

1-1 By: Patrick S.B. No. 359
1-2 (In the Senate - Filed December 15, 2008; February 17, 2009,
1-3 read first time and referred to Subcommittee on Flooding and
1-4 Evacuations; March 30, 2009, reported adversely, with favorable
1-5 Committee Substitute from Committee on Intergovernmental Relations
1-6 by the following vote: Yeas 5, Nays 0; March 30, 2009, sent to
1-7 printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 359 By: Patrick

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to punishment for certain offenses committed in a disaster
1-12 area or an evacuated area.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended
1-15 by adding Section 12.50 to read as follows:

1-16 Sec. 12.50. PENALTY IF OFFENSE COMMITTED IN DISASTER AREA
1-17 OR EVACUATED AREA. (a) Subject to Subsection (c), the punishment
1-18 for an offense described by Subsection (b) is increased to the
1-19 punishment prescribed for the next higher category of offense if it
1-20 is shown on the trial of the offense that the offense was committed
1-21 in an area that is:

1-22 (1) considered to be a disaster area by:

1-23 (A) the president of the United States under the
1-24 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42
1-25 U.S.C. Section 5121 et seq.);

1-26 (B) the governor under Section 418.014,
1-27 Government Code;

1-28 (C) the presiding officer of the governing body
1-29 of a political subdivision under Section 418.108, Government Code;
1-30 or

1-31 (D) any other government official under state or
1-32 federal law; or

1-33 (2) subject to an emergency evacuation order.

1-34 (b) The increase in punishment authorized by this section
1-35 applies only to an offense under:

1-36 (1) Section 22.01;

1-37 (2) Section 29.02;

1-38 (3) Section 30.02; and

1-39 (4) Section 31.03.

1-40 (c) If an offense listed under Subsection (b)(1) or (4) is
1-41 punishable as a Class A misdemeanor, the minimum term of
1-42 confinement for the offense is increased to 180 days. If an offense
1-43 listed under Subsection (b)(3) or (4) is punishable as a felony of
1-44 the first degree, the punishment for that offense may not be
1-45 increased under this section.

1-46 (d) It is a defense to a charge under Subsection (b)(4) that
1-47 the conduct in question meets the elements of necessity outlined in
1-48 Section 9.22.

1-49 (e) For purposes of this section, "emergency evacuation
1-50 order" means an official statement issued by the governing body of
1-51 this state or a political subdivision of this state to recommend or
1-52 require the evacuation of all or part of the population of an area
1-53 stricken or threatened with a disaster.

1-54 SECTION 2. The change in law made by this Act applies only
1-55 to an offense committed on or after the effective date of this Act.
1-56 An offense committed before the effective date of this Act is
1-57 governed by the law in effect at the time the offense was committed,
1-58 and the former law is continued in effect for that purpose. For
1-59 purposes of this section, an offense was committed before the
1-60 effective date of this Act if any element of the offense occurred
1-61 before that date.

1-62 SECTION 3. This Act takes effect September 1, 2009.

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