

By: Coleman

H.B. No. 1240

A BILL TO BE ENTITLED

AN ACT

relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.

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

SECTION 1. Section 352.022, Local Government Code, is amended to read as follows:

Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. (a) A person [An owner or occupant] who is subject to an order issued under Section 352.016 commits an offense if that person fails to comply with the order. Each refusal to comply is a separate offense.

(b) Except as provided by Subsection (c), (d), or (e), an [The] offense under this section is a Class C [B] misdemeanor.

(c) An offense under this section is a Class A misdemeanor if the commission of the offense results in bodily injury or death.

(d) Unless Subsection (c) applies, if it is shown on the trial of the offense that the defendant has been previously convicted under this section, the offense is a Class B misdemeanor.

(e) If [unless] it is shown on the trial of the offense that the defendant has been previously convicted two or more times under this section, [in which event] the offense is a state jail felony.

SECTION 2. Subchapter B, Chapter 352, Local Government Code, is amended by adding Section 352.0221 to read as follows:

1 Sec. 352.0221. AUTHORITY OF CERTAIN COUNTY EMPLOYEES TO
2 ISSUE CITATION. (a) The commissioners court of a county with a
3 population of two million or more or a county contiguous to a county
4 with a population of two million or more may grant the authority to
5 issue a citation under this section to a county employee who:

6 (1) is certified by the Texas Commission on Fire
7 Protection as a fire inspector;

8 (2) conducts fire or life safety inspections under
9 Section 352.016; and

10 (3) is not a peace officer.

11 (b) The employee may issue a citation in the unincorporated
12 area of the county only for:

13 (1) an offense under Section 352.022; or

14 (2) a violation of an order relating to fire or life
15 safety issued by the commissioners court that is reasonably
16 necessary to protect public safety and welfare.

17 (c) A citation issued under this section must state:

18 (1) the name of the person cited;

19 (2) the violation charged; and

20 (3) the time and place the person is required to appear
21 in court.

22 (d) If a person who receives a citation under this section
23 fails to appear in court on the return date of the citation, the
24 court may issue a warrant for the person's arrest for the violation
25 described in the citation.

26 SECTION 3. Section 352.022, Local Government Code, as
27 amended by this Act, applies only to an offense committed on or

1 after the effective date of this Act. An offense committed before
2 the effective date of this Act is governed by the law in effect on
3 the date the offense was committed, and the former law is continued
4 in effect for that purpose. For purposes of this section, an
5 offense was committed before the effective date of this Act if any
6 element of the offense was committed before that date.

7 SECTION 4. This Act takes effect September 1, 2021.