

**House Bill 857**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 [A~~n~~] 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 [A~~n~~] 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 materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.

**No equivalent provision.**

SENATE VERSION

**No equivalent provision.**

CONFERENCE

SECTION 1. Section 7.187, Water Code, is amended to

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read as follows:

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

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

- (A) not more than \$1,000;
- (B) not less than \$1,000 or more than \$50,000;
- (C) not less than \$1,000 or more than \$100,000;
- (D) not less than \$1,000 or more than \$250,000;
- (E) not less than \$2,000 or more than \$500,000;
- (F) not less than \$5,000 or more than \$1,000,000;
- (G) not less than \$10,000 or more than \$1,500,000; or
- (H) not more than twice the amount of the required fee;

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

- (A) 30 days;
- (B) 90 days;
- (C) 180 days;
- (D) one year;
- (E) two years;
- (F) five years;
- (G) 10 years;
- (H) 15 years;

- (I) 20 years; or
- (J) 30 years; or

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

(b) Notwithstanding Section 7.177(a)(5), conviction for an offense under Section 382.018, Health and Safety

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Code, is punishable as:

(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);

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

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

Same as House version.

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

Same as House version.