Agriculture, Water & Rural Affairs; May 17, 2017, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 7, Nays 0; May 17, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Perry</u>	X		
1-10	<u>Rodríguez</u>	X		
1-11	<u>Creighton</u>	X		
1-12	<u>Hall</u>	X		
1-13	<u>Hinojosa</u>	X		
1-14	<u>Kolkhorst</u>	X		
1-15	<u>Miles</u>	X		

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 2567 By: Hinojosa

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to forest pest control.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. Section 152.001, Natural Resources Code, is
1-22 amended to read as follows:
1-23 Sec. 152.001. POLICY. It is the public policy of the State
1-24 of Texas to mitigate and control ~~[forest]~~ pests ~~[in or]~~ threatening
1-25 forest land ~~[forests]~~ in this state in order to protect associated
1-26 ecological ~~[forest]~~ resources, enhance the health ~~[growth]~~ and
1-27 maintenance of forests, promote stability of forest-using
1-28 industries, ensure public safety ~~[protect recreational wildlife~~
1-29 ~~uses]~~, and conserve the ecosystem ~~[other]~~ values of the forest.
1-30 SECTION 2. Sections 152.003(1), (2), (3), (6), and (7),
1-31 Natural Resources Code, are amended to read as follows:
1-32 (1) "Service" means the Texas A&M Forest Service.
1-33 (2) "Forest pests" means native insects and diseases,
1-34 nonnative invasive insects and diseases, and noxious and invasive
1-35 plants included on a list under Section 71.151, Agriculture Code,
1-36 that are harmful, injurious, or destructive to forests or trees and
1-37 whose damage, if uncontrolled, is of considerable economic and
1-38 environmental importance ~~[, and includes:~~
1-39 ~~[(A) pine bark beetles of the genera~~
1-40 ~~Dendroctonus, Ips, Pissodes, and Hylobius,~~
1-41 ~~[(B) sawflies of the genus Neodiprion,~~
1-42 ~~[(C) defoliators in the genera Datana,~~
1-43 ~~Malacosoma, Hyphantria, Diapheromera, and Galerucella,~~
1-44 ~~[(D) pine shoot moth of the genus Rhyacionia,~~
1-45 ~~[(E) wilt of the genus Chalora, and~~
1-46 ~~[(F) rots of the genera Fomes and Polyporus].~~
1-47 (3) "Forest land" means land with at least 10 percent
1-48 cover by live trees of any size, including land that formerly had
1-49 that amount of tree cover and will be naturally or artificially
1-50 regenerated ~~[on which the trees are potentially valuable for timber~~
1-51 ~~products, protection of watersheds, wildlife habitat, recreational~~
1-52 ~~uses, or for other purposes]~~, but does not include land within the
1-53 incorporated limits of a village, town, or city.
1-54 (6) "Infestation" means actual infestation or
1-55 infection at conditions beyond normal proportion causing ~~[abnormal~~
1-56 ~~epidemic]~~ loss to forests ~~[present or future commercial timber~~
1-57 ~~supply or both]~~.
1-58 (7) "Landowner" and "owner" mean a person who owns
1-59 forest land or has forest land under the person's ~~[his]~~ direction
1-60 irrespective of ownership.

2-1 SECTION 3. The heading to Subchapter B, Chapter 152,
2-2 Natural Resources Code, is amended to read as follows:

2-3 SUBCHAPTER B. POWERS AND DUTIES OF ~~[THE]~~ TEXAS A&M FOREST SERVICE

2-4 SECTION 4. Section 152.016, Natural Resources Code, is
2-5 amended to read as follows:

2-6 Sec. 152.016. PROCEDURES FOR CONTROL. ~~[(a)]~~ As soon as
2-7 practicable after the hearing, the service shall promulgate
2-8 procedures to be followed for the control of the infestation and
2-9 shall~~[-~~

2-10 ~~[(1) mail a copy to all appearing at the hearing and to~~
2-11 ~~all to whom notices were originally sent, and~~

2-12 ~~[(2)]~~ publish a copy in a newspaper circulated in the
2-13 affected area in the same manner as publication of preliminary
2-14 notice.

