

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

HOUSE BILL 286

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Matthew McQueen

AN ACT

RELATING TO FIREWORKS SAFETY; AMENDING THE FIREWORKS LICENSING AND SAFETY ACT; AUTHORIZING DECLARATIONS OF EMERGENCY OR HEIGHTENED FIRE DANGER CONDITIONS; PROVIDING FOR RESTRICTIONS OF SALE OR USE OF FIREWORKS; PROVIDING FOR DECLARATIONS BY THE FIRE MARSHAL DIVISION OF THE PUBLIC REGULATION COMMISSION.

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--
EMERGENCY OR HEIGHTENED FIRE DANGER 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

.205208.2

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 affected by extreme or severe drought conditions or emergency
2 or heightened fire danger conditions. The findings of the
3 governing body shall be based on current drought indices
4 published by the national weather service, information supplied
5 by the United States forest service and any other relevant
6 information [~~supplied by the United States forest service~~].

7 B. Pursuant to any hearing under Subsection A of
8 this section, the governing body of a municipality shall issue
9 a proclamation declaring extreme or severe drought conditions
10 or emergency or heightened fire danger conditions within the
11 boundaries of the incorporated municipality if the governing
12 body determines such conditions exist. The governing body's
13 proclamation may:

14 (1) [~~shall~~] ban the sale and use of
15 missile-type rockets, helicopters, aerial spinners, stick-type
16 rockets and ground audible devices within the affected drought
17 area; [~~and~~

18 ~~(2) shall give the governing body the power~~
19 ~~to:~~

20 ~~(a)]~~ (2) limit the use within its jurisdiction
21 of any fireworks [~~not listed in Paragraph (1) of this~~
22 ~~subsection~~] to areas that are paved or barren or that have a
23 readily accessible source of water for use by the homeowner or
24 the general public;

25 [~~(b)]~~ (3) ban the use of all fireworks within

.205208.2

underscored material = new
[bracketed material] = delete

1 wildlands in its jurisdiction [~~after consultation with the~~
2 ~~state forester; and~~]; or

3 [~~(e)~~] (4) ban or restrict the sale or use of
4 display fireworks.

5 C. [~~The~~] A municipal governing body's proclamation
6 declaring an extreme or severe drought or heightened fire
7 danger condition shall be issued no less than [~~twenty~~] ten days
8 prior to a holiday for which fireworks may be sold, [~~The~~] and a
9 proclamation of an emergency fire danger may be issued at any
10 time. A proclamation shall explain restrictions on the sale or
11 use of fireworks and permitted sales or uses of fireworks.

12 D. A municipal governing body's proclamation shall
13 be effective for thirty days and the governing body may issue
14 succeeding proclamations if [~~extreme or severe drought~~]
15 conditions warrant. A proclamation may be modified or
16 rescinded within its thirty-day period by the governing body
17 upon conducting an emergency hearing to determine if [~~weather~~]
18 fire danger conditions have improved.

19 E. The governing body of a county may hold a
20 hearing to determine if fireworks restrictions should be
21 imposed within the unincorporated portions of the county
22 affected by extreme or severe drought conditions or emergency
23 or heightened fire danger conditions. The findings of the
24 governing body shall be based on current drought indices
25 published by the national weather service, information supplied

.205208.2

underscored material = new
[bracketed material] = delete

1 by the United States forest service and any other relevant
2 information [~~supplied by the United States forest service~~].

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

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

21 [~~(b)]~~ (3) ban the use of all fireworks within
22 wildlands in its jurisdiction [~~after consultation with the~~
23 ~~state forester; and~~]; or

24 [~~(c)]~~ (4) ban or restrict the sale or use of
25 display fireworks.

.205208.2

underscored material = new
[bracketed material] = delete

1 G. ~~[The]~~ A county governing body's proclamation
2 declaring an extreme or severe drought or heightened fire
3 danger condition shall be issued no less than ~~[twenty]~~ ten days
4 prior to a holiday for which fireworks may be sold, ~~[The]~~ and a
5 proclamation of an emergency fire danger may be issued at any
6 time. A proclamation shall explain restrictions on the sale or
7 use of fireworks and permitted sales or uses of fireworks.

8 H. ~~[Except as otherwise provided in this~~
9 ~~subsection]~~ A county governing body's proclamation shall be
10 effective for thirty days, and the [county] governing body may
11 issue succeeding proclamations if [extreme or severe drought]
12 conditions warrant. A proclamation may be modified or
13 rescinded within its thirty-day period by the governing body
14 upon conducting an emergency hearing to determine if [weather]
15 fire danger conditions have improved.

16 I. The fire marshal division of the public
17 regulation commission may hold a hearing to determine if
18 fireworks restrictions should be imposed within the boundaries
19 of any area of the state affected by extreme or severe drought
20 conditions or emergency or heightened fire danger conditions.
21 The findings of the fire marshal division shall be based on
22 current drought indices published by the national weather
23 service, information supplied by the United States forest
24 service and any other relevant information.

25 J. Pursuant to any hearing under Subsection I of

.205208.2

underscored material = new
[bracketed material] = delete

1 this section, the fire marshal division shall issue a
2 proclamation declaring extreme or severe drought conditions or
3 emergency or heightened fire danger conditions if the fire
4 marshal division determines such conditions exist. The fire
5 marshal division's proclamation shall state the boundaries of
6 the area affected and may:

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

10 (2) limit the use of any fireworks within the
11 affected area to areas that are paved or barren or that have a
12 readily accessible source of water for use by the homeowner or
13 the general public;

14 (3) ban the use of all fireworks within
15 wildlands within the affected area; or

16 (4) ban or restrict the sale or use of display
17 fireworks within the affected area.

18 K. A fire marshal division's proclamation declaring
19 an extreme or severe drought or heightened fire danger
20 conditions shall be issued no less than ten days prior to a
21 holiday for which fireworks may be sold, and a proclamation of
22 an emergency fire danger may be issued at any time. A
23 proclamation shall explain restrictions on the sale or use of
24 fireworks and permitted sales or uses of fireworks.

25 L. A fire marshal division's proclamation shall be

.205208.2

underscored material = new
[bracketed material] = delete

1 effective for thirty days, and the fire marshal division may
2 issue succeeding proclamations if conditions warrant. A
3 proclamation may be modified or rescinded within its thirty-day
4 period by the fire marshal division upon conducting an
5 emergency hearing to determine if fire danger conditions have
6 improved."

7 SECTION 2. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2017.

9 - 7 -

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25