

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 606

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

L. Skip Vernon

AN ACT

RELATING TO FIREWORKS SAFETY; PROVIDING PROCEDURES FOR
DETERMINING IF EXTREME OR SEVERE DROUGHT CONDITIONS EXIST;
REDUCING THE AMOUNT OF THE LICENSE OR PERMIT FEE THAT MAY BE
CHARGED BY MUNICIPALITIES OR COUNTIES.

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

Section 1. Section 60-2C-4 NMSA 1978 (being Laws 1989,
Chapter 346, Section 4, as amended) is amended to read:

"60-2C-4. LICENSE AND PERMIT FEES. --

A. An applicant for a license or permit under the
Fireworks Licensing and Safety Act shall pay to the state fire
marshal's office the following fees, which shall not be
refundable:

- (1) manufacturer license \$1,500;
- (2) distributor license. 2,000;

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

- 1 (3) wholesaler license 1,000;
- 2 (4) display distributor license. . . 1,000;
- 3 (5) specialty retailer license . . . 750;
- 4 or
- 5 (6) retailer permit. 100.

6 B. All licenses and permits shall be issued for
 7 one year beginning on February 1 of each year. All licenses
 8 and permits shall be issued within thirty days from the date
 9 of receipt of application, except that no application shall be
 10 processed during [~~each~~] any holiday selling period in which
 11 permissible fireworks may be sold.

12 C. Licenses issued [~~under~~] pursuant to provisions
 13 of the Fireworks Licensing and Safety Act shall not be
 14 restricted in number or limited to any person without cause.
 15 Municipalities and counties may require licenses or permits
 16 and reasonable fees, not to exceed [~~fifty dollars (\$50.00)~~]
 17 twenty-five dollars (\$25.00), for the sale of fireworks.

18 D. Permit and license fees paid to the state fire
 19 marshal's office shall be deposited in the fire protection
 20 fund to be used by the state fire marshal to enforce and carry
 21 out the provisions and purposes of the Fireworks Licensing and
 22 Safety Act. "

23 Section 2. Section 60-2C-8.1 NMSA 1978 (being Laws 1997,
 24 Chapter 17, Section 9) is amended to read:

25 "60-2C-8.1. EXTREME OR SEVERE DROUGHT CONDITIONS--

underscored material = new
[bracketed material] = delete

1 RESTRICTED SALE AND USE. --

2 A. The [~~state fire board~~] governing body of a
3 municipality may hold a hearing to determine if fireworks
4 restrictions should be imposed [~~in all or a portion of the~~
5 ~~state~~] within the boundaries of the incorporated municipality
6 affected by extreme or severe drought conditions. The
7 findings of the [~~state fire board~~] governing body shall be
8 based on current drought indices published by the national
9 weather service [~~and any other relevant information supplied~~
10 ~~by the U.S. forest service and the U.S. department of~~
11 ~~agriculture~~].

12 B. Pursuant to any hearing under [~~paragraph~~]
13 Subsection A of this section, the [~~state fire board~~] governing
14 body of a municipality shall issue a proclamation declaring
15 [~~an extreme drought condition in all or a portion of the state~~
16 ~~if the board~~] extreme or severe drought conditions within the
17 boundaries of the incorporated municipality if the governing
18 body determines such conditions exist. The [~~state fire~~
19 ~~board's~~] governing body's proclamation:

20 (1) shall ban the sale and use of
21 missile-type rockets, helicopters, aerial spinners, stick-type
22 rockets and ground audible devices within the affected drought
23 area; and

24 (2) shall give [~~local governments~~] the
25 governing body the power to:

underscored material = new
[bracketed material] = delete

1 (a) limit the use within [~~their~~
2 ~~jurisdictions~~] its jurisdiction of any fireworks not listed in
3 Paragraph (1) of this subsection to areas that are paved or
4 barren or that have a readily accessible source of water for
5 use by the homeowner or the general public; and

6 (b) ban or restrict the sale or use of
7 display fireworks [~~and~~

8 ~~(3) may ban or restrict the use of any type of~~
9 ~~fireworks on state lands within the affected drought area].~~

10 C. The [~~state fire board's~~] municipal governing
11 body's proclamation declaring an extreme or severe drought
12 condition shall be issued [~~before~~] no less than twenty days
13 prior to [~~any~~] a holiday for which fireworks may be sold.

