

By: McClendon, Leibowitz

H.B. No. 760

Substitute the following for H.B. No. 760:

By: Coleman

C.S.H.B. No. 760

A BILL TO BE ENTITLED

AN ACT

relating to county regulation of sound levels; 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 D to read as follows:

SUBCHAPTER D. REGULATION OF SOUND LEVELS

Sec. 240.061. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that has a population of more than one million and in which more than 80 percent of the population lives in a single municipality.

Sec. 240.062. REGULATORY AUTHORITY. (a) The commissioners court of a county by order may regulate sound levels as prescribed by this subchapter to promote the public health, safety, or welfare.

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

Sec. 240.063. REGULATIONS. (a) The regulations adopted under this subchapter must prohibit sound levels that:

(1) exceed 85 decibels at 10 p.m. or after and before 6 a.m.; and

(2) continue for one hour or more.

(b) Sound regulated under this subchapter is measured by the actual decibel level emitted and not by an average noise level based

1 on a one-hour period.

2 (c) A regulation adopted under this subchapter may require
3 that a business or enterprise in existence before the effective
4 date of the regulation and located within 5,000 feet of an existing
5 residence, school, hospital, or nursing home take any measure
6 necessary to comply with the regulation within a period determined
7 by the county, not to exceed two years.

8 (d) The authority to regulate sound levels provided by this
9 subchapter is in addition to any regulatory authority granted by
10 other law.

11 Sec. 240.064. EXEMPTIONS. A sound is exempt from
12 regulation under this subchapter if it is a sound produced:

13 (1) for the purpose of alerting persons to the
14 existence of an emergency, danger, or attempted crime;

15 (2) by an emergency vehicle;

16 (3) by emergency work necessary to restore public
17 utilities, to restore property to a safe condition, or to protect
18 persons or property from imminent danger;

19 (4) by aircraft in operation at an airport or in
20 flight, or railroad equipment in operation on railroad
21 rights-of-way;

22 (5) by the operations of an electric utility or a power
23 generation company as defined by Section 31.002, Utilities Code, or
24 a gas utility as defined by Section 101.003 or 121.001, Utilities
25 Code; or

26 (6) by the use of restricted fireworks as defined by
27 Section 352.051.

1 Sec. 240.065. PERMIT FOR CERTAIN EVENTS; PERMIT FEES. (a)

2 The commissioners court of a county by order may authorize the
3 holding of events that produce sounds exceeding the levels
4 specified by Section 240.063 if the person holding an event obtains
5 a permit from the county for the event.

6 (b) A person must apply for the permit in accordance with
7 regulations adopted by the county.

8 (c) The regulations adopted under this section may provide
9 for the denial, suspension, or revocation of a permit by the county.

10 (d) A district court has jurisdiction of a suit that arises
11 from the denial, suspension, or revocation of a permit by the
12 county.

13 (e) A county may impose fees on an applicant for a permit
14 under this section. The fees must be based on the administrative
15 costs of issuing the permit. A county that imposes a permit fee
16 shall establish procedures to reduce the fee amount if the
17 applicant is unable to pay the full permit fee.

18 Sec. 240.066. INJUNCTION. The county may sue in the
19 district court for an injunction to prohibit the violation or
20 threatened violation of a regulation adopted under this subchapter.

21 Sec. 240.067. CRIMINAL PENALTY. (a) A person commits an
22 offense if the person violates a regulation adopted under this
23 subchapter.

24 (b) For a violation that continues for more than one hour,
25 each complete hour during which a violation of a regulation adopted
26 under this subchapter continues constitutes a separate offense.

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

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.