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HOUSE BILL 464

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

INTRODUCED BY

Don L. Tripp

AN ACT

RELATING TO LOCAL GOVERNMENT; 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

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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

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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.