

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 2ND COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 2253

6 By: Barrington

7 2ND COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68  
9 O.S. 2001, Sections 1622, 1623, 1624, 1625, 1625.1,  
10 1626, 1629, 1630, and 1633, which relate to  
11 fireworks; clarifying certain terms; adding certain  
12 term; allowing for certain transaction of fireworks;  
13 specifying regulations for retail sale; modifying  
14 authorizing agency; modifying licensing agency;  
15 specifying delivery of retail licensing  
16 documentation; clarifying collection and placement of  
17 licensing fees; modifying permitting authority;  
18 modifying permitting process; requiring evidence of  
19 certain liability insurance; clarifying name of  
20 certain fireworks; specifying authorizing agency;  
21 modifying name of certain fireworks; and declaring an  
22 emergency.

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

24 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~~ Section 1621 et seq. of this  
title:

~~(a) The term "fireworks" shall mean and include 1. "Fireworks"~~  
means any composition or device for the purpose of producing a

1 visible or an audible effect by combustion, explosion, deflagration  
2 or detonation, and which ~~is defined~~ are further described as ~~common~~  
3 ~~or special fireworks by the United States Department of~~  
4 ~~Transportation (DOT)~~ Consumer Fireworks 1.4G, Display Fireworks  
5 1.3G, Articles, Pyrotechnic 1.4G or 1.4S as defined by the United  
6 States Department of Transportation (DOT) Title 49, CFR. ~~Fireworks~~  
7 ~~are further classified in this law as Class C or Class B.~~ The term  
8 "consumer fireworks" shall not include toy cap pistols and caps,  
9 blank cartridges, railroad flares and model rockets, or any novelty.  
10 This provision shall not impose labeling requirements for any  
11 fireworks or novelties other than those required under federal law;  
12 ~~1. Class C Fireworks (DOT Common Fireworks) shall mean~~ 2.  
13 "Consumer Fireworks" means any devices suitable for use by the  
14 public that conform with the requirements of the United States  
15 Consumer Products Safety Commission (CPSC) and are designed  
16 primarily to produce visible effects by combustion, and some small  
17 devices designed to produce an audible effect;  
18 ~~2. Class B Display Fireworks (DOT Special Fireworks) shall mean~~  
19 ~~all articles of larger~~ 3. "Display Fireworks" means fireworks  
20 devices that are primarily intended for commercial displays which  
21 are designed primarily to produce visible ~~or~~ and/or audible effects  
22 by combustion ~~or explosion,~~ deflagration or detonation. ~~Class B~~  
23 ~~fireworks~~ Display Fireworks include, but are not limited to,  
24 ~~firecrackers and~~ salutes containing more than two grains (130mg) of

1 explosive composition, aerial shells containing more than forty (40)  
2 grams of pyrotechnic compositions and other exhibition display items  
3 that exceed the limits for ~~Classification as Class C Fireworks~~  
4 Consumer Fireworks according to the Department of Transportation  
5 (DOT).

6 ~~(b) The term "manufacturer" shall mean~~ 4. "Manufacturer" means  
7 any person engaged in the making or constructing of fireworks;

8 ~~(c) The term "distributor" shall mean~~ 5. "Novelty" means a  
9 device containing small amounts of pyrotechnic and/or explosive  
10 composition. Such devices produce limited visible or audible  
11 effects. These items must be approved by the United States  
12 Department of Transportation (DOT) or have been deregulated by DOT.  
13 Deregulated novelties include, but are not limited to, the  
14 following:

- 15 a. party poppers,
- 16 b. snappers,
- 17 c. toy smoke devices,
- 18 d. snakes and glow worms, and
- 19 e. toy caps;

20 6. "Distributor" means any person who sells fireworks to other  
21 distributors, wholesalers or retailers for resale or provides them  
22 as part of a pyrotechnic display service in the State of Oklahoma;  
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1       ~~(d) The term "wholesaler" shall mean~~ 7. "Wholesaler" means any  
2 person who purchases fireworks for resale only to retailers and  
3 consumers-;

4       ~~(e) The term "retailer" shall mean~~ 8. "Retailer" means any  
5 person who purchases fireworks for resale to consumers only. A  
6 retailer who sells to the consumer buys only an Oklahoma Retail  
7 License and may purchase merchandise in or out of the state as long  
8 as the retailer buys from a person that has a legal license to do  
9 business in the State of Oklahoma-; and

10       ~~(f) The term "person" shall include~~ 9. "Person" means any  
11 corporation, association, partnership or one or more individuals.

