

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 288

By: Corn

AS INTRODUCED

An Act relating to revenue and taxation and state government; amending 68 O.S. 2001, Sections 1624, 1625, 1625.1, 1626 and 1627, which relate to the sale, use and storage of fireworks; prohibiting the possession of certain fireworks; deleting obsolete language; modifying entity to whom certain license fees are due; updating references; requiring certain licensees to provide specified information; modifying distribution of specified documents; modifying requirements for collection of, and distribution of, certain license fees; modifying prohibition against exploding and igniting fireworks in certain areas; providing for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1624, is amended to read as follows:

Section 1624. ~~(a)~~ A. ~~From and after July 5, 1981, the~~ The sale, gift, distribution, possession or use of skyrocket sticks as defined by the United States Department of Transportation 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 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 is prohibited under the provisions of this act.

SECTION 2. 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~~ State Fire Marshal.

~~(a)~~ A. 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) proof of inspection by the State Fire Marshal pursuant to ~~Section 1633 of this title~~ Section 337 of Title 74 of the Oklahoma Statutes; and (2) without proof of workers' compensation coverage pursuant to the provisions of Title 85 of the Oklahoma Statutes.

~~(b)~~ B. 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)~~ C. 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)~~ D. 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, physical address of retail location 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 3. AMENDATORY 68 O.S. 2001, Section 1625.1, is amended to read as follows:

Section 1625.1 A. Any wholesaler, manufacturer or distributor who sells retail fireworks licenses, pursuant to paragraph (d) of ~~Section 1625 of Title 68~~ Section 330 of Title 74 of the Oklahoma Statutes, shall deliver to the ~~Tax Commission~~ State Fire Marshal on January 31 and July 31 of each calendar year all copies of retail fireworks licenses which such wholesaler, manufacturer or distributor has issued during the preceding six-month period.

B. If the license copies are not delivered to the ~~Tax Commission~~ State Fire Marshal on January 31 and July 31 of each calendar year, an additional penalty of Five Dollars (\$5.00) shall accrue for each day thereafter that said license copies are not delivered pursuant to the provisions of this section.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 1626, is amended to read as follows:

Section 1626. All license fees specified in ~~Section 1625 of this title~~ Section 329 of Title 74 of the Oklahoma Statutes shall be collected by the ~~Oklahoma Tax Commission~~ State Fire Marshal and shall be paid to the State Treasurer of the State of Oklahoma, to be placed to the credit of the ~~General Revenue Fund of the State Treasury~~ State Fire Marshal Revolving Fund.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 1627, is amended to read as follows:

Section 1627. ~~(a)~~ A. No person shall knowingly sell, purchase or deliver, or cause to be sold, purchased or delivered, fireworks for resale to any other person who does not possess a valid license under this act. It shall be unlawful for a distributor, wholesaler or retailer, licensed under this act, to purchase fireworks from any person, unless the distributor, wholesaler or retailer determines that the person holds a valid distributor's, wholesaler's or manufacturer's license under this act. All retail sales outlets shall have a current retail license. The license shall be conspicuously posted in the immediate vicinity of the sales operation and shall be immediately available for examination by the public or any enforcement officer. No license provided for herein shall be transferable nor shall any person be permitted to operate under a license granted to another person.

~~(b)~~ B. It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of twelve (12) years, unless accompanied by an adult, or to any intoxicated or irresponsible person.

~~(c)~~ C. It shall be unlawful to explode or ignite fireworks within five hundred (500) feet of any church, hospital, ~~asylum~~ nursing facility, assisted living facility, gas station, unharvested, flammable agricultural crop, public school, private school or where fireworks are stored, sold or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle; nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle or at or near any group of people.

SECTION 6. RECODIFICATION 68 O.S. 2001, Sections 1621, 1622, 1623, 1624, as amended by Section 1 of this act, 1625, as amended by Section 2 of this act, 1625.1, as amended by Section 3 of this act, 1626, as amended by Section 4 of this act, 1627, as amended by Section 5 of this act, 1628, 1629, 1630, 1631, 1632, 1633

and 1634, shall be recodified as Sections 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337 and 338 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 7. This act shall become effective November 1, 2005.

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