

By: Eissler (Senate Sponsor - Staples) H.B. No. 39
(In the Senate - Received from the House May 16, 2005;
May 17, 2005, read first time and referred to Committee on
Intergovernmental Relations; May 21, 2005, reported favorably by
the following vote: Yeas 5, Nays 0; May 21, 2005, sent to
printer.)

A BILL TO BE ENTITLED
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
covenants containing ad valorem or annual variable budget based
assessments on real property.

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

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

(1) located in a neighborhood; or

(2) smaller than five acres.

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

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

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

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

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