

An Act

ENROLLED SENATE
BILL NO. 2253

By: Barrington of the Senate

and

Armes and Tibbs of the
House

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 1622, 1623, 1624, 1625, 1629, 1630, and 1633, which relate to fireworks; clarifying certain terms; adding certain term; allowing for certain transaction of fireworks; specifying regulations for retail sale; clarifying conditions for sale of certain fireworks; modifying authorizing agency; allowing for additional time period for certain licensing; modifying permitting authority; modifying permitting process; requiring evidence of certain liability insurance; clarifying name of certain fireworks; specifying authorizing agency; modifying name of certain fireworks; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1622, is amended to read as follows:

Section 1622. As used in ~~this act~~, the following terms shall have the meanings specified below

~~(a) The term "fireworks" shall mean and include Section 1621 et seq. of this title:~~

1. "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and which is defined are further described as common or special fireworks by the United States Department of Transportation (DOT). Fireworks are further classified in this law as Class C or Class B Consumer Fireworks 1.4G, Display Fireworks 1.3G, Articles, Pyrotechnic 1.4G or 1.4S as defined by the United States Department of Transportation (DOT) Title 49, CFR. The term "consumer fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares and model rockets or any novelty. This provision shall not impose labeling requirements for any fireworks or novelties other than those required under federal law;

~~1. Class C Fireworks (DOT Common Fireworks) shall mean~~

2. "Consumer Fireworks" means any devices suitable for use by the public that conform with the requirements of the United States Consumer Products Safety Commission (CPSC) and are designed primarily to produce visible effects by combustion, and some small devices designed to produce an audible effect.

~~2. Class B Display Fireworks (DOT Special Fireworks) shall mean all articles of larger;~~

3. "Display Fireworks" means fireworks devices that are primarily intended for commercial displays which are designed primarily to produce visible or and/or audible effects by combustion or explosion, deflagration or detonation. Class B fireworks Display Fireworks include, but are not limited to, firecrackers and salutes containing more than two grains (130mg) of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic compositions and other exhibition display items that exceed the limits for Classification as Class C Fireworks Consumer Fireworks according to the Department of Transportation (DOT).

~~(b) The term "manufacturer" shall mean;~~

4. "Manufacturer" means any person engaged in the making or constructing of fireworks.

~~(c) The term "distributor" shall mean;~~

5. "Novelty" means a device containing small amounts of pyrotechnic and/or explosive composition. Such devices produce limited visible or audible effects. These items must be approved by the United States Department of Transportation (DOT) or have been deregulated by DOT;

6. "Distributor" means any person who sells fireworks and novelties to other distributors, wholesalers or retailers for resale- or provides them as part of a pyrotechnic display service in the State of Oklahoma;

~~(d) The term "wholesaler" shall mean~~

7. "Wholesaler" means any person who purchases fireworks and novelties for resale only to retailers and consumers-

~~(e) The term "retailer" shall mean;~~

8. "Retailer" means any person who purchases fireworks and novelties for resale to consumers only. A retailer who sells fireworks to the consumer buys only an Oklahoma Retail License and may purchase merchandise in or out of the state as long as the retailer buys from a person that has a legal license to do business in the State of Oklahoma-

~~(f) The term "person" shall include; and~~

9. "Person" means any corporation, association, partnership or one or more individuals.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1623, is amended to read as follows:

Section 1623. ~~Class "C" Common A.~~ Consumer Fireworks may be legally stored, transported, sold and used in this state with the exceptions and conditions specified under the provisions of this act Section 1621 et seq. of this title and consistent with Section 22-110 of Title 11 of the Oklahoma Statutes. Novelties may be legally stored, transported, sold and used in this state.

~~(a)~~ B. All fireworks storage and sales areas shall be conspicuously posted with signs reading "FIREWORKS-NO SMOKING".

~~(b)~~ C. Fireworks offered for retail sale must be protected from ~~direct contact and handling by the public at all times. Self serve or marketing where retail customers are allowed to move among stocks of fireworks or serve themselves from fireworks stocks or displays is strictly prohibited~~ sold according to the National Fire Protection Association (NFPA) 1124 Chapter 7, 2006 Edition. Any facility licensed to sell consumer fireworks prior to November 15, 2009, shall be exempt from the NFPA regulations listed in this subsection but shall remain under the regulation of the date of licensure. Mail-order sales to consumers are prohibited through any medium of either interstate or intrastate commerce. Sales of fireworks may only be made at properly licensed retail locations within the State of Oklahoma. A sales clerk must be on duty to serve the consumer at the time of purchase.

