

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Laubenberg, Sheffield

H.B. No. 857

A BILL TO BE ENTITLED

AN ACT

relating to the penalty for certain outdoor burning violations.

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

SECTION 1. Section 7.177, Water Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsection (d), an [An] offense under this section is punishable for an individual under Section 7.187(1)(B) or Section 7.187(2)(C) or both.

(c) Except as provided by Subsection (d), an [An] offense under this section is punishable for a person other than an individual under Section 7.187(1)(C).

(d) An individual who violates a rule adopted under Section 382.018, Health and Safety Code, by burning waste generated solely from property designed for and used exclusively as a private residence commits an offense that is:

(1) a Class C misdemeanor if the waste is not a substance described by Subdivision (3);

(2) a Class B misdemeanor if the violation is a second or subsequent violation under Subdivision (1) that occurs on the same property as a previous violation under that subdivision; and

(3) a Class A misdemeanor if the violation involves the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition

1 materials, heavy oils, asphaltic materials, potentially explosive  
2 materials, furniture, carpet, chemical wastes, or items containing  
3 natural or synthetic rubber.

4           SECTION 2. The change in law made by this Act applies only  
5 to an offense committed on or after the effective date of this Act.  
6 An offense committed before the effective date of this Act is  
7 covered by the law in effect when the offense was committed, and the  
8 former law is continued in effect for that purpose. For purposes of  
9 this section, an offense is committed before the effective date of  
10 this Act if any element of the offense occurs before the effective  
11 date.

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

# ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 1

*Arlene Spaw*  
Secretary of the Senate

BY:

*Craig Estes*

1 Amend H.B. No. 857 by striking SECTION 1 of the bill (page  
2 1, lines 10-33), and substituting:

3 SECTION 1. Section 7.187, Water Code, is amended to read as  
4 follows:

5 Sec. 7.187. PENALTIES. (a) Except as provided by  
6 Subsection (b), a [A] person convicted of an offense under this  
7 subchapter is punishable by:

8 (1) a fine, as imposed under the section creating the  
9 offense, of:

10 (A) not more than \$1,000;

11 (B) not less than \$1,000 or more than \$50,000;

12 (C) not less than \$1,000 or more than \$100,000;

13 (D) not less than \$1,000 or more than \$250,000;

14 (E) not less than \$2,000 or more than \$500,000;

15 (F) not less than \$5,000 or more than  
16 \$1,000,000;

17 (G) not less than \$10,000 or more than  
18 \$1,500,000; or

19 (H) not more than twice the amount of the  
20 required fee;

21 (2) confinement for a period, as imposed by the  
22 section creating the offense, not to exceed:

23 (A) 30 days;

24 (B) 90 days;

25 (C) 180 days;

26 (D) one year;

27 (E) two years;

28 (F) five years;

29 (G) 10 years;

1 (H) 15 years;

2 (I) 20 years; or

3 (J) 30 years; or

4 (3) both fine and confinement, as imposed by the  
5 section creating the offense.

6 (b) Notwithstanding Section 7.177(a)(5), conviction for an  
7 offense under Section 382.018, Health and Safety Code, is  
8 punishable as:

9 (1) A Class C misdemeanor if the waste is not a  
10 substance described by Subdivision (3);

11 (2) a Class B misdemeanor if the violation is a  
12 second or subsequent violation under Subdivision (1);

13 (3) a Class A misdemeanor if the violation involves  
14 the burning of tires, insulation on electrical wire or cable,  
15 treated lumber, plastics, non-wood construction or demolition  
16 materials, heavy oils, asphaltic materials, potentially  
17 explosive materials, furniture, carpet, chemical wastes, or  
18 items containing natural or synthetic rubber.

**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: HB857** by Laubenberg (Relating to the penalty for certain outdoor burning violations. ), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill proposes to reduce the current criminal penalties for violations of the outdoor burning rules to a Class C misdemeanor except where the violation is a repeat offense or involves the burning of a tire, insulation of electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber. Repeat violations on the same property would be charged with a Class B misdemeanor, and burning prohibited items or materials would be a Class A misdemeanor.

The bill's passage is not expected to have a significant fiscal impact to the state.

**Local Government Impact**

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

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, SD, TL, SZ

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: **HB857** by Laubenberg (Relating to the penalty for certain outdoor burning violations.), As  
**Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill proposes to reduce the current criminal penalties for violations of the outdoor burning rules to a Class C misdemeanor with a fine up to \$500 except where the violation is a repeat offense or involves the burning of a tire, insulation of electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber. Repeat violations on the same property would be charged with a Class B misdemeanor with a \$2,000 fine and/or 180 days confinement, and burning prohibited items or materials would be a Class A misdemeanor with a \$4,000 fine and or one year confinement. Under current law, violators pay a \$1,000 to \$50,000 fine and or confinement not to exceed 180 days for an individual violating outdoor burning rules and a \$1,000 to \$100,000 fine for a person other than an individual violating the rules.

The bill's passage is not expected to have a significant fiscal impact to the state.

**Local Government Impact**

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

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, SD, TL, SZ

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 13, 2009**

**TO:** Honorable Byron Cook, Chair, House Committee on Environmental Regulation

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

**IN RE: HB857** by Laubenberg (relating to the penalty for certain outdoor burning violations.),  
**Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill proposes to reduce the current criminal penalties for violations of the outdoor burning rules to a Class C misdemeanor with a fine up to \$500 except where the violation is a repeat offense or involves the burning of a tire or insulation on copper wire. Repeat offences on the same property would be charged with a Class B misdemeanor with a \$2,000 fine and/or 180 days confinement, burning tires or insulation on electrical wire would be a Class A misdemeanor with a \$4,000 fine and or one year confinement. Under current law, violators pay a \$1,000 to \$50,000 fine and or confinement not to exceed 180 days for an individual violating outdoor burning rules and a \$1,000 to \$100,000 fine for a person other than an individual violating the rules.

The bill's passage is not expected to have a significant fiscal impact to the state.

**Local Government Impact**

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

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, SZ, TL, WK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 24, 2009

TO: Honorable Byron Cook, Chair, House Committee on Environmental Regulation

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

IN RE: **HB857** by Laubenberg (Relating to the penalty for certain outdoor burning violations.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill proposes to reduce the current criminal penalties for violations of the outdoor burning rules to a Class C misdemeanor with a fine up to \$500 except where the violation is a repeat offense or involves the burning of a tire or insulation on copper wire. Repeat offenders would be charged with a Class B misdemeanor with a \$2,000 fine and/or 180 days confinement for repeat offenders, burning tires or insulation on copper wire would be a Class A misdemeanor with a \$4,000 fine and or one year confinement. Under current law, violators pay a \$1,000 to \$50,000 fine and or confinement not to exceed 180 days for an individual violating outdoor burning rules and a \$1,000 to \$100,000 fine for a person other than an individual violating the rules.

The bill's passage is not expected to have a significant fiscal impact to the state.

**Local Government Impact**

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

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL