

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 373

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO PUBLIC SAFETY; CHANGING THE STANDARDS FOR LOCAL
GOVERNMENT FIREWORKS RESTRICTIONS; AUTHORIZING THE FORESTRY
DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT TO ADOPT AND ENFORCE RULES RELATED TO FIREWORKS;
REQUIRING THAT FIREWORKS VENDORS PROVIDE CERTAIN INFORMATION;
DECLARING AN EMERGENCY.

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

SECTION 1. Section 60-2C-8.1 NMSA 1978 (being Laws 1997,
Chapter 17, Section 9, as amended) is repealed and a new
Section 60-2C-8.1 NMSA 1978 is enacted to read:

"60-2C-8.1. [NEW MATERIAL] HIGH, VERY HIGH OR EXTREME
FIRE DANGER--RESTRICTED SALE AND USE.--

A. The governing body of a municipality may hold a
hearing to determine whether fireworks restrictions should be

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underscored material = new
[bracketed material] = delete

1 imposed within the boundaries of the incorporated municipality
2 when that area has been assigned a high, very high or extreme
3 fire danger rating by the national fire danger rating system.

4 B. If in the hearing the governing body of a
5 municipality determines that a high, very high or extreme fire
6 danger exists, the governing body shall issue a proclamation
7 that the condition exists and:

8 (1) shall ban the sale and use of aerial
9 devices and ground audible devices within the affected area;

10 (2) may restrict the use within its
11 jurisdiction of any other type of firework to areas that are
12 paved or barren or that have a readily accessible source of
13 water for use by a homeowner or the general public;

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

17 (4) may ban or restrict the sale or use of
18 display fireworks; and

19 (5) may use public service announcements to
20 alert the public of extreme fire danger and inform the public
21 of safe practices to reduce the risk of fire if that danger
22 exists.

23 C. If extreme fire danger exists, the governing
24 body of a municipality may ban the sale or use within its
25 jurisdiction of any type of fireworks.

1 D. A governing body of a municipality shall issue a
2 proclamation no fewer than twenty days before a holiday for
3 which fireworks may be sold. The proclamation shall include
4 provisions on the restricted sale or use of fireworks and the
5 permitted sale or use of fireworks.

6 E. A proclamation is effective for thirty days. If
7 high, very high or extreme fire danger remains, the governing
8 body of a municipality may issue a succeeding proclamation.
9 After an emergency hearing to determine whether the fire danger
10 warrants the modification or rescission of a proclamation, the
11 governing body may modify or rescind a proclamation before its
12 thirty-day expiration.

13 F. The governing body of a county may hold a
14 hearing to determine whether fireworks restrictions should be
15 imposed within the unincorporated portions of the county when
16 those areas have been assigned a high, very high or extreme
17 fire danger rating by the national fire danger rating system.

18 G. If in the hearing the governing body of a county
19 determines that a high, very high or extreme fire danger exists
20 within the unincorporated portions of the county, the governing
21 body shall issue a proclamation that the condition exists and:

22 (1) shall ban the sale and use of aerial
23 devices and ground audible devices within the affected area;

24 (2) may limit the use within its jurisdiction
25 of any other type of firework to areas that are paved or barren

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1 or that have a readily accessible source of water for use by a
2 homeowner or the general public;

3 (3) after consultation with the state
4 forester, may ban the use of all fireworks within wildlands in
5 its jurisdiction;

6 (4) may ban or restrict the sale or use of
7 display fireworks; and

8 (5) may use public service announcements to
9 alert the public of extreme fire danger and inform the public
10 of safe practices to reduce the risk of fire if that danger
11 exists.

12 H. If extreme fire danger exists, the governing
13 body of a county may ban the sale or use within its
14 jurisdiction of any type of fireworks.

15 I. The governing body of a county shall issue a
16 proclamation no fewer than twenty days before a holiday for
17 which fireworks may be sold. The proclamation shall include
18 provisions on the restricted sale or use of fireworks and the
19 permitted sale or use of fireworks.

20 J. Except as otherwise provided in this subsection,
21 a proclamation is effective for thirty days. If high, very
22 high or extreme fire danger remains, the governing body of a
23 county may issue a succeeding proclamation. After an emergency
24 hearing to determine whether the fire danger warrants the
25 modification or rescission of a proclamation, the governing

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1 body may modify or rescind a proclamation before its thirty-day
2 expiration.

3 K. At the request of a governing body of a
4 municipality or a county and if a fire danger rating of extreme
5 exists for ten consecutive days within the municipality or
6 county, the forestry division of the energy, minerals and
7 natural resources department may adopt and enforce emergency
8 rules that apply within the jurisdiction of the municipality or
9 county and that partially or completely ban or restrict the
10 sale or use of all fireworks.

11 L. In adopting rules, the forestry division shall:

12 (1) use the southwest coordination center as
13 the source of national fire danger rating information;

14 (2) provide that a rule be in effect for no
15 more than thirty days and be automatically repealed at the end
16 of that time;

17 (3) obtain the governor's written approval of
18 the final rule prior to its effective date;

19 (4) if weather conditions warrant that a rule
20 no longer has force, modify or rescind the rule by emergency
21 rulemaking within twenty-four hours of the changed condition;
22 and

23 (5) notify any adjacent Indian nation, tribe
24 or pueblo of the emergency rule.

25 M. The forestry division may adopt and enforce

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1 subsequent rules that take effect when a rule expires.

2 N. For each sale of fireworks, a retail fireworks
3 vendor shall provide to a customer who purchases fireworks or
4 to whom the vendor delivers fireworks written information that
5 is related to fireworks safety and wildfire prevention and that
6 has been approved by the state fire marshal."

7 SECTION 2. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect immediately.

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underscoring material = new
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