14 D. [~~Except as otherwise provided in this~~
15 ~~subsection~~] A municipal governing body's proclamation shall be
16 effective for thirty days and the [~~state fire board~~] governing
17 body may issue succeeding proclamations if extreme or severe
18 drought conditions warrant. A proclamation may be modified or
19 rescinded within its thirty-day period by the [~~state fire~~
20 ~~board~~] governing body upon conducting an emergency hearing to
21 determine if weather conditions [~~improve~~] have improved
22 sufficiently to alleviate fire dangers.

23 E. The governing body of a county may hold a
24 hearing to determine if fireworks restrictions should be
25 imposed within the unincorporated portions of the county

underscored material = new
[bracketed material] = delete

1 affected by extreme or severe drought conditions. The
2 findings of the governing body shall be based on current
3 drought indices published by the national weather service.

4 F. Pursuant to any hearing under Subsection E of
5 this section, the governing body of a county shall issue a
6 proclamation declaring extreme or severe drought conditions
7 within the unincorporated portions of the county if the
8 governing body determines such conditions exist. The
9 governing body's proclamation:

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

14 (2) shall give the governing body the power
15 to:

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

21 (b) ban or restrict the sale or use of
22 display fireworks.

23 G. The county governing body's proclamation
24 declaring an extreme or severe drought condition shall be
25 issued no less than twenty days prior to a holiday for which

underscored material = new
[bracketed material] = delete

1 fireworks may be sold.

2 H. Except as otherwise provided in this
3 subsection, a proclamation shall be effective for thirty days,
4 and the county governing body may issue succeeding
5 proclamations if extreme or severe drought conditions warrant.
6 A proclamation may be modified or rescinded within its
7 thirty-day period by the governing body upon conducting an
8 emergency hearing to determine if weather conditions have
9 improved sufficiently to alleviate fire dangers.

10 I. The energy, minerals and natural resources
11 department may hold a hearing to determine if fireworks
12 restrictions should be imposed in all or a portion of state
13 lands affected by extreme or severe drought conditions. The
14 findings of the department shall be based on current drought
15 indices published by the national weather service.

16 J. Pursuant to any hearing under Subsection I of
17 this section, the energy, minerals and natural resources
18 department shall issue a proclamation declaring extreme or
19 severe drought conditions in all or a portion of state lands
20 if the department determines such conditions exist. The
21 department's proclamation may ban or restrict the use of any
22 type of fireworks on state lands within the affected drought
23 area.

24 K. The energy, minerals and natural resources
25 department's proclamation declaring an extreme or severe

1 drought condition shall be issued no less than twenty days
2 prior to a holiday for which fireworks may be sold.

3 L. Except as otherwise provided in this
4 subsection, a proclamation shall be effective for thirty days,
5 and the energy, minerals and natural resources department may
6 issue succeeding proclamations if extreme or severe drought
7 conditions warrant. A proclamation may be modified or
8 rescinded within its thirty-day period by the department upon
9 conducting an emergency hearing to determine if weather
10 conditions have improved sufficiently to alleviate fire
11 dangers. "

12 - 7 -

13
14
15
16
17
18
19
20
21
22
23
24
25
underscored material = new
[bracketed material] = delete

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 March 1, 1999

6
7
8 Mr. President:

9
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 606

14
15 has had it under consideration and reports same
16 with recommendation that it DO NOT PASS, but that

17
18 SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

19 SENATE BILL 606

20 DO PASS.

21 Respectfully submitted,
22
23
24
25

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Shannon Robinson, Chairman

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Ingle, Stockard, Smith

Absent: None

S0606PA1

. 127432. 1

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 606

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO FIREWORKS SAFETY; PROVIDING PROCEDURES FOR
DETERMINING IF EXTREME OR SEVERE DROUGHT CONDITIONS EXIST;
REDUCING THE AMOUNT OF THE LICENSE OR PERMIT FEE THAT MAY BE
CHARGED BY MUNICIPALITIES OR COUNTIES; DECLARING AN EMERGENCY.

