

AN ACT

relating to outdoor burning of household refuse in certain counties; creating an offense.

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

SECTION 1. Section 382.018, Health and Safety Code, is amended to read as follows:

Sec. 382.018. OUTDOOR BURNING OF WASTE AND COMBUSTIBLE MATERIAL. Subject to Section 352.082, Local Government Code, the ~~The~~ commission by rule may control and prohibit the outdoor burning of waste and combustible material and may include requirements concerning the particular method to be used to control or abate the emission of air contaminants resulting from that burning.

SECTION 2. Subchapter D, Chapter 352, Local Government Code, is amended by adding Section 352.082 to read as follows:

Sec. 352.082. OUTDOOR BURNING OF HOUSEHOLD REFUSE IN CERTAIN RESIDENTIAL AREAS. (a) This section applies only to the unincorporated area of a county:

(1) that is adjacent to a county with a population of 3.3 million or more; and

(2) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive

1 covenants containing ad valorem or annual variable budget based
2 assessments on real property.

3 (b) In this section, "neighborhood" and "refuse" have the
4 meanings assigned by Section 343.002, Health and Safety Code.

5 (c) A person commits an offense if the person intentionally
6 or knowingly burns household refuse outdoors on a lot that is:

7 (1) located in a neighborhood; or

8 (2) smaller than five acres.

9 (d) An offense under this section is a Class C misdemeanor.
10 On conviction of an offense under this section, the court shall
11 require the defendant, in addition to any fine, to perform
12 community service as provided by Section 16(e), Article 42.12, Code
13 of Criminal Procedure.

14 SECTION 3. Section 16, Article 42.12, Code of Criminal
15 Procedure, is amended by adding Subsection (e) to read as follows:

16 (e) A defendant required to perform community service under
17 this section after conviction of an offense under Section 352.082,
18 Local Government Code, shall perform 60 hours of service. The
19 community service must consist of picking up litter in the county in
20 which the defendant resides or working at a recycling facility if a
21 program for performing that type of service is available in the
22 community in which the court is located.

23 SECTION 4. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 39 was passed by the House on May 13, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 39 was passed by the Senate on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor