

By: Frullo

H.B. No. 3907

Substitute the following for H.B. No. 3907:

By: Kuempel

C.S.H.B. No. 3907

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain requirements of retail fireworks sites and  
3 inspections of those sites and assessment and collection of certain  
4 existing inspection fees by local fire prevention officers.

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

6 SECTION 1. Section [2154.001](#), Occupations Code, is amended  
7 by adding Subdivisions (9-a), (16-a), and (16-b) to read as  
8 follows:

9 (9-a) "Indoor retail fireworks site" means a retail  
10 fireworks site, other than a retail fireworks stand, that sells  
11 Fireworks 1.4G from a building or structure.

12 (16-a) "Retail fireworks site" means a retail location  
13 for which a person has obtained a current retail fireworks permit  
14 under Section [2154.202](#) to sell fireworks.

15 (16-b) "Retail fireworks stand" means a structure that  
16 is a retail fireworks site from which Fireworks 1.4G are sold over  
17 the counter to members of the general public who always remain  
18 outside of the structure.

19 SECTION 2. Subchapter E, Chapter [2154](#), Occupations Code, is  
20 amended by adding Section 2154.2025 to read as follows:

21 Sec. 2154.2025. INSPECTION OF RETAIL FIREWORKS SITES. (a)  
22 In this section:

23 (1) "Fire or life safety hazard" has the meaning  
24 assigned by Section [352.016](#), Local Government Code.

1           (2) "Local fire prevention officer" means:

2                   (A) a county fire marshal; or

3                   (B) a fire prevention officer of an emergency  
4 services district.

5           (b) A local fire prevention officer may inspect a retail  
6 fireworks site for a fire or life safety hazard and assess and  
7 collect an inspection fee under Section 352.016, Local Government  
8 Code, or Section 775.040, Health and Safety Code, as applicable,  
9 for that inspection if:

10                   (1) the local fire prevention officer is authorized to  
11 conduct the inspection under Chapter 352, Local Government Code, or  
12 Chapter 775, Health and Safety Code, as applicable; and

13                   (2) the local fire prevention officer is:

14                           (A) a county fire marshal of the county in which  
15 the site is located; or

16                           (B) a fire prevention officer of an emergency  
17 services district in which the site is located provided:

18                                   (i) the county in which the site is located  
19 has not appointed a county fire marshal; or

20                                   (ii) the county fire marshal of the county  
21 in which the site is located requests the fire prevention officer to  
22 conduct the inspection.

23           (c) A local fire prevention officer who inspects a retail  
24 fireworks site for a fire or life safety hazard as authorized by  
25 Chapter 352, Local Government Code, or Chapter 775, Health and  
26 Safety Code, as applicable, may assess the inspection fee provided  
27 by Section 352.016, Local Government Code, or by Section 775.040,

1 Health and Safety Code, as applicable, and collect payment of that  
2 fee from the person who obtained a retail fireworks permit under  
3 Section 2154.202 to sell fireworks at the site. The inspection fee  
4 may not exceed:

5 (1) \$100, if the largest building at the site is less  
6 than 25,000 square feet, plus \$25 for each additional building,  
7 other than the largest building, located at the site;

8 (2) \$200, if the largest building at the site is 25,000  
9 square feet or more, but less than 100,000 square feet, plus \$25 for  
10 each additional building, other than the largest building, located  
11 at the site; and

12 (3) \$300, if the largest building at the site is  
13 100,000 square feet or more, plus \$25 for each additional building,  
14 other than the largest building, located at the site.

15 (d) An inspection fee under Section 352.016, Local  
16 Government Code, or Section 775.040, Health and Safety Code, as  
17 applicable, may be assessed and collected for the inspection of a  
18 retail fireworks site for a fire or life safety hazard only:

19 (1) once in a calendar year for that site; and

20 (2) by a local fire prevention officer authorized  
21 under Subsection (b) to inspect the site for a fire or life safety  
22 hazard and to assess and collect an inspection fee.

23 (e) A local fire prevention officer who inspects a retail  
24 fireworks site for a fire or life safety hazard may determine  
25 whether the site complies with the requirements of Sections  
26 2154.221 and 2154.222.

27 (f) Except as otherwise provided by Subsection (e), this

1 section does not grant additional authority to a local fire  
2 prevention officer.

3 (g) This section does not limit the authority of a local  
4 fire prevention officer to conduct an inspection of a retail  
5 fireworks site for a fire or life safety hazard more than once in a  
6 calendar year provided that the site is assessed an inspection fee  
7 not more than once in that calendar year and the inspection complies  
8 with other requirements of this section.

9 (h) To the extent of any conflict between this section and  
10 Chapter 352, Local Government Code, or Chapter 775, Health and  
11 Safety Code, this section controls.

12 SECTION 3. Chapter 2154, Occupations Code, is amended by  
13 adding Subchapter E-1 to read as follows:

14 SUBCHAPTER E-1. INDOOR RETAIL FIREWORKS SITES

15 Sec. 2154.221. FIREWORKS SALES BUILDING. The fireworks  
16 sales building of an indoor retail fireworks site must be a  
17 freestanding durable structure with only one story of the building  
18 accessible to the public. The fireworks sales building of an indoor  
19 retail fireworks site may not be:

20 (1) a tent, boat, or mobile vehicle; or

21 (2) part of a multiuse or multi-tenant building.

22 Sec. 2154.222. SALES DISPLAY AREA. The sales display area  
23 of an indoor retail fireworks site must be sufficiently designed to  
24 prevent customers from handling fireworks unless an attendant is  
25 directly assisting the customer.

26 Sec. 2154.223. OFFICE AREA EXEMPTION. The commissioner may  
27 exempt the office area used in the operation of an indoor retail

1 fireworks site from commissioner rules prescribing distance  
2 requirements between fireworks storage and inhabited buildings if,  
3 after inspecting the office area at the request of the permit holder  
4 for the site, the state fire marshal confirms and reports to the  
5 commissioner that the office area is separated by a one-hour  
6 fire-rated wall from any fireworks sales or storage area.

7         SECTION 4. 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, 2017.