

By: Wentworth

S.B. No. 134

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of fireworks by counties; 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. ADDITIONAL COUNTY REGULATION OF FIREWORKS. (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) To protect the public health or safety, the
18 commissioners court of a county may order an election held in any
19 defined unincorporated area of the county on the question of
20 whether to prohibit the sale, possession, and use of fireworks in
21 that area.

22 (d) The ballot for the election shall be printed to provide
23 for voting for or against the proposition: "Prohibiting the sale,
24 possession, and use of fireworks in the (describe the defined
25 unincorporated area) in the unincorporated area of (name of)
26 County."

27 (e) If a majority of the votes cast at the election approve

1 the proposition, the commissioners court by order shall, as soon as
2 feasible after the election, prohibit the sale, possession, and use
3 of fireworks in the defined unincorporated area of the county that
4 approved the proposition.

5 (f) The commissioners court shall provide, at various
6 locations in the area where the sale, possession, and use of
7 fireworks is prohibited, reasonable notice of the prohibition.

8 (g) The commissioners court shall send a copy of the order
9 to the state fire marshal not later than the 30th day after the date
10 the order is adopted.

11 (h) The state fire marshal shall send a copy of each order
12 received under Subsection (g) to each licensed manufacturer,
13 distributor, and jobber in the affected county not later than the
14 30th day after the date the fire marshal receives the order.

15 (i) A person commits an offense if the person knowingly
16 violates a prohibition established by an order adopted under this
17 section. An offense under this subsection is a Class B misdemeanor.

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