

## **BILL ANALYSIS**

C.S.H.B. 970  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. Penal Code §12.23 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 Penal Code §12.23, even though the offense dispenses with the requirement of culpability by the actor.

C.S.H.B. 970 would limit the punishments on criminal offenses enacted by local governments to the maximum fine allowed by Penal Code §12.23 if the proposed criminal offense does not require a criminal culpability. Local governments would remain free to impose higher fines than that allowed by §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**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 970 amends the Penal Code to limit the punishments on criminal offenses enacted by local governments to the maximum fine allowed by Penal Code §12.23 if the proposed criminal offense does not require a criminal culpability.

### **EFFECTIVE DATE**

September 1, 2005.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute makes no substantive change. Rather it simply restructures the wording of the original.