

By: Lucio III

H.B. No. 1813

Substitute the following for H.B. No. 1813:

By: Elkins

C.S.H.B. No. 1813

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of a municipality to confiscate packaged
3 fireworks; providing an affirmative defense for possessing
4 fireworks in certain circumstances.

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

6 SECTION 1. Section 342.003, Local Government Code, is
7 amended by adding Subsection (c) to read as follows:

8 (c) Subsection (a)(8) does not authorize a municipality to
9 confiscate packaged, unopened fireworks.

10 SECTION 2. Subchapter B, Chapter 342, Local Government
11 Code, is amended by adding Section 342.013 to read as follows:

12 Sec. 342.013. CONFISCATION OF CERTAIN FIREWORKS
13 PROHIBITED; AFFIRMATIVE DEFENSE. (a) A home-rule municipality that
14 regulates fireworks may not confiscate packaged, unopened
15 fireworks.

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

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

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

22 (c) For purposes of Subsection (b), the "passenger area" of
23 a motor vehicle means the area of the vehicle designed for the
24 seating of the operator and the passengers of the vehicle. The term

1 does not include:

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

4 (2) the trunk of a vehicle; or

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

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