

AN ACT

relating to the location and operation of certain portable facilities.

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

SECTION 1. Section 382.056(r), Health and Safety Code, is amended to read as follows:

(r) This section does not apply to:

(1) the relocation or change of location of a portable facility to a site where a portable facility [~~permitted by the commission is located if no portable facility~~] has been located at the proposed site at any time during the previous two years; [~~or~~]

(2) a facility located temporarily in the right-of-way, or contiguous to the right-of-way, of a public works project; or

(3) a facility described by Section 382.065(c), unless that facility is in a county with a population of 2.4 million or more or in a county adjacent to such a county.

SECTION 2. Section 382.065, Health and Safety Code, as added by Chapter 965, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 382.065. CERTAIN LOCATIONS FOR OPERATING CONCRETE CRUSHING FACILITY PROHIBITED. (a) The commission by rule shall prohibit the [~~location of or~~] operation of a concrete crushing facility within 440 yards of a building in use [~~used~~] as a single or

1 multifamily residence, school, or place of worship at the time the  
2 application for a permit to operate the facility at a site near the  
3 residence, school, or place of worship is filed with the  
4 commission. The measurement of distance for purposes of this  
5 subsection shall be taken from the point on the concrete crushing  
6 facility that is nearest to the residence, school, or place of  
7 worship toward the point on the residence, school, or place of  
8 worship that is nearest the concrete crushing facility.

9 (b) Subsection (a) [~~This section~~] does not apply to a [an  
10 existing] concrete crushing facility:

11 (1) at a location for which commission authorization  
12 for the operation of a concrete crushing facility was in effect on  
13 September 1, 2001; or

14 (2) at a location that satisfies the distance  
15 requirements of Subsection (a) at the time the application for the  
16 initial authorization for the operation of that facility at that  
17 location is filed with the commission, provided that the  
18 authorization is granted and maintained, regardless of whether a  
19 single or multifamily residence, school, or place of worship is  
20 subsequently built or put to use within 440 yards of the facility.

21 (c) Except as provided by Subsection (d), Subsection (a)  
22 does not apply to a concrete crushing facility that:

23 (1) is engaged in crushing concrete and other  
24 materials produced by the demolition of a structure at the location  
25 of the structure and the concrete and other materials are being  
26 crushed primarily for use at that location;

27 (2) operates at that location for not more than 180

1 days;

2 (3) the commission determines will cause no adverse  
3 environmental or health effects by operating at that location; and

4 (4) complies with conditions stated in commission  
5 rules, including operating conditions.

6 (d) Notwithstanding Subsection (c), Subsection (a) applies  
7 to a concrete crushing facility in a county with a population of 2.4  
8 million or more or in a county adjacent to such a county.

9 SECTION 3. The Texas Commission on Environmental Quality  
10 shall adopt rules to implement Section 382.065, Health and Safety  
11 Code, as amended by this Act, as soon as practicable and not later  
12 than January 1, 2004.

13 SECTION 4. (a) This Act takes effect immediately if it  
14 receives a vote of two-thirds of all the members elected to each  
15 house, as provided by Section 39, Article III, Texas Constitution.  
16 If this Act does not receive the vote necessary for immediate  
17 effect, this Act takes effect September 1, 2003.

18 (b) A change in law made by this Act the effect of which is  
19 to restrict the location or operation of a concrete crushing  
20 facility does not apply to a facility for which an application for  
21 authorization to operate at a particular location is filed before  
22 the effective date of this Act.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1287 was passed by the House on April 25, 2003, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1287 on May 30, 2003, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1287 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor