

1
2 STATE OF OKLAHOMA

3 2nd Session of the 52nd Legislature (2010)

4 SENATE BILL 2253

5 By: Barrington

6
7 AS INTRODUCED

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2001, Sections 1622, 1623, 1624, 1629, 1630, and
10 1633, which relate to fireworks; specifying
11 definition of certain fireworks; allowing for certain
12 transaction of fireworks; specifying regulations for
13 retail sale; modifying authorizing agency; clarifying
14 name of certain fireworks; specifying authorizing
15 agency; modifying name of certain fireworks; and
16 providing an effective date.

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

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

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

22 ~~(a)~~ 1. The term "fireworks" shall mean and include any
23 composition or device for the purpose of producing a visible or an
24 audible effect by combustion, explosion, deflagration or detonation,
and which is defined as ~~common or special~~ consumer or display
fireworks by the United States ~~Department of Transportation (DOT).~~
~~Fireworks are further classified in this law as Class C or Class B.~~

1 The term "consumer fireworks" shall not include toy cap pistols and
2 caps, blank cartridges, railroad flares and model rockets or any
3 novelty. This provision shall not impose labeling requirements for
4 any fireworks or novelties other than those required under federal
5 law.

6 ~~1. Class C Fireworks (DOT Common Fireworks)~~ 2. "Consumer
7 Fireworks" shall mean any devices suitable for use by the public
8 that conform with the requirements of the United States Consumer
9 Products Safety Commission (CPSC) and are designed primarily to
10 produce visible effects by combustion, and some small devices
11 designed to produce an audible effect.

12 ~~2. Class B Display Fireworks (DOT Special Fireworks)~~ 3.
13 "Display Fireworks" shall mean all articles of larger fireworks
14 designed primarily to produce visible or audible effects by
15 combustion or explosion. ~~Class B fireworks~~ Display Fireworks
16 include, but are not limited to, firecrackers and salutes containing
17 more than two grains (130mg) of explosive composition and other
18 exhibition display items that exceed the limits for ~~Classification~~
19 ~~as Class C Fireworks~~ Consumer Fireworks according to the Department
20 ~~of Transportation~~ United States Bureau of Alcohol, Tobacco, Firearms
21 and Explosives.

22 ~~(b)~~ 4. The term "manufacturer" shall mean any person engaged in
23 the making or constructing of fireworks.

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1 ~~(e)~~ 5. The term "novelty" shall mean a device containing small
2 amounts of pyrotechnic and/or explosive composition. Such devices
3 produce limited visible or audible effects. These items must be
4 approved by the United States Department of Transportation (DOT) or
5 have been deregulated by DOT. Deregulated novelties include, but
6 are not limited to, the following:

- 7 a. party poppers,
- 8 b. snappers,
- 9 c. toy smoke devices,
- 10 d. snakes and glow worms,
- 11 e. wire sparklers, dipped sticks, and
- 12 f. toy caps.

13 ~~(d)~~ 6. The term "distributor" shall mean any person who sells
14 fireworks to other distributors, wholesalers or retailers for
15 resale.

16 ~~(d)~~ 7. The term "wholesaler" shall mean any person who
17 purchases fireworks for resale only to retailers and consumers.

18 ~~(e)~~ 8. The term "retailer" shall mean any person who purchases
19 fireworks for resale to consumers only. A retailer who sells to the
20 consumer buys only an Oklahoma Retail License and may purchase
21 merchandise in or out of the state as long as the retailer buys from
22 a person that has a legal license to do business in the State of
23 Oklahoma.

1 ~~(f)~~ 9. The term "person" shall include any corporation,
2 association, partnership or one or more individuals.

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

5 Section 1623. ~~Class "C" Common~~ A. Consumer Fireworks may be
6 legally stored, transported, sold and used in this state with the
7 exceptions and conditions specified under the provisions of this
8 act. Novelties may be legally stored, transported, sold and used in
9 this state.

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

12 ~~(b)~~ C. Fireworks offered for retail sale must be ~~protected from~~
13 ~~direct contact and handling by the public at all times. Self-serve~~
14 ~~or marketing where retail customers are allowed to move among stocks~~
15 ~~of fireworks or serve themselves from fireworks stocks or displays~~
16 ~~is strictly prohibited~~ sold according to the National Fireworks
17 Protection Association (NFPA) 1124 Chapter 7, 2006 Edition. Any
18 facility licensed to sell consumer fireworks prior to November 15,
19 2009, shall be exempt from the NFPA regulations listed above but
20 shall remain under the regulation of the date of licensure.

21 Mail-order sales to consumers are prohibited through any medium of
22 either interstate or intrastate commerce. Sales of fireworks may
23 only be made at properly licensed retail locations within the State

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1 of Oklahoma. A sales clerk must be on duty to serve the consumer at
2 the time of purchase.

3 ~~(c) Fireworks shall not be sold or displayed to the public~~
4 ~~within any building or portion thereof or any vehicle which allows~~
5 ~~entry by any persons other than employees within such building or~~
6 ~~vehicle unless the fireworks are kept where they cannot be reached~~
7 ~~or handled by those persons. An enclosed building used for sale of~~
8 ~~fireworks to the public shall have adequate exits as determined by~~
9 ~~the State Fire Marshal. The use of tents or other nonrigid shelters~~
10 ~~for the sale or storage of fireworks where the public may move about~~
11 ~~under or within the confines of a shelter is prohibited.~~

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

15 ~~(e)~~ E. No person shall offer fireworks for sale to residents of
16 the State of Oklahoma at retail before the 15th day of June or after
17 the 6th day of July and before the 15th day of December or after the
18 2nd day of January in each year.

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

21 Section 1624. ~~(a)~~ A. From and after July 5, 1981, the sale,
22 gift, distribution or use of skyrockets with sticks as defined by
23 the United States Department of Transportation Consumer Products
24 Safety Commission is hereby prohibited within the State of Oklahoma.

1 This prohibition shall include, but is not limited to, explosive
2 devices commonly known as "bottlerockets" or "stickrockets".
3 Distribution, gift or sale from Oklahoma to a person outside the
4 State of Oklahoma shall not be considered as occurring within the
5 State of Oklahoma.

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

12 SECTION 4. AMENDATORY 68 O.S. 2001, Section 1629, is
13 amended to read as follows:

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

19 Applications for permits for ~~Class B Displays~~ display fireworks
20 must be submitted in writing five (5) days prior to date of display
21 to the clerk of the city or town where display is to occur. If the
22 display is in an area outside the jurisdiction of a city or town,
23 application for permit shall be made to the State Fire Marshal.
24 Every display shall be under the direction of a competent,

1 responsible operator of legal age and the person or organization
2 making application for permit must show financial liability coverage
3 in minimum amounts of Five Thousand Dollars (\$5,000.00) per person,
4 Ten Thousand Dollars (\$10,000.00) personal injuries from any single
5 accident, and Five Thousand Dollars (\$5,000.00) property damage, or
6 in the amount set forth by ordinance. Before a permit is granted, a
7 local fire inspector or an agent of the State Fire Marshal shall
8 inspect and approve or reject the site of the display. No permit so
9 granted shall be transferable.

10 SECTION 5. AMENDATORY 68 O.S. 2001, Section 1630, is
11 amended to read as follows:

12 Section 1630. It shall be unlawful for any person to sell
13 display fireworks to any holder of a permit unless the seller
14 possesses a valid manufacturer's, distributor's or wholesaler's
15 license under this act.

16 Those items that may be used for public display as herein
17 specified shall include display shells designed to be fired from
18 mortars and display set pieces of fireworks ~~classified~~ as defined by
19 the regulations of the United States Bureau of Alcohol, Tobacco,
20 Firearms and Explosives and so classified by the Department of
21 Transportation as "~~Class A and B Display Special Fireworks~~", and
22 ~~shall not include such items of Class B Commercial Fireworks as~~
23 ~~cherry bombs, tubular salutes, repeating bombs, aerial bombs, M-80's~~
24 ~~and torpedoes~~ "Display Fireworks". No person shall ship ~~Class B~~

1 ~~Commercial~~ Display Fireworks into the State of Oklahoma except in
2 the course of continuous interstate transportation. It shall be
3 unlawful for any person to sell or possess ~~Class B Commercial~~
4 Display Fireworks in the State of Oklahoma.

5 SECTION 6. AMENDATORY 68 O.S. 2001, Section 1633, is
6 amended to read as follows:

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

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

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

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

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

14 SECTION 7. This act shall become effective November 1, 2010.

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