2-15 ~~[(b) Publication as provided in Subsection (a) of this~~
2-16 ~~section is notice to each landowner and each tract of land in the~~
2-17 ~~affected area on the date of publication.]~~

2-18 SECTION 5. Sections 152.018(a), (b), and (c), Natural
2-19 Resources Code, are amended to read as follows:

2-20 (a) The notice required by Section 152.017 ~~[of this code]~~
2-21 shall inform the landowner of:

2-22 (1) the facts found to exist;

2-23 (2) the landowner's ~~[his]~~ responsibilities for the
2-24 control measures;

2-25 (3) the control technique recommended;

2-26 (4) the law under which control must be accomplished;

2-27 and

2-28 (5) the authority of the service in the event the
2-29 landowner takes no action toward controlling the pest.

2-30 (b) The notice may be given by:

2-31 (1) personal delivery to ~~[service on]~~ the landowner or
2-32 ~~[on]~~ the person having control of the forest land;

2-33 (2) registered or certified mail directed to the
2-34 landowner or person having control of the forest land at that
2-35 person's ~~[his]~~ last known address; or

2-36 (3) if the identity or ~~[person or his]~~ address of the
2-37 landowner or person having control of the forest land is unknown:

2-38 (A) ~~[7]~~ publication in one issue of a newspaper
2-39 of general circulation in the county in which the land is located;
2-40 or

2-41 (B) posting notice on the county's Internet
2-42 website or on a bulletin board at a place convenient to the public
2-43 in the county courthouse for the county in which the land is
2-44 located.

2-45 (c) A published or posted notice under Subsection (b) must
2-46 [of this section shall] include the information specified in
2-47 Subsection (a) [of this section], state the name of the owner, if
2-48 known, and briefly describe the land to which the notice applies.

2-49 SECTION 6. Section 152.019, Natural Resources Code, is
2-50 amended to read as follows:

2-51 Sec. 152.019. NOTICE TO FOREST OWNER. If the landowner has
2-52 notified the service of a forest owner under ~~[given notice to the~~
2-53 ~~service of an interest in the forest on his land owned by another,~~
2-54 ~~as provided for in]~~ Section 152.064 ~~[of this code]~~, the service
2-55 shall furnish the same information to the forest owner that it is
2-56 required by ~~[the provisions of]~~ this chapter to give to the
2-57 landowner.

2-58 SECTION 7. Section 152.020(a), Natural Resources Code, is
2-59 amended to read as follows:

2-60 (a) A landowner shall inform the ~~[The]~~ service of measures
2-61 taken ~~[shall keep informed of what is done]~~ by the landowner to
2-62 ~~[take measures to]~~ control the infestation and the results of those
2-63 measures ~~[result of it].~~

2-64 SECTION 8. Section 152.021, Natural Resources Code, is
2-65 amended to read as follows:

2-66 Sec. 152.021. CONTROL MEASURES APPLIED BY ~~[FOREST]~~ SERVICE.
2-67 If the landowner or another person fails to apply the pest control
2-68 measures prescribed by the service not later than the 10th day after
2-69 the date ~~[are not applied by the landowner or any other person~~

3-1 ~~within 10 days from the time~~ notice is given under Section 152.014
 3-2 ~~or 152.018, [as provided in this chapter, exclusive of the date the~~
 3-3 ~~notice is given, representatives of]~~ the service may contact the
 3-4 landowner to offer further assistance or may ~~[shall]~~ enter the land
 3-5 and have the forest pests controlled ~~[or destroyed]~~.

3-6 SECTION 9. Section 152.022, Natural Resources Code, is
 3-7 amended to read as follows:

3-8 Sec. 152.022. EXPENSE OF CONTROL MEASURES TAKEN BY SERVICE.

3-9 (a) ~~The landowner shall pay [Except as provided in Subsection (b)~~
 3-10 ~~of this section,] all charges and expenses of [destruction or]~~
 3-11 control measures taken by the service ~~[shall be paid by the owner of~~
 3-12 ~~the land on which the infestation occurred]~~.

