

By: Howard

H.B. No. 1069

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of fireworks by counties in a residential subdivision; providing a criminal penalty.

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

SECTION 1. Subchapter C, Chapter 352, Local Government Code, is amended by adding Section 352.054 to read as follows:

Sec. 352.054. REGULATION OF FIREWORKS IN RESIDENTIAL SUBDIVISION. (a) In this section:

(1) "Fireworks" means any composition or device designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation.

(2) "Residential subdivision" means a subdivision of land:

(A) for which a plat is recorded in the county real property records; and

(B) in which the majority of lots are subject to deed restrictions limiting the lots to residential use.

(b) This section does not apply to:

(1) toy pistols, toy canes, toy guns, or other devices that use paper or plastic caps in sheets, strips, rolls, or individual caps containing not more than an average of 25 hundredths of a grain of explosive composition for each cap and that are packed and shipped according to 49 C.F.R. Part 173 (1996);

(2) model rockets and model rocket motors designed,

1 sold, and used for the purpose of propelling recoverable aero
2 models;

3 (3) propelling or expelling charges consisting of a
4 mixture of sulfur, charcoal, and potassium nitrate;

5 (4) novelties and trick noisemakers;

6 (5) the sale, at wholesale, of any type of fireworks by
7 a resident manufacturer, distributor, importer, or jobber if the
8 fireworks are intended for shipment directly out of state in
9 accordance with the regulations of the United States Department of
10 Transportation;

11 (6) the sale, and use in emergency situations, of
12 pyrotechnic signaling devices or distress signals for marine,
13 aviation, or highway use;

14 (7) the use of fusee and railway torpedoes by
15 railroads;

16 (8) the sale of blank cartridges for use in radio,
17 television, film, or theater productions, for signal or ceremonial
18 purposes in athletic events, or for industrial purposes;

19 (9) the use of any pyrotechnic device by military
20 organizations; or

21 (10) a public fireworks display conducted by a
22 licensed pyrotechnic operator.

23 (c) The registered voters of a residential subdivision in
24 the unincorporated area of a county may file with the commissioners
25 court of the county a petition asking for an election to be held to
26 prohibit the sale, possession, and use of fireworks in the
27 residential subdivision. The petition must contain the signatures

1 of at least 100 registered voters of the subdivision and must
2 include a statement worded substantially as follows and located on
3 each page of the petition preceding the space reserved for
4 signatures: "This petition requests that an election be held in
5 (name of residential subdivision and name of county) to prohibit
6 the sale, possession, and use of fireworks in the (name of)
7 residential subdivision in the unincorporated areas of the county."

8 (d) Not later than the fifth day after the date the
9 commissioners court receives a petition under Subsection (c), the
10 commissioners court shall submit the petition for verification to
11 the county clerk, who shall determine whether the petition meets
12 the requirements imposed by this section.

13 (e) Not later than the 30th day after the date the petition
14 is submitted to the county clerk for verification, the county clerk
15 shall certify in writing to the commissioners court whether the
16 petition is valid. If the county clerk determines that the petition
17 is invalid, the clerk shall state the reasons for that
18 determination.

19 (f) If the county clerk certifies that a petition is valid,
20 the commissioners court shall order an election to be held in the
21 residential subdivision on the first uniform election date that
22 occurs after the date the court receives the county clerk's
23 certification and that allows for compliance with the time
24 requirements prescribed by Chapter 3, Election Code.

25 (g) The ballot for the election shall be printed to provide
26 for voting for or against the proposition: "Prohibiting the sale,
27 possession, and use of fireworks in the (name of) residential

1 subdivision in the unincorporated areas of (name of) county."

2 (h) If a majority of the votes cast at the election approve
3 the proposition, a person may not sell, possess, or use fireworks in
4 the unincorporated area of the county in the residential
5 subdivision that approved the proposition.

6 (i) A person commits an offense if the person knowingly
7 violates a prohibition established under Subsection (h). An
8 offense under this subsection is a Class C misdemeanor.

9 SECTION 2. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2003.