

## **BILL ANALYSIS**

H.B. 1287  
By: Chisum  
Environmental Regulation  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Texas Health and Safety Code contains the following restrictions on concrete crushing facilities: (a) The commission by rule shall prohibit the location of or operation of a concrete crushing facility within 440 yards of a building used as a single or multifamily residence, school, or place of worship. (b) This section does not apply to an existing concrete crushing facility.

Tex. Health & Safety Code § 382.065. This restriction on “the location of” concrete crushing facilities is inconsistent with the Texas Commission on Environmental Quality’s (“TCEQ’s”) authority regarding air pollution control in the State of Texas.

The TCEQ is charged with establishing the level of quality to be maintained in the state’s air and controlling the quality of the state’s air. See Tex. and Health Code § 382.011. The TCEQ carries out its responsibilities by issuing permits (1) to construct and (2) to operate facilities. See Tex. Health & Safety Code § 382.051 (a). By restricting the location of a concrete crushing facility, whether or not that facility is operating, the above-quoted section of the Health and Safety Code restricts concrete crushing facilities in a manner unlike other activities in the state.

Many concrete crushing operations are portable facilities, designed to be moved from one authorized location to another, based on the location of the source concrete to be crushed. Between jobs, such portable concrete crushing facilities may be located at a site despite the fact that the owner or operator of the facility has no intention of operating the concrete crusher at that location--essentially in storage. Section 382.065 of the Health & Safety Code, however, prohibits concrete crushing facilities from being located within 440 yards of a building used as a residence, school or place of worship, without regard to whether those facilities are operating. Thus, Section 382.065 would prohibit the cold storage of concrete facilities in one of those locations, even if the facilities were not going to emit air contaminants.

This restriction on “the location of” concrete crushing facilities in section 382.065 of the Texas Health & Safety Code extends beyond the TCEQ’s normal authority and regulates the location of equipment that may not emit air contaminants. Removing that phrase from section 382.065 would properly limit the Texas Health & Safety Code restriction to concrete crushing activities that may serve as a source of air contaminants.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Tex. Health & Safety Code § 382.065 (a) to clarify that the prohibitions contained in such section apply to activities that may serve as a source of air contaminants and not the mere location or storage of non-operating equipment.

SECTION 2. Effective immediately, or if the Act does not receive the necessary vote the Act takes effect September 1, 2003.

### **EFFECTIVE DATE**

Effective immediately, or if the Act does not receive the necessary vote the Act takes effect September 1, 2003.

