

## BILL ANALYSIS

Senate Research Center

H.B. 857  
By: Laubenberg, Sheffield (Estes)  
Natural Resources  
5/9/2009  
Engrossed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires a person in violation of conducting an outdoor burning to be arrested in order to be properly processed. The additions in this bill will allow for more clarity in the law, help law enforcement officers execute their duties more effectively, and deter repeat violations.

H.B. 857 creates more defined categories for outdoor burning violations and enhances the penalties for subsequent violations and the burning of certain substances.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7.177, Water Code, by amending Subsections (b) and (c) and adding Subsection (d), as follows:

(b) Provides that an offense under this section is punishable for an individual under Section 7.187(1)(B) (relating to a person convicted of an offense punishable by a fine, as imposed under the section of not less than \$1,000 or more than \$50,000) or Section 7.187(2)(C) (relating to a person convicted of an offense punishable by confinement for a period, as imposed by the section creating the offense, not to exceed 180 days) or both, except as provided by Subsection (d). Makes a nonsubstantive change.

(c) Provides that an offense under this section is punishable for a person other than an individual under Section 7.187(1)(C) (relating to a fine of not less than \$1,000 or more than \$100,000), except as provided by Subsection (d). Makes a nonsubstantive change.

(d) Provides that an individual who violates a rule adopted under Section 382.018 (Outdoor Burning of Waste and Combustible Material), Health and Safety Code, by burning waste generated solely from property designed for and used exclusively as a private residence commits an offense that is:

(1) a Class C misdemeanor if the waste is not a substance described by Subdivision (3);

(2) a Class B misdemeanor if the violation is a second or subsequent violation under Subdivision (1) that occurs on the same property as a previous violation under that subdivision; and

(3) a Class A misdemeanor if the violation involves the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.