

SUBJECT: County regulation of all fireworks during drought conditions

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 14 ayes — Wolens, S. Turner, Alvarado, Bailey, Brimer, Counts, Craddick, Danburg, Hilbert, Hunter, Longoria, Marchant, McCall, Merritt

0 nays

1 absent — D. Jones

WITNESSES: For — Gary Joiner, Texas Farm Bureau

Against — Chester Davis, American Fireworks; Zachary Stearns, Texas Pyrotechnic Association

On — James Hull, Texas Forest Service

BACKGROUND: HB 2049 by Hightower, enacted in 1997, added Local Government Code, sec. 240.904, which allows counties to prohibit or restrict the use of aerial fireworks when the Texas Forest Service (TFS) informs the county that drought conditions exist in the county.

DIGEST: HB 2279 would remove the term “aerial” from Local Government Code, sec. 240.904, and cover all fireworks, as defined in the Insurance Code, art. 5.43-4.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: Counties need the ability to regulate all fireworks when drought conditions exist. All signs point to another dry year in many areas of Texas this year. By allowing counties to regulate all fireworks, HB 2279 would make it easier for counties to monitor the sale of fireworks and to enforce restrictions on fireworks use. Non-aerial fireworks can be just as dangerous as aerial fireworks in starting fires during drought conditions.

TFS has been informing counties of drought conditions since enactment of HB 2049 by Hightower in 1997. During that time, the number of fires started by fireworks has declined. By requiring TFS to determine drought conditions through the use of scientific methods, the law ensures that counties do not make these decisions arbitrarily but only through clearly established guidelines.

**OPPONENTS
SAY:**

Extending county regulation to all fireworks, as proposed by HB 2279, effectively would prohibit the sale of all fireworks in counties that were allowed to regulate them. In contrast to aerial fireworks, which can land far away from the person using the fireworks, other fireworks are easily controllable, and users immediately can determine any fire danger due to dry conditions.

**OTHER
OPPONENTS
SAY:**

All counties should be allowed to regulate or prohibit the sale of fireworks regardless of drought conditions that may or may not exist. Municipalities have such authority, and counties should have similar authority to deal with this significant risk to public safety and property.

NOTES:

SB 825 by Zaffirini, passed by the Senate on April 26, would change the dates by which counties must adopt fireworks regulations from July 15 or December 15 to the 17th of those months.

HB 890 by Hamric, reported favorably as substituted by the House State Affairs Committee on April 13, would allow Harris County to regulate the use of fireworks within 600 feet of residences.

SB 939 by Armbrister, passed by the Senate on April 26, would establish a safety and education program under the Department of Insurance funded by fees on fireworks retailers, manufacturers, and distributors.