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

Section 1. Section 60-2C-2 NMSA 1978 (being Laws 1989,
Chapter 346, Section 2, as amended) is amended to read:

"60-2C-2. DEFINITIONS.--As used in the Fireworks Licensing
and Safety Act:

A. "chaser" means a paper or cardboard tube venting out
the fuse end of the tube that contains no more than twenty grams
of chemical composition and travels along the ground, often
producing a whistling effect or other noise; an explosive
composition not to exceed fifty milligrams may be included to

produce a report;

B. "chemical composition" includes all pyrotechnic and explosive composition contained in a fireworks device, but does not include inert materials such as clay used for plugs or organic matter such as rice hulls used for density control;

C. "cone fountain" means a cardboard or heavy paper cone containing no more than fifty grams of pyrotechnic composition that has the same effect as a cylindrical fountain [~~and~~]. When more than one cone is mounted on a common base, total pyrotechnic composition shall not exceed two hundred grams;

D. "crackling device" means a sphere or paper tube that contains no more than twenty grams of pyrotechnic composition that produces a flash of light and a mild, audible crackling effect upon ignition, which effect is not considered to be an explosion. Crackling devices are not subject to the fifty-milligram limit of firecrackers;

E. "cylindrical fountain" means a cylindrical tube containing not more than seventy-five grams of pyrotechnic composition that produces a shower of colored sparks and sometimes a whistling effect or smoke. The device may be provided with a spike for insertion into the ground or a wood or plastic base for placing on the ground or a wood or cardboard handle to be hand held [~~and~~]. When more than one tube is mounted on a common base, total pyrotechnic composition shall not exceed two hundred grams;

F. "display distributor" means any person, firm or corporation selling display fireworks;

. 128409. 2

1 G. "display fireworks" means devices primarily
2 intended for commercial displays that are designed to produce
3 visible or audible effects by combustion, deflagration or
4 detonation, including salutes containing more than one hundred
5 thirty milligrams of explosive composition; aerial shells
6 containing more than forty grams of chemical composition
7 exclusive of lift charge; and other exhibition display items
8 that exceed the limits for permissible fireworks;

9 H. "distributor" means any person, firm or
10 corporation selling fireworks to wholesalers and retailers for
11 resale;

12 I. "explosive composition" means any chemical
13 compound or mixture, the primary purpose of which is to
14 function by explosion, producing an audible effect in a
15 fireworks device;

16 J. "firecracker" means a small, paper-wrapped or
17 cardboard tube containing no more than fifty milligrams of
18 explosive composition that produces noise and a flash of
19 light; provided that firecrackers used in aerial devices may
20 contain up to one hundred thirty milligrams of explosive
21 composition per report;

22 K. "fireworks" means devices intended to produce a
23 visible or audible effect by combustion, deflagration or
24 detonation and are categorized as "permissible fireworks" or
25 "display fireworks";

1 L. "flitter sparkler" means a narrow paper tube
2 attached to a stick or wire and filled with no more than five
3 grams of pyrotechnic composition that produces color and
4 sparks upon ignition and the paper at one end of the tube is
5 ignited to make the device function;

6 M. "ground spinner" means a small, rapidly spinning
7 device containing no more than twenty grams of pyrotechnic
8 composition venting out an orifice usually on the side of the
9 tube that when ignited produces a shower of sparks and color.
10 "Ground spinner" is similar in operation to a wheel, but is
11 intended to be placed flat on the ground and ignited;

12 N. "helicopter" or "aerial spinner" means a tube
13 containing no more than twenty grams of chemical composition
14 with a propeller or blade attached that spins rapidly as it
15 rises into the air with a visible or audible effect sometimes
16 produced at or near the height of flight;

17 O. "illuminating torch" means a cylindrical tube
18 containing no more than one hundred grams of pyrotechnic
19 composition that produces a colored flame upon ignition and
20 may be spiked, based or hand held [~~and~~]. When more than one
21 tube is mounted on a common base, total pyrotechnic
22 composition shall not exceed two hundred grams;

