

By: Brown of Kaufman

H.B. No. 362

Substitute the following for H.B. No. 362:

By: Davis of Harris

C.S.H.B. No. 362

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 F to read as follows:

SUBCHAPTER F. REGULATION OF NOISE AND SOUND LEVELS

Sec. 240.101. DEFINITIONS. In this subchapter:

(1) "Major metropolitan county" means a county in which three or more municipalities, each with a population of more than 175,000, are predominantly located.

(2) "Nonurban county" means a county that has a population of less than 100,000 and that had a percentage change in its population growth, according to the most recent federal decennial census, of less than 50 percent.

Sec. 240.102. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a nonurban county located adjacent to a major metropolitan county.

Sec. 240.103. AUTHORITY TO REGULATE. (a) The commissioners court of the county by order may prohibit the production of sound from a loudspeaker or sound amplifier:

(1) 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; and

1 (2) that disturbs a person of ordinary sensibilities
2 in the immediate vicinity of the loudspeaker or sound amplifier.

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

5 (c) This subchapter does not authorize the commissioners
6 court to regulate restricted fireworks as defined by Section
7 352.051.

8 Sec. 240.104. PERMIT FOR CERTAIN EVENTS; PERMIT FEES. (a)
9 The commissioners court by order may authorize the holding of
10 events at which loudspeakers or sound amplifiers that produce
11 sounds exceeding the levels specified by Section 240.103 will be
12 used, if the person holding an event obtains a permit from the
13 county for the event.

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

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

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

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

26 Sec. 240.105. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
27 ORDER. If an order adopted by a county under this subchapter

1 conflicts with an ordinance of a municipality, the municipal
2 ordinance prevails within the municipality's jurisdiction to the
3 extent of the conflict.

4 Sec. 240.106. INJUNCTION. A county may sue in the district
5 court for an injunction to prohibit the violation or threatened
6 violation of a prohibition or other regulation adopted under this
7 subchapter.

8 Sec. 240.107. CRIMINAL PENALTY. (a) A person commits an
9 offense if the person violates a prohibition or other regulation
10 adopted under this subchapter.

11 (b) Each hour that a violation of a prohibition or other
12 regulation adopted under this subchapter continues constitutes a
13 separate offense.

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

15 SECTION 2. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2009.