

By: Lucio III

H.B. No. 2687

A BILL TO BE ENTITLED

AN ACT

relating to county regulation of sound levels; providing a criminal penalty.

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

SECTION 1. Chapter 240, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. REGULATION OF SOUND LEVELS

Sec. 240.061. REGULATORY AUTHORITY. (a) The commissioners court of a county by order may regulate sound levels as prescribed by this subchapter to promote the public health, safety, or welfare.

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

Sec. 240.062. REGULATIONS. (a) The regulations adopted under this subchapter must prohibit sound levels that:

(1) exceed 85 decibels at 10 p.m. or after and before 6 a.m.; and

(2) continue for one hour or more.

(b) Sound regulated under this subchapter is measured by the actual decibel level emitted and not by an average noise level based on a one-hour period.

(c) A regulation adopted under this subchapter may require that a business or enterprise in existence before the effective date of the regulation and located within 5,000 feet of an existing

1 residence, school, hospital, or nursing home take any measure  
2 necessary to comply with the regulation within a period determined  
3 by the county, not to exceed two years.

4 (d) The authority to regulate sound levels provided by this  
5 subchapter is in addition to any regulatory authority granted by  
6 other law.

7 Sec. 240.063. EXEMPTIONS. A sound is exempt from  
8 regulation under this subchapter if it is a sound produced:

9 (1) for the purpose of alerting persons to the  
10 existence of an emergency, danger, or attempted crime;

11 (2) by an emergency vehicle;

12 (3) by emergency work necessary to restore public  
13 utilities, to restore property to a safe condition, or to protect  
14 persons or property from imminent danger;

15 (4) by aircraft in operation at an airport or in flight  
16 or by railroad equipment in operation on railroad rights-of-way;

17 (5) by the operations of an electric utility or a power  
18 generation company as defined by Section 31.002, Utilities Code, or  
19 a gas utility as defined by Section 101.003 or 121.001, Utilities  
20 Code; or

21 (6) by the use of restricted fireworks as defined by  
22 Section 352.051.

23 Sec. 240.064. PERMIT FOR CERTAIN EVENTS; PERMIT FEES. (a)  
24 The commissioners court of a county by order may authorize the  
25 holding of events that produce sounds exceeding the levels  
26 specified by Section 240.062 if the person holding an event obtains  
27 a permit from the county for the event.

1        (b) A person must apply for the permit in accordance with  
2 regulations adopted by the county.

3        (c) The regulations adopted under this section may provide  
4 for the denial, suspension, or revocation of a permit by the county.

5        (d) A district court has jurisdiction of a suit that arises  
6 from the denial, suspension, or revocation of a permit by the  
7 county.

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

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

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

19        (b) For a violation that continues for more than one hour,  
20 each complete hour during which a violation of a regulation adopted  
21 under this subchapter continues constitutes a separate offense.

22        (c) An offense under this section is a Class C misdemeanor.

23        SECTION 2. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2011.