

SENATE AMENDMENTS

2nd Printing

By: Leibowitz, Quintanilla, Marquez, Pickett

H.B. No. 459

A BILL TO BE ENTITLED

AN ACT

relating to county abatement and regulation of nuisances and certain massage parlors; providing civil and criminal penalties.

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

SECTION 1. Section 343.002(1), Health and Safety Code, is amended to read as follows:

(1) "Abate" means to eliminate or remedy:

(A) by removal, repair, rehabilitation, or demolition;

(B) in the case of a nuisance under Section 343.011(c)(1), (5), (9) [~~(8)~~], or (10) [~~(9)~~], by prohibition or control of access; and

(C) in the case of a nuisance under Section 343.011(c)(12) [~~343.011(c)(11)~~], by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361.

SECTION 2. Section 343.011(c), Health and Safety Code, as amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(c) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

1 (2) keeping, storing, or accumulating rubbish,
2 including newspapers, abandoned vehicles, refrigerators, stoves,
3 furniture, tires, and cans, on premises in a neighborhood or within
4 300 feet of a public street for 10 days or more, unless the rubbish
5 or object is completely enclosed in a building or is not visible
6 from a public street;

7 (3) maintaining premises in a manner that creates an
8 unsanitary condition likely to attract or harbor mosquitoes,
9 rodents, vermin, or disease-carrying pests;

10 (4) allowing weeds to grow on premises in a
11 neighborhood if the weeds are located within 300 feet of another
12 residence or commercial establishment;

13 (5) maintaining a building in a manner that is
14 structurally unsafe or constitutes a hazard to safety, health, or
15 public welfare because of inadequate maintenance, unsanitary
16 conditions, dilapidation, obsolescence, disaster, damage, or
17 abandonment or because it constitutes a fire hazard;

18 (6) maintaining on abandoned and unoccupied property
19 in a neighborhood a swimming pool that is not protected with:

20 (A) a fence that is at least four feet high and
21 that has a latched and locked gate; and

22 (B) a cover over the entire swimming pool that
23 cannot be removed by a child;

24 (7) maintaining on any property in a neighborhood in a
25 county with a population of more than 1.1 million a swimming pool
26 that is not protected with:

27 (A) a fence that is at least four feet high and

1 that has a latched gate that cannot be opened by a child; or

2 (B) a cover over the entire swimming pool that
3 cannot be removed by a child;

4 (8) maintaining a flea market in a manner that
5 constitutes a fire hazard;

6 (9) discarding refuse or creating a hazardous visual
7 obstruction on:

8 (A) county-owned land; or

9 (B) land or easements owned or held by a special
10 district that has the commissioners court of the county as its
11 governing body;

12 (10) discarding refuse on the smaller of:

13 (A) the area that spans 20 feet on each side of a
14 utility line; or

15 (B) the actual span of the utility easement;

16 (11) filling or blocking a drainage easement, failing
17 to maintain a drainage easement, maintaining a drainage easement in
18 a manner that allows the easement to be clogged with debris,
19 sediment, or vegetation, or violating an agreement with the county
20 to improve or maintain a drainage easement; or

21 (12) [~~(11)~~] discarding refuse on property that is not
22 authorized for that activity.

23 SECTION 3. Section 343.012(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) A person commits an offense if:

26 (1) the person violates Section 343.011(b); and

27 (2) the nuisance remains unabated after the 10th

1 [30~~th~~] day after the date on which the person receives notice from a
2 county official, agent, or employee to abate the nuisance.

3 SECTION 4. Section 343.013(c), Health and Safety Code, is
4 amended to read as follows:

5 (c) A county may bring suit under this section to prohibit
6 or control access to the premises to prevent a continued or future
7 violation of Section 343.011(c)(1), (5), (6), (9), or (10). The
8 court may grant relief under this subsection only if the county
9 demonstrates that:

10 (1) the person responsible for causing the public
11 nuisance has not responded sufficiently to previous attempts to
12 abate a nuisance on the premises, if the relief sought prohibits or
13 controls access of a person other than the owner; or

14 (2) the owner of the premises knew about the nuisance
15 and has not responded sufficiently to previous attempts to abate a
16 nuisance on the premises, if the relief sought controls access of
17 the owner.

