

By: Lindsay

S.B. No. 1256

A BILL TO BE ENTITLED

AN ACT

relating to creating reasonable regulation of the storage, discharge, safe use, and oversight of fireworks.

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

SECTION 1. Section 2154.052(b), Occupations Code, is amended to read as follows:

(b) The commissioner shall adopt and the state fire marshal shall administer rules the commissioner considers necessary for the protection, safety, and preservation of life and property, including rules regulating:

(1) the issuance of licenses and permits to persons engaged in manufacturing, selling, storing, possessing, or transporting fireworks in this state;

(2) the conduct of public fireworks displays; and

(3) the safe storage of Fireworks 1.3G and Fireworks 1.4G, including rules regulating the distance that fireworks may be stored from residential dwellings.

SECTION 2. Section 2154.054, Occupations Code, is amended to read as follows:

2154.054. ADVISORY COUNCIL. (a) The commissioner may ~~shall~~ establish an advisory council to assist the commissioner in administering this chapter and in proposing rules.

(b) The council is composed of five members who are:

(1) one representative of a county fire marshal's

1 office;

2 (2) one representative from the property and casualty  
3 insurance industry;

4 (3) one representative who is a children's physician;  
5 and

6 (4) two representatives from the fireworks industry.

7 (c) The Texas Pyrotechnic Association may, on request by the  
8 commissioner, recommend individuals for appointment to the two  
9 fireworks industry representative positions on the council.

10 (d) A council member serves at the will of the commissioner  
11 and may not be reimbursed for service.

12 (e) The council shall periodically review rules relating to  
13 this chapter and recommend changes in the rules to promote public  
14 safety and property protection, including changes that could lower  
15 insurance costs, to the commissioner.

16 (f) Notwithstanding Section 2001.031, Government Code, the  
17 commissioner may [~~shall~~] submit all proposed changes and additions  
18 to the rules that relate to administration of this chapter to the  
19 council for development. If the commissioner does not approve a  
20 rule developed by the council, the commissioner may [~~shall~~]  
21 indicate to the council the reasons that the commissioner did not  
22 approve the rule and return the rule to the council for further  
23 development.

24 SECTION 3. Section 2154.055(c), Occupations Code, is  
25 amended to read as follows:

26 (c) The commissioner may administer the program or may  
27 require the program to [~~shall~~] be administered by the advisory

1 council established under Section 2154.054. The commissioner must  
2 approve a program that the advisory council proposes to present.  
3 The program may not promote the use of fireworks and must be focused  
4 entirely on safety.

5 SECTION 4. Section 2154.251(a), Occupations Code, is  
6 amended to read as follows:

7 (a) A person may not:

8 (1) explode or ignite fireworks:

9 (A) within 600 feet of any church, a hospital,  
10 [other than] a veterinary hospital or facility that houses animals,  
11 an asylum, a licensed child care center, or a public or private  
12 primary or secondary school or institution of higher education  
13 unless the person receives authorization in writing from that  
14 organization; or

15 (B) within 300 feet of a residential dwelling,  
16 including a single-family home, condominium, duplex, triplex,  
17 apartment, multifamily housing, mobile home or manufactured home,  
18 unless the person owns the dwelling or receives authorization in  
19 writing from the person who owns the dwelling and, if applicable,  
20 from an association representing all of the persons who reside in  
21 the dwelling;

22 (2) sell at retail, explode, or ignite fireworks  
23 within 300 [~~100~~] feet of a place where flammable liquids or  
24 flammable compressed gasses are stored and dispensed;

25 (3) explode or ignite fireworks within 300 [~~100~~] feet  
26 of a place where fireworks are stored or sold;

27 (4) ignite or discharge fireworks in or from a motor

1 vehicle;

2 (5) place ignited fireworks in, or throw ignited  
3 fireworks at, a motor vehicle;

4 (6) conduct a public fireworks display that includes  
5 Fireworks 1.3G unless the person is a licensed pyrotechnic  
6 operator;

7 (7) conduct a proximate display of fireworks that  
8 includes Fireworks 1.3G or Fireworks 1.4G as defined in NFPA 1126  
9 Standards for the Use of Pyrotechnics Before a Proximate Audience  
10 unless the person is a licensed pyrotechnic special effects  
11 operator and has the approval of the local fire prevention officer;  
12 or

13 (8) sell, store, manufacture, distribute, or display  
14 fireworks except as provided by this chapter or rules adopted by  
15 the commissioner under this chapter.

16 SECTION 5. Section 2154.052(e), Occupations Code, is  
17 repealed.

18 SECTION 6. (a) The changes in law made by this Act apply  
19 only to an offense committed on or after the effective date of this  
20 Act. For purposes of this section, an offense is committed before  
21 the effective date of this Act if any element of the offense occurs  
22 before that date.

23 (b) An offense committed before the effective date of this  
24 Act is covered by the law in effect when the offense was committed,  
25 and the former law is continued in effect for that purpose.

26 SECTION 7. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2005.