

By: Lindsay

S.B. No. 1460

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to county fire marshals and county fire protection;  
3 providing penalties.

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

5 SECTION 1. Sections 352.013, 352.014, and 352.016, Local  
6 Government Code, are amended to read as follows:

7 Sec. 352.013. INVESTIGATION OF FIRES. (a) The county fire  
8 marshal shall:

9 (1) investigate the cause, origin, and circumstances  
10 of fires [~~each fire~~] that occur [~~occurs~~] within the county but  
11 outside the municipalities in the county and that destroy  
12 [~~destroys~~] or damage [~~damages~~] property or cause injury; and

13 (2) determine whether a [~~the~~] fire was the result of  
14 negligent or intentional conduct.

15 (b) The commissioners court of a county, with the advice of  
16 the county fire marshal, shall adopt rules and procedures for  
17 determining which fires warrant investigation by the county fire  
18 marshal. The county fire marshal shall begin an [~~this~~]  
19 investigation within 24 hours after the receipt of information  
20 regarding a fire that warrants investigation under commissioners  
21 court rules and procedures. The 24-hour period does not include a  
22 Sunday.

23 (c) In the performance of official duties, the county fire  
24 marshal, at any time of day, may enter and examine a structure where

1 a fire has occurred and may examine adjacent premises. [~~The marshal~~  
2 ~~shall conduct this examination in a manner designed to impose the~~  
3 ~~least inconvenience to any persons living in the building.~~]

4 Sec. 352.014. RECORD OF INVESTIGATION. The county fire  
5 marshal shall keep a record of each fire that the marshal is  
6 required to investigate. The record must include the facts,  
7 statistics, and circumstances determined by the investigation,  
8 including the origin of the fire and the estimated amount of the  
9 loss. Each fire department and state or local agency that provides  
10 emergency medical services must submit reports requested by the  
11 county fire marshal in a timely manner.

12 Sec. 352.016. INSPECTION OR REVIEW OF PLAN FOR FIRE OR LIFE  
13 SAFETY HAZARDS. (a) In this section, "fire or life safety hazard"  
14 means any condition [~~of the following conditions~~] that endangers  
15 [~~endanger~~] the safety of a structure or its occupants and promotes  
16 [~~promote~~] or causes [~~cause~~] fire or combustion, including:

17 (1) the presence of a flammable substance;

18 (2) a dangerous or dilapidated wall, ceiling, or other  
19 structural element;

20 (3) improper electrical components [~~lighting~~],  
21 heating, or other building services or facilities;

22 (4) the presence of a dangerous chimney, flue, pipe,  
23 main, or stove, or of dangerous wiring; [~~or~~]

24 (5) dangerous storage, including storage or use of  
25 hazardous substances; or

26 (6) inappropriate means of egress, fire protection, or  
27 other fire-related safeguard.

1 (b) In the interest of safety and fire prevention, the  
2 county fire marshal may inspect for fire or life safety hazards any  
3 structure, appurtenance, fixture, or real property located within  
4 500 [~~200~~] feet of a structure, appurtenance, or fixture. The  
5 marshal shall inspect a structure for fire or life safety hazards  
6 if called on to do so. In the absence of a county fire code, the  
7 county fire marshal may conduct an inspection using any nationally  
8 recognized code or standard adopted by the state. If the marshal  
9 determines the presence of a fire or life safety hazard, the  
10 marshal may order the owner or occupant of the premises to correct  
11 the hazardous situation. If ordered to do so, an owner or occupant  
12 shall correct the hazardous situation in accordance with the order.

13 (b-1) In the interest of safety and fire prevention, the  
14 county fire marshal shall, if required, and may, if requested,  
15 review the plans of a business, single-family residence,  
16 multi-family dwelling, or commercial property for fire or life  
17 safety hazards.

18 (c) The commissioners court by order may authorize the  
19 county fire marshal to charge a fee to the owner of a business, a  
20 multi-family dwelling, or commercial property for a plan review or  
21 [~~fire~~] inspection conducted under this section in a reasonable  
22 amount determined by the commissioners court to cover the cost of  
23 the plan review or inspection.

24 (d) The commissioners court by order may authorize the  
25 county fire marshal to charge a fee to the owner of a single-family  
26 residence for a plan review or [~~fire~~] inspection conducted under  
27 this section in a reasonable amount determined by the commissioners

1 court to cover the cost of the plan review or inspection, if the  
2 plan review or inspection is requested by the owner of the property.

3 SECTION 2. Section 352.017(b), Local Government Code, is  
4 amended to read as follows:

5 (b) Service of process required by this subchapter shall be  
6 made by a peace officer [~~constable or sheriff~~] and shall be signed  
7 by the county fire marshal or the fire marshal's deputy.

8 SECTION 3. Section 352.019, Local Government Code, is  
9 amended by amending Subsections (b) and (c) and adding Subsection  
10 (e) to read as follows:

11 (b) The county fire marshal shall coordinate the work of the  
12 various fire-fighting and fire prevention units in the county,  
13 including rural fire prevention districts and emergency services  
14 districts. The commissioners court may adopt rules requiring fire  
15 departments in the unincorporated area of the county to participate  
16 in the Texas Fire Incident Reporting System (TXFIRS) or the  
17 National Fire Incident Reporting System (NFIRS), or both, and in  
18 accordance with fire marshal rules, to establish procedures for:

- 19 (1) emergency incident management;  
20 (2) firefighter certification; and  
21 (3) automatic mutual aid.

22 (c) The county fire marshal or the county fire marshal's  
23 designee may perform as the incident commander in a major event if  
24 the incident commander of the responsible fire department consents.  
25 The county fire marshal may not enforce orders and decrees within a  
26 municipality in the county unless specifically required to do so by  
27 interlocal agreement and may act in a cooperative and advisory

1 capacity there only on request.

2 (e) A county commissioners court may authorize the fire  
3 marshal to provide training programs and operate a training  
4 facility for the various fire-fighting and fire prevention units in  
5 the county. The county may establish and collect a reasonable fee  
6 for the training programs, use of the facility, and services  
7 provided by the facility.

8 SECTION 4. Section 352.021(b), Local Government Code, is  
9 amended to read as follows:

10 (b) An offense under this section is a misdemeanor  
11 punishable by a fine of not more than \$2,000 [~~\$25~~].

12 SECTION 5. Section 352.022, Local Government Code, is  
13 amended to read as follows:

14 Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. An  
15 owner or occupant who is subject to an order issued under Section  
16 352.016 commits an offense if that person [~~he~~] fails to comply with  
17 the order. Each refusal to comply is a separate offense. The  
18 offense is a Class A [~~B~~] misdemeanor, unless it is shown on the  
19 trial of the offense that the defendant has been previously  
20 convicted two or more times under this section, in which event, the  
21 offense is a state jail felony. [~~Each refusal to comply is a~~  
22 ~~separate offense.~~]

23 SECTION 6. (a) The change in law made by this Act applies  
24 only to an offense committed on or after the effective date of this  
25 Act. For purposes of this section, an offense is committed before  
26 the effective date of this Act if any element of the offense occurs  
27 before that date.

1           (b) An offense committed before the effective date of this  
2 Act is covered by the law in effect when the offense was committed,  
3 and the former law is continued in effect for that purpose.

4           SECTION 7. This Act takes effect September 1, 2003.