

By: Harless

H.B. No. 2617

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the sale and use of fireworks by certain counties; providing penalties.

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. ADDITIONAL REGULATION OF FIREWORKS IN CERTAIN COUNTIES. (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) This section applies only to a county with a population  
18 of 3.3 million or more.

19 (d) To promote public health, safety, and welfare, the  
20 commissioners court of a county by order may prohibit or otherwise  
21 regulate the sale or use of fireworks in the unincorporated area of  
22 the county.

23 (e) A person who violates a prohibition or regulation  
24 adopted by the county under this section is liable to the county for  
25 a civil penalty of not more than \$100 for each violation. Each day a  
26 violation continues is considered a separate violation for purposes  
27 of assessing the civil penalty. A county may bring suit in a

1 district court to recover a civil penalty authorized by this  
2 subsection.

3 (f) A person commits an offense if the person intentionally  
4 or knowingly violates a prohibition or regulation adopted under  
5 this section by the commissioners court. An offense under this  
6 subsection is a Class C misdemeanor.

7 (g) Authority under this section is cumulative of other  
8 authority that a county has to regulate the sale or use of fireworks  
9 and does not limit that other authority.

10 SECTION 2. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2011.