

SUBJECT: Changing penalties for outdoor burning violations

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 7 ayes — Coleman, Burrows, Schubert, Spitzer, Stickland, Tinderholt, Wu

2 nays — Farias, Romero

WITNESSES: For — Steve Casey, Bell County fire marshal

Against — None

BACKGROUND: Health and Safety Code, sec. 382.018 establishes the authority and duties of the Texas Commission on Environmental Quality regarding outdoor burning of combustible and waste material.

Water Code, sec. 7.187(b) establishes a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for outdoor burning of:

- certain waste materials, including tires, insulation on electrical wire or cable, treated lumber, plastics, furniture, carpet, non-wood construction or demolition materials, or items containing natural or synthetic rubber; and
- certain combustible materials, including heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes.

DIGEST: CSHB 2556 would change the penalties attached to burning certain combustible or waste materials.

For conduct that violated a rule under the Texas Clean Air Act and also violated a municipal ordinance, the conduct could be prosecuted under only the municipal ordinance, provided that the violation:

- was a first offense under the rule or municipal ordinance; and

- did not involve burning certain combustible materials.

A violation would be a class C misdemeanor (maximum fine of \$500) if it was a first offense and did not involve burning combustible materials.

A violation would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if it was not the offender's first violation and the violation:

- did not involve burning combustible or waste materials; or
- did involve burning waste materials but none of the prior violations involved burning combustible or waste materials.

A violation would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if the violation involved burning combustible materials.

A violation also would be a class A misdemeanor if the violation:

- was not the first offense and involved burning waste materials; and
- one or more of the prior violations involved burning combustible or waste materials.

This bill would take effect September 1, 2015, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 2556 would provide authorities with more penalty options for people who violate the Texas Clean Air Act by burning potentially hazardous materials. Currently, offenders may be jailed even though the offense could be their first. This bill would permit authorities to give citations, which could alleviate jail crowding while still providing a deterrent to offenders.

**OPPONENTS
SAY:**

CSHB 2556 would decrease penalties for offenders who endanger people's health by violating the Texas Clean Air Act. Decreasing penalties would not deter individuals who choose to pollute the state's air with

harmful smoke.