

## SENATE BILL NO. 44

INTRODUCED BY J. BRENDEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTY GOVERNING BODIES TO REGULATE OR  
5 PROHIBIT THE ~~SALE OR~~ USE OF FIREWORKS UNDER CERTAIN CIRCUMSTANCES; AMENDING  
6 SECTIONS 7-33-2202; AND 7-33-2206, ~~AND 50-37-102~~; MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
7 DATE."

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

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11 **Section 1.** Section 7-33-2202, MCA, is amended to read:  
12 **"7-33-2202. Functions of county governing body.** (1) The county governing body, with respect to rural  
13 fire control, shall carry out the specific authorities and duties imposed in this section.  
14 (2) The governing body shall:  
15 (a) provide for the organization of volunteer rural fire control crews; and  
16 (b) provide for the formation of county volunteer fire companies.  
17 (3) The governing body shall appoint a county rural fire chief and as many district rural fire chiefs, subject  
18 to the direction and supervision of the county rural fire chief, that it considers necessary.  
19 (4) Pursuant to 76-13-105(3), the county governing body shall, within the limitations of 7-33-2205,  
20 7-33-2206, 7-33-2208, and 7-33-2209, either:  
21 (a) directly protect from fire land in the county that is not in a wildland fire protection district, as provided  
22 in 76-13-204, or under the protection of a municipality, state agency, or federal agency; or  
23 (b) enter into an agreement for wildland fire protection with a recognized agency, as that term is defined  
24 in 76-13-102.  
25 (5) The county governing body may enter into mutual aid agreements for itself and for county volunteer  
26 fire companies with:  
27 (a) other fire districts;  
28 (b) unincorporated municipalities;  
29 (c) incorporated municipalities;  
30 (d) state agencies;

- 1 (e) private fire prevention agencies;  
 2 (f) federal agencies;  
 3 (g) fire service areas;  
 4 (h) governing bodies of other political subdivisions in Montana; or  
 5 (i) governing bodies of fire protection services, emergency medical care providers, and local government  
 6 subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

7 (6) If the county governing body has not concluded a mutual aid agreement, the county governing body,  
 8 a representative of the county governing body, or an incident commander may request assistance pursuant to  
 9 10-3-209.

10 (7) If a county governing body determines that a wildland fire hazard exists, the governing body may,  
 11 BY ORDINANCE, regulate or prohibit the sale and use of fireworks, as defined in 50-37-101, in areas of the county  
 12 that are not under the jurisdiction of a municipality or a state, TRIBAL, or federal agency."

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14 **Section 2.** Section 7-33-2206, MCA, is amended to read:

15 **"7-33-2206. Violations.** (1) A person who ignites or sets a fire, including a slash-burning fire,  
 16 land-clearing fire, debris-burning fire, or open fire on any residential or commercial property, forest, range, or  
 17 cropland subject to the provisions of this part without first having obtained a written permit or permission from the  
 18 recognized protection agency for that protection area to ignite or set the fire is guilty of a misdemeanor.

19 (2) A person who sells or uses fireworks in violation of a regulation or prohibition on the sale or use of  
 20 fireworks adopted by a county governing body under 7-33-2202 is guilty of a misdemeanor."

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22 ~~Section 3.~~ Section 50-37-102, MCA, is amended to read:

23 ~~"50-37-102. Where chapter not to apply.~~ (1) Nothing in this ~~This~~ chapter shall ~~may not be~~ construed  
 24 to prohibit the sale of any kind of fireworks to a person holding a permit issued under 50-37-107 at the display  
 25 covered by such permits ~~the permit,~~ the use of fireworks by railroads or other transportation agencies for signal  
 26 purposes or illumination or when used in quarrying or blasting or other industrial use, or the sale or use of blank  
 27 cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military  
 28 organizations or organizations composed of veterans of the United States armed forces.

29 ~~(2) This chapter does not apply to toy paper caps containing less than one-fourth of a grain of explosive~~  
 30 ~~composition per cap, to the manufacture, storage, sale, or use of signals necessary for the safe operation of~~

1 railroads or other classes of public or private transportation, to the military or naval forces of the United States  
2 or this state, to peace officers, or to the sale or use of blank cartridges for ceremonial, theatrical, or athletic  
3 events:

4 ~~——— (3) Nothing in this chapter authorizes~~ This chapter does not authorize the sale of fireworks in a city, or  
5 town, or county that has banned the sale of fireworks within the city, or town, or county as authorized in 7-33-2202  
6 and 7-33-4206."

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8 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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