

HOUSE BILL 155

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO FIREWORKS; AMENDING AND ENACTING SECTIONS OF THE FIREWORKS LICENSING AND SAFETY ACT; EXPANDING THE ABILITY OF A GOVERNING BODY OF A MUNICIPALITY OR COUNTY TO RESTRICT THE SALE OR USE OF FIREWORKS BASED ON CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS; EMPOWERING THE STATE FIRE MARSHAL TO PROHIBIT THE SALE OR USE OF FIREWORKS BASED ON CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS; INCREASING EXISTING CRIMINAL PENALTIES; MAKING IT A CRIME TO VIOLATE AN ORDER ISSUED BY THE STATE FIRE MARSHAL AND PRESCRIBING PENALTIES; PROVIDING THAT A VIOLATION OF AN ORDER ISSUED BY THE STATE FIRE MARSHAL MAY RESULT IN THE REVOCATION OR SUSPENSION OF A LICENSE OR PERMIT ISSUED PURSUANT TO THE FIREWORKS LICENSING AND SAFETY ACT; PROVIDING THAT THE RESIDENT, OWNER OR OCCUPIER OF A PRIVATE PROPERTY WHO ALLOWS A PERSON TO USE FIREWORKS ON THE PRIVATE PROPERTY IN VIOLATION OF THE FIREWORKS LICENSING AND SAFETY ACT;

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1 OR AN ORDER ISSUED BY THE STATE FIRE MARSHAL IS SUBJECT TO A
2 CIVIL FINE; MAKING CONFORMING AMENDMENTS; MAKING
3 APPROPRIATIONS.

4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 SECTION 1. Section 60-2C-8.1 NMSA 1978 (being Laws 1997,
7 Chapter 17, Section 9, as amended) is amended to read:

8 "60-2C-8.1. MUNICIPAL OR COUNTY GOVERNING BODY
9 DETERMINATION OF EXTREME OR SEVERE DROUGHT OR OTHER DANGEROUS
10 WEATHER OR ENVIRONMENTAL CONDITIONS--[RESTRICTED] PROCLAMATION
11 RESTRICTING SALE AND USE.--

12 A. The governing body of a municipality or county
13 may hold a hearing to determine if fireworks restrictions
14 should be imposed within the ~~[boundaries of the incorporated~~
15 ~~municipality affected by]~~ governing body's jurisdiction if
16 extreme or severe drought or other dangerous weather or
17 environmental conditions exist. The ~~[findings]~~ determination
18 of the governing body shall be based on current drought indices
19 published by the national weather service ~~[and any other]~~,
20 relevant information ~~[supplied]~~ provided by the United States
21 forest service or relevant information provided by the energy,
22 minerals and natural resources department, department of
23 environment or homeland security and emergency management
24 department.

25 B. ~~[Pursuant to any hearing under Subsection A of~~

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1 this section, the] If a governing body of a municipality [shall
2 issue a proclamation declaring] or county holds a hearing and
3 determines that extreme or severe drought or other dangerous
4 weather or environmental conditions [within the boundaries of
5 the incorporated municipality if the governing body determines
6 such conditions] exist, the governing body may issue a
7 proclamation declaring such conditions and restricting the sale
8 or use of permissible fireworks. The [governing body's]
9 proclamation may:

10 (1) [shall ban] prohibit the sale [and] or use
11 of missile-type rockets, helicopters, aerial spinners, stick-
12 type rockets [and] or ground audible devices; [within the
13 affected drought area; and]

14 (2) [shall give the governing body the power
15 to: (a)] limit the use [within its jurisdiction] of any
16 fireworks not listed in Paragraph (1) of this subsection to
17 areas that are paved or barren or that have a readily
18 accessible source of water for use by the homeowner or the
19 general public;

20 [(b) ban] (3) prohibit the use of all
21 permissible fireworks within wildlands in [its] the governing
22 body's jurisdiction, after consultation with the state
23 forester; and

24 [(c) ban or restrict] (4) prohibit or limit
25 the sale or use of display fireworks.

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1 C. [The ~~municipal~~] A governing body's proclamation
2 [declaring an extreme or severe drought condition] shall be
3 issued no less than twenty days prior to a holiday for which
4 fireworks may be sold. The proclamation shall explain
5 restrictions on the sale or use of fireworks and permitted
6 sales or uses of fireworks as applicable.

