

BILL ANALYSIS

C.S.H.B. 1813
By: Lucio III
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Certain types of municipalities have discretion regarding regulating fireworks within their jurisdictions. Interested parties note that some people who buy fireworks outside a municipality may need to transport them through a municipality in which fireworks are banned, but do so without the intent of using them inside the limits of the municipality. The parties further contend that allowing people to transport packaged, unopened fireworks through such a municipality would prevent unnecessary confiscation where no violation of the law is intended. C.S.H.B. 1813 seeks to address this concern by precluding certain municipalities from confiscating packaged, unopened fireworks.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1813 amends the Local Government Code to specify that a provision authorizing the governing body of a Type A general-law municipality to prohibit or otherwise regulate the use of fireworks and firearms does not authorize the municipality to confiscate packaged, unopened fireworks. The bill prohibits a home-rule municipality that regulates fireworks from confiscating packaged, unopened fireworks. The bill establishes an affirmative defense to prosecution for possession of fireworks brought under a municipal ordinance if the defendant was operating or was a passenger in a motor vehicle that was being operated in a public place, and the fireworks were not in the passenger area of the vehicle.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1813 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

| INTRODUCED | HOUSE COMMITTEE SUBSTITUTE |
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| SECTION 1. Section 342.003, Local Government Code, is amended. | SECTION 1. Same as introduced version. |
| SECTION 2. Subchapter B, Chapter 342, | SECTION 2. Subchapter B, Chapter 342, |

Local Government Code, is amended by adding Section 342.013 to read as follows:
Sec. 342.013. CONFISCATION OF PACKAGED FIREWORKS PROHIBITED.

A home-rule municipality that regulates fireworks may not confiscate packaged, unopened fireworks.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Local Government Code, is amended by adding Section 342.013 to read as follows:
Sec. 342.013. CONFISCATION OF CERTAIN FIREWORKS PROHIBITED; AFFIRMATIVE DEFENSE. (a) A home-rule municipality that regulates fireworks may not confiscate packaged, unopened fireworks.

(b) 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) For purposes of Subsection (b), the "passenger area" of a motor vehicle means the area of the vehicle designed for the seating of the operator and the passengers of the vehicle. The term does not include:

(1) a locked glove compartment or similar locked storage area;

(2) the trunk of a vehicle; or

(3) the area behind the last upright seat of a vehicle that does not have a trunk.

SECTION 3. Same as introduced version.