Chapter 731

S.B. No. 359

AN ACT

relating to punishment for certain offenses committed in a disaster
area or an evacuated area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended
by adding Section 12.50 to read as follows:

Sec. 12.50. PENALTY IF OFFENSE COMMITTED IN DISASTER AREA
OR EVACUATED AREA. (a) Subject to Subsection (c), the punishment
for an offense described by Subsection (b) is increased to the
punishment prescribed for the next higher category of offense if it
is shown on the trial of the offense that the offense was committed
in an area that was, at the time of the offense:
(1) subject to a declaration of a state of disaster
made by:
(A) the president of the United States under the
Robert T. Stafford Disaster Relief and Emergency Assistance Act (42
U.S.C. Section 5121 et seq.);
(B) the governor under Section 418.014,
Government Code; or
(C) the presiding officer of the governing body
of a political subdivision under Section 418.108, Government Code;
or
(2) subject to an emergency evacuation order.
(b) The increase in punishment authorized by this section
applies only to an offense under:

(1) Section 22.01;
(2) Section 29.02;
(3) Section 30.02; and
(4) Section 31.03.

(c) If an offense listed under Subsection (b)(1) or (4) is punishable as a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. If an offense listed under Subsection (b)(3) or (4) is punishable as a felony of the first degree, the punishment for that offense may not be increased under this section.

(d) It is a defense to a charge under Subsection (b)(4) that the conduct in question meets the elements of necessity outlined in Section 9.22.

(e) For purposes of this section, "emergency evacuation order" means an official statement issued by the governing body of this state or a political subdivision of this state to recommend or require the evacuation of all or part of the population of an area stricken or threatened with a disaster.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.
S.B. No. 359

SECTION 3. This Act takes effect September 1, 2009.

David Dewhurst  
President of the Senate

J.D. Stroube  
Speaker of the House

I hereby certify that S.B. No. 359 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 28, 2009, by the following vote: Yeas 31, Nays 0.

Patricia Ann  
Secretary of the Senate

I hereby certify that S.B. No. 359 passed the House, with amendment, on May 19, 2009, by the following vote: Yeas 142, Nays 0, one present not voting.

Robert Healey  
Chief Clerk of the House

Approved:

19 JUN '09  
Date

Rick Perry  
Governor

Filed in the Office of the Secretary of State

Coley Shout  
JUN 19 2009