18 SECTION 5. Section 343.021, Health and Safety Code, as
19 amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the
20 80th Legislature, Regular Session, 2007, is reenacted and amended
21 to read as follows:

22 Sec. 343.021. AUTHORITY TO ABATE NUISANCE. If a county
23 adopts abatement procedures that are consistent with the general
24 purpose of this chapter and that conform to this chapter, the county
25 may abate a nuisance under this chapter:

26 (1) by demolition or removal;

27 (2) in the case of a nuisance under Section

1 343.011(c)(1), (5), (9), or (10), by prohibiting or controlling
2 access to the premises;

3 (3) in the case of a nuisance under Section
4 343.011(c)(6), by:

5 (A) prohibiting or controlling access to the
6 premises and installing a cover that cannot be opened by a child
7 over the entire swimming pool; or

8 (B) draining and filling the swimming pool; or

9 (4) in the case of a nuisance under Section
10 343.011(c)(12) [~~343.011(c)(11)~~], by removal, remediation, storage,
11 transportation, disposal, or other means of waste management
12 authorized under Chapter 361.

13 SECTION 6. Section 343.022(a), Health and Safety Code, as
14 amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the
15 80th Legislature, Regular Session, 2007, is reenacted and amended
16 to read as follows:

17 (a) The abatement procedures adopted by the commissioners
18 court must be administered by a regularly salaried, full-time
19 county employee. A person authorized by the person administering
20 the abatement program may administer:

21 (1) the prohibition or control of access to the
22 premises to prevent a violation of Section 343.011(c)(1), (5), (6),
23 (9), or (10);

24 (2) the removal or demolition of the nuisance; and

25 (3) the abatement of a nuisance described by Section
26 343.011(c)(12) [~~343.011(c)(11)~~].

27 SECTION 7. Section 343.022(c), Health and Safety Code, is

1 amended to read as follows:

2 (c) The notice must state:

3 (1) the specific condition that constitutes a
4 nuisance;

5 (2) that the person receiving notice shall abate the
6 nuisance before the[+

7 [~~(A) 31st day after the date on which the notice~~
8 ~~is served, if the person has not previously received a notice~~
9 ~~regarding a nuisance on the premises, or~~

10 [~~(B) 10th business day after the date on which~~
11 ~~the notice is served[, if the person has previously received a~~
12 ~~notice regarding a nuisance on the premises];~~

13 (3) that failure to abate the nuisance may result in:

14 (A) abatement by the county;

15 (B) assessment of costs to the person responsible
16 for causing the nuisance when that person can be identified; and

17 (C) a lien against the property on which the
18 nuisance exists, if the person responsible for causing the nuisance
19 has an interest in the property;

20 (4) that the county may prohibit or control access to
21 the premises to prevent a continued or future nuisance described by
22 Section 343.011(c)(1), (5), (6), (9), or (10); and

23 (5) that the person receiving notice is entitled to
24 submit a written request for a hearing before the[+

25 [~~(A) 31st day after the date on which the notice~~
26 ~~is served, if the person has not previously received a notice~~
27 ~~regarding a nuisance on the premises, or~~

1 [~~(B)~~] 10th business day after the date on which
2 the notice is served[~~, if the person has previously received a~~
3 ~~notice regarding a nuisance on the premises~~].

4 SECTION 8. Section 343.0235, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to
7 use any money available under other law for a cleanup or remediation
8 of private property to abate a nuisance described by Section
9 343.011(c)(1), (5), (9), or (10).

