



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

August 25, 1947

Hon. W. E. White, Director
Texas Forest Service
Box 460
Lufkin, Texas

Opinion No. V-355

Re: Effective date of H.B. 459,
50th Leg., and construction
with respect to repeal of
existing statutes.

Attention: Hon. J. O. Burnside
Division of Forest
Protection

Dear Sir:

Your request for an opinion upon the above subject matter is as follows:

"This Service is directly interested in House Bill No. 459 which, according to information we have received, was signed by the Governor on June 18. We would appreciate very much your kindness in giving us certain information as outlined below.

"1. When does this law become effective?

"2. Is the attached typed copy of the bill a correct copy of the law?

"3. What articles of those listed in the attached Texas Forest Service circular No. 16 are superseded and made null and void by House Bill No. 459?"

House Bill No. 459, Regular Session of the 50th Legislature, contained the emergency clause, passed with the necessary majority in both houses, was approved by the Governor June 17, 1947, and filed in the Office of the Secretary of State on the 18th day of June, 1947, at 11:00 o'clock a.m., at which time it became effective. We attach to this opinion a photostatic, correct copy of House Bill No. 459.

You attach Texas Forest Service Circular No. 16, which lists the Texas Forest Fire Laws, and inquire which of these laws are superseded or repealed by House Bill 459. Your circular lists, among others, Article 1318, V.P.C., relating to the unlawful burning of buildings, grain and improvements; Article 1321, V.P.C., relating to the burning of woodland or prairie; Article 1329, V.P.C., relating

to the prevention of escape of sparks; Article 2613b-1, V.C.S., relating to entry on private lands; Article 2135, V.C.S., relating to exemption from jury service of those engaged in forestry protection; and the Federal Sabotage Act. It is our opinion that none of these acts are repealed by House Bill 459. The purpose of House Bill 459 is to provide a comprehensive statute dealing with the setting of fires as a criminal action, but its provisions do not conflict with or repeal all of the offenses listed in the above-mentioned statutes.

All of the remaining articles in your circular are either superseded or specifically repealed by House Bill 459. They are Articles 1327 and 1328, V.P.C., relating to willful burning of grass; Article 1330, V.P.C., relating to burning forest or cut-over land; and Article 1388b, V.P.C., relating to willful burning of woods, grass, etc.

This leaves Article 1388b, as amended and superseded by House Bill 459, as a comprehensive criminal law upon the general subject of setting out fires, supplemented by the remaining Articles 1318, 1321, and 1329, V.P.C.

SUMMARY

The effective date of House Bill 459, 50th Legislature, is June 18, 1947, 11:00 o'clock a.m. House Bill 459 amends and supersedes Article 1388b, V.P.C., as a comprehensive criminal law upon the subject of burning woods, grass, etc., and repeals Articles 1327, 1328, and 1330, V.P.C.

Yours very truly,



Price Daniel
Attorney General

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