

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) This section applies only to:

3 (1) a county with a population of 3.3 million or more;

4 and

5 (2) a county with a population of 550,000 or more
6 adjacent to a county with a population of 3.3 million or more.

7 (b) The commissioners court of a county to which this
8 section applies may grant the authority to issue a citation under
9 this section to a county employee who:

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

12 (2) conducts fire or life safety inspections under
13 Section 352.016; and

14 (3) is not a peace officer.

15 (c) The employee may issue a citation in the unincorporated
16 area of the county only for:

17 (1) an offense under Section 352.022; or

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

21 (d) A citation issued under this section must state:

22 (1) the name of the person cited;

23 (2) the violation charged; and

24 (3) the time and place the person is required to appear
25 in court.

26 (e) This section does not authorize the employee to arrest a
27 person.

1 (f) If a person who receives a citation under this section
2 fails to appear in court on the return date of the citation, the
3 court may issue a warrant for the person's arrest for the violation
4 described in the citation.

5 SECTION 3. Section 352.022, Local Government Code, as
6 amended by this Act, applies only to an offense committed on or
7 after the effective date of this Act. An offense committed before
8 the effective date of this Act is governed by the law in effect on
9 the date the offense was committed, and the former law is continued
10 in effect for that purpose. For purposes of this section, an
11 offense was committed before the effective date of this Act if any
12 element of the offense was committed before that date.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 1240 was passed by the House on April 23, 2021, by the following vote: Yeas 111, Nays 35, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1240 on May 28, 2021, by the following vote: Yeas 100, Nays 40, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1240 was passed by the Senate, with amendments, on May 22, 2021, by the following vote: Yeas 26, Nays 4.

Secretary of the Senate

APPROVED: _____

Date

Governor