23 P. "manufacturer" means any person, firm or
24 corporation engaged in the manufacture of fireworks;

25 Q. "mine" or "shell" means a heavy cardboard or

1 paper tube usually attached to a wooden or plastic base and
2 containing no more than forty grams of chemical composition
3 plus not more than twenty grams of lift charge per tube that
4 individually expels pellets of pressed pyrotechnic composition
5 that burn with bright color in a star effect, or other devices
6 propelled into the air, and that contains components producing
7 reports containing a maximum one hundred thirty milligrams of
8 explosive composition per report. A mine may contain more
9 than one tube, but the tubes must fire in sequence upon
10 ignition of one external fuse and the total chemical
11 composition, including lift charges, of a multiple tube device
12 shall not exceed two hundred grams;

13 R. "missile-type rocket" means a device similar to a
14 stick-type rocket in size, composition and effect that uses
15 fins rather than a stick for guidance and stability and that
16 contains no more than twenty grams of chemical composition;

17 S. "permissible fireworks" means fireworks legal for
18 sale to and use in New Mexico by the general public;

19 T. "pyrotechnic composition" means a chemical
20 mixture that on burning and without explosion produces visible
21 or brilliant displays or bright lights or whistles or motion;

22 U. "retailer" means any person, firm or corporation
23 purchasing fireworks for resale to consumers;

24 V. "roman candle" means a heavy paper or cardboard
25 tube containing no more than twenty grams of chemical

1 composition that individually expels pellets of pressed
 2 pyrotechnic composition that burn with bright color in a star
 3 effect;

4 W. "specialty retailer" means any person, firm or
 5 corporation purchasing permissible fireworks for year-round
 6 resale in permanent retail stores whose primary business is
 7 tourism;

8 X. "stick-type rocket" means a cylindrical tube
 9 containing no more than twenty grams of chemical composition
 10 with a wooden stick attached for guidance and stability that
 11 rises into the air upon ignition and produces a burst of color
 12 or sound at or near the height of flight;

13 Y. "toy smoke device" means a small plastic or paper
 14 item containing no more than one hundred grams of pyrotechnic
 15 composition that produces white or colored smoke as the
 16 primary effect;

17 Z. "wheel" means a pyrotechnic device that is made
 18 to attach to a post or other surface and that revolves,
 19 producing a shower of color and sparks and sometimes a
 20 whistling effect, and that may have one or more drivers, each
 21 of which contains no more than sixty grams of pyrotechnic
 22 composition and the total wheel contains no more than two
 23 hundred grams total pyrotechnic composition; [~~and~~]

24 AA. "wholesaler" means any person, firm or
 25 corporation purchasing fireworks for resale to retailers; and

1 BB. "wildlands" means any lands covered wholly or in
2 part by timber, brush or native grass."

3 Section 2. Section 60-2C-4 NMSA 1978 (being Laws 1989,
4 Chapter 346, Section 4, as amended) is amended to read:

5 "60-2C-4. LICENSE AND PERMIT FEES. --

6 A. An applicant for a license or permit under the
7 Fireworks Licensing and Safety Act shall pay to the state fire
8 marshal's office the following fees, which shall not be
9 refundable:

- 10 (1) manufacturer license \$1,500;
- 11 (2) distributor license. 2,000;
- 12 (3) wholesaler license 1,000;
- 13 (4) display distributor license. . . 1,000;
- 14 (5) specialty retailer license . . . 750; or
- 15 (6) retailer permit. 100.

16 B. All licenses and permits shall be issued for one
17 year beginning on February 1 of each year. All licenses and
18 permits shall be issued within thirty days from the date of
19 receipt of application, except that no application shall be
20 processed during [~~each~~] any holiday selling period in which
21 permissible fireworks may be sold.

22 C. Licenses issued [~~under~~] pursuant to provisions of
23 the Fireworks Licensing and Safety Act shall not be restricted
24 in number or limited to any person without cause.

25 Municipalities and counties may require licenses or permits

underscored material = new
[bracketed material] = delete

1 and reasonable fees, not to exceed [~~fifty dollars (\$50.00)~~
2 twenty-five dollars (\$25.00), for the sale of fireworks.

