

## **BILL ANALYSIS**

Senate Research Center  
85R2591 DMS-F

S.B. 1117  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law provides for penalties for a violation of a fire marshal's order. Section 352.022, Local Government Code, states that the offense for a person who does not comply with a fire marshal order is a Class B misdemeanor and subsequent offenses are a state jail felony.

Currently, only a commissioned peace officer may write citations or take legal action for violations under Section 352.022 mentioned above. Though many fire marshals and fire inspectors are peace officers, that certification is not required to serve in the fire marshal's office. There is a state certification for fire inspectors that provides training in the identification of fire code violations.

Many feel that a Class B misdemeanor is too harsh for a first time offender of a minor violation and therefore personnel are reluctant to issue citations. However, some tool is needed to bring attention and compliance to fire code violations.

S.B. 1117 proposes to amend Section 352.022, Local Government Code, to reduce the first offense for failure to comply with a fire marshal's order to a Class "C" misdemeanor, punishable by a fine not to exceed \$500. S.B. 1117 also reserves the Class B charge for failures that result in significant property damage and/or injury or death. Finally, S.B. 1117 will amend the Local Government Code, to allow a county commissioners court to authorize certified fire inspectors to issue citations for violations of or refusals to comply with a fire marshal's order.

As proposed, S.B. 1117 amends current law relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations.

### **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 352.022, Local Government Code, as follows:

Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. (a) Creates this subsection from existing text. Provides that a person, rather than an owner or occupant, who is subject to an order issued under Section 352.016 (Inspection or Review of Plan for Fire or Life Safety Hazards), commits an offense, if that person fails to comply with the order.

(b) Provides that an offense, except as provided by Subsection (c) or (d), under this section is a Class C, rather than Class B, misdemeanor. Makes a nonsubstantive change. Creates this subsection from existing text.

(c) Provides that an offense under this section is a Class B misdemeanor if the commission of the offense results in property damage in an amount of \$200 or more, or bodily injury or death.

(d) Provides that, if it is shown on the trial of the offense that the defendant has been previously convicted two or more times under this section, the offense is a state jail felony. Creates this subsection from existing text. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter B, Chapter 352, Local Government Code, by adding Section 352.0221, as follows:

Sec. 352.0221. CITATION. (a) Authorizes the commissioners court of a county to grant the authority to issue a citation under this section to a county employee who is certified by the Texas Commission on Fire Protection (TCFP) as a fire inspector, conducts fire or life safety inspections under Section 352.016, and is not a peace officer.

(b) Authorizes the employee to issue a citation in the unincorporated area of the county only for an offense under Section 352.022, or a violation of an order relating to fire or life safety issued by the commissioners court that is reasonably necessary to protect public safety and welfare.

(c) Requires that a citation issued under this section state the name of the person cited, the violation charged, and the time and place the person is required to appear in court.

(d) Authorizes the court, if a person who receives a citation under this section fails to appear in court on the return date of the citation, to issue a warrant for the person's arrest for the violation described in the citation.

SECTION 3. Makes application of Section 352.022, Local Government Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2017.