7 D. A [~~municipal~~] governing body's proclamation
8 shall be effective for thirty days, and the governing body may
9 issue succeeding proclamations if extreme or severe drought or
10 other dangerous weather or environmental conditions warrant. A
11 proclamation may be modified or rescinded within its thirty-day
12 period by the governing body upon conducting an emergency
13 hearing to determine if weather or environmental conditions
14 have [improved] changed.

15 E. ~~The governing body of a county may hold a~~
16 ~~hearing to determine if fireworks restrictions should be~~
17 ~~imposed within the unincorporated portions of the county~~
18 ~~affected by extreme or severe drought conditions. The findings~~
19 ~~of the governing body shall be based on current drought indices~~
20 ~~published by the national weather service and any other~~
21 ~~relevant information supplied by the United States forest~~
22 ~~service.~~

23 F. ~~Pursuant to any hearing under Subsection E of~~
24 ~~this section, the governing body of a county shall issue a~~
25 ~~proclamation declaring extreme or severe drought conditions~~

1 within the unincorporated portions of the county if the
2 governing body determines such conditions exist. The governing
3 body's proclamation:

4 (1) shall ban the sale and use of missile-type
5 rockets, helicopters, aerial spinners, stick-type rockets and
6 ground audible devices within the affected drought area; and

7 (2) shall give the governing body the power
8 to:

9 (a) limit the use within its
10 jurisdiction of any fireworks not listed in Paragraph (1) of
11 this subsection to areas that are paved or barren or that have
12 a readily accessible source of water for use by the homeowner
13 or the general public;

14 (b) ban the use of all fireworks within
15 wildlands in its jurisdiction, after consultation with the
16 state forester; and

17 (c) ban or restrict the sale or use of
18 display fireworks.

19 G. The county governing body's proclamation
20 declaring an extreme or severe drought condition shall be
21 issued no less than twenty days prior to a holiday for which
22 fireworks may be sold. The proclamation shall explain
23 restrictions on the sale or use of fireworks and permitted
24 sales or uses of fireworks.

25 H. Except as otherwise provided in this subsection,

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1 a proclamation shall be effective for thirty days, and the
2 county governing body may issue succeeding proclamations if
3 extreme or severe drought conditions warrant. A proclamation
4 may be modified or rescinded within its thirty day period by
5 the governing body upon conducting an emergency hearing to
6 determine if weather conditions have improved.]"

7 SECTION 2. A new section of the Fireworks Licensing and
8 Safety Act, Section 60-2C-8.2 NMSA 1978, is enacted to read:

9 "60-2C-8.2. [NEW MATERIAL] PROHIBITION OF PERMISSIBLE
10 FIREWORKS BY THE STATE FIRE MARSHAL.--

11 A. The state fire marshal may prohibit the sale or
12 use of permissible fireworks or display fireworks upon making a
13 determination that extreme or severe drought or other dangerous
14 weather conditions exist or that lives or property would
15 otherwise be threatened by the use of permissible fireworks or
16 display fireworks.

17 B. If the state fire marshal makes a determination
18 to prohibit the sale or use of permissible fireworks or display
19 fireworks, the state fire marshal shall issue a written order
20 that declares the conditions or threats that make the
21 prohibition necessary, specifies the scope, location and
22 duration of the prohibition and provides adequate notice that a
23 person who violates the order shall be subject to the criminal
24 or civil penalties provided for in the Fireworks Licensing and
25 Safety Act. The state fire marshal's order may prohibit the

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1 sale or use of certain permissible fireworks or display
2 fireworks or all permissible fireworks or display fireworks and
3 may be applicable statewide, to a county or collection of
4 counties or to portions of a county.

5 C. An order that prohibits the sale of permissible
6 fireworks shall be issued no less than twenty days prior to a
7 holiday for which fireworks may be sold. An order that
8 prohibits only the use of permissible fireworks or display
9 fireworks may be issued at any time. All orders issued
10 pursuant to this section shall be effective for no more than
11 thirty days and may be modified or rescinded. The state fire
12 marshal may issue succeeding orders in accordance with this
13 section.

14 D. An order issued by the state fire marshal
15 pursuant to this section shall preempt any conflicting
16 proclamation issued by the governing body of a municipality or
17 county issued pursuant to Section 60-2C-8.1 NMSA 1978."

