

HOUSE FLOOR SUBSTITUTE FOR  
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; ADDING TERMS TO THE LIST OF  
FIREWORKS THAT MAY BE BANNED DURING EXTREME OR SEVERE DROUGHT;  
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 amended to read:

"60-2C-8.1. EXTREME OR SEVERE DROUGHT CONDITIONS--  
RESTRICTED SALE AND USE.--

A. The governing body of a municipality may hold a  
hearing to determine if fireworks restrictions should be  
imposed within the boundaries of the incorporated municipality  
affected by extreme or severe drought conditions. The findings  
of the governing body shall be based on current drought indices  
published by the national weather service and any other

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1 relevant information supplied by the United States forest  
2 service.

3 B. Pursuant to any hearing under Subsection A of  
4 this section, the governing body of a municipality shall issue  
5 a proclamation declaring extreme or severe drought conditions  
6 within the boundaries of the incorporated municipality if the  
7 governing body determines such conditions exist. The governing  
8 body's proclamation shall:

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

13 (2) [~~shall~~] give the governing body the power  
14 to:

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

20 (b) ban the use of all fireworks within  
21 wildlands in its jurisdiction, after consultation with the  
22 state forester; and

23 (c) ban or restrict the sale or use of  
24 display fireworks.

25 C. The municipal governing body's proclamation

1 declaring an extreme or severe drought condition shall be  
2 issued no less than twenty days prior to a holiday for which  
3 fireworks may be sold. The proclamation shall explain  
4 restrictions on the sale or use of fireworks and permitted  
5 sales or uses of fireworks.

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10 rescinded within its thirty-day period by the governing body  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

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

21 F. Pursuant to any hearing under Subsection E of  
22 this section, the governing body of a county shall issue a  
23 proclamation declaring extreme or severe drought conditions  
24 within the unincorporated portions of the county if the  
25 governing body determines such conditions exist. The governing

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1 body's proclamation shall:

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

6 (2) [~~shall~~] give the governing body the power  
7 to:

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

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

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

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

24 H. Except as otherwise provided in this subsection,  
25 a proclamation shall be effective for thirty days, and the

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

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

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