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H.B. No. 1904

A BILL TO BE ENTITLED

AN ACT

relating to the release of a balloon and associated littering;
creating a criminal offense.

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

SECTION 1. Section 365.011, Health and Safety Code, is
amended by adding Subdivision (1-a) and amending Subdivision (6) to
read as follows:

(1-a) "Balloon" means a bag of inflatable material
made of Mylar.

(6) "Litter" means:

(A) decayable waste from a public or private
establishment, residence, or restaurant, including animal and
vegetable waste material from a market or storage facility handling
or storing produce or other food products, or the handling,
preparation, cooking, or consumption of food, but not including
sewage, body wastes, or industrial by-products; or

(B) nondecayable solid waste, except ashes, that
consists of:

(i) combustible waste material, including
paper, rags, cartons, wood, excelsior, furniture, rubber,
balloons, plastics, yard trimmings, leaves, or similar materials;

(ii) noncombustible waste material,
including glass, crockery, tin or aluminum cans, metal furniture,
and similar materials that do not burn at ordinary incinerator

temperatures of 1800 degrees Fahrenheit or less; and

(iii) discarded or worn-out manufactured materials and machinery, including motor vehicles and parts of motor vehicles, tires, aircraft, farm implements, building or construction materials, appliances, and scrap metal.

SECTION 2. Subchapter B, Chapter 365, Health and Safety Code, is amended by adding Section 365.018 to read as follows:

Sec. 365.018. RELEASE OF BALLOON; CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally releases or causes to be released a balloon inflated with lighter-than-air gas outside a roofed structure.

(b) It is an exception to the application of Subsection (a) that the balloon was:

(1) a balloon released for scientific or meteorological purposes on behalf of a governmental agency or under a governmental contract; or

(2) a hot air balloon recovered after launching.

(c) An offense under this section is a Class C misdemeanor if:

(1) the total weight of balloons released by the actor, after deflation, is five pounds or less; or

(2) the total volume of balloons released by the actor, after deflation, is five gallons or less.

(d) An offense under this section is a Class B misdemeanor if:

(1) the total weight of balloons released by the actor, after deflation, is more than five pounds but less than 500

pounds; or

(2) the total volume of balloons released by the actor, after deflation, is more than five gallons but less than 100 cubic feet.

(e) An offense under this section is a Class A misdemeanor if:

(1) the total weight of balloons released by the actor, after deflation, is 500 pounds or more but less than 1,000 pounds;

(2) the total volume of balloons released by the actor, after deflation, is 100 cubic feet or more but less than 200 cubic feet; or

(3) the balloon release was for a commercial purpose and:

(A) the total weight of balloons released by the actor, after deflation, is more than five pounds but less than 200 pounds; or

(B) the total volume of balloons released by the actor, after deflation, is more than five gallons but less than 200 cubic feet.

(f) An offense under this section is a state jail felony if:

(1) the total weight of balloons released by the actor, after deflation, is 1,000 pounds or more;

(2) the total volume of balloons released by the actor, after deflation, is 200 cubic feet or more; or

(3) the balloon release was for a commercial purpose and:

1 (A) the total weight of balloons released by the
2 actor, after deflation, is 200 pounds or more; or

3 (B) the total volume of balloons released by the
4 actor, after deflation, is 200 cubic feet or more.

5 (g) Except as otherwise provided by this subsection, the
6 punishment for an offense under this section is increased to the
7 punishment prescribed for the next higher category of offense if it
8 is shown on the trial of the offense that the defendant has
9 previously been convicted of an offense under this section. If an
10 offense under this section is punishable as a Class A misdemeanor,
11 the minimum term of confinement for the offense is increased to 180
12 days.

13 (h) On conviction of an offense under this section, the
14 court shall require the defendant, in addition to the penalties
15 prescribed by this section, to perform community service as
16 provided by Article 42A.304(e), Code of Criminal Procedure.

17 (i) Chapter 15, Penal Code, applies to an offense under this
18 section.

19 (j) If conduct that constitutes an offense under this
20 section also constitutes an offense under any other law, the actor
21 may be prosecuted under this section or the other law, but not both.

22 SECTION 3. Article 42A.304(e), Code of Criminal Procedure,
23 is amended to read as follows:

24 (e) A defendant required to perform community service under
25 this article after conviction of an offense under Section 352.082,
26 Local Government Code, or Section 365.012, 365.013, ~~[or]~~ 365.016,
27 or 365.018, Health and Safety Code, shall perform the amount of

1 service ordered by the court, which may not exceed 60 hours. The
2 community service must consist of picking up litter in the county in
3 which the defendant resides or working at a recycling facility if a
4 program for performing that type of service is available in the
5 community in which the court is located. A court may credit the
6 amount of community service performed by a defendant under this
7 subsection toward any amount of community service the defendant is
8 ordered to perform under another provision of this code as a result
9 of the defendant's inability to pay a fine or cost imposed in the
10 judgment for the applicable offense.

11 SECTION 4. This Act takes effect September 1, 2025.