

AN ACT

relating to the regulation of fireworks and fireworks displays.

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

SECTION 1. Section 2154.003, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to the items described by Subsection (b), pop rockets with a propellant casing length of less than five inches, an exterior diameter of less than three-fourths of an inch, and an overall total rocket length of less than 26 inches are not permissible fireworks.

SECTION 2. Sections 2154.054(b) and (c), Occupations Code, are amended to read as follows:

(b) The council is composed of five members as follows:

(1) four members who are representatives from the fireworks industry; and

(2) one member who is a representative of a county fire marshal's office and who has at least five years of experience as a county fire marshal.

(c) On [~~The Texas Pyrotechnic Association may, on~~] request by the commissioner, the following may recommend individuals for appointment to the council:

(1) the Texas Pyrotechnic Association or the Texas Fireworks Association for appointments under Subsection (b)(1); and

1           (2) the Texas Fire Marshal's Association for an  
2 appointment under Subsection (b)(2).

3           SECTION 3. Section 2154.202(g), Occupations Code, is  
4 amended to read as follows:

5           (g) A retail fireworks permit holder may sell fireworks only  
6 to the public, and only during periods:

7           (1) beginning June 24 and ending at midnight on July 4;  
8 ~~[and]~~

9           (2) beginning December 20 and ending at midnight on  
10 January 1 of the following year; and

11           (3) beginning May 1 and ending at midnight on May 5 if  
12 the fireworks are sold at a location that is not more than 100 miles  
13 from the Texas-Mexico border and that is in a county in which the  
14 commissioners court of the county has approved the sale of  
15 fireworks during the period.

16           SECTION 4. Section 2154.252(c), Occupations Code, is  
17 amended to read as follows:

18           (c) Fireworks may not be sold or offered for sale to  
19 children under 16 [~~12~~] years of age or to an intoxicated or  
20 incompetent person. A person selling fireworks at retail shall  
21 make a reasonable effort to determine that potential purchasers of  
22 fireworks are of the minimum age required by this subsection.

23           SECTION 5. Subchapter F, Chapter 2154, Occupations Code, is  
24 amended by adding Section 2154.254 to read as follows:

25           Sec. 2154.254. EMPLOYMENT OF MINORS. (a) Except as  
26 provided by Subsection (c), a person may not employ or allow a  
27 person younger than 16 years of age to manufacture, distribute,

1 sell, or purchase fireworks in the course of the person's business.

2 (b) Except as provided by Subsection (c), a person may not  
3 employ a person 16 years of age or older but younger than 18 years of  
4 age to sell fireworks at a retail sales location unless the person  
5 selling fireworks at that location is accompanied by another person  
6 who is at least 18 years of age.

7 (c) An owner of a retail sales location may employ a person  
8 who is otherwise prohibited from engaging in that activity by  
9 Subsection (a) or (b) to sell fireworks at the owner's retail sales  
10 location if the person employed is:

11 (1) a member of the owner's immediate family;

12 (2) 12 years of age or older; and

13 (3) accompanied by another person who is at least 18  
14 years of age while the person is engaged in selling fireworks at  
15 that location.

16 SECTION 6. Section 2154.303(c), Occupations Code, is  
17 amended to read as follows:

18 (c) A violation of Section 2154.251(a)(1), (2), (3), (4),  
19 [~~or~~] (5), or (8) that results in property damage in an amount of  
20 less than \$200 and does not result in bodily injury or death, or a  
21 violation of Section 2154.254(a) or (b), is a Class C misdemeanor.

22 SECTION 7. Section 352.051, Local Government Code, is  
23 amended by amending Subsections (a), (b), (c), (d), and (f) and  
24 adding Subsection (j) to read as follows:

25 (a) For the purposes of this section the following  
26 definitions shall apply:

27 (1) "Restricted fireworks" means only those items

1 classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86 edition), as  
2 "skyrockets with sticks" and "missiles with fins".

3 (2) "Drought conditions" means [~~shall mean~~] the  
4 existence immediately preceding or during the fireworks season of a  
5 [~~long-term deficit of moisture creating atypically severe~~  
6 ~~conditions with increased wildfire occurrence as defined by the~~  
7 ~~Texas Forest Service through the use of the~~] Keetch-Byram Drought  
8 Index of 575 or greater [~~, or when such index is not available,~~  
9 ~~through a comparable measurement which takes into consideration the~~  
10 ~~burning index, spread component, or ignition component for that~~  
11 ~~particular area~~].

