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SENATE BILL 94

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO PUBLIC SAFETY; AMENDING THE FIREWORKS LICENSING AND SAFETY ACT TO ADD FIREWORKS THAT MAY BE BANNED; 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 exceptional, extreme or severe drought conditions. The findings of the governing body shall be based on current drought indices published by the [~~national weather service~~]

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1 United States drought monitor and any other relevant
2 information supplied by the [~~United States forest service~~]
3 southwest coordination center.

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

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

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

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

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

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11 rescinded within its thirty-day period by the governing body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

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

23 F. Pursuant to any hearing under Subsection E of
24 this section, the governing body of a county shall issue a
25 proclamation declaring exceptional, extreme or severe drought

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1 conditions within the unincorporated portions of the county if
2 the governing body determines such conditions exist. The
3 governing body's proclamation shall:

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

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

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

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

18 (c) ban or restrict the sale or use of
19 display fireworks.

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

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

8 I. Upon request of a governing body of a
9 municipality or county, the forestry division of the energy,
10 minerals and natural resources department is authorized to
11 adopt and enforce emergency rules within the municipality or
12 county that completely ban or partially ban or restrict the
13 sale or use of all fireworks within the municipality or county
14 requesting the emergency rules if extreme fire danger exists
15 within the municipality or county, or in a portion of the
16 municipality or county.

17 J. In adopting emergency rules pursuant to
18 Subsection I of this section, the forestry division shall:

19 (1) use the southwest coordination center as
20 the source of information for the national fire danger rating
21 system;

22 (2) provide that the rules shall be in effect
23 for no longer than thirty days and be automatically repealed at
24 the end of this time period;

25 (3) obtain the governor's written approval of

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1 the final rules prior to the rules becoming effective and, if
2 the governor disapproves the final rules, the forestry division
3 shall not adopt the rules;

4 (4) modify or rescind the rules by emergency
5 rulemaking within twenty-four hours while the rules are in
6 effect if the conditions warranting the rules no longer exist;
7 and

8 (5) request that any adjacent Indian nations,
9 tribes or pueblos consider imposing the same or similar
10 emergency rules for areas within their jurisdiction.

11 K. The forestry division may reissue and enforce an
12 emergency rule after the expiration of the initial thirty days
13 if conditions pursuant to Subsection I of this section continue
14 within the municipality or county requesting the emergency
15 rule."

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