AN ACT
relating to used fire control or fire rescue equipment donated to
or made available by the Texas Forest Service.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 88.106, Education Code, is amended to
read as follows:
Sec. 88.106. COOPERATION WITH FEDERAL AGENCIES; RURAL FIRE
PROTECTION PLANS; FIRE TRAINING; DISPOSITION OF USED OR OBSOLETE
EQUIPMENT. (a) The director, under the supervision of the board,
may cooperate on forestry projects with the National Forest
Service and other federal agencies; and, subject to the
authorization of the board, he may execute agreements relating to
forestry protection projects in cooperation with federal agencies and
timberland owners and may also execute agreements with timberland
owners involving supervision of forest protection and forest
development projects when the projects are developed with the aid
of loans from a federal agency and when the supervision by the
state is required by federal statute or is deemed necessary by the
federal agency.
(b) Under the supervision of the board, the director may:
(1) [is further authorized to] cooperate in the
development of rural fire protection plans;
(2) [to] provide training in suppression of fires;
(3) [to] sell, lend, or otherwise make available to
volunteer fire departments used or [organized fire fighting groups]
obsolete fire control or fire rescue equipment available to the
Texas Forest Service, including federal excess or surplus property.
(c) A person may donate used or obsolete fire control or
fire rescue equipment to the Texas Forest Service for the service's
use or the service's distribution to other volunteer fire
departments.
(d) A person is not liable in civil damages for personal
injury, property damage, or death resulting from a defect in
equipment donated in good faith by the person under this section
unless the person's act or omission proximately causing the claim,
damage, or loss constitutes malice, gross negligence, recklessness,
or intentional misconduct. The Texas Forest Service and its
director and other officers and employees are not liable in civil
damages for personal injury, property damage, or death resulting
from a defect in equipment sold, loaned, or otherwise made
available in good faith by the director under this section unless
the act or omission of the service or its director, officer, or
employee proximately causing the claim, damage, or loss constitutes
malice, gross negligence, recklessness, or intentional misconduct.
(e) In this section, "fire control or fire rescue equipment"
includes a vehicle, fire fighting tool, protective gear, breathing
apparatus, and other supplies and tools used in fire fighting or
fire rescue. A breathing apparatus that is donated to the Texas
Forest Service will be recertified to manufacturer's specifications
before it is made available to an authorized group by a technician
certified by the manufacturer.

SECTION 2. This Act takes effect September 1, 1997, and
applies only to a cause of action that accrues on or after that
date. An action that accrued before the effective date of this Act
is governed by the law in effect at the time the action accrued,
and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended.

President of the Senate                    Speaker of the House
I certify that H.B. No. 680 was passed by the House on March
18, 1997, by a non-record vote; and that the House concurred in
Senate amendments to H.B. No. 680 on April 17, 1997, by a
non-record vote.

Chief Clerk of the House
I certify that H.B. No. 680 was passed by the Senate, with
amendments, on April 8, 1997, by a viva-voce vote.

Secretary of the Senate

APPROVED: __________________           Date

Governor