

SUBJECT: Regulating fireworks during drought conditions

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Wolens, S. Turner, Alvarado, Brimer, Carter, Counts, Danburg, Hilbert, Hunter, D. Jones, McCall, Ramsay, Stiles

0 nays

2 absent — Craddick, Longoria

WITNESSES: For — Chester Davis, American Fireworks; Gary Joiner, Texas Farm Bureau; Jim Allison, County Judges and Commissioners Association of Texas; Lee Gilder; Lynn Bizell, Texas Fire Chiefs Association; Royce Trout, Texas Pyrotechnic Association

Against — None

On — Bobby Young and James Hull, Texas Forest Service

BACKGROUND : In 1995, the Legislature enacted HB 828 by Craddick, allowing county commissioners courts to prohibit or restrict the use of aerial fireworks because of climatic conditions. To enforce such a restriction, a county must provide at least one safe area of appropriate size and accessibility where aerial fireworks are not prohibited. Fireworks retailers have to post notices informing purchasers of the restriction and of the location of the safe area.

DIGEST: HB 2049 would provide that counties could restrict fireworks where drought conditions were determined to exist and require the Texas Forest Service to make such determinations when requested by a county. The service would use the Keech-Byrum Index or a comparable measurement system for determining drought. The service would have to notify affected counties when drought conditions no longer existed

The bill would allow the service to accept donations of equipment or funds to help carry out these duties and would make the designation of safe areas for fireworks permissive rather than mandatory.

HB 2049 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

HB 2049 would provide county commissioners with empirical evidence needed to support a decision to limit fireworks use because of climatic conditions. The regulation of fireworks during droughts is essential to promote public safety. Introducing fireworks into a area that has experienced an abnormal lack of precipitation can cause severe fires, damaging property and threatening life.

Current law leaves to the judgment of county commissioners the determination of whether to restrict aerial fireworks. In some cases, commissioners may receive conflicting reports about the severity of the dryness or the potential for fires. HB 2049 allows a measure of objective scientific information to shape the local decisions on restricting fireworks. The Forest Service is an impartial body and would make such determination using the facts available and would not be swayed by any local or political pressures.

The Forest Service has the technical knowledge and means to implement the provisions of this bill. The Keech-Byrum Index is a widely accepted method for measuring the lack of moisture in the soil. It is used by fire departments nationwide to determine fire risks caused by dry conditions. Allowing the Forest Service to accept donations of equipment to implement this section would help them to spread their presence to West Texas where monitoring stations are few and far between.

Prohibiting the sale of aerial fireworks altogether even under dry conditions would be unreasonable. Such a blanket prohibition would unnecessarily interfere with fireworks retailers because every device sold in a certain location is not necessarily used in that county. Furthermore, it is better that have legal fireworks stands that can be monitored rather than illegal sales. Additionally, by providing notice of safe areas, retailers help promote safe use of fireworks.

- OPPONENTS SAY:** HB 2049 would eliminate a current requirement that counties banning general use of fireworks provide a safe area where they can be set off. Without such an area, those who purchase fireworks are likely to use them surreptitiously, creating problems for enforcing the restriction and controlling of any fires that do occur.
- OTHER OPPONENTS SAY:** The dangers associated with fireworks would be more effectively prevented by allowing county commissioners to prohibit their sale. Municipalities enjoy the authority to ban sales in their jurisdictions; the same authority should be granted to counties when life and property are at risk.
- NOTES:** The companion bill, SB 1126 by Madla, has been referred to the Senate Intergovernmental Relations Committee.
- A related bill, HB 1019 by Hamric, which would allow commissioners in Harris County to prohibit or regulate the use of fireworks within their precincts, is pending in the House State Affairs Committee.