

LOCAL GOVERNMENT CODE
TITLE 11. PUBLIC SAFETY
SUBTITLE B. COUNTY PUBLIC SAFETY
CHAPTER 353. COUNTY HAZARDOUS MATERIALS SERVICES

Sec. 353.001. DEFINITIONS. In this chapter:

(1) "Concerned party" means a person:

(A) involved in the possession, ownership, or transportation of a hazardous material that is released or abandoned; or

(B) who has legal liability for the causation of an incident resulting in the release or abandonment of a hazardous material.

(2) "Hazardous material" means a flammable material, an explosive, a radioactive material, a hazardous waste, a toxic substance, or related material, including a substance defined as a "hazardous substance," "hazardous material," "toxic substance," or "solid waste" under:

(A) the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.);

(B) the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.);

(C) the federal Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.);

(D) the federal Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.); or

(E) Chapter 361, Health and Safety Code.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

Sec. 353.002. APPLICABILITY. This chapter applies to an incident involving hazardous material that has been leaked, spilled, released, or abandoned on any property.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff.

September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff.

September 1, 2005.

Sec. 353.003. HAZARDOUS MATERIALS SERVICES. (a) A county may provide hazardous materials services, including a response to an incident involving hazardous material that has been leaked, spilled, released, or abandoned, if:

(1) the county first provides reasonable notice to a concerned party regarding the need for the hazardous materials services so that the concerned party has a reasonable opportunity to respond to the incident involving hazardous material; and

(2) the concerned party fails to respond or fails to respond in a timely and effective manner to the incident.

(b) A county may provide limited control and containment measures that are necessary to protect human health and the environment without first complying with the requirements of Subsection (a) if the county is the first entity to arrive at a site where an incident involving hazardous material has occurred that is prepared to take action in response to the incident.

(c) If the hazardous material is natural gas released from an underground facility as defined by Section 251.002, Utilities Code, the county:

(1) must comply with the requirements of Section 251.159, Utilities Code; and

(2) may not operate any equipment or other controls or devices at the underground facility without the express permission of the operator of the facility.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

Sec. 353.004. FEE FOR PROVIDING HAZARDOUS MATERIALS SERVICE; EXCEPTION. (a) A county, or a person authorized by contract on the county's behalf, may charge a reasonable fee, including a fee to offset the cost of providing control and

containment measures under Section 353.003(b), to a concerned party for responding to a hazardous materials service call.

(b) A county, or a person authorized by contract on the county's behalf, may charge a fee for providing hazardous materials services under Section 353.003(a) only if the county has complied with the requirements of that subsection. A concerned party is not liable for a fee associated with the county's hazardous materials services under Section 353.003(a) or a fee to offset the cost of providing control and containment measures under Section 353.003(b) if the county provides hazardous materials services under Section 353.003(a) and the county does not provide notice as required by Section 353.003(a)(1).

(c) An individual who is a concerned party does not have to pay a fee under this section if:

(1) the individual is not involved in the possession, ownership, or transportation of the hazardous material as the employee, agent, or servant of another person;

(2) the individual is involved solely for private, noncommercial purposes related to the individual's own property and the individual receives no compensation for any services involving the hazardous materials; and

(3) the hazardous materials possessed, owned, or being transported by the individual are in forms, quantities, and containers ordinarily available for sale as consumer products to members of the general public.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

Sec. 353.005. EXEMPTION FOR GOVERNMENTAL ENTITIES. This chapter does not apply to hazardous materials owned or possessed by a governmental entity.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.