

By: Watson

S.B. No. 1489

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of fireworks by counties in densely populated unincorporated areas; 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 352.052 to read as follows:

Sec. 352.052. COUNTY REGULATION OF FIREWORKS IN DENSELY POPULATED UNINCORPORATED AREAS. (a) 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.

(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 25/100 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;

(5) the sale, at wholesale, of any type of fireworks by

1 a resident manufacturer, distributor, importer, or jobber if the
2 fireworks are intended for shipment directly out of state in
3 accordance with the regulations of the United States Department of
4 Transportation;

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

8 (7) the use of fusee and railway torpedoes by
9 railroads;

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 (c) The commissioners court of a county by order may
18 designate a specific unincorporated area of the county as an urban
19 zone if the area has a population density at the same or a greater
20 density than that of the most populous municipality located
21 primarily in the county.

22 (d) To protect the public health or safety, the
23 commissioners court of a county by order may prohibit or otherwise
24 regulate the sale, possession, or use of fireworks in an area the
25 court designates as an urban zone under this section.

26 (e) A commissioners court that adopts an order under
27 Subsection (d) shall send a copy of the order to the state fire

1 marshal not later than the 30th day after the date the order is
2 adopted.

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

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

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2007.