

AN ACT

relating to the authority of a municipality to confiscate packaged fireworks; providing an affirmative defense for possessing fireworks in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 342.003, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a)(8) does not authorize a municipality to confiscate packaged, unopened fireworks.

SECTION 2. Subchapter B, Chapter 342, Local Government Code, is amended by adding Section 342.013 to read as follows:

Sec. 342.013. CONFISCATION OF CERTAIN FIREWORKS PROHIBITED; AFFIRMATIVE DEFENSE. (a) A home-rule municipality that regulates fireworks may not confiscate packaged, unopened fireworks.

(b) It is an affirmative defense to prosecution for possession of fireworks brought under a municipal ordinance that:

(1) the defendant was operating or was a passenger in a motor vehicle that was being operated in a public place; and

(2) the fireworks were not in the passenger area of the vehicle.

(c) For purposes of Subsection (b), the "passenger area" of a motor vehicle means the area of the vehicle designed for the seating of the operator and the passengers of the vehicle. The term

1 does not include:

2 (1) a locked glove compartment or similar locked
3 storage area;

4 (2) the trunk of a vehicle; or

5 (3) the area behind the last upright seat of a vehicle
6 that does not have a trunk.

7 SECTION 3. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 1813 was passed by the House on May 7, 2013, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1813 was passed by the Senate on May 22, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor