

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 844

By: Anderson and Barrington  
of the Senate

3  
4 and

Armes of the House  
5  
6  
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8 [ fireworks displays - requiring licensing - certain  
9 exemption - firework license fees - codification -  
effective date ]  
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12 AUTHORS: Add the following House Coauthors: Shelton and Roan

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert  
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15 "An Act relating to fireworks displays; stating  
16 purpose; defining terms; requiring licensing for  
17 certain persons or entities; providing licensing  
18 procedures; requiring certain insurance coverage;  
19 providing licensing specifications; requiring State  
20 Fire Marshal to maintain list of licensed operators;  
21 mandating the list be posted on website of State  
22 Fire Marshal; providing renewal procedures;  
23 authorizing the State Fire Marshal to refuse,  
24 suspend or revoke any license; directing the State  
Fire Marshal to establish licensing program to  
include certain criteria; requiring applicants to  
meet certain requirements; establishing a fee;  
providing for deposit of fee; providing for  
expiration and renewal of licenses; making certain  
conduct unlawful; stating penalty; authorizing  
certain municipal ordinances; providing certain  
exemption; providing certain storage standards;  
requiring enforcement by the State Fire Marshal and  
authorizing assistance; authorizing development of

1 rules; amending 68 O.S. 2001, Section 1625, as  
2 amended by Section 4, Chapter 408, O.S.L. 2010 (68  
3 O.S. Supp. 2010, Section 1625), which relates to  
4 fireworks license fees; updating due date for  
5 payment of fees; modifying recipient of fees;  
6 authorizing payment of certain fee under certain  
7 circumstances; providing for codification; and  
8 providing an effective date.

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

10 SECTION 1. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1635 of Title 68, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. The purpose of this act is to enact a licensing program for  
14 outdoor display fireworks for Oklahoma entities and a licensing  
15 program for individuals conducting outdoor fireworks displays in  
16 this state. The purpose of these programs is to ensure a level of  
17 competence that promotes safety for the public, fire service  
18 personnel, and fireworks display operators and their employees and  
19 service personnel. It is not the purpose of this act to regulate  
20 United States Department of Transportation Division 1.4G consumer  
21 fireworks as defined by NFPA standards or paragraph 2 of Section  
22 1622 of Title 68 of the Oklahoma Statutes.

23 B. As used in this act:

24 1. "Licensed outdoor display operator" means an individual who  
by experience, training, and examination recognized and approved by  
the State Fire Marshal has demonstrated the necessary knowledge and

1 ability to safely assemble, discharge and supervise outdoor display  
2 fireworks in accordance with NFPA 1123;

3 2. "Operator" shall have the same meaning as "licensed outdoor  
4 display operator", as defined in paragraph 1 of this subsection;

5 3. "Display fireworks" means fireworks devices that are  
6 primarily intended for commercial displays which are designed to  
7 produce visible and/or audible effects by combustion, deflagration  
8 or detonation. Display fireworks include, but are not limited to,  
9 salutes containing more than two grains (130mg) of explosive  
10 composition, aerial shells containing more than forty (40) grams of  
11 pyrotechnic compositions and other exhibition display items that  
12 exceed the limits for consumer fireworks according to the United  
13 States Department of Transportation (DOT);

14 4. "Event" means any function or gathering at which there will  
15 be a fireworks display. If a function or gathering lasts more than  
16 one (1) day, each day is a separate event. Event does not include  
17 any function or gathering at which only consumer fireworks, as  
18 defined in paragraph 2 of Section 1622 of Title 68 of the Oklahoma  
19 Statutes, will be used exclusively;

20 5. "Distributor" means any person engaged in the business of  
21 making sales of display fireworks as defined in paragraph 3 of  
22 Section 1622 of Title 68 of the Oklahoma Statutes or materials to  
23 Oklahoma-licensed or -permitted entities for the purpose of  
24 providing fireworks or pyrotechnic display services in this state.