~~(c)~~ D. Fireworks shall not be sold or displayed to the public within any building or portion thereof or any vehicle which allows entry by any persons other than employees within such building or vehicle unless the fireworks are kept where they cannot be reached or handled by those persons. An enclosed building used for sale of fireworks to the public shall ~~have adequate exits as determined by~~ be built according to the International Building Code (IBC) 2006 Edition and/or the codes and standards adopted by the State Fire Marshal Commission or the Oklahoma Uniform Building Code Commission. The use of tents or other nonrigid shelters for the sale or storage of fireworks where the public may move about under or within the confines of a shelter is prohibited.

~~(d)~~ E. The retail license holder shall be responsible for the safe operation of retail sales to the public. The retail license holder shall be at least sixteen (16) years of age.

~~(e)~~ No person shall offer fireworks for sale

F. Fireworks may be sold by licensed manufacturers, distributors or wholesalers at wholesale or retail to residents and nonresidents of the State of Oklahoma at retail before the 15th day of state from January 1 until December 31 of each calendar year. Fireworks may only be sold by licensed retailers from June or after

~~the 6th day of 15 until July 6, and before the 15th day of from~~
~~December or after the 2nd day of 15 until January in 2 to residents~~
and nonresidents of the state each calendar year.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 1624, is amended to read as follows:

Section 1624. ~~(a)~~ A. From and after July 5, 1981, the sale, gift, distribution or use of skyrockets with sticks as defined by the United States ~~Department of Transportation~~ Consumer Product Safety Commission is hereby prohibited within the State of Oklahoma. This prohibition shall include, but is not limited to, explosive devices commonly known as "bottlerockets" or "stickrockets". Distribution, gift or sale from Oklahoma to a person outside the State of Oklahoma shall not be considered as occurring within the State of Oklahoma.

~~(b)~~ B. Any and all items of ~~Class "C" Common Consumer~~ Fireworks not properly labeled according to the United States Consumer Product Safety Commission and identified with the ~~"DOT Class 'C' Common Fireworks"~~ marking on each retail sale unit appropriate United States Department of Transportation markings is prohibited under the provisions of ~~this act~~ Section 1621 et seq. of this title.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 1625, is amended to read as follows:

Section 1625. The following license fees shall be due and payable on or before March 1 of each and every year beginning March 1, 1981, to the Oklahoma Tax Commission except upon passage of this act, for a period of sixty (60) days after passage, any licensed manufacturer, distributor or wholesaler permitted to sell fireworks at wholesale or retail, pursuant to Section 1623 of this title, may apply for a license.

~~(a)~~ 1. A license fee of One Thousand Dollars (\$1,000.00) annually shall be charged for the license to do business within this state as a manufacturer. Provided no manufacturer's license shall be issued without: ~~(1)~~

a. proof of inspection by the State Fire Marshal pursuant to Section 1633 of this title, and ~~(2) without~~

b. proof of workers' compensation coverage pursuant to the provisions of Title 85 of the Oklahoma Statutes.

~~(b)~~ 2. A license fee of One Thousand Dollars (\$1,000.00) annually shall be charged for the license to do business within this state as a distributor.

~~(c)~~ 3. A license fee of Five Hundred Dollars (\$500.00) annually shall be charged for the license to do business within this state as a wholesaler.

~~(d)~~ 4. Any person operating a retail location where fireworks are sold directly to the consumer shall be required to purchase a retail fireworks license. The retail license fee shall be Ten Dollars (\$10.00) annually and may be purchased from any licensed wholesaler, manufacturer or distributor. These serially numbered licenses shall be made available at any time to the licensed wholesalers, manufacturers or distributors in books of twenty (20) licenses to a book. Retail licenses which are unsold may be exchanged for new licenses. Any person purchasing a retail fireworks license pursuant to this paragraph shall, at the time of purchasing such license, sign an affidavit attesting to the fact that the name, mailing address and telephone number of the purchaser as it appears on such license is correct and that the purchaser operates a retail location where fireworks are sold directly to the consumer. Said affidavit shall be an integral but easily detachable part of the application form for a retail fireworks license. Any person who signs said affidavit as required by this paragraph when such person knows that it is not true, upon conviction, shall be guilty of the felony of perjury and shall be punished as provided for by law.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 1629, is amended to read as follows:

Section 1629. Nothing in this act shall be construed as applying to shipping, sale, possession or use of display fireworks ~~for Class B Display when displayed~~ by holders of a permit for a public display to be conducted in accordance with the rules and regulations of the State Fire Marshal Commission.