12 (b)(1) The Texas Forest Service in the ordinary course of  
13 its activities shall determine whether drought conditions, as  
14 defined under Subsection (a)(2), exist on average in [~~all or part~~  
15 ~~of~~] any county requesting such a determination. The Texas Forest  
16 Service shall make available the measurement index guidelines used  
17 to [~~that~~] determine whether drought conditions exist in a  
18 particular area [~~is in drought condition~~]. Following any  
19 determination that such drought conditions exist, the Texas Forest  
20 Service shall notify said county or counties when such drought  
21 conditions no longer exist. The Texas Forest Service shall make its  
22 services available each day during the Fourth of July and December  
23 fireworks seasons to respond to the request of any county for a  
24 determination whether drought conditions exist on average in the  
25 county.

26 (2) The Texas Forest Service shall be allowed to take  
27 such donations of equipment or funds as necessary to aid in the

1 carrying out of this section.

2 (c) Upon a determination under this section that drought  
3 conditions exist on average in [~~within all or part of~~] a specified  
4 county, the commissioners court of the [~~such~~] county by order may  
5 prohibit or restrict the sale or use of restricted fireworks in [~~all~~  
6 ~~or a portion of~~] the unincorporated area of the county [~~where~~  
7 ~~drought conditions have been determined to exist~~]. In addition,  
8 during the December fireworks season, the commissioners court of a  
9 county by order may restrict or prohibit the sale or use of  
10 restricted fireworks in specified areas when conditions on rural  
11 acreage in the county not under cultivation for a period of at least  
12 12 months are determined to be extremely hazardous for the danger of  
13 fire because of high grass or dry vegetation.

14 (d) To facilitate compliance with an order adopted under  
15 Subsection (c), the order must be adopted before:

16 (1) April 25 of each year for the Cinco de Mayo  
17 fireworks season;

18 (2) June 15 of each year for the Fourth of July  
19 fireworks season; and

20 (3) [~~(2)~~] December 15 of each year for each December  
21 fireworks season.

22 (f) When a county issues an order restricting or prohibiting  
23 the sale or use of restricted fireworks under this section, the  
24 [~~The~~] county may designate one or more areas of appropriate size and  
25 accessibility in the county as safe areas where the use of  
26 restricted fireworks is not prohibited, and the legislature  
27 encourages a county to designate such an area for that purpose. The

1 safe area may be provided by the county, a municipality within the  
2 county, or an individual, business, or corporation. A safe area may  
3 be designated in and provided in the geographic area of the  
4 regulatory jurisdiction of a municipality if the activity conducted  
5 in the safe area is authorized by general law or a municipal  
6 regulation or ordinance. An area is considered safe if adequate  
7 public safety and fire protection services are provided to the  
8 area. A county, municipality, individual, business, or corporation  
9 is not liable for injuries or damages resulting from the  
10 designation, maintenance, or use of the safe area.

11 (j) A civil action against a county based on the county's  
12 actions under this section must be brought in the appropriate court  
13 in that county.

14 SECTION 8. (a) The changes in law made by this Act apply  
15 only to an offense committed on or after the effective date of the  
16 applicable section. For purposes of this section, an offense is  
17 committed before the effective date of a section of this Act if any  
18 element of the offense occurs before that date.

19 (b) An offense committed before the effective date of a  
20 section of this Act is covered by the applicable law in effect when  
21 the offense was committed, and the former law is continued in effect  
22 for that purpose.

23 SECTION 9. (a) Except as provided by Subsection (b) of this  
24 section, this Act takes effect immediately if it receives a vote of  
25 two-thirds of all the members elected to each house, as provided by  
26 Section 39, Article III, Texas Constitution. If this Act does not  
27 receive the vote necessary for immediate effect, this Act takes

1 effect September 1, 2007.

2 (b) Section 1 of this Act takes effect January 2, 2008.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 539 was passed by the House on May 11, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 539 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 539 on May 27, 2007, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

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Chief Clerk of the House



H.B. No. 539

I certify that H.B. No. 539 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 539 on May 27, 2007, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor