

By: Patrick

S.B. No. 359

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to punishment for certain offenses committed in a disaster  
3 area or an evacuated area.

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

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

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

13 (1) considered to be a disaster area by:

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

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

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

22 (D) any other government official under state or  
23 federal law; or

24 (2) subject to an emergency evacuation order.

1        (b) The increase in punishment authorized by this section  
2 applies only to an offense under:

3            (1) Section 22.01;

4            (2) Section 29.02;

5            (3) Section 30.02; and

6            (4) Section 31.03.

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

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

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

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

1 before that date.

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