Applications for permits for ~~Class B Displays~~ display fireworks must be submitted in writing ~~five (5) days~~ prior to the date of display to the ~~clerk of the city or town~~ Authority Having Jurisdiction (AHJ) as defined by the NFPA 1123 where the display is to occur. If the display is in an area outside the jurisdiction of a city or town, application for permit shall be ~~made~~ submitted in writing to the State Fire Marshal ~~Marshal's Office~~ ten (10) days prior to the date of the display. Every display shall be under the direction of a competent, responsible operator of legal age and ~~the~~ be conducted under the code of regulations as adopted by the State Fire Marshal Commission. The person or organization making application for permit must ~~show financial liability coverage in minimum amounts of Five Thousand Dollars (\$5,000.00) per person, Ten Thousand Dollars (\$10,000.00) personal injuries from any single accident, and Five Thousand Dollars (\$5,000.00) property damage, or in the amount set forth by ordinance~~ submit to the authority having jurisdiction evidence of a general liability insurance policy in an amount of not less than One Million Dollars (\$1,000,000.00) or the amount set forth by the local governing authority. Before a permit is granted, a local fire inspector or an agent of the State Fire Marshal shall inspect and approve or reject the site of the display. No permit so granted shall be transferable.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 1630, is amended to read as follows:

Section 1630. It shall be unlawful for any person to sell display fireworks to any holder of a permit unless the seller possesses a valid manufacturer's, distributor's or wholesaler's license under ~~this act~~ Section 1621 et seq. of this title.

~~Those items that may be used for public display as herein specified shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulations of the Department of Transportation as "Class A and B Display Special Fireworks", and shall not include such items of Class B Commercial Fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs, M 80's and torpedoes. No person shall ship Class B Commercial Display Fireworks into the State of Oklahoma except in the course of continuous interstate transportation under the rules and regulations of the Department of Transportation (DOT).~~ It shall be unlawful for any person to sell

or possess ~~Class-B Commercial Display~~ Fireworks in the State of Oklahoma unless they are licensed or permitted as noted in this act.

SECTION 7. AMENDATORY 68 O.S. 2001, Section 1633, is amended to read as follows:

Section 1633. No person shall engage in the business of manufacturing ~~Class-B Display~~ Fireworks without first requesting the State Fire Marshal to conduct a fire and safety inspection and receiving certification that a satisfactory inspection was conducted. All manufacturers of ~~Class-B Display~~ Fireworks shall be required to comply with the standards promulgated by the National Fire Protection Agency, Section 1124-Code for Manufacture, Transportation and Storage of Fireworks.

Upon written request of a ~~Class-B Display~~ Fireworks manufacturer, the State Fire Marshal shall, within ten (10) days, conduct a fire and safety inspection and shall, upon satisfactory inspection, issue certification of the inspection. Thereafter, the State Fire Marshal shall conduct a fire and safety inspection at least once every six (6) months.

Whenever the State Fire Marshal shall find any violation of NFPA-1124 which would endanger persons or property, the State Fire Marshal shall immediately order the manufacturing facility closed until such time as the violations are remedied and a new inspection and certification takes place.

Any person engaging in the business of manufacturing ~~Class-B Display~~ Fireworks without current certification of a satisfactory fire and safety inspection or any person refusing to comply with the State Fire Marshal's order to close a ~~Class-B Display~~ Fireworks manufacturing facility shall, upon conviction, be guilty of a misdemeanor and be punished by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or both such fine and imprisonment.

Any person manufacturing ~~Class-B Display~~ Fireworks on the effective date of this act shall, within ninety (90) days, be licensed and inspected pursuant to this act.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of May, 2010.

Anthony Sykes
Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2010.

Chris Steele
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 27th
day of May, 2010,
at 2:00 o'clock P M.

By: [Signature]

Approved by the Governor of the State of Oklahoma the 8th day of
June, 2010, at 1:10 o'clock A M.

[Signature]
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
8th day of June, 2010,
at 4:38 o'clock P M.

By: [Signature]