

1-1 By: Chisum (Senate Sponsor - Madla) H.B. No. 1287
1-2 (In the Senate - Received from the House April 28, 2003;
1-3 May 1, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 22, 2003, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 0; May 22, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1287 By: Brimer

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the location and operation of certain portable
1-11 facilities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 382.056(r), Health and Safety Code, is
1-14 amended to read as follows:

1-15 (r) This section does not apply to:

1-16 (1) the relocation or change of location of a portable
1-17 facility to a site where a portable facility [~~permitted by the~~
1-18 ~~commission is located if no portable facility~~] has been located at
1-19 the proposed site at any time during the previous two years; [~~or~~]

1-20 (2) a facility located temporarily in the
1-21 right-of-way, or contiguous to the right-of-way, of a public works
1-22 project; or

1-23 (3) a facility described by Section 382.065(c), unless
1-24 that facility is in a county with a population of 2.4 million or
1-25 more or in a county adjacent to such a county.

1-26 SECTION 2. Section 382.065, Health and Safety Code, as
1-27 added by Chapter 965, Acts of the 77th Legislature, Regular
1-28 Session, 2001, is amended to read as follows:

1-29 Sec. 382.065. CERTAIN LOCATIONS FOR OPERATING CONCRETE
1-30 CRUSHING FACILITY PROHIBITED. (a) The commission by rule shall
1-31 prohibit the [~~location of or~~] operation of a concrete crushing
1-32 facility within 440 yards of a building in use [~~used~~] as a single or
1-33 multifamily residence, school, or place of worship at the time the
1-34 application for a permit to operate the facility at a site near the
1-35 residence, school, or place of worship is filed with the
1-36 commission. The measurement of distance for purposes of this
1-37 subsection shall be taken from the point on the concrete crushing
1-38 facility that is nearest to the residence, school, or place of
1-39 worship toward the point on the residence, school, or place of
1-40 worship that is nearest the concrete crushing facility.

1-41 (b) Subsection (a) [~~This section~~] does not apply to a [~~an~~
1-42 existing] concrete crushing facility:

1-43 (1) at a location for which commission authorization
1-44 for the operation of a concrete crushing facility was in effect on
1-45 September 1, 2001; or

1-46 (2) at a location that satisfies the distance
1-47 requirements of Subsection (a) at the time the application for the
1-48 initial authorization for the operation of that facility at that
1-49 location is filed with the commission, provided that the
1-50 authorization is granted and maintained, regardless of whether a
1-51 single or multifamily residence, school, or place of worship is
1-52 subsequently built or put to use within 440 yards of the facility.

1-53 (c) Except as provided by Subsection (d), Subsection (a)
1-54 does not apply to a concrete crushing facility that:

1-55 (1) is engaged in crushing concrete and other
1-56 materials produced by the demolition of a structure at the location
1-57 of the structure and the concrete and other materials are being
1-58 crushed primarily for use at that location;

1-59 (2) operates at that location for not more than 180
1-60 days;

1-61 (3) the commission determines will cause no adverse
1-62 environmental or health effects by operating at that location; and

1-63 (4) complies with conditions stated in commission

2-1 rules, including operating conditions.

2-2 (d) Notwithstanding Subsection (c), Subsection (a) applies
2-3 to a concrete crushing facility in a county with a population of 2.4
2-4 million or more or in a county adjacent to such a county.

2-5 SECTION 3. The Texas Commission on Environmental Quality
2-6 shall adopt rules to implement Section 382.065, Health and Safety
2-7 Code, as amended by this Act, as soon as practicable and not later
2-8 than January 1, 2004.

2-9 SECTION 4. (a) This Act takes effect immediately if it
2-10 receives a vote of two-thirds of all the members elected to each
2-11 house, as provided by Section 39, Article III, Texas Constitution.
2-12 If this Act does not receive the vote necessary for immediate
2-13 effect, this Act takes effect September 1, 2003.

2-14 (b) A change in law made by this Act the effect of which is
2-15 to restrict the location or operation of a concrete crushing
2-16 facility does not apply to a facility for which an application for
2-17 authorization to operate at a particular location is filed before
2-18 the effective date of this Act.

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