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

14       Section 1623. ~~Class "C" Common~~ A. Consumer Fireworks may be  
15 legally stored, transported, sold and used in this state with the  
16 exceptions and conditions specified under the provisions of ~~this act~~  
17 Section 1621 et seq. of this title. Novelties may be legally  
18 stored, transported, sold and used in this state.

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

21       ~~(b)~~ C. Fireworks offered for retail sale must be ~~protected from~~  
22 ~~direct contact and handling by the public at all times. Self serve~~  
23 ~~or marketing where retail customers are allowed to move among stocks~~  
24 ~~of fireworks or serve themselves from fireworks stocks or displays~~

1 ~~is strictly prohibited~~ sold according to the National Fire  
2 Protection Association (NFPA) 1124 Chapter 7, 2006 Edition and  
3 International Building Code (IBC) 2006 Edition. Any facility  
4 licensed to sell consumer fireworks prior to November 15, 2009,  
5 shall be exempt from the NFPA regulations listed in this subsection  
6 but shall remain under the regulation of the date of licensure.

7 Mail-order sales to consumers are prohibited through any medium of  
8 either interstate or intrastate commerce. Sales of fireworks may  
9 only be made at properly licensed retail locations within the State  
10 of Oklahoma. A sales clerk must be on duty to serve the consumer at  
11 the time of purchase.

12 ~~(e)~~ D. Fireworks shall not be sold or displayed to the public  
13 within any building or portion thereof or any vehicle which allows  
14 entry by any persons other than employees within such building or  
15 vehicle unless the fireworks are kept where they cannot be reached  
16 or handled by those persons. An enclosed building used for sale of  
17 fireworks to the public shall have adequate exits as determined by  
18 the codes and Standards adopted by the State Fire Marshal Commission  
19 or the Oklahoma Uniform Building Code Commission. The use of tents  
20 or other nonrigid shelters for the sale or storage of fireworks  
21 where the public may move about under or within the confines of a  
22 shelter is prohibited.

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

4        ~~(e)~~ F. No person shall offer fireworks for sale to residents of  
5 the State of Oklahoma at retail before the 15th day of June or after  
6 the 6th day of July and before the 15th day of December or after the  
7 2nd day of January in each year.

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

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

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

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

3 Section 1625. The following license fees shall be due and  
4 payable on or before March 1 of each and every year beginning March  
5 1, 1981, to the Oklahoma ~~Tax Commission~~ State Fire Marshal's Office.

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

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

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

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

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

20 ~~(d)~~ 4. Any person operating a retail location where fireworks  
21 are sold directly to the consumer shall be required to purchase a  
22 retail fireworks license. The retail license fee shall be Ten  
23 Dollars (\$10.00) annually and may be purchased from any licensed  
24 wholesaler, manufacturer or distributor. These serially numbered

1 licenses shall be made available at any time to the licensed  
2 wholesalers, manufacturers or distributors in books of twenty (20)  
3 licenses to a book. Retail licenses which are unsold may be  
4 exchanged for new licenses. Any person purchasing a retail  
5 fireworks license pursuant to this paragraph shall, at the time of  
6 purchasing such license, sign an affidavit attesting to the fact  
7 that the name, mailing address and telephone number of the purchaser  
8 as it appears on such license is correct and that the purchaser  
9 operates a retail location where fireworks are sold directly to the  
10 consumer. Said affidavit shall be an integral but easily detachable  
11 part of the application form for a retail fireworks license. Any  
12 person who signs said affidavit as required by this paragraph when  
13 such person knows that it is not true, upon conviction, shall be  
14 guilty of the felony of perjury and shall be punished as provided  
15 for by law.

