

By: Bailey

H.B. No. 176

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain counties to enact noise regulations; providing a criminal penalty.

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

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 may regulate as permitted by this subchapter sound levels to promote the public health, safety, or welfare.

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

Sec. 240.063. PERMISSIBLE REGULATIONS. (a) The regulations may prohibit any act that produces a sound that a reasonable person would find objectionable.

(b) In determining whether a sound is objectionable to a reasonable person, the following factors may be considered:

(1) the time of day the sound is produced;

(2) the proximity of the production of the sound to residential property;

(3) whether the sound is recurrent, intermittent, or

1 constant;

2 (4) the volume and intensity of the sound;

3 (5) whether the sound has been enhanced in volume or
4 range by electronic or mechanical means; and

5 (6) whether the sound may be controlled without
6 unreasonable effort or expense to the producer of the sound.

7 Sec. 240.064. EXEMPTIONS. The commissioners court of a
8 county by order may establish an exemption to a regulation adopted
9 under this subchapter if the court determines that the public
10 interest justifies the exemption.

11 Sec. 240.065. INJUNCTION. A county may sue in the district
12 court for an injunction to prohibit the violation or threatened
13 violation of a regulation adopted under this subchapter.

14 Sec. 240.066. CRIMINAL PENALTY. (a) A person commits an
15 offense if the person violates a regulation adopted under this
16 subchapter.

17 (b) Each hour that a violation of a regulation adopted under
18 this subchapter continues constitutes a separate offense.

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

20 SECTION 2. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2007.