

By: Harless

H.B. No. 152

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of the voters of certain counties to
3 authorize the county to regulate the sale and use of fireworks;
4 providing penalties.

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

6 SECTION 1. Subchapter C, Chapter 352, Local Government
7 Code, is amended by adding Section 352.052 to read as follows:

8 Sec. 352.052. ADDITIONAL REGULATION OF FIREWORKS IN CERTAIN
9 COUNTIES. (a) In this section, "fireworks" means any composition
10 or device designed for entertainment to produce a visible or
11 audible effect by combustion, explosion, deflagration, or
12 detonation.

13 (b) This section does not apply to:

14 (1) toy pistols, toy canes, toy guns, or other devices
15 that use paper or plastic caps in sheets, strips, rolls, or
16 individual caps containing not more than an average of 25/100 of a
17 grain of explosive composition for each cap and that are approved
18 for transportation according to 49 C.F.R. Part 173 (1996);

19 (2) model rockets and model rocket motors designed,
20 sold, and used for the purpose of propelling recoverable aero
21 models;

22 (3) propelling or expelling charges consisting of a
23 mixture of sulfur, charcoal, and potassium nitrate;

24 (4) novelties and trick noisemakers;

1 (5) the sale, at wholesale, of any type of fireworks by
2 a resident manufacturer, distributor, importer, or jobber if the
3 fireworks are intended for shipment directly out of state in
4 accordance with the regulations of the United States Department of
5 Transportation;

6 (6) the sale, and use in emergency situations, of
7 pyrotechnic signaling devices or distress signals for marine,
8 aviation, or highway use;

9 (7) the use of fusee and railway torpedoes by
10 railroads;

11 (8) the sale of blank cartridges for use in radio,
12 television, film, or theater productions, for signal or ceremonial
13 purposes in athletic events, or for industrial purposes;

14 (9) the use of any pyrotechnic device by military
15 organizations; or

16 (10) a public fireworks display conducted by a
17 licensed pyrotechnic operator.

18 (c) This section applies only to a county with a population
19 of 3.3 million or more.

20 (d) The commissioners court of a county may order and hold
21 an election on the question of granting the commissioners court
22 authority to prohibit or otherwise regulate the sale or use of
23 fireworks in the unincorporated area of the county to promote
24 public health, safety, or welfare. The ballot shall be printed to
25 provide for voting for or against the proposition: "Granting the
26 Commissioners Court of (name of county) the authority to prohibit
27 or otherwise regulate the sale or use of fireworks in the

1 unincorporated area of (name of county) to promote public health,
2 safety, or welfare." If a majority of the qualified voters voting
3 in the election approves the proposition, the commissioners court
4 may, by order, prohibit or otherwise regulate fireworks as provided
5 by this section.

6 (e) A person who violates a prohibition or regulation
7 adopted by the county under this section is liable to the county for
8 a civil penalty of not more than \$100 for each violation. Each day a
9 violation continues is considered a separate violation for purposes
10 of assessing the civil penalty. A county may bring suit in a
11 district court to recover a civil penalty authorized by this
12 subsection.

13 (f) A person commits an offense if the person intentionally
14 or knowingly violates a prohibition or regulation adopted under
15 this section by the commissioners court. An offense under this
16 subsection is a Class C misdemeanor.

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

20 SECTION 2. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2015.