1 A distributor may sell display fireworks only to Oklahoma-licensed  
2 or -permitted entities. An out-of-state distributor shall not be  
3 required to obtain an Oklahoma license when selling exclusively to a  
4 holder of an Oklahoma manufacturer, distributor, or wholesaler  
5 license;

6 6. "NFPA" means the National Fire Protection Association;

7 7. "NFPA 1123" means the NFPA publication entitled "NFPA 1123:  
8 Code for Fireworks Display", 2010 Edition or any subsequent edition  
9 that has been adopted by the State Fire Marshal by rule;

10 8. "NFPA 1124" means the NFPA publication entitled "NFPA 1124:  
11 Code for Manufacture, Transportation, Storage, and Retail Sale of  
12 Fireworks and Pyrotechnic Articles", 2006 Edition or any subsequent  
13 edition that has been adopted by the State Fire Marshal by rule;

14 9. "NFPA 1126" means the NFPA publication entitled "NFPA 1126:  
15 Standards for the Use of Pyrotechnics Before a Proximate Audience",  
16 2011 Edition or any subsequent edition that has been adopted by the  
17 State Fire Marshal by rule;

18 10. "Outdoor fireworks display" means a presentation of display  
19 fireworks for a public or private gathering as defined by NFPA 1123;

20 11. "Proximate pyrotechnics" means pyrotechnic devices for  
21 professional use only, used outdoors or indoors, that are similar to  
22 consumer fireworks in chemical composition but that are not intended  
23 for consumer use, and that are defined by NFPA 1126 as 1.4G or 1.4S  
24 fireworks or pyrotechnics;

1 12. "Proximate pyrotechnic display" means the use of  
2 pyrotechnic devices and materials, 1.4G or 1.4S fireworks or  
3 pyrotechnics when any portion of the audience is closer than  
4 permitted by NFPA 1123, and subject to NFPA 1126 requirements; and

5 13. "Sponsor" means any person or organization which contracts  
6 with a licensed entity, licensed distributor or licensed outdoor  
7 display operator to conduct a fireworks display.

8 SECTION 2. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1636 of Title 68, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. An individual or entity shall have the appropriate Oklahoma  
12 license or permit to conduct an outdoor fireworks display.

13 B. To receive a manufacturer, distributor or wholesaler  
14 license, an applicant shall make application to the State Fire  
15 Marshal on a form prescribed by the State Fire Marshal. The  
16 application shall be accompanied by the required fee. An individual  
17 seeking a license as a sole proprietor or on behalf of a business  
18 entity shall be at least twenty-one (21) years of age and shall not  
19 have been convicted of or pled guilty or nolo contendere to any  
20 state or federal felony. In the case of a business seeking a  
21 license, no officer or member of its governing board shall have been  
22 convicted of or pled guilty or nolo contendere to any state or  
23 federal felony.

1 Nothing in this act shall be construed as applying to shipping,  
2 sale, possession or use of display fireworks when displayed by  
3 holders of a permit for a public display to be conducted in  
4 accordance with the rules and regulations of the State Fire Marshal  
5 Commission.

6 Applications for permits for display fireworks shall be  
7 submitted in writing prior to the date of display to the Authority  
8 Having Jurisdiction (AHJ) as defined by the NFPA 1123 where the  
9 display is to occur. If the display is in an area outside the  
10 jurisdiction of a municipality, application for the permit shall be  
11 submitted in writing to the Office of the State Fire Marshal ten  
12 (10) days prior to the date of the display. Every display shall be  
13 under the direction of a competent, responsible, licensed outdoor  
14 display operator, of legal age, and shall be conducted under the  
15 code of regulations as adopted by the State Fire Marshal Commission.  
16 The individual or organization applying for a permit shall submit to  
17 the AHJ evidence of a general liability insurance policy in an  
18 amount of not less than One Million Dollars (\$1,000,000.00) or the  
19 amount set forth by the local governing authority. Before a permit  
20 is granted, a local fire inspector or an agent of the State Fire  
21 Marshal shall inspect and approve or reject the site of the display.  
22 No permit so granted shall be transferable.

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1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1637 of Title 68, unless there  
3 is created a duplication in numbering, reads as follows:

4 If an applicant for an outdoor display operator license complies  
5 with the requirements of this act and the rules of the State Fire  
6 Marshal, the State Fire Marshal shall issue the license within sixty  
7 (60) days of receiving the application. The term of the license is  
8 three (3) years from the date of issuance. Each license issued  
9 shall contain a distinct number assigned to the particular operator.  
10 The State Fire Marshal shall maintain a list of all licensed  
11 operators. In this list, next to the operator's name, the State  
12 Fire Marshal shall insert the period of licensure and the operator's  
13 license number. The list of licensed operators shall be posted on  
14 the State Fire Marshal's website.

15 SECTION 4. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1638 of Title 68, unless there  
17 is created a duplication in numbering, reads as follows:

18 A holder of an operator's license with an unexpired license may  
19 apply for a new license at any time before the license expires.

