

BILL ANALYSIS

Senate Research Center
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H.B. 1813
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, individual municipalities with ordinances regarding fireworks can confiscate them as well as issue citations. Allowing counties the ability to enforce their independent firework ordinances can lead to bias and ambiguity concerning the legal possession of fireworks. Enacting this bill will prohibit a municipality from confiscating packaged, unopened fireworks provided they are not in the "passenger area," meaning the area designed for the seating of either the operator or the passenger, of the vehicle. The affirmative defense language provided sets up a defense to citation and confiscation if the fireworks are in the glove compartment or a similar storage area, the trunk, or the area behind the last upright seat on condition that the vehicle does not have a trunk. It is also a defense to the prosecution of a charge if the defendant is in a motor vehicle operated in a public place. Delineating the permissible areas for fireworks in a vehicle will ensure that there are no discrepancies or misunderstandings concerning the authority of a municipality to confiscate packaged fireworks.

H.B. 1813 amends current law relating to the authority of a municipality to confiscate packaged fireworks, and provides an affirmative defense for possessing fireworks in certain circumstances.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 342.003, Local Government Code, by adding Subsection (c), to provide that Subsection (a)(8) (relating to authorizing the governing body of a municipality to prohibit or otherwise regulate the use of fireworks and firearms) does not authorize a municipality to confiscate packaged, unopened fireworks.

SECTION 2. Amends Subchapter B, Chapter 342, Local Government Code, by adding Section 342.013, as follows:

Sec. 342.013. CONFISCATION OF CERTAIN FIREWORKS PROHIBITED; AFFIRMATIVE DEFENSE. (a) Prohibits a home-rule municipality that regulates fireworks from confiscating packaged, unopened fireworks.

(b) Provides that it is an affirmative defense to prosecution for possession of fireworks brought under a municipal ordinance that:

(1) the defendant was operating or was a passenger in a motor vehicle that was being operated in a public place; and

(2) the fireworks were not in the passenger area of the vehicle.

(c) Defines "passenger area" for purposes of Subsection (b).

SECTION 3. Effective date: upon passage or September 1, 2013.