

By: Gallego

H.B. No. 3052

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of fireworks by counties during drought conditions; providing a criminal penalty.

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

SECTION 1. Section 352.051(a)(1), Local Government Code, is amended to read as follows:

(1) "Restricted fireworks" means any composition or device designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation [~~only those items classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86 edition), as "skyrockets with sticks" and "missiles with fins"~~].

SECTION 2. Section 352.051, Local Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) 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;

1 (4) novelties and trick noisemakers;

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

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

10 (7) the use of fusee and railway torpedoes by
11 railroads;

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

15 (9) the use of any pyrotechnic device by military
16 organizations; or

17 (10) a public fireworks display conducted by a
18 licensed pyrotechnic operator.

19 SECTION 3. An order adopted by a commissioners court under
20 Section 352.051, Local Government Code, before the effective date
21 of this Act applies only to the sale or use of fireworks defined as
22 restricted fireworks under Section 352.051, Local Government Code,
23 when the order was adopted.

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 3052

1 Act takes effect September 1, 2009.