

By: Miles

S.B. No. 504

A BILL TO BE ENTITLED

AN ACT

relating to authority of a county fire marshal to inspect group homes and assisted living facilities; authorizing a fee; creating a criminal offense.

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

SECTION 1. Subchapter B, Chapter 352, Local Government Code, is amended by adding Section 352.0165 to read as follows:

Sec. 352.0165. INSPECTION OF GROUP HOMES AND ASSISTED LIVING FACILITIES; FEE. (a) In this section:

(1) "Assisted living facility" means a facility licensed under Chapter 247, Health and Safety Code.

(2) "Group home" means an establishment:

(A) in which three or more individuals who are unrelated to the owner or operator of the establishment reside;

(B) that provides residential care services to residents; and

(C) that receives payment or other compensation from a local, state, or federal governmental entity for providing residential care services to a resident.

(3) "Residential care services" means shelter, protection, meals, health care, mobility assistance, and personal care services, including bathing, dressing, and eating.

(b) On the complaint of any person, the county fire marshal, at any reasonable time, may enter:

1 (1) a building in the county in which a group home or
2 assisted living facility is operated; and

3 (2) the premises of a building described by
4 Subdivision (1).

5 (c) The county fire marshal shall order the removal of a
6 building in which a group home or assisted living facility is
7 located, the removal of a structure located on the premises of a
8 building in which a group home or assisted living facility is
9 located, or other remedial action if the marshal finds that:

10 (1) the building or structure, because of lack of
11 repair, age, dilapidated condition, or other reason, is susceptible
12 to fire and is so located or occupied that fire would endanger
13 persons or property in the building or structure or on the premises
14 of the building or structure;

15 (2) a dangerous condition is created by:

16 (A) an improper arrangement of stoves, ranges,
17 furnaces, or other heating appliances, including chimneys, flues,
18 and pipes with which they are connected, or by their lighting
19 systems or devices; or

20 (B) the manner of storage of explosives,
21 compounds, petroleum, gasoline, kerosene, dangerous chemicals,
22 vegetable products, ashes, or combustible, flammable, or refuse
23 materials; or

24 (3) any other condition exists that is dangerous or is
25 liable to cause or promote fire or create danger for firefighters,
26 occupants, or other buildings or structures.

27 (d) The person to whom an order under Subsection (c) is

1 directed shall immediately comply with the order. The marshal may,
2 if necessary, apply to a court of competent jurisdiction for writs
3 or orders necessary to enforce this section, and the court may grant
4 appropriate relief. The marshal is not required to give a bond.

5 (e) The commissioners court of a county may adopt any
6 appropriate standard developed by a nationally recognized
7 standards-making association under which the county fire marshal
8 may enforce this section, except that standards adopted under this
9 subsection do not apply in a municipality that has adopted fire
10 protection ordinances.

11 (f) The commissioners court of a county shall prescribe a
12 reasonable fee for an inspection performed by the county fire
13 marshal that may be charged to a property owner or occupant who
14 requests the inspection, as the commissioners court considers
15 appropriate. In prescribing the fee, the commissioners court shall
16 consider the overall cost to the marshal to perform the
17 inspections, including the approximate amount of time the staff of
18 the marshal needs to perform an inspection, travel costs, and other
19 expenses.

20 SECTION 2. Section [352.022](#), Local Government Code, is
21 amended to read as follows:

22 Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. An
23 owner or occupant who is subject to an order issued under Section
24 [352.016](#) or [352.0165](#) commits an offense if that person fails to
25 comply with the order. Each refusal to comply is a separate offense.
26 The offense is a Class B misdemeanor unless it is shown on the trial
27 of the offense that the defendant has been previously convicted two

1 or more times under this section, in which event the offense is a
2 state jail felony.

3 SECTION 3. Section [352.022](#), Local Government Code, as
4 amended by this Act, applies only to an offense committed on or
5 after the effective date of this Act. An offense committed before
6 the effective date of this Act is governed by the law in effect on
7 the date the offense was committed, and the former law is continued
8 in effect for that purpose. For purposes of this section, an
9 offense was committed before the effective date of this Act if any
10 element of the offense occurred before that date.

11 SECTION 4. This Act takes effect September 1, 2021.