

HOUSE BILL 373

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

INTRODUCED BY

Emily Kane

AN ACT

RELATING TO PUBLIC SAFETY; CHANGING THE STANDARDS FOR LOCAL
GOVERNMENT FIREWORKS RESTRICTIONS; AUTHORIZING THE FORESTRY
DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT TO RESTRICT THE SALE OF FIREWORKS WHEN HIGH, VERY
HIGH OR EXTREME FIRE DANGER EXISTS; 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Chapter 17, Section 9, as amended) is repealed and a new
Section 60-2C-8.1 NMSA 1978 is enacted to read:

"60-2C-8.1. [NEW MATERIAL] HIGH, VERY HIGH OR EXTREME
FIRE DANGER--RESTRICTED SALE AND USE.--

A. The governing body of a municipality may hold a
hearing to determine whether fireworks restrictions should be
imposed within the boundaries of the incorporated municipality

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1 when that area has been assigned a high, very high or extreme
2 fire danger rating by the national fire danger rating system.

3 B. If in the hearing the governing body of a
4 municipality determines that a high, very high or extreme fire
5 danger exists, the governing body shall issue a proclamation
6 that the condition exists and:

7 (1) shall 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) may restrict the use within its
11 jurisdiction of any other type of firework to areas that are
12 paved or barren or that have a readily accessible source of
13 water for use by a homeowner or the general public;

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

17 (4) may ban or restrict the sale or use of
18 display fireworks.

19 C. If extreme fire danger exists, the governing
20 body of a municipality may ban the sale or use within its
21 jurisdiction of any type of fireworks.

22 D. A governing body of a municipality shall issue a
23 proclamation no fewer than twenty days before a holiday for
24 which fireworks may be sold. The proclamation shall include
25 provisions on the restricted sale or use of fireworks and the

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1 permitted sale or use of fireworks.

2 E. A proclamation is effective for thirty days. If
3 high, very high or extreme fire danger remains, the governing
4 body of a municipality may issue a succeeding proclamation.
5 After an emergency hearing to determine whether the fire danger
6 warrants the modification or rescission of a proclamation, the
7 governing body of a municipality may modify or rescind a
8 proclamation before its thirty-day expiration.

9 F. The governing body of a county may hold a
10 hearing to determine whether fireworks restrictions should be
11 imposed within the unincorporated portions of the county when
12 those areas have been assigned a high, very high or extreme
13 fire danger rating by the national fire danger rating system.

14 G. If in the hearing the governing body of a county
15 determines that a high, very high or extreme fire danger exists
16 within the unincorporated portions of the county, the governing
17 body shall issue a proclamation that the condition exists and:

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

21 (2) may limit the use within its jurisdiction
22 of any other type of firework to areas that are paved or barren
23 or that have a readily accessible source of water for use by a
24 homeowner or the general public;

25 (3) after consultation with the state

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1 forester, may ban the use of all fireworks within wildlands in
2 its jurisdiction; and

3 (4) may ban or restrict the sale or use of
4 display fireworks.

5 H. If extreme fire danger exists, the governing
6 body of a county may ban the sale or use within its
7 jurisdiction of any type of fireworks.

8 I. The governing body of a county shall issue a
9 proclamation no fewer than twenty days before a holiday for
10 which fireworks may be sold. The proclamation shall include
11 provisions on the restricted sale or use of fireworks and the
12 permitted sale or use of fireworks.

13 J. Except as otherwise provided in this subsection,
14 a proclamation is effective for thirty days. If high, very
15 high or extreme fire danger remains, the governing body of a
16 county may issue a succeeding proclamation. After an emergency
17 hearing to determine whether the fire danger warrants the
18 modification or rescission of a proclamation, the municipal
19 governing body may modify or rescind a proclamation before its
20 thirty-day expiration.

21 K. The forestry division of the energy, minerals
22 and natural resources department may adopt and enforce
23 emergency rules imposing restrictions on the sale of fireworks.
24 The forestry division may declare that a high, very high or
25 extreme fire danger exists within specific geographic areas of

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1 the state and may:

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

5 (2) limit the use within its jurisdiction of
6 any other type of firework to areas that are paved or barren or
7 that have a readily accessible source of water for use by a
8 homeowner or the general public;

9 (3) ban the use of all fireworks within
10 wildlands;

11 (4) ban or restrict the sale or use of display
12 fireworks; and

13 (5) if extreme fire danger exists, ban the
14 sale or use of any type of fireworks.

15 L. The forestry division's emergency rules that
16 cover a municipality or a county may be more restrictive but
17 not less restrictive than the restrictions imposed by a
18 municipality or county. In adopting rules, the forestry
19 division shall:

20 (1) rely upon high, very high or extreme fire
21 danger ratings of the national fire danger rating system;

22 (2) derive national fire danger rating system
23 information from the southwest coordination center;

24 (3) limit the time period and geographical
25 area of fireworks restrictions;

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1 (4) provide that a rule be in effect for no
2 more than thirty days and be automatically repealed at the end
3 of that time;

4 (5) obtain the governor's written approval of
5 a final rule before its adoption;

6 (6) after three consecutive days in which a
7 high, very high or extreme fire danger no longer exists in a
8 specific geographical area and within twenty-four hours,
9 determine whether to modify or rescind a rule; and

10 (7) cooperate with the governor when the
11 governor has consulted with an Indian nation, tribe or pueblo
12 on an area within the Indian nation, tribe or pueblo that has
13 been assigned a high, very high or extreme fire danger rating
14 by the national fire danger rating system.

15 M. After three consecutive days in which a high,
16 very high or extreme fire danger no longer exists in a specific
17 geographical area, the governor may issue an executive order
18 directing the forestry division to modify or rescind an
19 emergency rule.

20 N. The forestry division may issue and enforce a
21 new emergency rule after a rule's expiration if high, very high
22 or extreme fire danger continues in that geographical area or
23 if high, very high or extreme fire danger returns to that
24 geographical area."

25 SECTION 2. EMERGENCY.--It is necessary for the public

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1 peace, health and safety that this act take effect immediately.

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