

By: Olivo

H.B. No. 3135

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of fireworks by certain counties;  
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 352.053 to read as follows:

Sec. 352.053. ADDITIONAL COUNTY REGULATION OF FIREWORKS.

(a) This section applies to a county with a population of 3.3 million or more, and those counties that surround that county.

(b) In this section, "fireworks" means any composition or device designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation.

(c) 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, sold, and used for the purpose of propelling recoverable aero models;

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

(4) novelties and trick noisemakers;

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

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

9           (7) the use of fusee and railway torpedoes by railroad

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

13           (9) the use of any pyrotechnic device by military  
14 organizations; or

15           (10) a public fireworks display conducted by a  
16 licensed pyrotechnic operator.

17           (d) To protect the public health or safety, the  
18 commissioners court of a county by order may prohibit or otherwise  
19 regulate the sale, possession, or use of fireworks in any part of  
20 the unincorporated area of the county.

21           (e) A person selling fireworks in a county that has adopted  
22 an order under Subsection (d) shall, at every location at which the  
23 person sells fireworks in the county, provide reasonable notice of  
24 the order and reasonable notice of any area where the sale,  
25 possession, or use of fireworks is prohibited or regulated under  
26 Subsection (d).

27           (f) A commissioners court that adopts an order under

1 Subsection (d) shall send a copy of the order to the state fire  
2 marshal not later than the 30th day after the date the order is  
3 adopted.

4 (g) The state fire marshal shall send a copy of each order  
5 received under Subsection (f) to each licensed manufacturer,  
6 distributor, and jobber in the affected county not later than the  
7 30th day after the date the fire marshal receives the order.

8 (h) A person commits an offense if the person knowingly  
9 violates a prohibition or other regulation established by an order  
10 adopted under this section. An offense under this subsection is a  
11 Class C misdemeanor.

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