3-13 (b) ~~The service shall charge amounts consistent with~~
 3-14 ~~current commercial rates for control measures taken [If the tract~~
 3-15 ~~with respect to which the service conducted control measures~~
 3-16 ~~contains 50 acres of forest land or less and the landowner in whose~~
 3-17 ~~name the record title to the land stands owns no more than 50 acres~~
 3-18 ~~of forest land in the county in which the infestation occurred, the~~
 3-19 ~~cost of control shall be borne] by the service.~~

3-20 SECTION 10. Section 152.023, Natural Resources Code, is
 3-21 amended to read as follows:

3-22 Sec. 152.023. CLAIM AGAINST LANDOWNER. The amount charged
 3-23 for [If] control measures taken [is undertaken] by the service [7
 3-24 the cost, not to exceed \$10 for each infested acre or part of an acre
 3-25 on which control measures have been employed,] constitutes a legal
 3-26 claim against the landowner, but does not constitute a lien on any
 3-27 land owned by the landowner.

3-28 SECTION 11. Section 152.025, Natural Resources Code, is
 3-29 amended to read as follows:

3-30 Sec. 152.025. LANDOWNER REIMBURSEMENT. (a) If the
 3-31 landowner has notified the service of a forest owner under Section
 3-32 152.064, the landowner is entitled to reasonable reimbursement from
 3-33 the forest owner [given the service notice of an interest owned by
 3-34 another in the forest on his land and the landowner has made
 3-35 expenditures] for amounts:

3-36 (1) spent by the landowner for pest control measures
 3-37 under [purposes as provided in] Section 152.062; or

3-38 (2) ~~[of this code, or has] paid on~~ a legal claim
 3-39 ~~[against him] under [the provisions of] Sections 152.022 through~~
 3-40 152.024 [of this code, the landowner is entitled to a reasonable
 3-41 reimbursement for the expenses from the forest owner].

3-42 (b) The amount of reimbursement paid by a forest owner under
 3-43 Subsection (a) shall be proportional to the interest owned in the
 3-44 forest by the forest owner.

3-45 SECTION 12. Section 152.061, Natural Resources Code, is
 3-46 amended to read as follows:

3-47 Sec. 152.061. GENERAL DUTY OF LANDOWNER. Each owner of
 3-48 forest land shall control the forest pests on land owned by the
 3-49 person [him] or under the person's [his] direction as provided in
 3-50 this chapter.

3-51 SECTION 13. Section 152.062, Natural Resources Code, is
 3-52 amended to read as follows:

3-53 Sec. 152.062. DUTY TO APPLY CONTROL MEASURES. Not later
 3-54 than the 10th day after the date [Within 10 days after] notice is
 3-55 given under [as provided in] Section 152.014 or 152.018 [of this
 3-56 code, exclusive of the date the notice is given], each affected
 3-57 landowner shall commence diligently to take measures to control the
 3-58 infestation as prescribed and continue this activity with all
 3-59 practical expedition and efficiency under the direction of the
 3-60 service.

3-61 SECTION 14. Section 152.063(a), Natural Resources Code, is
 3-62 amended to read as follows:

3-63 (a) The landowner shall notify the service of the
 3-64 landowner's [his] actions and the result of those [his] actions.

3-65 SECTION 15. Section 152.064, Natural Resources Code, is
 3-66 amended to read as follows:

3-67 Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. If all or
 3-68 part of the standing trees are owned by someone other than the
 3-69 landowner, either by a present right or by a future right under the

4-1 terms of a valid existing contract, the landowner shall notify the
4-2 service of that fact and furnish the name and address [~~names and~~
4-3 ~~addresses~~] of each [~~the~~] forest owner not later than the 10th day
4-4 after the date the landowner receives [~~within 10 days after~~
4-5 ~~receiving the~~] notice from the service under [~~as provided for in~~]
4-6 Section 152.014 or 152.018 [~~of this code~~].

4-7 SECTION 16. Section 152.105, Natural Resources Code, is
4-8 amended to read as follows:

4-9 Sec. 152.105. INJUNCTIVE RELIEF FOR LANDOWNER. If the
4-10 final judgment in an action seeking relief from a notice is in favor
4-11 of the landowner, the landowner may be entitled to injunctive
4-12 relief against the use of any control measures on the landowner's
4-13 [~~his~~] forest land by the service until a [~~such~~] time determined by
4-14 [~~as~~] the court [~~may determine~~].

4-15 SECTION 17. Section 152.003(9), Natural Resources Code, is
4-16 repealed.

4-17 SECTION 18. This Act takes effect September 1, 2017.

4-18 * * * * *