

By: Howard of Fort Bend

H.B. No. 3581

A BILL TO BE ENTITLED

AN ACT

relating to county authority to abate nuisances.

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

SECTION 1. Section 343.002(1), Health and Safety Code, is amended to read as follows:

(1) "Abate" means to eliminate or remedy by removal, repair, rehabilitation, or demolition or, in the case of a nuisance under Section 343.011(c)(11), by removal, remediation, storage, transportation, disposal, and other means of waste management authorized by Chapter 361 of the Texas Health and Safety Code.

SECTION 2. Section 343.011, Health and Safety Code, is amended by amending Subsections (c) and (d) to read as follows:

(c) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

(2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;

(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes,

1 rodents, vermin, or disease-carrying pests;

2 (4) allowing weeds to grow on premises in a
3 neighborhood if the weeds are located within 300 feet of another
4 residence or commercial establishment;

5 (5) maintaining a building in a manner that is
6 structurally unsafe or constitutes a hazard to safety, health, or
7 public welfare because of inadequate maintenance, unsanitary
8 conditions, dilapidation, obsolescence, disaster, damage, or
9 abandonment or because it constitutes a fire hazard;

10 (6) maintaining on abandoned and unoccupied property
11 in a neighborhood, or maintaining on any property in a neighborhood
12 in a county with a population of more than 1.1 million, a swimming
13 pool that is not protected with:

14 (A) a fence that is at least four feet high and
15 that has a latched gate that cannot be opened by a child; or

16 (B) a cover over the entire swimming pool that
17 cannot be removed by a child;

18 (7) maintaining a flea market in a manner that
19 constitutes a fire hazard;

20 (8) discarding refuse or creating a hazardous visual
21 obstruction on:

22 (A) county-owned land; or

23 (B) land or easements owned or held by a special
24 district that has the commissioners court of the county as its
25 governing body;

26 (9) discarding refuse on the smaller of:

27 (A) the area that spans 20 feet on each side of a

1 utility line; or

2 (B) the actual span of the utility easement; ~~[or]~~

3 (10) filling or blocking a drainage easement, failing
4 to maintain a drainage easement, maintaining a drainage easement in
5 a manner that allows the easement to be clogged with debris,
6 sediment, or vegetation, or violating an agreement with the county
7 to improve or maintain a drainage easement; or ~~[or]~~

8 (11) discarding refuse on property that is not
9 authorized for that activity.

10 (d) This section does not apply to:

11 (1) a site or facility that is:

12 (A) permitted and regulated by a state agency for
13 an activity listed in Subsection (c); or

14 (B) licensed or permitted under Chapter 361 for
15 an activity listed in Subsection (c); or

16 (2) agricultural land.

17 SECTION 3. Section 343.013(a), Health and Safety Code, is
18 amended to read as follows:

19 (a) A county or district court may by injunction prevent,
20 ~~[or]~~ restrain, abate, or otherwise remedy a violation of this
21 chapter in the unincorporated area of the county.

22 SECTION 4. Section 343.021, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 343.021. AUTHORITY TO ABATE NUISANCE. A county may
25 abate a nuisance under this chapter by demolition or removal or, in
26 the case of a nuisance under Section 343.011(c)(1), (8), or (9), by
27 prohibition or control of access to the premises~~[or]~~ or, in the case

1 of a nuisance under Section 343.011(c)(11), by removal,
2 remediation, storage, transportation, disposal, and other means of
3 waste management authorized by Chapter 361 of the Texas Health and
4 Safety Code, if the county adopts abatement procedures that are
5 consistent with the general purpose of this chapter and that
6 conform to this chapter.

7 SECTION 5. Section 343.022(a), Health and Safety Code, is
8 amended to read as follows:

9 (a) The abatement procedures adopted by the commissioners
10 court must be administered by a regularly salaried, full-time
11 county employee, but the prohibition or control of access to the
12 premises to prevent a violation of Section 343.011(c)(1), (8), or
13 (9), or the removal or demolition of the nuisance, or the abatement
14 of a nuisance under Section 343.011(c)(11), may be made by a person
15 authorized by the person administering the abatement program.

16 SECTION 6. Section 343.023(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) A county may:
19 (1) assess the cost of abating the nuisance, which
20 includes all costs for management, remediation, storage,
21 transportation, disposal, damages, or other expenses incurred by
22 the county, the cost of legal notification by publication, and an
23 administrative fee of not more than \$100 on the person receiving
24 notice under Section 343.022; or

25 SECTION 7. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 3581

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2007.