

BILL ANALYSIS

Senate Research Center
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S.B. 162
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DIGEST AND PURPOSE

Under current law, the sale and use of aerial fireworks is prohibited within all incorporated areas. Counties lack the authority to regulate the use of aerial fireworks in unincorporated areas. S.B. 162 authorizes a county commissioners court in a county with a population of 2.8 million or more to regulate the use of aerial fireworks in any part of the unincorporated area of the county.

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 Chapter 240Z, Local Government Code, by adding Section 240.9045, as follows:

Section 240.9045. ADDITIONAL COUNTY REGULATION OF AERIAL FIREWORKS.

(a) Provides that this section only applies to a county with a population of 2.8 million or more.

(b) Defines “aerial fireworks.”

(c) Sets forth that this section does not apply to:

- (1) toy pistols, toy canes, toy guns, or devices that use paper or plastic caps in sheets, strips, rolls, or individual caps containing no more than an average of 25 hundredths of a grain of explosive composition for each cap;
- (2) model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;
- (3) propelling or expelling charges consisting of a mixture of sulfur, charcoal, and potassium nitrate;
- (4) novelties and trick noisemakers;
- (5) the sale, at wholesale, of any type of aerial fireworks if they are intended for shipment directly out of state in accordance with the regulations of the United States Department of Transportation;
- (6) the sale, and use in emergency situations, of pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;
- (7) the use of fusee and railway torpedoes by railroads;
- (8) the sale of blank cartridges for use in radio, television, film, or theater productions, for signal or ceremonial purposes in athletic events, or for industrial

purposes;

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

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

(d) Authorizes the commissioners court of a county by order to prohibit or otherwise regulate the sale, possession, or use of aerial fireworks in any part of the unincorporated area of the county. Provides that this authority is in addition to the county's authority to regulate fireworks under Section 240.904.

(e) Requires a person selling aerial fireworks in a county that has adopted an order under Subsection (d) to provide reasonable notice of the order and reasonable notice of any area where the sale, possession, or use of aerial fireworks is prohibited or regulated under Subsection (d).

(f) Requires a commissioners court that adopts an order under Subsection (d) to send a copy of the order to the state fire marshal no later than the 30th day after the date the order is adopted.

(g) Requires the state fire marshal to send a copy of each order received to each licensed manufacturer, distributor, and jobber in the affected county no later than the 30th day after the fire marshal receives the order.

(h) Provides that a person commits an offense if the person knowingly violates a prohibition or other regulation established by an order adopted under this section and such an offense is a Class C misdemeanor.

SECTION 2. Effective date: upon passage or September 1, 2001.