

By: Gallegos

S.B. No. 1801

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain counties to enact noise regulations; providing a criminal penalty.

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

SECTION 1. Chapter 240, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REGULATION OF NOISE AND SOUND LEVELS

Sec. 240.041. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of more than 3.3 million.

Sec. 240.042. DEFINITIONS. In this subchapter:

(1) "Nonresidential property" means any real property that is not residential property.

(2) "Residential property" means any real property developed and used primarily for human habitation that has facilities for sleeping, eating, cooking, and sanitation.

Sec. 240.043. METHOD OF SOUND MEASUREMENT. Sound measured under this subchapter shall be measured:

(1) in decibels read from a calibrated sound level meter; and

(2) at or near the closest property line where the sound is being received.

Sec. 240.044. AUTHORITY TO REGULATE. (a) The commissioners court of a county by order may regulate as permitted by this subchapter sound levels to promote the public health, safety, or

1 welfare.

2 (b) A regulation adopted under this subchapter applies only
3 to the unincorporated area of the county.

4 Sec. 240.045. PERMISSIBLE REGULATIONS. (a) The regulations
5 may prohibit:

6 (1) sound levels that exceed:

7 (A) on residential property:

8 (i) 65 decibels at 7 a.m. or after and
9 before 10 p.m.; and

10 (ii) 58 decibels at 10 p.m. or after and
11 before 7 a.m.; or

12 (B) 68 decibels on nonresidential property;

13 (2) the use of a motor vehicle that creates an
14 unreasonably loud sound;

15 (3) the production of sound from amplification
16 equipment that:

17 (A) is objectionable to a reasonable person;

18 (B) exceeds the volume necessary for convenient
19 hearing by a person located in the vehicle in which or on the
20 property on which the sound amplifier is operated; or

21 (C) is plainly audible at a distance of 50 feet
22 from:

23 (i) the vehicle in which the sound
24 amplifier is operated; or

25 (ii) the property line of the property on
26 which the sound amplifier is operated;

27 (4) the production of sound that causes a person

1 located on property other than the property on which the sound is
2 produced to be aware of sympathetic vibrations or resonance caused
3 by the sound; or

4 (5) the keeping of any animal that causes or makes a
5 frequent or a long and continued sound that is objectionable to a
6 reasonable person.

7 (b) The regulations may prohibit any act not described by
8 Subsection (a) that produces a sound that a reasonable person would
9 find objectionable.

10 (c) In determining whether a sound is objectionable to a
11 reasonable person, the following factors may be considered:

12 (1) the time of day the sound is produced;

13 (2) the proximity of the production of the sound to
14 residential property;

15 (3) whether the sound is recurrent, intermittent, or
16 constant;

17 (4) the volume and intensity of the sound;

18 (5) whether the sound has been enhanced in volume or
19 range by electronic or mechanical means; and

20 (6) whether the sound may be controlled without
21 unreasonable effort or expense to the producer of the sound.

22 Sec. 240.046. EXEMPTIONS. A sound is exempt from
23 regulation under this subchapter if it is a sound produced:

24 (1) for the purpose of alerting persons to the
25 existence of an emergency, danger, or attempted crime;

26 (2) by an emergency vehicle;

27 (3) by emergency work necessary to restore public

1 utilities, to restore property to a safe condition, or to protect
2 persons or property from imminent danger;

3 (4) by a lawfully:

4 (A) scheduled stadium or amphitheater event; or

5 (B) permitted parade;

6 (5) by a reenactment of a historical battle for which
7 any required permit was obtained and any explosives used were
8 inspected by the county fire marshal;

9 (6) by fireworks or pyrotechnics;

10 (7) by an outdoor event, race, festival, or concert
11 that was sponsored, cosponsored, or permitted by the county;

12 (8) by any other lawful activity that constitutes
13 protected expression under the First Amendment of the United States
14 Constitution;

15 (9) by the construction, excavation, demolition,
16 alteration, or repair of a building or other structure or the
17 operation of tools or equipment to construct, excavate, demolish,
18 alter, or repair a building or other structure, conducted after 7
19 a.m. and before 8 p.m. that does not exceed 75 decibels;

20 (10) by aircraft in operation at an airport or in
21 flight, or railroad equipment in operation on railroad
22 rights-of-way;

23 (11) by operating a mechanically powered saw, drill,
24 sander, router, grinder, lawn or garden tool, lawnmower, or any
25 other similar device after 7 a.m. and before 8 p.m. that does not
26 exceed 85 decibels;

27 (12) as authorized under a permit issued under Section

1 240.047;

2 (13) by the operation of any air-conditioning unit
3 that does not exceed 65 decibels on residential property or 75
4 decibels on nonresidential property;

5 (14) by bells or chimes as part of a religious
6 observance or service after 7 a.m. and before 10 p.m. that does not
7 exceed five continuous minutes in duration in any one-hour period;

8 (15) by the discharge of a firearm at a public or
9 private shooting range; or

10 (16) by the operations of an electric utility or a
11 power generation company as defined by Section 31.002, Utilities
12 Code, or a gas utility as defined by Section 101.003 or 121.001,
13 Utilities Code.

14 Sec. 240.047. PERMIT AND FEES. (a) The commissioners court
15 of a county by order may require a permit for the use of a
16 loudspeaker, loudspeaker system, sound amplifier, or any other
17 machine or device that produces sound outside of buildings or other
18 enclosed structures that exceeds the levels specified by Section
19 240.045(a)(1).

20 (b) An application for the permit must be made in accordance
21 with regulations adopted by the county.

22 (c) The regulations adopted under this section may provide
23 for the denial, suspension, or revocation of a permit by the county.

24 (d) A district court has jurisdiction of a suit that arises
25 from the denial, suspension, or revocation of a permit by the
26 county.

27 (e) A county may impose fees on an applicant for a permit

1 under this section. The fees must be based on the administrative
2 costs of issuing the permit. A county that imposes a permit fee
3 shall establish procedures to reduce the fee amount if the
4 applicant is unable to pay the full permit fee.

5 Sec. 240.048. INJUNCTION. A county may sue in the district
6 court for an injunction to prohibit the violation or threatened
7 violation of a regulation adopted under this subchapter.

8 Sec. 240.049. CRIMINAL PENALTY. (a) A person commits an
9 offense if the person violates a regulation adopted under this
10 subchapter.

11 (b) Each hour that a violation of a regulation adopted under
12 this subchapter continues constitutes a separate offense.

13 (c) An offense under this section is a Class C misdemeanor.

14 SECTION 2. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2003.