

BILL ANALYSIS

S.B. 1043
By: Watson
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Drought conditions increase the risk for wildfires and extreme fire seasons have been designated in Texas in the last several years. Human factors also contribute significantly to the number of wildfires according to the Texas Forest Service. Wildfires pose a grave danger to residential areas, and interested parties note that highway and roadside areas are also particularly susceptible to fire and human misconduct. The parties note that, according to the Texas Department of Insurance, smoking materials and discarded matches caused nearly 3,000 outdoor fires in 2008 alone. A wildfire can start and spread quickly after a person discards a burning match or cigarette.

S.B. 1043 seeks to address these issues by creating a criminal penalty for the discarding of certain burning materials.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

S.B. 1043 amends the Health and Safety Code to make it a misdemeanor offense to discard lighted litter, including a match, cigarette, or cigar, onto open-space land, a private road or the right-of-way of a private road, a public highway or other public road or the right-of-way of a public highway or other public road, or a railroad right-of-way and a fire is ignited as a result of that conduct. The bill makes an offense under this provision a misdemeanor if the litter or other solid waste to which the offense applies weighs less than 500 pounds or has a volume of less than 100 cubic feet and makes this offense punishable by a fine not to exceed \$500, confinement in jail for a term not to exceed 30 days, or both such fine and confinement. The bill provides that it is an affirmative defense to prosecution that the person discarded the lighted litter in connection with controlled burning the person was conducting in the area into which the lighted litter was discarded.

S.B. 1043 requires the operator of a public conveyance in which smoking tobacco is allowed to post a sign stating the substance of the offense and its associated penalties in a conspicuous place within any portion of the public conveyance in which smoking is allowed. The bill provides that if conduct constituting an offense of discarding lighted litter created under the bill also constitutes an offense relating to littering, the actor may be prosecuted only under the offense of discarding lighted litter. The bill provides that if conduct that constitutes an offense of discarding lighted litter also constitutes an offense under the Penal Code relating to arson, criminal mischief, and other property damage or destruction, the actor may be prosecuted under either offense but not both.

EFFECTIVE DATE

September 1, 2011.