

By: Brown of Kaufman

H.B. No. 1628

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain counties to enact noise regulations; providing a criminal penalty.

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

SECTION 1. Chapter 240, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REGULATION OF NOISE AND SOUND LEVELS

Sec. 240.041. DEFINITIONS. In this chapter:

(1) "Major metropolitan county" means a county in which three or more municipalities, each with a population of more than 175,000, are predominantly located.

(2) "Nonurban county" means a county that has a population of less than 100,000 and that had a percentage change in its population growth, according to the two most recent federal decennial censuses, of less than 50 percent.

Sec. 240.042. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a nonurban county located adjacent to a major metropolitan county.

Sec. 240.043. AUTHORITY TO REGULATE. (a) The commissioners court of the county by order may regulate as permitted by this subchapter sound levels to promote the public health, safety, or welfare.

(b) A regulation adopted under this subchapter applies only to the unincorporated area of the county.

1 Sec. 240.044. PERMISSIBLE REGULATIONS. (a) The
2 regulations may prohibit any act that produces a sound that a
3 reasonable person would find objectionable.

4 (b) In determining whether a sound is objectionable to a
5 reasonable person, the following factors may be considered:

6 (1) the time of day the sound is produced;

7 (2) the proximity of the production of the sound to
8 residential property;

9 (3) whether the sound is recurrent, intermittent, or
10 constant;

11 (4) the volume and intensity of the sound;

12 (5) whether the sound has been enhanced in volume or
13 range by electronic or mechanical means; and

14 (6) whether the sound may be controlled without
15 unreasonable effort or expense to the producer of the sound.

16 Sec. 240.045. EXEMPTIONS. The commissioners court of the
17 county by order may establish an exemption to a regulation adopted
18 under this subchapter if the court determines that the public
19 interest justifies the exemption.

20 Sec. 240.046. INJUNCTION. A county may sue in the district
21 court for an injunction to prohibit the violation or threatened
22 violation of a regulation adopted under this subchapter.

23 Sec. 240.047. CRIMINAL PENALTY. (a) A person commits an
24 offense if the person violates a regulation adopted under this
25 subchapter.

26 (b) Each hour that a violation of a regulation adopted under
27 this subchapter continues constitutes a separate offense.

1 (c) An offense under this section is a Class C misdemeanor.

2 SECTION 2. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2005.