

CHAPTER 132

GOVERNMENT - COUNTY

HOUSE BILL 07-1092

BY REPRESENTATIVE(S) Cerbo, Borodkin, Frangas, Labuda, and Green;
also SENATOR(S) Wiens.

AN ACT

CONCERNING THE AUTHORITY OF COUNTY GOVERNMENTS TO REGULATE FIREWORKS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-28-107, Colorado Revised Statutes, is amended to read:

12-28-107. Regulation by municipalities and counties. (1) This article shall not be construed to prohibit the imposition by municipal ordinance of further regulations and prohibitions upon the sale, use, and possession of fireworks, including permissible fireworks, within the corporate limits of any city or town, but no such city or town shall permit or authorize the sale, use, or possession of any fireworks in violation of this article.

(2) THIS ARTICLE SHALL NOT BE CONSTRUED TO PROHIBIT THE IMPOSITION BY COUNTY ORDINANCE OF FURTHER REGULATIONS AND PROHIBITIONS UPON THE SALE, USE, AND POSSESSION OF FIREWORKS, INCLUDING PERMISSIBLE FIREWORKS, WITHIN ALL OR ANY PART OF THE UNINCORPORATED AREAS OF A COUNTY, BUT NO COUNTY SHALL PERMIT OR AUTHORIZE THE SALE, USE, OR POSSESSION OF ANY FIREWORKS IN VIOLATION OF THIS ARTICLE.

SECTION 2. 30-15-401 (1) (n.5), Colorado Revised Statutes, is amended, and the said 30-15-401 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

30-15-401. General regulations. (1) In addition to those powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article, the board of county commissioners has the power to adopt ordinances for control or licensing of those matters of purely local concern which are described in the following enumerated powers:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(n.5) To ban open fires to a degree and in a manner that the board of county commissioners deems necessary to reduce the danger of wildfires within those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high based on competent evidence. ~~The ban on open fires in accordance with the requirements of this paragraph (n.5) may include a prohibition on the sale of fireworks only within those portions of the unincorporated areas of the county where the danger of forest or grass fires has been found to be high based on competent evidence.~~ For purposes of this paragraph (n.5), "competent evidence" may include, but is not limited to, the use of the national fire danger rating system and any other similar indices or information.

(n.7) TO PROHIBIT OR RESTRICT THE SALE, USE, AND POSSESSION OF FIREWORKS, INCLUDING PERMISSIBLE FIREWORKS, AS DEFINED IN SECTION 12-28-101 (3) AND (8), C.R.S., FOR A PERIOD NO LONGER THAN ONE YEAR WITHIN ALL OR ANY PART OF THE UNINCORPORATED AREAS OF THE COUNTY; EXCEPT THAT SUCH AN ORDINANCE SHALL NOT BE IN EFFECT BETWEEN MAY 31 AND JULY 5 OF ANY YEAR UNLESS THE ORDINANCE INCLUDES AN EXPRESS FINDING OF HIGH FIRE DANGER, BASED ON COMPETENT EVIDENCE, AS DEFINED IN PARAGRAPH (n.5) OF THIS SUBSECTION (1).

SECTION 3. 30-15-401.5 (10), Colorado Revised Statutes, is amended to read:

30-15-401.5. Fire safety standards. (10) Notwithstanding any other provision of this section, no ~~county~~ or fire protection district shall prohibit the sale of permissible fireworks, as defined in section 12-28-101 (8), C.R.S., within its jurisdiction.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 16, 2007