

SUBJECT: Regulation of barking dogs as a nuisance by Montgomery County

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 5 ayes — W. Smith, Bolton, Farabee, Harless, Leibowitz

0 nays

4 absent — Naishtat, Coleman, Heflin, T. Smith

WITNESSES: For — Edie Connelly; W.M. “Bill” Elkin, Copper Lakes Homeowners Association; Tim Holifield, Montgomery County

Against — None

BACKGROUND: Health and Safety Code, sec. 343.012 makes the creation of a public nuisance under sec. 343.011 a misdemeanor, punishable by a fine of not less than \$50 or more than \$200. Repeated violations are punishable by a fine of not less than \$200 or more than \$1,000, confinement in jail for not more than six months, or both.

DIGEST: CSHB 408 would add Health and Safety Code, sec. 343.0115 to make it a public nuisance to allow dogs to bark or make other noise in a neighborhood if a reasonable person would find the noise objectionable.

In determining if a noise was objectionable to a reasonable person, the bill would allow consideration of the following factors:

- the time of day the noise was produced;
- the proximity of the noise to other premises; and
- whether the sound was recurrent, intermittent, or constant.

The bill would apply only to the unincorporated area of Montgomery County — i.e., a county that:

- is adjacent to a county with a population of 3.3 million or more; and
- in which a planned community is located that has 20,000 or more

acres of land, that was originally established under the Urban Growth and New Community Development act of 1970, and that was subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property.

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, 2007.

**SUPPORTERS
SAY:**

CShB 408 would address the problem of barking dogs in the unincorporated areas of Montgomery County. Persistent and disruptive dog barking has become an increasing problem in unincorporated areas that are adjacent to major metropolitan centers. These areas are growing rapidly and the neighborhoods are becoming more urban, but they are not within municipalities. Counties in Texas are restricted in their authority to enact ordinances and, as a result, currently there is no effective recourse available to prevent persistent and objectionable dog barking.

**OPPONENTS
SAY:**

CShB 408 should apply to more counties that are adjacent to major metropolitan centers. While this bill has been bracketed to be specific to Montgomery County, the inability for counties to respond to noise complaints in unincorporated areas has been plaguing counties across the state.