10 SECTION 9. Chapter 234, Local Government Code, is amended
11 by adding Subchapter D to read as follows:

12 SUBCHAPTER D. MASSAGE PARLORS IN CERTAIN COUNTIES

13 Sec. 234.101. DEFINITIONS. In this subchapter:

14 (1) "Massage parlor" means a massage establishment
15 that allows:

16 (A) a nude or partially nude employee to provide
17 massage therapy or other massage services to a customer;

18 (B) any individual to engage in sexual contact in
19 the massage establishment; or

20 (C) any individual to practice massage therapy in
21 the nude or in clothing designed to arouse or gratify the sexual
22 desire of any individual.

23 (2) "Nude" and "sexual contact" have the meanings
24 assigned by Section 455.202, Occupations Code.

25 Sec. 234.102. APPLICABILITY. This subchapter applies only
26 to a county with a population of 3.3 million or more.

27 Sec. 234.103. AUTHORITY TO REGULATE. To promote public

1 health, safety, and welfare, the commissioners court of a county by
2 order may prohibit or otherwise regulate massage parlors located in
3 the unincorporated area of the county.

4 Sec. 234.104. INJUNCTION. A district or county attorney
5 may bring suit to enjoin the operation of a massage parlor in
6 violation or threatened violation of a prohibition or other
7 regulation adopted under this subchapter.

8 Sec. 234.105. CIVIL PENALTY. (a) A person who violates a
9 prohibition or regulation adopted by the county under this
10 subchapter is liable to the county for a civil penalty of not more
11 than \$1,000 for each violation. Each day a violation continues is
12 considered a separate violation for purposes of assessing the civil
13 penalty.

14 (b) A county may bring suit in a district court to recover a
15 civil penalty authorized by Subsection (a).

16 Sec. 234.106. CRIMINAL PENALTY. (a) A person commits an
17 offense if the person intentionally or knowingly operates a massage
18 parlor in violation of a prohibition or regulation adopted under
19 this subchapter by the commissioners court.

20 (b) An offense under this section is a Class A misdemeanor.

21 Sec. 234.107. CUMULATIVE EFFECT. Authority under this
22 subchapter is cumulative of other authority that a county has to
23 regulate massage parlors and does not limit that other authority.

24 SECTION 10. The change in law made by Section 343.012,
25 Health and Safety Code, as amended by this Act, applies only to an
26 offense committed on or after the effective date of this Act. An
27 offense committed before the effective date of this Act is governed

1 by the law in effect when the offense was committed, and the former
2 law is continued in effect for that purpose. For purposes of this
3 section, an offense was committed before the effective date of this
4 Act if any element of the offense was committed before that date.

5 SECTION 11. This Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Atty. Gen.
Secretary of the Senate

H.B. No. 459

By: Zaffirini

Substitute the following for H.B. No. 459:

By: *[Signature]*

C.S. H.B. No. 459

A BILL TO BE ENTITLED

AN ACT

relating to county abatement and regulation of nuisances.

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

SECTION 1. Section 343.002(1), Health and Safety Code, is amended to read as follows:

(1) "Abate" means to eliminate or remedy:

(A) by removal, repair, rehabilitation, or demolition;

(B) in the case of a nuisance under Section 343.011(c)(1), (5), (9) [~~8~~], or (10) [~~9~~], by prohibition or control of access; and

(C) in the case of a nuisance under Section 343.011(c)(12) [~~343.011(c)(11)~~], by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361.

SECTION 2. Section 343.011(c), Health and Safety Code, as amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(c) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

(2) keeping, storing, or accumulating rubbish,

1 including newspapers, abandoned vehicles, refrigerators, stoves,
2 furniture, tires, and cans, on premises in a neighborhood or within
3 300 feet of a public street for 10 days or more, unless the rubbish
4 or object is completely enclosed in a building or is not visible
5 from a public street;

6 (3) maintaining premises in a manner that creates an
7 unsanitary condition likely to attract or harbor mosquitoes,
8 rodents, vermin, or disease-carrying pests;

9 (4) allowing weeds to grow on premises in a
10 neighborhood if the weeds are located within 300 feet of another
11 residence or commercial establishment;