16 SECTION 5. AMENDATORY 68 O.S. 2001, Section 1625.1, is  
17 amended to read as follows:

18 Section 1625.1. A. Any wholesaler, manufacturer or distributor  
19 who sells retail fireworks licenses, pursuant to paragraph ~~(d)~~ 4 of  
20 Section 1625 of ~~Title 68 of the Oklahoma Statutes~~ this title, shall  
21 deliver to the ~~Tax Commission~~ Oklahoma State Fire Marshal's Office  
22 on January 31 and July 31 of each calendar year all copies of retail  
23 fireworks licenses which such wholesaler, manufacturer or  
24 distributor has issued during the preceding six-month period.

1 B. If the license copies are not delivered to the ~~Tax~~  
2 ~~Commission~~ Oklahoma State Fire Marshal's Office on January 31 and  
3 July 31 of each calendar year, an additional penalty of Five Dollars  
4 (\$5.00) shall accrue for each day thereafter that said license  
5 copies are not delivered pursuant to the provisions of this section.

6 SECTION 6. AMENDATORY 68 O.S. 2001, Section 1626, is  
7 amended to read as follows:

8 Section 1626. All license fees specified in Section 1625 of  
9 this title shall be collected by the Oklahoma ~~Tax Commission~~ State  
10 Fire Marshal's Office and shall be paid to the State Treasurer ~~of~~  
11 ~~the State of Oklahoma~~, to be placed to the credit of the General  
12 Revenue State Fire Marshal Revolving Fund of the State Treasury.

13 SECTION 7. AMENDATORY 68 O.S. 2001, Section 1629, is  
14 amended to read as follows:

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

20 Applications for permits for ~~Class B Displays~~ display fireworks  
21 must be submitted in writing ~~five (5) days~~ prior to the date of  
22 display to the ~~clerk of the city or town~~ Authority Having  
23 Jurisdiction (AHJ) as defined by the NFPA 1123 where the display is  
24 to occur. If the display is in an area outside the jurisdiction of

1 a city or town, application for permit shall be ~~made~~ submitted in  
2 writing to the State Fire ~~Marshal~~ Marshal's Office ten (10) days  
3 prior to the date of the display. Every display shall be under the  
4 direction of a competent, responsible operator of legal age and ~~the~~  
5 be conducted under the code of regulations as adopted by the State  
6 Fire Marshal Commission. The person or organization making  
7 application for permit must ~~show financial liability coverage in~~  
8 ~~minimum amounts of Five Thousand Dollars (\$5,000.00) per person, Ten~~  
9 ~~Thousand Dollars (\$10,000.00) personal injuries from any single~~  
10 ~~accident, and Five Thousand Dollars (\$5,000.00) property damage, or~~  
11 ~~in the amount set forth by ordinance~~ submit to the authority having  
12 jurisdiction evidence of a general liability insurance policy in an  
13 amount of not less than One Million Dollars (\$1,000,000.00) or the  
14 amount set forth by the local governing authority. Before a permit  
15 is granted, a local fire inspector or an agent of the State Fire  
16 Marshal shall inspect and approve or reject the site of the display.  
17 No permit so granted shall be transferable.

18 SECTION 8. AMENDATORY 68 O.S. 2001, Section 1630, is  
19 amended to read as follows:

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

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1       ~~Those items that may be used for public display as herein~~  
2 ~~specified shall include display shells designed to be fired from~~  
3 ~~mortars and display set pieces of fireworks classified by the~~  
4 ~~regulations of the Department of Transportation as "Class A and B~~  
5 ~~Display Special Fireworks", and shall not include such items of~~  
6 ~~Class B Commercial Fireworks as cherry bombs, tubular salutes,~~  
7 ~~repeating bombs, aerial bombs, M-80's and torpedoes. No person~~  
8 shall ship ~~Class B Commercial~~ Display Fireworks into the State of  
9 Oklahoma ~~except in the course of continuous interstate~~  
10 ~~transportation~~ under the rules and regulations of the Department of  
11 Transportation (DOT). It shall be unlawful for any person to sell  
12 or possess ~~Class B Commercial~~ Display Fireworks in the State of  
13 Oklahoma unless they are licensed or permitted as noted in this act.

14       SECTION 9.       AMENDATORY       68 O.S. 2001, Section 1633, is  
15 amended to read as follows:

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

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

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

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

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

23        SECTION 10. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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