

BILL ANALYSIS

Senate Research Center
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H.B. 3907
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Agriculture, Water & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties have expressed a need to improve the safety of certain locations at which fireworks are sold. H.B. 3907 seeks to address this issue by providing for the inspection of retail fireworks sites and for certain requirements applicable to indoor retail fireworks sites.

H.B. 3907 amends the Occupations Code to authorize a local fire prevention officer to inspect a retail fireworks site for a fire or life safety hazard and assess and collect an inspection fee for that inspection if the officer is authorized to conduct the inspection under applicable state law and is a county fire marshal of the county in which the site is located or a fire prevention officer of an emergency services district in which the site is located, provided the county in which the site is located has not appointed a county fire marshal or the county fire marshal of that county requests the officer to conduct the inspection. H.B. 3907 authorizes a local fire prevention officer who inspects a retail fireworks site for a fire or life safety hazard to assess the inspection fee and collect payment of that fee from the person who obtained a retail fireworks permit to sell fireworks at the site and sets out a schedule for those fees based on the size of the largest building at the site. H.B. 3907 establishes that such a fee may be assessed and collected for a particular retail fireworks site only once during a calendar year for that site and only by a local fire prevention officer authorized to conduct the site inspection and to assess and collect the fee.

H.B. 3907 authorizes a local fire prevention officer who inspects a retail fireworks site for a fire or life safety hazard to determine whether the site complies with certain requirements imposed by the bill on indoor retail fireworks sites. The bill's provisions regarding the inspection of retail fireworks sites expressly do not grant additional authority to a local fire prevention officer nor limit an officer's authority to conduct an inspection of a retail fireworks site for a fire or life safety hazard more than once in a calendar year provided that the site is assessed an inspection fee not more than once in that calendar year and the inspection complies with the other requirements of those bill provisions. Those bill provisions expressly control over statutory provisions relating to county fire protection or to emergency services districts to the extent of any conflict.

H.B. 3907 requires the fireworks sales building of an indoor retail fireworks site to be a freestanding durable structure with only one story of the building accessible to the public. The bill prohibits the fireworks sales building of an indoor retail fireworks site from being a tent, boat, or mobile vehicle or part of a multiuse or multi-tenant building. H.B. 3907 requires the sales display area of an indoor retail fireworks site to be sufficiently designed to prevent customers from handling fireworks unless an attendant is directly assisting the customer. H.B. 3907 authorizes the commissioner of insurance to exempt the office area used in the operation of an indoor retail fireworks site from commissioner rules prescribing distance requirements between fireworks storage and inhabited buildings if, after inspecting the office area at the request of the permit holder for the site, the state fire marshal confirms and reports to the commissioner that the office area is separated by a one-hour fire-rated wall from any fireworks sales or storage area.

H.B. 3907 amends current law relating to certain requirements of retail fireworks sites and inspections of those sites and assessment and collection of certain existing inspection fees by local fire prevention officers.

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 Section 2154.001, Occupations Code, by adding Subdivisions (9-a), (16-a), and (16-b), to define "indoor retail fireworks site," "retail fireworks site," and "retail fireworks stand."

SECTION 2. Amends Subchapter E, Chapter 2154, Occupations Code, by adding Section 2154.2025, as follows:

Sec. 2154.2025. INSPECTION OF RETAIL FIREWORKS SITES. (a) Defines "fire or life safety hazard" and "local fire prevention officer."

(b) Authorizes a local fire prevention officer to inspect a retail fireworks site for a fire or life safety hazard and assess and collect an inspection fee under Section 352.016 (Inspection or Review of Plan for Fire or Life Safety Hazards), Local Government Code, or Section 775.040 (Fees for Providing Services), Health and Safety Code, as applicable, for that inspection if:

(1) the local fire prevention officer is authorized to conduct the inspection under Chapter 352 (County Fire Protection), Local Government Code, or Chapter 775 (Emergency Services Districts), Health and Safety Code, as applicable; and

(2) the local fire prevention officer is a county fire marshal of the county in which the site is located or a fire prevention officer of an emergency services district in which the site is located provided the county in which the site is located has not appointed a county fire marshal or the county fire marshal of the county in which the site is located requests the fire prevention officer to conduct the inspection.

(c) Authorizes a local fire prevention officer who inspects a retail fireworks site for a fire or life safety hazard as authorized by Chapter 352, Local Government Code, or Chapter 775, Health and Safety Code, as applicable, to assess certain inspection fees and to collect payment of that fee from the person who obtained a retail fireworks permit under Section 2154.202 (Retail Fireworks Permit) to sell fireworks at the site. Prohibits the inspection fee from exceeding certain amounts.

(d) Authorizes an inspection fee under Section 352.016, Local Government Code, or Section 775.040, Health and Safety Code, as applicable, to be assessed and collected for the inspection of a retail fireworks site for a fire or life safety hazard only under certain conditions.

(e) Authorizes a local fire prevention officer who inspects a retail fireworks site for a fire or life safety hazard to determine whether the site complies with the requirements of Sections 2154.221 and 2154.222.

(f) Provides that, except as otherwise provided by Subsection (e), this section does not grant additional authority to a local fire prevention officer.

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

(h) Provides that, to this extent of any conflict between this section and Chapter 352, Local Government Code, or Chapter 775, Health and Safety Code, this section controls.

SECTION 3. Amends Chapter 2154, Occupations Code, by adding Subchapter E-1, as follows:

SUBCHAPTER E-1. INDOOR RETAIL FIREWORKS SITES

Sec. 2154.221. **FIREWORKS SALES BUILDING.** Requires that the fireworks sales building of an indoor retail fireworks site be a freestanding durable structure with only one story of the building accessible to the public. Prohibits the fireworks sales building of an indoor retail fireworks site from being a tent, boat, or mobile vehicle or part of a multiuse or multi-tenant building.

Sec. 2154.222. **SALES DISPLAY AREA.** Requires that the sales display area of an indoor retail fireworks site be sufficiently designed to prevent customers from handling fireworks unless an attendant is directly assisting the customer.

Sec. 2154.223. **OFFICE AREA EXEMPTION.** Authorizes the commissioner of insurance of Texas (commissioner) to exempt the office area used in the operation of an indoor retail fireworks site from commissioner rules prescribing distance requirements between fireworks storage and inhabited buildings if, after inspecting the office area at the request of the permit holder for the site, the state fire marshal confirms and reports to the commissioner that the office area is separated by a one-hour fire-rated wall from any fireworks sales or storage area.

SECTION 4. Effective date: upon passage or September 1, 2017.