

By: Smith of Harris

H.B. No. 539

A BILL TO BE ENTITLED

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), items classified under 49 C.F.R. Section 173.100(r)(2) (10-1-86 edition) as "skyrockets with sticks" and other pyrotechnic devices that have fins or rudders for the purpose of achieving aerodynamic flight, including a device that would be considered a missile or rocket, are not permissible fireworks.

SECTION 2. Section 2154.004, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This chapter governs the regulation of fireworks in this state, except that:

(1) a municipality may regulate or prohibit fireworks:

(A) within its corporate boundaries; and

(B) in the area outside those boundaries specified by Section 217.042(a), Local Government Code, if the municipality regulated or prohibited fireworks in that area prior to January 2, 2007; and

(2) the commissioners court of a county may regulate restricted fireworks under Section 352.051, Local Government Code

1 ~~[does not limit or restrict the authority of a county, where~~
2 ~~specifically authorized by law, or municipality to enact an~~
3 ~~ordinance or order prohibiting or further regulating fireworks].~~

4 (c) If a municipal or county ordinance, order, or rule
5 prohibiting or further regulating fireworks would result in
6 discontinuance of otherwise permitted or licensed manufacture,
7 sale, storage, possession, or transport of fireworks, the
8 municipality or county enacting the ordinance or order must provide
9 to the person just and adequate compensation under Chapter 21,
10 Property Code, for the damages caused by the discontinuance.

11 SECTION 3. Section 2154.054, Occupations Code, is amended
12 by amending Subsection (b) and adding Subsections (b-1), (g), and
13 (h) to read as follows:

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

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

17 (2) one member who is a representative of a county fire
18 marshal's office and who has at least 10 years of experience as a
19 county fire marshal.

20 (b-1) A person appointed to the council position described
21 by Subsection (b)(2) may not serve longer than two consecutive
22 years in that position.

23 (g) In reviewing rules under Subsection (e), the council
24 shall recommend to the commissioner changes in the rules to promote
25 public safety and property protection, including changes that could
26 lower insurance costs. The commissioner shall report the
27 recommendations to the legislature.

1 (h) The council and state fire marshal shall promote
2 cooperation between the fireworks industry and local governments in
3 the establishment of a fireworks public awareness and safety
4 campaign.

5 SECTION 4. Subchapter F, Chapter 2154, Occupations Code, is
6 amended by adding Section 2154.2511 to read as follows:

7 Sec. 2154.2511. DISCHARGE OF FIREWORKS WITH INTENT TO HARM.
8 A person may not discharge fireworks in a manner reasonably likely
9 to harm another person and with intent to harm another person:

10 (1) on property other than the property of the person
11 discharging the fireworks; or

12 (2) by projecting the fireworks directly at or toward:

13 (A) another person;

14 (B) a residential dwelling other than the
15 residential dwelling of the person discharging the fireworks; or

16 (C) an automobile, motorcycle, bicycle, bus, or
17 other conveyance other than the conveyance of the person
18 discharging the fireworks.

19 SECTION 5. Section 2154.252(c), Occupations Code, is
20 amended to read as follows:

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

26 SECTION 6. Subchapter F, Chapter 2154, Occupations Code, is
27 amended by adding Section 2154.254 to read as follows:

1 Sec. 2154.254. EMPLOYMENT OF MINORS. (a) A person may not
2 employ or allow a person younger than 16 years of age to
3 manufacture, distribute, sell, or purchase fireworks in the course
4 of the person's business.

5 (b) A person may not employ a person 16 years of age or older
6 but younger than 18 years of age to sell fireworks at a retail sales
7 location unless the person selling fireworks at that location is
8 accompanied by another person who is at least 18 years of age.

9 SECTION 7. Section 2154.303(c), Occupations Code, is
10 amended to read as follows:

11 (c) A violation of Section 2154.251(a)(1), (2), (3), (4), or
12 (5) that results in property damage in an amount of less than \$200
13 and does not result in bodily injury or death or a violation of
14 Section 2154.254(a) or (b) is a Class C misdemeanor.

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

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

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

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1 receive the vote necessary for immediate effect, this Act takes
2 effect September 1, 2007.

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