12 (5) maintaining a building in a manner that is
13 structurally unsafe or constitutes a hazard to safety, health, or
14 public welfare because of inadequate maintenance, unsanitary
15 conditions, dilapidation, obsolescence, disaster, damage, or
16 abandonment or because it constitutes a fire hazard;

17 (6) maintaining on abandoned and unoccupied property
18 in a neighborhood a swimming pool that is not protected with:

19 (A) a fence that is at least four feet high and
20 that has a latched and locked gate; and

21 (B) a cover over the entire swimming pool that
22 cannot be removed by a child;

23 (7) maintaining on any property in a neighborhood in a
24 county with a population of more than 1.1 million a swimming pool
25 that is not protected with:

26 (A) a fence that is at least four feet high and
27 that has a latched gate that cannot be opened by a child; or

1 (B) a cover over the entire swimming pool that
2 cannot be removed by a child;

3 (8) maintaining a flea market in a manner that
4 constitutes a fire hazard;

5 (9) discarding refuse or creating a hazardous visual
6 obstruction on:

7 (A) county-owned land; or

8 (B) land or easements owned or held by a special
9 district that has the commissioners court of the county as its
10 governing body;

11 (10) discarding refuse on the smaller of:

12 (A) the area that spans 20 feet on each side of a
13 utility line; or

14 (B) the actual span of the utility easement;

15 (11) filling or blocking a drainage easement, failing
16 to maintain a drainage easement, maintaining a drainage easement in
17 a manner that allows the easement to be clogged with debris,
18 sediment, or vegetation, or violating an agreement with the county
19 to improve or maintain a drainage easement; or

20 (12) [~~11~~] discarding refuse on property that is not
21 authorized for that activity.

22 SECTION 3. Section 343.013(c), Health and Safety Code, is
23 amended to read as follows:

24 (c) A county may bring suit under this section to prohibit
25 or control access to the premises to prevent a continued or future
26 violation of Section 343.011(c)(1), (5), (6), (9), or (10). The
27 court may grant relief under this subsection only if the county

1 demonstrates that:

2 (1) the person responsible for causing the public
3 nuisance has not responded sufficiently to previous attempts to
4 abate a nuisance on the premises, if the relief sought prohibits or
5 controls access of a person other than the owner; or

6 (2) the owner of the premises knew about the nuisance
7 and has not responded sufficiently to previous attempts to abate a
8 nuisance on the premises, if the relief sought controls access of
9 the owner.

10 SECTION 4. Section 343.021, Health and Safety Code, as
11 amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the
12 80th Legislature, Regular Session, 2007, is reenacted and amended
13 to read as follows:

14 Sec. 343.021. AUTHORITY TO ABATE NUISANCE. If a county
15 adopts abatement procedures that are consistent with the general
16 purpose of this chapter and that conform to this chapter, the county
17 may abate a nuisance under this chapter:

18 (1) by demolition or removal;

19 (2) in the case of a nuisance under Section
20 343.011(c)(1), (5), (9), or (10), by prohibiting or controlling
21 access to the premises;

22 (3) in the case of a nuisance under Section
23 343.011(c)(6), by:

24 (A) prohibiting or controlling access to the
25 premises and installing a cover that cannot be opened by a child
26 over the entire swimming pool; or

27 (B) draining and filling the swimming pool; or

1 (4) in the case of a nuisance under Section
2 343.011(c)(12) [~~343.011(c)(11)~~], by removal, remediation, storage,
3 transportation, disposal, or other means of waste management
4 authorized under Chapter 361.

5 SECTION 5. Section 343.022(a), Health and Safety Code, as
6 amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the
7 80th Legislature, Regular Session, 2007, is reenacted and amended
8 to read as follows:

9 (a) The abatement procedures adopted by the commissioners
10 court must be administered by a regularly salaried, full-time
11 county employee. A person authorized by the person administering
12 the abatement program may administer:

13 (1) the prohibition or control of access to the
14 premises to prevent a violation of Section 343.011(c)(1), (5), (6),
15 (9), or (10);

16 (2) the removal or demolition of the nuisance; and

17 (3) the abatement of a nuisance described by Section
18 343.011(c)(12) [~~343.011(c)(11)~~].