3 D. Permit and license fees paid to the state fire
4 marshal's office shall be deposited in the fire protection
5 fund to be used by the state fire marshal to enforce and carry
6 out the provisions and purposes of the Fireworks Licensing and
7 Safety Act. "

8 Section 3. Section 60-2C-8.1 NMSA 1978 (being Laws 1997,
9 Chapter 17, Section 9) is amended to read:

10 "60-2C-8.1. EXTREME OR SEVERE DROUGHT CONDITIONS--
11 RESTRICTED SALE AND USE.--

12 A. The [~~state fire board~~] governing body of a
13 municipality may hold a hearing to determine if fireworks
14 restrictions should be imposed [~~in all or a portion of the~~
15 ~~state~~] within the boundaries of the incorporated municipality
16 affected by extreme or severe drought conditions. The
17 findings of the [~~state fire board~~] governing body shall be
18 based on current drought indices published by the national
19 weather service and any other relevant information supplied by
20 the [~~U.S.~~] United States forest service [~~and the U.S.~~
21 ~~department of agriculture~~].

22 B. Pursuant to any hearing under [~~paragraph~~]
23 Subsection A of this section, the [~~state fire board~~] governing
24 body of a municipality shall issue a proclamation declaring
25 [~~an extreme drought condition in all or a portion of the state~~

. 128409. 2

1 ~~if the board]~~ extreme or severe drought conditions within the
2 boundaries of the incorporated municipality if the governing
3 body determines such conditions exist. The [~~state fire~~
4 ~~board's]~~ governing body's proclamation:

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

8 (2) shall give [~~local governments]~~ the
9 governing body the power to:

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

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

18 [~~(b)~~] (c) ban or restrict the sale or use
19 of display fireworks [~~and~~

20 ~~(3) may ban or restrict the use of any type of~~
21 ~~fireworks on state lands within the affected drought area].~~

22 C. The [~~state fire board's]~~ municipal governing
23 body's proclamation declaring an extreme or severe drought
24 condition shall be issued [~~before]~~ no less than twenty days
25 prior to [~~any]~~ a holiday for which fireworks may be sold. The

1 proclamation shall explain restrictions on the sale or use of
 2 fireworks and permitted sales or uses of fireworks.

3 D. ~~[Except as otherwise provided in this subsection]~~
 4 A municipal governing body's proclamation shall be effective
 5 for thirty days and the ~~[state fire board]~~ governing body may
 6 issue succeeding proclamations if extreme or severe drought
 7 conditions warrant. A proclamation may be modified or
 8 rescinded within its thirty-day period by the ~~[state fire~~
 9 ~~board]~~ governing body upon conducting an emergency hearing to
 10 determine if weather conditions ~~[improve sufficiently to~~
 11 ~~alleviate fire dangers]~~ have improved.

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

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

. 128409. 2

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

4 (2) shall give the governing body the power to:

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

10 (b) ban the use of all fireworks within
11 wildlands in its jurisdiction, after consultation with the
12 state forester; and

13 (c) ban or restrict the sale or use of
14 display fireworks.

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

21 H. Except as otherwise provided in this subsection,
22 a proclamation shall be effective for thirty days, and the
23 county governing body may issue succeeding proclamations if
24 extreme or severe drought conditions warrant. A proclamation
25 may be modified or rescinded within its thirty-day period by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the governing body upon conducting an emergency hearing to determine if weather conditions have improved. "

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SPAC/SB 606

**FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 9, 1999

Mr. Speaker:

**Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
whom has been referred**

**SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 606**

**has had it under consideration and reports same with
recommendation that it DO PASS.**

underscored material = new
[bracketed material] = delete

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 **HGUAC/CS/SB 606**

Page 23

4 **Respectfully submitted,**

5
6
7
8 _____
9 James G. Taylor, Chairman

10
11 Adopted _____ Not Adopted _____
12 (Chief Clerk) (Chief Clerk)

13
14 Date _____

15
16 The roll call vote was 7 For 0 Against

17 Yes: 7

18 Excused: None

19 Absent: None

20
21 J:\99BillSWP\S0606
22
23
24
25

underscored material = new
[bracketed material] = delete