

By: Gallegos

S.B. No. 198

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a county to provide hazardous materials services.

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

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

CHAPTER 353. COUNTY HAZARDOUS MATERIALS SERVICES

Sec. 353.001. DEFINITIONS. In this chapter:

(1) "Hazardous material" means a flammable material, an explosive, a radioactive material, a hazardous waste, a toxic substance, or related material, including a substance defined as a "hazardous substance," "hazardous material," "toxic substance," or "solid waste" under:

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

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

(C) the federal Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); or

(D) Chapter 361, Health and Safety Code.

(2) "Responsible party" means a person:

(A) involved in the possession, ownership, or transportation of a hazardous material that is released or

1 abandoned; or

2 (B) who has legal liability for the causation of  
3 an incident resulting in the release or abandonment of a hazardous  
4 material.

5 Sec. 353.002. HAZARDOUS MATERIALS SERVICE. A county may  
6 provide hazardous materials services, including a response to an  
7 incident involving hazardous material that has been:

8 (1) leaked, spilled, or otherwise released; or

9 (2) abandoned.

10 Sec. 353.003. FEE FOR PROVIDING HAZARDOUS MATERIALS  
11 SERVICE; EXCEPTION. (a) A county, or a person authorized by  
12 contract on the county's behalf, may charge a reasonable fee to a  
13 responsible party for responding to a hazardous materials service  
14 call.

15 (b) An individual who is a responsible party does not have  
16 to pay the fee if:

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

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

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

1           Sec. 353.004. EXEMPTION FOR GOVERNMENTAL ENTITIES. This  
2 chapter does not apply to hazardous materials owned or possessed by  
3 a governmental entity.

4           SECTION 2. This Act takes effect September 1, 2005.