19 SECTION 6. Section 343.022(c), Health and Safety Code, is
20 amended to read as follows:

21 (c) The notice must state:

22 (1) the specific condition that constitutes a
23 nuisance;

24 (2) that the person receiving notice shall abate the
25 nuisance before the:

26 (A) 31st day after the date on which the notice is
27 served, if the person has not previously received a notice

1 regarding a nuisance on the premises; or

2 (B) 10th business day after the date on which the
3 notice is served, if the person has previously received a notice
4 regarding a nuisance on the premises;

5 (3) that failure to abate the nuisance may result in:

6 (A) abatement by the county;

7 (B) assessment of costs to the person responsible
8 for causing the nuisance when that person can be identified; and

9 (C) a lien against the property on which the
10 nuisance exists, if the person responsible for causing the nuisance
11 has an interest in the property;

12 (4) that the county may prohibit or control access to
13 the premises to prevent a continued or future nuisance described by
14 Section 343.011(c)(1), (5), (6), (9), or (10); and

15 (5) that the person receiving notice is entitled to
16 submit a written request for a hearing before the:

17 (A) 31st day after the date on which the notice is
18 served, if the person has not previously received a notice
19 regarding a nuisance on the premises; or

20 (B) 10th business day after the date on which the
21 notice is served, if the person has previously received a notice
22 regarding a nuisance on the premises.

23 SECTION 7. Section 343.0235, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to
26 use any money available under other law for a cleanup or remediation
27 of private property to abate a nuisance described by Section

1 343.011(c)(1), (5), (9), or (10).

2 SECTION 8. This Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

ADOPTED

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

MAY 25 2009

Atty. Gen.
Secretary of the Senate

BY:

J. J. Perry

Amend C.S.H.B. No. 459 (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.1127 to read as follows:

Sec. 361.1127. LAND RECLAMATION PROJECTS USING TIRES.

(a) In this section:

(1) "Land reclamation" means the process of restoring an area of excavated, deteriorated, or disturbed land to its approximate natural grade and to prepare or reclaim the land for reuse.

(2) "Scrap tire" has the meaning assigned by Section 361.112.

(b) A person may not begin a land reclamation project using scrap tires without a permit issued by the commission under this chapter.

(c) A person may not use scrap tires for a land reclamation project unless the tires are shredded, split, or quartered as provided by commission rule. The commission may grant an exception to this requirement if the commission finds that circumstances warrant the exception.

(d) The commission may not grant a permit for a land reclamation project using scrap tires before:

(1) the commission receives comments or suggestions from the commissioners court of each county in which the proposed project is located; or

(2) the expiration of a time period, established by

commission rule, in which the entities described by this subsection may offer comments.

(e) The application to request a permit for a land reclamation project using scrap tires must include at a minimum:

(1) a legal description of the area to be reclaimed;

(2) a map clearly identifying the area to be reclaimed and the topography of the area;

(3) an affidavit from the property owner certifying that the reclamation project complies with this section and the rules adopted under this section; and

(4) an analysis and evaluation of the environmental impacts on the soil and groundwater in the area of the proposed project that compare the impact of using scrap tires for the proposed reclamation project to the impact of at least one reasonable alternative method of land reclamation for the proposed project.

(f) The commission by rule shall:

(1) prescribe minimum standards to protect the soil and water for a land reclamation project using scrap tires; and

(2) adopt application forms and procedures for the permitting process under this section.

(g) The commission may amend, extend, transfer, or renew a permit issued under this section as provided by this chapter and commission rule.

(h) The notice and hearing procedures provided by this subchapter apply to a permit issued, amended, extended, or renewed under this section.

(i) The commission may, for good cause, deny, revoke, or amend a permit under this section for reasons concerning public

health and safety, air or water pollution, land use, or a violation of this section as provided by Section 361.089.

