

## HOUSE BILL NO. 367

INTRODUCED BY D. HIMMELBERGER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROCEDURES FOR A COUNTY GOVERNING BODY TO SUBMIT TO THE ELECTORS THE QUESTION OF REGULATING OR PROHIBITING THE EXPLOSION, USE, OR SALE OF FIREWORKS WITHIN THE COUNTY; AMENDING SECTION 50-37-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Regulation of fireworks.** (1) A county governing body may by resolution submit to the electorate at a general election the question of regulating or prohibiting the explosion, use, or sale of fireworks, as defined in 50-37-101, within the governing body's jurisdictional area. The resolution and procedure for submitting the resolution to the electorate must be in accordance with the referendum provisions of Title 7, chapter 5, part 1.

(2) If the question of regulating the explosion, use, or sale of fireworks is submitted to the electorate, the resolution must include the specific regulations on which the electorate is being asked to vote.

(3) The county governing body shall submit the question of regulating or prohibiting the explosion, use, or sale of fireworks to the electors of the county if a petition is filed in accordance with 7-5-132. If the petition calls for requiring the county governing body to regulate the explosion, use, or sale of fireworks, the petition must provide the specific regulations upon which the electorate will be asked to vote.

(4) If a question submitted to the electorate under this section is approved, the county governing body shall regulate or prohibit the explosion, use, or sale of fireworks pursuant to the resolution or petition.

**Section 2.** Section 50-37-102, MCA, is amended to read:

**"50-37-102. ~~Where~~ When chapter not to apply.** (1) ~~Nothing in this~~ This chapter ~~shall~~ may not be construed to prohibit:

(a) the sale of any kind of fireworks to a person holding a permit issued under 50-37-107 at the display ~~covered by such permits, for which the permit was issued;~~

(b) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination or when used in quarrying or blasting or other industrial use; ~~or~~

(c) the sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations or organizations composed of veterans of the United States armed forces.

(2) This chapter does not apply to:

(a) toy paper caps containing less than one-fourth of a grain of explosive composition per cap;~~to~~

(b) the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation;~~to~~

(c) the military or naval forces of the United States or this state;~~to~~

(d) peace officers;~~or~~

(e) ~~to~~ the sale or use of blank cartridges for ceremonial, theatrical, or athletic events.

(3) ~~Nothing in this~~ This chapter ~~authorizes~~ does not authorize the sale of fireworks in a county, city, or town that has banned the sale of fireworks within the county, city, or town as authorized in [section 1] or 7-33-4206."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 33, part 22, and the provisions of Title 7, chapter 33, part 22, apply to [section 1].

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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