

1-1 By: Smith of Harris (Senate Sponsor - Gallegos) H.B. No. 580
1-2 (In the Senate - Received from the House May 16, 2005;
1-3 May 17, 2005, read first time and referred to Committee on Natural
1-4 Resources; May 20, 2005, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the authority of a county to provide hazardous
1-9 materials services.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subtitle B, Title 11, Local Government Code, is
1-12 amended by adding Chapter 353 to read as follows:

1-13 CHAPTER 353. COUNTY HAZARDOUS MATERIALS SERVICES

1-14 Sec. 353.001. DEFINITIONS. In this chapter:

1-15 (1) "Concerned party" means a person:

1-16 (A) involved in the possession, ownership, or
1-17 transportation of a hazardous material that is released or
1-18 abandoned; or

1-19 (B) who has legal liability for the causation of
1-20 an incident resulting in the release or abandonment of a hazardous
1-21 material.

1-22 (2) "Hazardous material" means a flammable material,
1-23 an explosive, a radioactive material, a hazardous waste, a toxic
1-24 substance, or related material, including a substance defined as a
1-25 "hazardous substance," "hazardous material," "toxic substance," or
1-26 "solid waste" under:

1-27 (A) the federal Comprehensive Environmental
1-28 Response, Compensation, and Liability Act of 1980 (42 U.S.C.
1-29 Section 9601 et seq.);

1-30 (B) the federal Resource Conservation and
1-31 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.);

1-32 (C) the federal Toxic Substances Control Act (15
1-33 U.S.C. Section 2601 et seq.);

1-34 (D) the federal Hazardous Materials
1-35 Transportation Act (49 U.S.C. Section 5101 et seq.); or

1-36 (E) Chapter 361, Health and Safety Code.

1-37 Sec. 353.002. APPLICABILITY. This chapter applies to an
1-38 incident involving hazardous material that has been leaked,
1-39 spilled, released, or abandoned on any property.

1-40 Sec. 353.003. HAZARDOUS MATERIALS SERVICES. (a) A county
1-41 may provide hazardous materials services, including a response to
1-42 an incident involving hazardous material that has been leaked,
1-43 spilled, released, or abandoned, if:

1-44 (1) the county first provides reasonable notice to a
1-45 concerned party regarding the need for the hazardous materials
1-46 services so that the concerned party has a reasonable opportunity
1-47 to respond to the incident involving hazardous material; and

1-48 (2) the concerned party fails to respond or fails to
1-49 respond in a timely and effective manner to the incident.

1-50 (b) A county may provide limited control and containment
1-51 measures that are necessary to protect human health and the
1-52 environment without first complying with the requirements of
1-53 Subsection (a) if the county is the first entity to arrive at a site
1-54 where an incident involving hazardous material has occurred that is
1-55 prepared to take action in response to the incident.

1-56 (c) If the hazardous material is natural gas released from
1-57 an underground facility as defined by Section 251.002, Utilities
1-58 Code, the county:

1-59 (1) must comply with the requirements of Section
1-60 251.159, Utilities Code; and

1-61 (2) may not operate any equipment or other controls or
1-62 devices at the underground facility without the express permission
1-63 of the operator of the facility.

1-64 Sec. 353.004. FEE FOR PROVIDING HAZARDOUS MATERIALS

2-1 SERVICE; EXCEPTION. (a) A county, or a person authorized by
2-2 contract on the county's behalf, may charge a reasonable fee,
2-3 including a fee to offset the cost of providing control and
2-4 containment measures under Section 353.003(b), to a concerned party
2-5 for responding to a hazardous materials service call.

2-6 (b) A county, or a person authorized by contract on the
2-7 county's behalf, may charge a fee for providing hazardous materials
2-8 services under Section 353.003(a) only if the county has complied
2-9 with the requirements of that subsection. A concerned party is not
2-10 liable for a fee associated with the county's hazardous materials
2-11 services under Section 353.003(a) or a fee to offset the cost of
2-12 providing control and containment measures under Section
2-13 353.003(b) if the county provides hazardous materials services
2-14 under Section 353.003(a) and the county does not provide notice as
2-15 required by Section 353.003(a)(1).

2-16 (c) An individual who is a concerned party does not have to
2-17 pay a fee under this section if:

2-18 (1) the individual is not involved in the possession,
2-19 ownership, or transportation of the hazardous material as the
2-20 employee, agent, or servant of another person;

2-21 (2) the individual is involved solely for private,
2-22 noncommercial purposes related to the individual's own property and
2-23 the individual receives no compensation for any services involving
2-24 the hazardous materials; and

2-25 (3) the hazardous materials possessed, owned, or being
2-26 transported by the individual are in forms, quantities, and
2-27 containers ordinarily available for sale as consumer products to
2-28 members of the general public.

2-29 Sec. 353.005. EXEMPTION FOR GOVERNMENTAL ENTITIES. This
2-30 chapter does not apply to hazardous materials owned or possessed by
2-31 a governmental entity.

2-32 SECTION 2. This Act takes effect September 1, 2005.

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