

BILL ANALYSIS

C.S.H.B. 1629
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It is currently not a crime of harassment to discharge fireworks aimed at someone's home or business or to discharge them in order to harass someone at their home or business. This legislation would change that by creating an offense of a Class C misdemeanor for persons harassing others by discharging fireworks either within 30 feet of a residential dwelling or commercial building or by projecting the fireworks directly at or toward a residential dwelling or commercial building.

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. 1629 amends the Penal Code, Section 42.07, to create a Class C misdemeanor offense for harassment for the discharging of fireworks within 30 feet of a residential dwelling or commercial building or by projecting the fireworks directly at or toward a residential dwelling or commercial building. It is a defense to prosecution if the person discharging the fireworks either owned, leased, or otherwise had a right to occupy the dwelling at the time of the offense. This does not preempt municipal ordinances regulating the discharge of fireworks within the territorial limits of the municipality.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by including in the harassment statute the discharging of fireworks within 30 feet of or projected at a commercial building. The substitute also includes the provision clarifying that the bill does not preempt municipal ordinances regulating the discharge of fireworks within the territorial limits of the municipality. Furthermore, the substitute removes the provision contained in the original which made these acts an offense if it occurred on more than one occasion, in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another. Finally, the substitute includes the defense to prosecution.