SECTION _____. (a) Before September 1, 2010, the Texas Commission on Environmental Quality shall adopt any rules required to implement Section 361.1127, Health and Safety Code, as added by this Act.

(b) On or after the effective date of this Act, any person responsible for an ongoing or pending land reclamation project using scrap tires that has not yet placed the tires below ground may not place the tires below ground until the person has obtained a permit under Section 361.1127, Health and Safety Code, as added by this Act.

(c) To the extent that a land reclamation project using scrap tires has placed tires below ground before the effective date of this Act, the project is subject to the law in effect on the date the tires were placed below ground, and that law is continued in effect for that purpose.

ADOPTED

MAY 25 2009

Lotay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: Gallegos

1 Amend H.B. No. 459 by adding the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS of
3 the bill accordingly:

4 SECTION ____ Chapter 240, Local Government Code, is amended
5 by adding Subchapter D to read as follows:

6 SUBCHAPTER D. REGULATION OF NOISE AND SOUND LEVELS

7 Sec. 240.061. APPLICABILITY OF SUBCHAPTER. This subchapter
8 applies only to a county with a population of more than 3.3 million.

9 Sec. 240.062. AUTHORITY TO REGULATE. (a) The
10 commissioners court of the county by order shall prohibit the
11 production of sound from a loudspeaker or sound amplifier the level
12 of which exceeds 85 decibels at a distance of 50 feet from the
13 property line of the property on which the loudspeaker or sound
14 amplifier is operated.

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

17 Sec. 240.063. PERMIT FOR CERTAIN EVENTS; PERMIT FEES. (a)
18 The commissioners court by order may authorize the holding of
19 events at which loudspeakers or sound amplifiers that produce
20 sounds exceeding the levels specified by Section 240.062 will be
21 used, if the person holding an event obtains a permit from the
22 county for the event.

23 (b) In determining whether to grant a permit under this
24 section, the commissioners court shall consider whether the sound
25 is recurrent, intermittent, or constant.

26 (c) A person must apply for the permit in accordance with
27 regulations adopted by the county.

28 (d) The regulations adopted under this section may provide
29 for the denial, suspension, or revocation of a permit by the county.

1 (e) A district court has jurisdiction of a suit that arises
2 from the denial, suspension, or revocation of a permit by the
3 county.

4 (f) A county may impose fees on an applicant for a permit
5 under this section. The fees must be based on the administrative
6 costs of issuing the permit. A county that imposes a permit fee
7 shall establish procedures to reduce the fee amount if the
8 applicant is unable to pay the full permit fee.

9 Sec. 240.064. METHOD OF SOUND MEASUREMENT. The
10 commissioners court shall by rule adopt a procedure to measure
11 noise and sound levels under this subchapter.

12 Sec. 240.065. INJUNCTION. A county may sue in the district
13 court for an injunction to prohibit the violation or threatened
14 violation of a prohibition or other regulation adopted under this
15 subchapter.

16 Sec. 240.066. CRIMINAL PENALTY. (a) A person commits an
17 offense if the person violates a prohibition or other regulation
18 adopted under this subchapter.

19 (b) An offense under this section is a Class C misdemeanor.
20 If it is shown on the trial of an offense under this section that the
21 person has previously been convicted of an offense under this
22 section, the offense is a Class B misdemeanor.

ADOPTED

MAY 25 2009

Atty. Gen.
Secretary of the Senate

P. Musti

FLOOR AMENDMENT NO. 3

BY: _____

1 Amend H.B. No. 459 by adding the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS of
3 the bill accordingly:

4 SECTION ____ Chapter 234, Local Government Code, is amended
5 by adding Subchapter C to read as follows:

6 SUBCHAPTER C. BUSINESSES RELATED TO AUTOMOBILE TIRES

7 Sec. 234.051. DEFINITIONS. In this subchapter:

8 (1) "Mobile tire repair business" means a business
9 that repairs tires at any temporary location, including a roadway,
10 alley, parking lot, or residence.

