

BILL ANALYSIS

Senate Research Center
83R15763 SLB-D

H.B. 332
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State Affairs
5/15/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Given the size of Texas state parks, wildlife management areas, and other Texas Parks and Wildlife Department (TPWD) properties, the use of motor-driven vehicles may sometimes be necessary to carry out various tasks more efficiently within the parks. Interested parties contend that current law lacks provisions protecting a TPWD volunteer from liability when operating TPWD vehicles during the course of the volunteer's assignment. These parties assert that concerns regarding volunteer liability prevent operation of TPWD vehicles by volunteers and prevent full utilization of volunteer services in Texas state parks. H.B. 332 seeks to address this situation by, among other provisions, providing for a TPWD volunteer's immunity from liability regarding the operation or use of certain motor-driven vehicles or equipment.

H.B. 332 amends current law relating to tort liability arising from a volunteer's operation of a Parks and Wildlife Department motor-driven vehicle or motor-driven equipment.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Parks and Wildlife Code, by adding Section 11.0281, as follows:

Sec. 11.0281. VOLUNTEER LIABILITY AND IMMUNITY. (a) Defines "volunteer" in this section.

(b) Provides that, except as provided by Subsection (c), a volunteer while acting within the course and scope of the volunteer's assignment for the Texas Parks and Wildlife Department (TPWD) is immune from civil liability for any act or omission of the volunteer resulting from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by TPWD.

(c) Provides that this section does not apply to an act or omission that is intentional, wilfully negligent, or done with conscious indifference or reckless disregard for the safety of others.

(d) Requires TPWD to compensate, from any funds appropriated to TPWD, a claimant for property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of a volunteer acting within the scope of the volunteer's assignment if:

(1) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by TPWD; and

(2) the volunteer would be personally liable to the claimant under the laws of this state in the absence of the immunity provided by this section.

(e) Prohibits the amount of compensation paid under Subsection (d) from exceeding the maximum amount applicable to a state agency as specified by Section 101.023(a) (relating to limiting the liability of the state government under this chapter under certain circumstances), Civil Practice and Remedies Code.

(f) Provides that a volunteer operating or using a motor-driven vehicle or motor-driven equipment owned or leased by TPWD who is acting within the course and scope of a volunteer assignment for TPWD is exempt from the requirements of Chapter 601 (Motor Vehicle Safety Responsibility Act), Transportation Code.

(g) Provides that, except as provided by Subsection (d), this section does not create any liability of or waive any immunity of TPWD, employees of TPWD, or volunteers for TPWD.

SECTION 2. Provides that the change in law made by Section 11.0281, Parks and Wildlife Code, as added by this Act, applies to an act or omission involving the operation of a motor-driven vehicle or motor-driven equipment occurring on or after the effective date of this Act. Provides that an act or omission involving the operation of a motor-driven vehicle or motor-driven equipment that occurs before the effective date of this Act is governed by the law in effect at the time the act or omission occurs, and that law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.