

By: Bolton

H.B. No. 1507

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain populous counties to adopt noise regulations; providing criminal and civil penalties.

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 NOISE BY CERTAIN POPULOUS COUNTIES

Sec. 240.061. PURPOSE. The powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare.

Sec. 240.062. APPLICABILITY. This subchapter applies only to a county with a population of more than 800,000.

Sec. 240.063. COUNTY NOISE REGULATIONS GENERALLY. In the unincorporated area of a county, the commissioners court of the county may adopt regulations to regulate noise levels.

Sec. 240.064. COMPLIANCE WITH COMPREHENSIVE PLAN. Regulations under this subchapter must be adopted in accordance with a comprehensive plan and must be designed to promote the maintenance of noise levels that are compatible with the land use of an area or promote, to the greatest degree, the purpose of this subchapter.

Sec. 240.065. DISTRICTS. (a) The commissioners court of a county may divide the unincorporated area of the county into districts of a number, shape, and size the commissioners court

1 considers best for carrying out this subchapter.

2 (b) Regulations must be uniform for each class or kind of  
3 land use in a district, but the regulations may vary from district  
4 to district. The regulations shall be adopted with reasonable  
5 consideration, among other factors, for the character of each  
6 district and its peculiar suitability for particular uses, with a  
7 view of conserving the value of buildings and encouraging the most  
8 appropriate use of land in the county.

9 Sec. 240.066. PROCEDURES GOVERNING ADOPTION OF COUNTY NOISE  
10 REGULATIONS AND DISTRICT BOUNDARIES. (a) The commissioners court  
11 of a county wishing to exercise the authority relating to  
12 regulations and district boundaries under this subchapter shall  
13 establish procedures for adopting and enforcing the regulations and  
14 boundaries. A regulation or boundary is not effective until after a  
15 public hearing on the matter at which parties in interest and  
16 citizens have an opportunity to be heard. Before the 15th day  
17 before the date of the hearing, notice of the time and place of the  
18 hearing must be published in an official newspaper or a newspaper of  
19 general circulation in the county.

20 (b) If the commissioners court of a county conducts a  
21 hearing under Subsection (a), the commissioners court may, by a  
22 majority vote, prescribe the type of notice to be given of the time  
23 and place of the public hearing. Notice requirements prescribed  
24 under this subsection are in addition to the publication of notice  
25 required by Subsection (a).

26 (c) If a proposed change to a regulation or boundary is  
27 protested in accordance with this subsection, the proposed change

1 must receive, in order to take effect, the affirmative vote of at  
2 least 75 percent of all members of the commissioners court. The  
3 protest must be written and signed by the owners of at least 20  
4 percent of:

5 (1) the area of the lots or land covered by the  
6 proposed change; or

7 (2) the area of the lots or land immediately adjoining  
8 the area covered by the proposed change and extending 200 feet from  
9 that area.

10 (d) In computing the percentage of land area under  
11 Subsection (c), the area of streets and alleys shall be included.

12 Sec. 240.067. ENFORCEMENT; PENALTY; REMEDIES. (a) The  
13 commissioners court of a county may adopt orders to enforce this  
14 subchapter or any regulation adopted under this subchapter.

15 (b) A person commits an offense if the person violates this  
16 subchapter or a regulation adopted under this subchapter. An  
17 offense under this subsection is a misdemeanor, punishable by fine,  
18 imprisonment, or both, as provided by the commissioners court. The  
19 commissioners court may also provide civil penalties for a  
20 violation.

21 (c) If a land use violates this subchapter or a regulation  
22 adopted under this subchapter, the appropriate county authority, in  
23 addition to other remedies, may institute appropriate action to:

24 (1) restrain, correct, or abate the violation; or

25 (2) prevent any illegal act, conduct, business, or use  
26 on or about the premises.

27 Sec. 240.068. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a)

1 This subchapter does not authorize the commissioners court of a  
2 county to require the removal or destruction of property that  
3 exists at the time the commissioners court implements this  
4 subchapter and that is actually and necessarily used in a public  
5 service business.

6 (b) This subchapter does not apply to land under the  
7 control, administration, or jurisdiction of a state or federal  
8 agency.

9 (c) This subchapter applies to privately owned land when  
10 leased to a state agency.

11 Sec. 240.069. CONTINUATION OF LAND USE IN CERTAIN AREAS.

12 (a) A county may not prohibit a person from:

13 (1) continuing to use land in the manner in which the  
14 land was being used on January 1, 2010, if the land use was legal at  
15 that time; or

16 (2) beginning to use land in the manner that was  
17 planned for the land before September 1, 2009, if:

18 (A) one or more licenses, certificates, permits,  
19 approvals, or other forms of authorization by a governmental entity  
20 were required by law for the planned land use; and

21 (B) a completed application for the initial  
22 authorization was filed with the governmental entity before  
23 September 1, 2009.

24 (b) For purposes of this section, a completed application is  
25 filed if the application includes all documents and other  
26 information designated as required by the governmental entity in a  
27 written notice to the applicant.

1        (c) This section does not prohibit a county from imposing a  
2 regulation relating to noise levels that does not prevent a person  
3 from continuing to use property for residential purposes.

4        (d) An order or regulation in conflict with this section is  
5 void.

6        SECTION 2. This Act takes effect September 1, 2009.