

By: Brown of Kaufman

H.B. No. 1629

A BILL TO BE ENTITLED

AN ACT

1
2 relating to creating an offense for certain conduct involving the
3 discharge of fireworks.

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

5 SECTION 1. Section 42.07, Penal Code, is amended to read as
6 follows:

7 Sec. 42.07. HARASSMENT. (a) A person commits an offense
8 if, with intent to harass, annoy, alarm, abuse, torment, or
9 embarrass another, the person [~~he~~]:

10 (1) initiates communication by telephone, in writing,
11 or by electronic communication and in the course of the
12 communication makes a comment, request, suggestion, or proposal
13 that is obscene;

14 (2) threatens, by telephone, in writing, or by
15 electronic communication, in a manner reasonably likely to alarm
16 the person receiving the threat, to inflict bodily injury on the
17 person or to commit a felony against the person, a member of his
18 family or household, or his property;

19 (3) conveys, in a manner reasonably likely to alarm
20 the person receiving the report, a false report, which is known by
21 the conveyor to be false, that another person has suffered death or
22 serious bodily injury;

23 (4) causes the telephone of another to ring repeatedly
24 or makes repeated telephone communications anonymously or in a

1 manner reasonably likely to harass, annoy, alarm, abuse, torment,
2 embarrass, or offend another;

3 (5) makes a telephone call and intentionally fails to
4 hang up or disengage the connection;

5 (6) knowingly permits a telephone under the person's
6 control to be used by another to commit an offense under this
7 section; ~~or~~

8 (7) sends repeated electronic communications in a
9 manner reasonably likely to harass, annoy, alarm, abuse, torment,
10 embarrass, or offend another; or

11 (8) on more than one occasion, in a manner reasonably
12 likely to harass, annoy, alarm, abuse, torment, embarrass, or
13 offend another, discharges fireworks, as defined by Section
14 2154.001, Occupations Code:

15 (A) within 30 feet of a residential dwelling; or

16 (B) by projecting the fireworks directly at or
17 toward a residential dwelling.

18 (b) In this section:

19 (1) "Electronic communication" means a transfer of
20 signs, signals, writing, images, sounds, data, or intelligence of
21 any nature transmitted in whole or in part by a wire, radio,
22 electromagnetic, photoelectronic, or photo-optical system. The
23 term includes:

24 (A) a communication initiated by electronic
25 mail, instant message, network call, or facsimile machine; and

26 (B) a communication made to a pager.

27 (2) "Family" and "household" have the meaning assigned

1 by Chapter 71, Family Code.

2 (3) "Obscene" means containing a patently offensive
3 description of or a solicitation to commit an ultimate sex act,
4 including sexual intercourse, masturbation, cunnilingus, fellatio,
5 or anilingus, or a description of an excretory function.

6 (4) "Residential dwelling" includes a single-family
7 home, a duplex, triplex, apartment, or other form of multifamily
8 housing, a motel or hotel, and a mobile home.

9 (c) An offense under Subsection (a)(1) through Subsection
10 (a)(7) [~~this section~~] is a Class B misdemeanor, except that the
11 offense is a Class A misdemeanor if the actor has previously been
12 convicted under this section. An offense under Subsection (a)(8)
13 is a Class C misdemeanor.

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