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**AGENCY BILL ANALYSIS
2026 REGULAR SESSION**

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1/27/26
Bill No: HB 155-280

Sponsor: Meredith A. Dixon, Joy Garratt **Agency Name and Code** 280 – Law Office of the Public Defender
Short Title: Firework Bans, Violations & Fines **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
\$500 (Fire Marshal)		Nonrecurring, to be spent from FYs 2026-2027	General fund
\$250 (DPS)		Nonrecurring, to be spent from FYs 2026-2027	General fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 155 would amend NMSA 1978, § 60-2C-8.1 (1997), to expand the scope of the existing Fireworks Licensing & Safety Act (FLSA). Specifically, it clarifies that both municipal and county-level governments may enact a fireworks ban when “extreme or severe drought or other dangerous weather or environmental conditions exist” (p. 2, ll. 16-17). It would also allow data from more sources than just the U.S. Forest Service to inform that determination, specifically information from the Energy, Minerals, & National Resources Department, the Departments of Environment or Homeland Security, and the Emergency Management Department.

It would change certain currently mandatory provisions of any such ban to discretionary measures (p. 3, ll. 8-25); create a path for the state fire marshal to issue the same sorts of bans, which would in fact preempt any ban from a municipal or county government (p. 6, l. 7 through p. 7, l. 17); creates a petty misdemeanor crime for any person who violates a fire marshal’s ban (p. 8, ll. 3-9); and establishes civil penalties for any property owner who allows others to violate the ban by using fireworks on their land (p. 9, ll. 4-15).

It also adds in a provision to account for certain Fourth Amendment concerns (p. 10, ll. 6-9) and appropriates moneys to pay for a public awareness campaign and surveillance technology for law enforcement (p. 10, l. 16 through p. 11, l. 3).

FISCAL IMPLICATIONS

The included appropriation does not appear to contemplate recurring costs. Presumably, any “statewide public awareness campaign to prevent the use of illegal fireworks” (p. 10, ll. 21-22) would need to be ongoing. It is unlikely that civil or criminal penalties/fines would cover this level of fiscal need.

The bill does not specify what “surveillance technology” (p. 10, l. 25) the \$250,000 would be used on that would be helpful in identifying the possession or illegal use of fireworks. There is a danger this would lead to misuse of those funds, since local law enforcement would almost certainly use this “surveillance technology” outside of this context.

SIGNIFICANT ISSUES

The appropriation of a quarter of a million dollars for vaguely defined “surveillance technology” for law enforcement agencies raises numerous constitutional red flags. *See, e.g., State v. Davis*, 2015-NMSC-034 (warrantless aerial surveillance of defendant’s greenhouse with low-flying helicopter was an unconstitutional search); *United States v. United States District Court (Keith)*, 407 U.S. 297 (1972) (the Fourth Amendment does not permit the use of warrantless wiretaps in cases involving domestic threats to national security).

It is unclear what “surveillance technology” would be helpful in apprehending illegal fireworks use or possession. Additionally, most New Mexico law enforcement agencies already have significant surveillance resources, including undercover officers, ShotSpotter, warrants for cell phone location and content data, and even bomb-sniffing dogs and heat-detecting devices.

Separately, the criminal penalties seem inconsistent, and the creation of a new crime unnecessary. The proposed amendment to NMSA 1978, § 60-2C-10 (1989), adds the phrase “a first or second” before the word “conviction” regarding a scenario where a person violates the Act; this offense is a full misdemeanor, punishable by up to a \$1000 fine, one year in prison, or both (p. 7, l. 21 through p. 8, l. 2). There is no indication what happens if a person receives a third or subsequent conviction.

Contrast that with the proposed added crime of violating a fire marshal’s ban: a petty misdemeanor, punishable by a fine of up to \$500, six months’ jail, or both (p. 8, ll. 3-9). There is no graduated punishment scheme here, and the offense is made half as serious—despite the fact that, earlier in the bill, the proposed new language would make a fire marshal’s declaration of a fireworks ban *supersede* any municipal or county ban instituted under the Act. Similarly, if a property owner, occupier, or resident allows another to violate a fire marshal’s ban *or* a municipal/county ban *or* any other part of the Act, it is merely a civil penalty (p. 9, ll. 4-15). It is unclear why this person would be subject to only civil penalties; it is also unclear why, here, the different types of violations are treated equally, when they are not in the above-described scenarios.

PERFORMANCE IMPLICATIONS

This bill may lead to more arrests for minor offenses, which will place a burden on municipal, magistrate, and metropolitan courts and related stakeholders (i.e., city attorneys’ offices, district attorneys’ offices, public defenders, contract attorneys, police, corrections, warrant officers). For such low-level offenses, the burdens may outweigh the benefits of this approach.

Most fundamentally, it is unclear that further criminalizing even risky behavior like using fireworks during a drought or especially windy time would solve the problem of human-created fire disasters. For one thing, the most devastating fires in New Mexico in the last decades were caused by federally instituted controlled burns gone awry (*see, e.g., Hermits Peak/Calf Canyon Fire 2022*: <https://www.koat.com/article/calf-canyon-fire-new-mexico-wildfires-cause/>

[40128879](https://permanent.fdlp.gov/gpo215889/Cerro%20Pelado%20ROI_Approved_Redacted.pdf); Cerro Pelado Fire 2022: https://permanent.fdlp.gov/gpo215889/Cerro%20Pelado%20ROI_Approved_Redacted.pdf). The criminal code already contains crimes relating to human-set fires, including “improper handling of fire”: NMSA 1978, § 30-17-1(E) (1963) (petty misdemeanor: “causing a fire to be started in any inflammable vegetation or forest material, growing or being upon the lands of another person, by means of any lighted cigar, cigarette, match or other manner, and leaving such fire unquenched”); and arson: NMSA 1978, § 30-17-5 (2006) (crimes from petty misdemeanors to second-degree felonies for setting fires that damage property or harm people). If these offenses are not a sufficient deterrent or punishment, it is unclear why the crimes created here would be.

ADMINISTRATIVE IMPLICATIONS

Most of this bill deals with non-criminal law issues, particularly acts of administrative bodies, and as the reviewer is a criminal law practitioner, she does not have the subject matter expertise to comment on those areas.

As far as the criminal components, there may be notice problems, creating due process concerns. Generally, though a person does not have to know something is illegal to be convicted of a crime, there is a general understanding that a person must have notice when an act becomes newly illegal. This proposed bill does not provide a structure for providing notice to residents when these intermittent short-term bans are issued and for how long they will be in place. This would create a patchwork of notification procedures from municipality to municipality, making it difficult to enforce the law fairly and equally.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None known.

TECHNICAL ISSUES

Reviewer is unaware whether this legislation is germane under Art. IV, Section 5. It does contain an appropriations provision but is not strictly budgetary. It was not vetoed in a prior session.

OTHER SUBSTANTIVE ISSUES

Please refer to administrative and environmental practitioners.

ALTERNATIVES

Keep the status quo, as the FLSA is already enacted and has been so since at least 1997. As mentioned above, much of the conduct it appears this bill intends to address is already criminalized under other laws or addressed by other administrative proceedings.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None known at this time.