

SUBJECT: Allowing Bexar County to regulate fireworks stands, creating offenses

COMMITTEE: County Affairs — committee substitute recommended

VOTE: *After recommitted:*  
6 ayes — Coleman, Springer, Biedermann, Roberts, Thierry, Uresti

0 nays

3 absent — Hunter, Neave, Stickland

WITNESSES: *April 13 public hearing:*  
For — Jim Allison, County Judges and Commissioners Association of Texas; Tommy Calvert, Bexar County Commissioners Court; Lanny Lambert, City of Converse; Donald Lee, Texas Conference of Urban Counties; (*Registered, but did not testify:* Melissa Shannon, Bexar County Commissioners Court; Nathan Mendenhall, Bexar County Fire Marshal's Office; Charles Reed, Dallas County Commissioners Court; Donna Warndorf, Harris County Commissioners Court; Mark Mendez, Tarrant County)

Against — Chester Davis and Eric Glenn, Texas Pyrotechnic Association; Ray Soffes; (*Registered, but did not testify:* Carl Isett, Texas Pyrotechnic Association; Mario Martinez, Mr. G's Fireworks)

BACKGROUND: Local Government Code, sec. 352.051 authorizes a county commissioners court to prohibit or restrict the sale or use of certain fireworks in the unincorporated area of the county if drought conditions exist.

Occupations Code, sec. 2154.202 allows a retail fireworks permit holder to sell fireworks between June 24 and July 4, between December 20 and January 1, and between May 1 and May 5 for certain counties on or near the Mexican border. A county also could allow fireworks to be sold between February 25 and March 2, between April 16 and April 21, and between the Wednesday before the last Monday in May and the last Monday in May.

DIGEST:

CSHB 3639 would prohibit a retail fireworks stand in the county described by the bill (Bexar County) from being located within 2,500 feet of the corporate boundary of a municipality or within 500 feet of residential property. A retail fireworks stand would mean a retail location where a licensed person sold fireworks over the counter to members of the general public who remained outside the stand.

A retail fireworks stand could not be placed on a site for more than 15 days before or 15 days after the period in which fireworks are authorized for sale by law.

A person with a retail fireworks permit would have to ensure that a sign was conspicuously posted on the outside of a stand to provide contact information where the public could submit a complaint about an alleged unsafe operation or nuisance. The commissioners court also could require additional signs in a language other than English.

If the county fire marshal received a complaint, he or she would determine whether the complaint was valid and promptly notify the permit holder for the retail fireworks stand. The bill would require a permit holder to resolve a valid complaint within three business days of being notified of the complaint or remove the stand.

A permit holder who failed to take appropriate action on a valid complaint would commit a class C misdemeanor (maximum fine of \$500).

A person who knowingly filed a baseless complaint also would commit an offense. The penalty for a first offense would be a warning citation, and a subsequent offense would be a class C misdemeanor.

Local Government Code, sec. 352.051 would not apply to a county subject to this bill.

CSHB 3639 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2017.

NOTES:

CSHB 3639 was reported favorably from the House Committee on County Affairs on April 19, sent to Calendars, recommitted to committee, and reported favorably again on May 3.

A companion bill, SB 760 by Menéndez, was left pending in the Senate Committee on Intergovernmental Relations on April 19.