

**SUBJECT:** Increased penalty for discarding lighted smoking materials

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 8 ayes — Swinford, Paxton, Van Arsdale, Christian, Farrar, Flynn, Parker, Veasey

0 nays

1 absent — B. Cook

**WITNESSES:** For — None

Against — (*Registered, but did not testify*: Tracey Hayes, ACLU)

On — James B. Hull, Texas Forest Service

**BACKGROUND:** Health and Safety Code, sec. 365.012 makes it an offense for a person to dispose or permit the disposal of litter or other solid waste in an area that is not an approved solid waste site, including a place on or within 300 feet of a public highway, on a right-of-way, on other public or private property, or into inland or coastal water of the state.

A person commits a class C misdemeanor, with a maximum fine of \$500, for dumping litter or solid waste weighing five pounds or less or with a volume of five gallons or less.

**DIGEST:** CSHB 32 would amend Health and Safety Code, sec. 365.012 to increase the penalty for the disposal of a lighted match, a lighted cigarette or cigar, or other lighted smoking material discarded from a motor vehicle to a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

The bill would take effect September 1, 2007.

**SUPPORTERS SAY:** CSHB 32 would help protect life and property in Texas by discouraging careless acts that contribute to wildfires. The Texas Forest Service reported that fires destroyed over \$6 million in property and took the lives

of 19 Texans during the 2005-06 wildfire season. The majority of Texas wildfires are caused by people, and the discarding of burning matches is one of the leading known contributors to starting outdoor fires. CSHB 32 would send a tough message to litterers and discourage people from discarding lighted matches and other materials associated with smoking.

**OPPONENTS  
SAY:**

The state should invest in anti-litter campaigns rather than increase criminal penalties for littering. In 1999, the state introduced a series of “Keep yer butts in the car” billboards an offshoot to the highly successful “Don’t mess with Texas” campaign. According to the Texas Department of Transportation, the number of cigarette butts tossed on Texas roads between 1995 and 2001 fell 70 percent. Because so many rural roads are not patrolled, the bill would be ineffective and impractical to fairly enforce across the state. Texas should send a message to litterers, but not through the criminal justice system.

**NOTES:**

Under the original bill, the penalty for littering lighted smoking materials would have been a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), rather than a class B misdemeanor as in the committee substitute.