

BILL ANALYSIS

Senate Research Center

H.B. 1619
By: Shine (Buckingham)
Natural Resources & Economic Development
5/1/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Presently, it is a class B misdemeanor to burn all items under subsection 2 (ii), and thus an offense for which an individual can be arrested. Items listed under this subsection include insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, furniture, carpet, or items containing natural or synthetic rubber. Persons burning such items may not be aware they are prohibited or that such items are in violation of the Texas Clean Air Act. Interested parties assert that this punishment is severe and requires a formal arrest.

H.B. 1619 seeks to remedy this situation by lessening the first offense to a class C misdemeanor, enabling law enforcement to write a ticket as opposed to making an arrest. In the event of a repeat offense or in the case of burning certain dangerous materials such as chemicals the violation still carries a class B misdemeanor.

H.B. 1619 amends current law relating to the prosecution and punishment of certain outdoor burning violations.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 382.018, Health and Safety Code, by adding Subsections (f) and (g), as follows:

(f) Authorizes conduct, if the conduct that violates a rule adopted under this section (Outdoor Burning of Waste and Combustible Material) also violates a municipal ordinance, to be prosecuted only under the municipal ordinance, provided that the violation is not a second or subsequent violation of an adopted rule or a municipal ordinance, and the violation does not involve the burning of heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes.

(g) Authorizes the provisions of this section and rules adopted under this section to, notwithstanding Section 7.002 (Enforcement Authority), Water Code, be enforced by a peace officer as described by Article 2.12 (Who Are Peace Officers), Code of Criminal Procedure.

SECTION 2. Amends Section 7.187(b), Water Code, as follows:

(b) Provides that a conviction for an offense under Section 328.018, Health and Safety Code, notwithstanding Section 7.177(a)(5) (relating to providing that a person commits an offense if the person intentionally or knowingly, with respect to the persons conduct, violates an order, permit, or exemption, or an adopted rule), is punishable as a certain misdemeanor based on the classification of the substance being burned.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.