

## **BILL ANALYSIS**

Senate Research Center  
79R5883 RMB-D

H.B. 970  
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Criminal Justice  
5/16/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

A criminal statute can be enacted without requiring criminal intent, such as intentional, knowing or reckless culpability. These are called "strict liability" crimes. Such offenses are limited to "*mala prohibita*" crimes, meaning the offense is wrong only because the enacting body, such as a city council, says such acts are wrong. An example would be a city ordinance that criminalizes a curfew violation (as opposed to crimes that are "*mala in se*," meaning the acts themselves are morally wrong, such as theft or murder).

The enactment of strict liability crimes is supposed to be limited to minor, fine only, *mala prohibita* offenses. A crime that imposes a large penalty, or a crime that is *mala in se*, requires culpability on the part of the offender. Section 12.23, Penal Code, limits fine only offenses in the Penal Code to a maximum of \$500. Some cities have enacted strict liability crimes outside the Penal Code, but have attached fines exceeding the maximum allowed by Section 12.23, even though the offense dispenses with the requirement of culpability by the actor.

H.B. 970 limits the punishments on criminal offenses enacted by local governments to the maximum fine allowed by Section 12.23, Penal Code, if the proposed criminal offense does not require a criminal culpability. Local governments would remain free to impose higher fines than that allowed by Section 12.23, but could not do so if they opt to enact a strict liability crime requiring no proof that the actor acted with intent, knowledge or recklessness in committing the offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 6.02, Penal Code, by adding Subsection (f), as follows:

(f) Prohibits an offense defined by municipal ordinance or by order of a county commissioners court from dispensing with the requirement of a culpable mental state if the offense is punishable by a fine exceeding the amount authorized by Section 12.23 (Class C Misdemeanor).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.