18 SECTION 3. Section 60-2C-10 NMSA 1978 (being Laws 1989,
19 Chapter 346, Section 10) is amended to read:

20 "60-2C-10. PENALTY--CRIMINAL.--

21 A. ~~[Any individual, firm, partnership or~~
22 ~~corporation that]~~ A person who violates ~~[any]~~ a provision of
23 the Fireworks Licensing and Safety Act is guilty of a
24 misdemeanor and upon a first or second conviction shall be
25 punished by a fine of not more than one thousand dollars

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1 (\$1,000), [or] imprisonment for not more than one year, or
2 both.

3 B. A person who violates an order prohibiting the
4 sale or use of permissible fireworks or display fireworks
5 issued by the state fire marshal pursuant to Section 60-2C-8.2
6 NMSA 1978 is guilty of a petty misdemeanor and shall be
7 punished by a fine of not more than five hundred dollars
8 (\$500), imprisonment for a definite term not to exceed six
9 months, or both.

10 [B.] C. Nothing in the Fireworks Licensing and
11 Safety Act shall apply to or prohibit [any] employees of the
12 department of [game and fish] wildlife or the United States
13 fish and wildlife service from possessing fireworks for control
14 of game birds and animals or to prohibit [any] a law
15 enforcement officer from possessing fireworks in the
16 performance of [his] the officer's duties or to prohibit [any]
17 a municipality or civic organization [~~therein~~] from sponsoring
18 and conducting in connection with [any] a public celebration an
19 officially supervised and controlled fireworks display."

20 SECTION 4. Section 60-2C-11 NMSA 1978 (being Laws 1989,
21 Chapter 346, Section 11) is amended to read:

22 "60-2C-11. PENALTY--CIVIL--

23 A. If a person is found guilty of violating any of
24 the provisions of the Fireworks Licensing and Safety Act or an
25 order issued by the state fire marshal pursuant to Section

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1 60-2C-8.2 NMSA 1978, that person's license or permit may be
2 revoked or suspended by the state fire marshal [his] or the
3 state fire marshal's deputies or designees.

4 B. If the resident, owner or occupier of a private
5 property allows a person to use fireworks on the private
6 property and the person's use of fireworks violates the
7 Fireworks Licensing and Safety Act or an order issued by the
8 state fire marshal pursuant to Section 60-2C-8.2 NMSA 1978, the
9 resident, owner or occupier shall be subject to a fine of:

10 (1) one thousand dollars (\$1,000) for a first
11 violation;

12 (2) two thousand five hundred dollars (\$2,500)
13 for second violation; and

14 (3) five thousand dollars (\$5,000) for a third
15 or subsequent violation.

16 [B.] C. No individual, firm, corporation or
17 partnership shall possess [any] fireworks for sale within New
18 Mexico, other than those authorized in the Fireworks Licensing
19 and Safety Act. The state fire marshal [his] or the state fire
20 marshal's deputies or designees may at reasonable hours enter
21 and inspect the permittee's premises, building, mobile or motor
22 vehicle or temporary or permanent structure to determine
23 compliance with the Fireworks Licensing and Safety Act. If
24 [any] a retailer has in [his] the retailer's possession any
25 fireworks in violation of that act, [his] the retailer's permit

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1 shall be revoked and all [such] fireworks in violation seized
2 [and the fireworks shall be kept to be used as evidence]. If
3 [any] a person has in [his] the person's possession any
4 fireworks in violation of that act, a warrant may be issued for
5 the seizure of fireworks, [and the fireworks shall be safely
6 kept to be used as evidence] unless a lawful exception to the
7 warrant requirement applies under the circumstances. All
8 fireworks seized pursuant to this section shall be safely kept
9 as evidence.

10 D. Upon conviction of the offender, the fireworks
11 shall be destroyed, but if the offender is discharged, the
12 permissible fireworks shall be returned to the person in whose
13 possession they were found; provided, however, that nothing in
14 the Fireworks Licensing and Safety Act applies to the
15 transportation of fireworks by regulated carriers."

16 SECTION 5. APPROPRIATIONS.--

17 A. The following amounts are appropriated from the
18 general fund to the following entities for expenditure in
19 fiscal years 2026 and 2027:

20 (1) five hundred thousand dollars (\$500,000)
21 to the state fire marshal's office for a statewide public
22 awareness campaign to prevent the use of illegal fireworks; and
23 (2) two hundred fifty thousand dollars
24 (\$250,000) to the department of public safety to support local
25 law enforcement agencies with surveillance technology to

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1 prevent the use of illegal fireworks.

2 B. Any unexpended balances remaining at the end of
3 fiscal year 2027 shall revert to the general fund.

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