

SUBJECT: Increasing maximum fine for violating navigation district ordinance

COMMITTEE: Transportation — favorable, without amendment

VOTE: 6 ayes — Krusee, Phillips, Hamric, Callegari, Deshotel, Hill
0 nays
3 absent — Casteel, Flores, West

WITNESSES: None

BACKGROUND: Water Code, ch. 60, subch. D, authorizes the commission of a navigation district that owns, operates, and maintains wharves, docks, piers, sheds, warehouses, and other similar terminal facilities to pass, amend, and repeal any ordinance, rule, or police regulation not contrary to the constitution or current law that is necessary to protect the property and to promote the health, safety, and welfare of anyone using the property.

A violation of an ordinance, rule, or regulation is a misdemeanor, punishable by a fine of not more than \$200.

Penal Code, ch. 12.23, establishes a class C misdemeanor, with a maximum fine of \$500.

DIGEST: HB 2966 would amend Water Code, sec. 60.078 by increasing from \$200 to \$500 the fine for a violation of a navigation district ordinance, rule, or regulation.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005, and would apply to offenses committed on or after that date.

SUPPORTERS SAY: A conviction in a criminal court for violating navigation district ordinances currently is a misdemeanor, punishable by a fine of up to \$200. However, the maximum fine for a class C misdemeanor as authorized by the Penal Code is \$500. HB 2966 would allow navigation district

authorities to increase fines to \$500, thereby standardizing port violations with other criminal misdemeanors.

Navigation districts already may adopt ordinances necessary to protect property and the health and safety of the people using that property, including regulating the control of vessels using the harbor by prescribing the speed and lighting of the vessels and the surrounding property. Other ordinances prohibit smoking and explosive substances and materials on docks and wharves and other properties. Loitering, trespassing, fighting, and using profanity can be considered breaches of the peace. Ordinances are intended to regulate the good order and safety of these areas. Violations are serious for the people who work and live nearby. The bill would establish uniformity by allowing port authorities to increase the fine, if they choose, to the same level as other criminal misdemeanors.

**OPPONENTS
SAY:**

It might be more appropriate to maintain the maximum fine of \$200 because some of these violations, such as loitering, can be minor and would not merit a \$500 fine.