

By: McClendon

H.B. No. 3032

A BILL TO BE ENTITLED

AN ACT

relating to the transportation of hazardous materials in high-threat areas; providing a penalty.

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

SECTION 1. Chapter 201, Transportation Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. TRANSPORTATION OF HAZARDOUS MATERIALS

IN HIGH-THREAT AREAS

Sec. 201.991. DESIGNATION OF HIGH-THREAT AREAS. The Department of Public Safety, in consultation with the department and the division of emergency management in the office of the governor by rule shall designate high-threat areas in all parts of this state that are prone to potential terrorist attacks. The Department of Public Safety may enter into cooperative agreements with agencies of this state, other states, and the United States in connection with rules adopted under this section.

Sec. 201.992. PERMIT REQUIRED. (a) Except as provided by Section 201.993, unless the person holds a permit issued under Subsection (b), a person may not:

(1) transport in a high-threat area designated under Section 201.991:

(A) explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. Section 173.2, in a quantity greater than 500 kilograms;

1           (B) flammable gas of Class 2, Division 2.1, as  
2 designated in 49 C.F.R. Section 173.2, in a quantity greater than  
3 10,000 liters;

4           (C) poisonous gas of Class 2, Division 2.3, as  
5 designated in 49 C.F.R. Section 173.2, in a quantity greater than  
6 500 liters, and belonging to hazard zone A or B as defined by 49  
7 C.F.R. Section 173.116; or

8           (D) poisonous material other than gas, of Class  
9 6, Division 6.1, in a quantity greater than 1,000 kilograms, and  
10 belonging to hazard zone A or B as defined by 49 C.F.R. Section  
11 173.133; or

12           (2) operate a vehicle or move a railcar in a  
13 high-threat area designated under Section 201.991 that:

14           (A) is capable of carrying material described by  
15 Subdivision (1); and

16           (B) has exterior placarding or other markings  
17 indicating that the vehicle or railcar contains that material.

18           (b) The department shall issue a permit for the  
19 transportation of material described by Subsection (a)(1) or the  
20 operation of a vehicle or movement of a railcar described by  
21 Subsection (a)(2) in a high-threat area only if the person  
22 demonstrates that there is no alternative route that:

23           (1) lies entirely outside the high-threat area; and

24           (2) would not make the transportation or operation  
25 cost-prohibitive.

26           (c) The department by rule may adopt safety measures  
27 applicable to the holder of a permit under Subsection (b),

1 including restrictions limiting the times of day the permit holder  
2 may operate a vehicle or move a railcar under the permit.

3 (d) The department may impose and collect a fee for the  
4 issuance of a permit under Subsection (b). The amount of the fee  
5 may not exceed the cost of implementing and enforcing this section.

6 Sec. 201.993. EXCEPTION FOR EMERGENCY. Section 201.992(a)  
7 does not apply in an emergency, as defined by department rule, if  
8 the department determines that the emergency is temporary and  
9 threatens the immediate health, safety, or welfare of individuals  
10 or property.

11 Sec. 201.994. PENALTY. The department by rule shall  
12 establish administrative penalties for a violation of Section  
13 201.992.

14 SECTION 2. (a) As soon as practicable after the effective  
15 date of this Act, the Texas Department of Transportation and the  
16 Department of Public Safety shall adopt rules to implement  
17 Subchapter P, Chapter 201, Transportation Code, as added by this  
18 Act.

19 (b) A person is not required to obtain a permit for the  
20 transportation of hazardous materials under Section 201.992,  
21 Transportation Code, as added by this Act, before January 1, 2008.

22 SECTION 3. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2007.