

BILL ANALYSIS

Senate Research Center
85R9993 JRR-D

S.B. 1915
By: Buckingham
Natural Resources & Economic Development
3/31/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the burning of items such as electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, furniture, carpet, plastics, or items containing natural or synthetic rubber is considered a Class B misdemeanor under the Clean Air Act. Interested parties have noted that many times, persons burning such items may not be aware it is against the law.

As such, law enforcement and fire marshals are often forced to make a decision between making an arrest or giving a verbal warning. For repeat offenders that were not originally arrested, there is no legal documentation of their initial verbal warning, leaving law enforcement without the necessary evidence to pursue further penalties.

S.B. 1915 addresses this issue by giving local law enforcement more flexibility and penalty options to address certain outdoor burning activities.

As proposed, S.B. 1915 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 Subsection (f), to authorize conduct, if conduct that violates a rule adopted under this section (Outdoor Burning of Waste and Combustible Material) also violates the municipal ordinance, to be prosecuted only under a 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.

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

(b) Provides that, notwithstanding Section 7.177(a)(5) (relating to providing that a person commits an offense if the person violates an order, permit, or exemption issued or certain adopted rules), conviction for an offense under Section 382.018, Health and Safety Code, is punishable as:

(1) a Class C misdemeanor if the violation is a first violation and does not involve the burning of heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes;

(2) a Class B misdemeanor if the violation is a second or subsequent violation, rather than a Class B misdemeanor if the violation is a second or subsequent violation under Subdivision (1), and:

(A) the violation does not involve the burning of:

(i) substances described by Subdivision (1); or

(ii) insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, furniture, carpet, or items containing natural or synthetic rubber; or

(B) the violation involves the burning of substances described by Paragraph (A)(ii) and none of the prior violations involved the burning of substances described by Subdivision (1) or Paragraph (A)(ii); or

(3) a Class A misdemeanor, rather than a Class A misdemeanor if the violation involves the burning of certain materials, if the violation:

(A) involves the burning of substances described by Subdivision (1); or

(B) is a second or subsequent violation and involves the burning of substances described by Subdivision (2)(A)(ii) and one or more of the prior violations involved the burning of substances described by Subdivision (1) or (2)(A)(ii).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.