87R19199 MP-F

By:  Walle H.B. No. 775

Substitute the following for H.B. No. 775:

By:  Spiller C.S.H.B. No. 775

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of noise regulations by certain counties; creating a criminal offense; authorizing fees.

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 NOISE AND SOUND LEVELS IN CERTAIN COUNTIES

Sec. 240.061.  APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of more than 3.3 million.

Sec. 240.062.  AUTHORITY TO REGULATE. (a) The commissioners court of a county by order shall prohibit the production of sound from a loudspeaker or sound amplifier the level of which exceeds 85 decibels at a distance of 50 feet from the property line of the property on which the loudspeaker or sound amplifier is operated.

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

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

(1)  the operations or facilities of:

(A)  a chemical manufacturing facility;

(B)  an electric utility as defined by Section 31.002, Utilities Code;

(C)  a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(D)  a telecommunications utility as defined by Section 51.002, Utilities Code;

(E)  a cable service provider as defined by Section 66.002, Utilities Code;

(F)  a video service provider as defined by Section 66.002, Utilities Code; or

(G)  an entity permitted for the management of solid waste under Chapter 361, Health and Safety Code; or

(2)  an activity associated with:

(A)  the exploration, development, or production of oil, gas, geothermal resources, or any other substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code; or

(B)  the transporting, refining, processing, or other handling of oil, gas, or geothermal resources.

Sec. 240.064.  PERMIT FOR CERTAIN EVENTS; PERMIT FEES. (a) The commissioners court of a county by order may authorize the holding of events at which loudspeakers or sound amplifiers that produce sounds exceeding the levels specified by Section 240.062 will be used, if the person holding an event obtains a permit from the county for the event.

(b)  In determining whether to grant a permit under this section, the commissioners court shall consider whether the sound is recurrent, intermittent, or constant.

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

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

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

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

Sec. 240.065.  METHOD OF SOUND MEASUREMENT. The commissioners court of a county by rule shall adopt a procedure to measure noise and sound levels under this subchapter.

Sec. 240.066.  INJUNCTION. A county may sue in a district court for an injunction to prohibit the violation or threatened violation of a prohibition or other regulation adopted under this subchapter.

Sec. 240.067.  CRIMINAL PENALTY. (a) A person commits an offense if the person violates a prohibition or other regulation adopted under this subchapter.

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

SECTION 2.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.