11 (2) "Used tire business" means a business or
12 establishment at which used tires are collected, repaired,
13 processed, recycled, scrapped, sold, bought, or stored, including a
14 mobile tire repair business or a salvage yard.

15 Sec. 234.052. APPLICABILITY. This subchapter applies only
16 to the unincorporated area of a county:

17 (1) with a population greater than 45,000 and less
18 than 50,000; and

19 (2) that is adjacent to an international border.

20 Sec. 234.053. LICENSE OR PERMIT REQUIRED. The
21 commissioners court of a county by order may require that the owner
22 or operator of a mobile tire repair business or used tire business
23 obtain a license or permit from the county before engaging in
24 business in the county. The commissioners court by order may
25 establish a fee to be paid for a license or permit.

26 Sec. 234.054. SCRAP TIRE DISPOSAL FEE. The commissioners
27 court of a county by order may:

28 (1) establish a fee to be imposed on the purchase of an
29 automobile tire in the county; and

1 (2) require a retailer of automobile tires to collect
2 the fee and use the fee to comply with requirements associated with
3 the disposal of scrap tires.

4 Sec. 234.055. RULES. The commissioners court of a county
5 may adopt rules as necessary to administer this subchapter.

6 Sec. 234.056. INJUNCTION. A district or county attorney
7 may bring suit to enjoin the operations of a mobile tire repair
8 business, used tire business, or tire retailer in violation of an
9 order or rule adopted under this subchapter.

10 Sec. 234.057. OFFENSE. A person commits an offense if the
11 person violates an order adopted under this subchapter. An offense
12 under this section is a Class C misdemeanor.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB459 by Leibowitz (Relating to county abatement and regulation of nuisances.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code relating to procedures for a county to abate and regulate nuisances. The bill would also amend the Local Government Code relating to the regulation of tire businesses and authorizing a fee for tire purchases for regulatory compliance in certain counties. The bill would also amend the Local Government Code relating to the adoption of noise regulations by certain counties.

The bill would also require that no land reclamation project using scrap tires could begin without a permit from the Texas Commission on Environmental Quality (TCEQ), and that the TCEQ approval of such permits would be contingent upon approval from specific local authorities. Although passage of the bill would result in a new permitting function for the TCEQ, because reclamation projects currently only require notice and authorization from the agency, any additional costs are expected to be absorbed using current agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ESi, DB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB459 by Leibowitz (Relating to county abatement and regulation of nuisances.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code relating to procedures for a county to abate and regulate nuisances.

Local Government Impact

No fiscal impact to units of local government is anticipated related to the proposed changes to the Health and Safety Code.

Source Agencies:

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB459 by Leibowitz (Relating to county abatement and regulation of nuisances and certain massage parlors; providing civil and criminal penalties.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code relating to procedures for a county to abate and regulate nuisances.

The bill would amend the Local Government Code to authorize a county with a population of 3.3 million or more to regulate massage parlors and to impose a civil penalty and a criminal penalty.

Local Government Impact

No fiscal impact to units of local government is anticipated related to the proposed changes to the Health and Safety Code.

Only one county would be affected by the proposed change to the Local Government Code: Harris County. Because that portion of the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 31, 2009

TO: Honorable Yvonne Davis, Chair, House Committee on Urban Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB459 by Leibowitz (Relating to county abatement or public nuisances; providing a penalty.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 4, 2009

TO: Honorable Yvonne Davis, Chair, House Committee on Urban Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB459 by Leibowitz (Relating to county abatement of certain unsafe buildings that are a public nuisance.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to include maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard to the list of nuisances under the purview of a county's abatement authority for certain actions.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB459 by Leibowitz (Relating to county abatement and regulation of nuisances.),
Committee Report 2nd House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TMP

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB459 by Leibowitz (Relating to county abatement and regulation of nuisances and certain massage parlors; providing civil and criminal penalties.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM