

AN ACT

relating to punishment for certain offenses committed in a disaster area or an evacuated area.

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

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.50 to read as follows:

Sec. 12.50. PENALTY IF OFFENSE COMMITTED IN DISASTER AREA OR EVACUATED AREA. (a) Subject to Subsection (c), the punishment for an offense described by Subsection (b) is increased to the punishment prescribed for the next higher category of offense if it is shown on the trial of the offense that the offense was committed in an area that was, at the time of the offense:

(1) subject to a declaration of a state of disaster made by:

(A) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(B) the governor under Section 418.014, Government Code; or

(C) the presiding officer of the governing body of a political subdivision under Section 418.108, Government Code; or

(2) subject to an emergency evacuation order.

(b) The increase in punishment authorized by this section

1 applies only to an offense under:

2 (1) Section 22.01;

3 (2) Section 29.02;

4 (3) Section 30.02; and

5 (4) Section 31.03.

6 (c) If an offense listed under Subsection (b)(1) or (4) is
7 punishable as a Class A misdemeanor, the minimum term of
8 confinement for the offense is increased to 180 days. If an offense
9 listed under Subsection (b)(3) or (4) is punishable as a felony of
10 the first degree, the punishment for that offense may not be
11 increased under this section.

12 (d) It is a defense to a charge under Subsection (b)(4) that
13 the conduct in question meets the elements of necessity outlined in
14 Section 9.22.

15 (e) For purposes of this section, "emergency evacuation
16 order" means an official statement issued by the governing body of
17 this state or a political subdivision of this state to recommend or
18 require the evacuation of all or part of the population of an area
19 stricken or threatened with a disaster.

20 SECTION 2. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 governed by the law in effect at the time the offense was committed,
24 and the former law is continued in effect for that purpose. For
25 purposes of this section, an offense was committed before the
26 effective date of this Act if any element of the offense occurred
27 before that date.

1 SECTION 3. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 359 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 28, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 359 passed the House, with amendment, on May 19, 2009, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor