

CHAPTER 269

H.B. No. 166

AN ACT

relating to county regulation of persons who transport certain waste materials from one location to another; providing a penalty.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. DEFINITIONS. In this Act:

(1) "Waste" means:

(A) animal and vegetable waste materials resulting from the handling, preparation, cooking, or consumption of food;

(B) discarded paper, rags, cardboard, wood, rubber, plastics, yard trimmings, fallen leaves, brush materials, and similar combustible items; and

(C) discarded glass, crockery, tin or aluminum cans, metal items, and similar items that are noncombustible at ordinary incinerator temperatures.

(2) "Waste hauler" means an individual, corporation, association, or other legal entity that, for compensation, transports waste from one location to another by the use of a motor vehicle. The term does not include an entity that transports:

(A) material as part of a recycling program; or

(B) salt water, drilling fluids, or other waste associated with the exploration, development, and production of oil, gas, or geothermal resources.

SECTION 2. COUNTY LICENSURE. (a) To protect the public health, safety, or welfare, the commissioners court of a county with a population of less than 100,000, according to the most recent federal census, may adopt ordinances that require a waste hauler who transports waste in the unincorporated area of the county to be licensed by the county.

(b) The ordinances may:

(1) establish requirements for obtaining or renewing a license;

(2) impose a license issuance or renewal fee in an amount that generates annually the approximate amount of revenue needed to fund the licensing program for a year;

(3) establish standards governing the transport of waste in the unincorporated area of the county;

- (4) establish grounds for suspending or revoking a license; and
- (5) include other provisions necessary for the administration of the licensing program.

SECTION 3. EXEMPTIONS. (a) Except as provided by Subsection (b) of this section, the ordinance may not require a license to be held by a waste hauler:

- (1) while transporting waste on behalf of an incorporated city or town or another governmental entity; or
- (2) who operates regularly in more than three counties.

(b) The ordinance may require the licensing of a waste hauler who transports waste on behalf of an incorporated city or town or another governmental entity if the hauler deposits any part of that waste in a county other than the county in which all or any part of the city, town, or other governmental entity is located.

SECTION 4. BOND OR OTHER FINANCIAL ASSURANCE. An applicant for a license under an ordinance adopted under this Act must execute a surety bond or provide other financial assurance that is payable for the use and benefit of the county or any other person harmed by the waste hauler's actions. The bond or other financial assurance must be in an amount the commissioners court considers necessary or desirable based on the risk of harm associated with the operation of the waste hauling business. A bond executed under this section must be in compliance with the insurance laws of this state.

SECTION 5. FEES AND OTHER MONEY. Fees or other money received by a county under the licensing program shall be deposited in the general fund of the county.

SECTION 6. CONFLICT WITH OTHER REGULATION. If a requirement or standard established under Section 2 of this Act conflicts with a state law, a rule adopted under a state law, or a municipal ordinance or charter, the stricter of the two provisions prevails.

SECTION 7. INJUNCTION. A county is entitled to appropriate injunctive relief to prevent the violation or threatened violation of an ordinance the county adopts under this Act.

SECTION 8. CRIMINAL PENALTY. (a) If a county ordinance adopted under this Act defines an offense for a violation of the ordinance, the offense is a Class C misdemeanor.

(b) A separate offense occurs on each day on which all the elements of the offense exist.

SECTION 9. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 6, 1987, by a non-record vote. Passed by the Senate on May 21, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 10, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.