20 SECTION 5. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1639 of Title 68, unless there  
22 is created a duplication in numbering, reads as follows:

23 The State Fire Marshal may refuse to grant, or may suspend,  
24 revoke, or refuse to renew, any license or certification held under

1 the provisions of this act. The provisions of the Administrative  
2 Procedures Act shall govern all matters and procedures respective to  
3 hearings and judicial review of any contested case arising under  
4 this act.

5 SECTION 6. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1640 of Title 68, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. The State Fire Marshal shall establish a program for  
9 licensure of outdoor display operators. To receive licensure, an  
10 individual shall apply for licensure to the State Fire Marshal on a  
11 form to be prescribed by the State Fire Marshal, shall be at least  
12 twenty-one (21) years of age and shall not have been convicted of or  
13 pled guilty or nolo contendere to any state or federal felony, and  
14 shall show that the applicant has worked under complete supervision  
15 on at least three displays in the three (3) years immediately  
16 preceding the application. In addition, an applicant shall meet the  
17 following requirements:

- 18 1. Complete eight (8) hours of classroom and hands-on training;
- 19 2. Take and pass a written examination approved by and  
20 conducted under the auspices of the State Fire Marshal that tests  
21 outdoor operator knowledge; and
- 22 3. Pay a license fee not to exceed Seventy-five Dollars  
23 (\$75.00), to be deposited in the State Fire Marshal Revolving Fund.

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1 B. The State Fire Marshal shall establish the scope and type of  
2 curriculum and examinations required by subsection A of this  
3 section, and may require applicants to take a test created by a  
4 nationally recognized pyrotechnic association. The State Fire  
5 Marshal may administer the examination or may enter into an  
6 agreement with a testing service or organization. The tests may be  
7 administered at a specific location or time. The State Fire Marshal  
8 may set by rule and collect a reasonable fee calculated to cover the  
9 costs of classroom instruction and administering the test. Written  
10 tests may be supplemented by practical tests or demonstrations  
11 deemed necessary to determine the skill and ability of the  
12 applicant. The content, type, frequency, and location of the  
13 training and testing shall be designated by the State Fire Marshal.

14 C. An operator license or renewal expires three (3) years after  
15 the date of the approval or reissuance. To renew the license, an  
16 individual shall show to the satisfaction of the State Fire Marshal  
17 that the individual has attended at least six (6) hours of  
18 continuing education training to meet the approval of the State Fire  
19 Marshal in the areas of licensing desired during the three-year  
20 period and pay the applicable fee.

21 SECTION 7. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1641 of Title 68, unless there  
23 is created a duplication in numbering, reads as follows:

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1 A. It is unlawful for anyone other than a licensed outdoor  
2 display operator to conduct an outdoor display using only display  
3 fireworks.

4 B. It is unlawful for any licensed outdoor display operator to  
5 conduct an outdoor fireworks display except in accordance with NFPA  
6 1123.

7 C. It is allowable for a licensed outdoor display operator to  
8 use 1.4G or 1.4S fireworks in outdoor displays.

9 D. A violation of subsection A or B of this section shall be a  
10 misdemeanor.

11 E. Any municipality may adopt the provisions of subsections A  
12 and B of this section by reference or substantial duplication as an  
13 ordinance violation.

14 F. The provisions of subsection A or B of this section shall  
15 not apply to individuals or organizations employing consumer  
16 fireworks for their personal or display use.

17 SECTION 8. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1642 of Title 68, unless there  
19 is created a duplication in numbering, reads as follows:

20 Any person or entity that stores fireworks or pyrotechnic  
21 materials, or both, that are defined as consumer fireworks 1.4G,  
22 display fireworks 1.3G, Articles, Pyrotechnic 1.4G or 1.4S as  
23 defined by the United States Department of Transportation (DOT) in  
24 Title 49 of the Code of Federal Regulations, shall store them in

1 accordance with current NFPA standards, including NFPA 1124, and any  
2 applicable federal, state, and local laws or ordinances. Violations  
3 of this section shall be a misdemeanor.

4 SECTION 9. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1643 of Title 68, unless there  
6 is created a duplication in numbering, reads as follows:

7 The State Fire Marshal shall administer and enforce the  
8 provisions of this act and may call upon any federal, state, county,  
9 or municipal officer or employee for assistance. The State Fire  
10 Marshal may promulgate rules to carry out the responsibilities under  
11 this act, including rules relative to:

- 12 1. Certification of or licensing of outdoor display operators;
- 13 2. Training;
- 14 3. Examinations;
- 15 4. The responsible handling of display fireworks; and
- 16 5. Any other reasonable rules the State Fire Marshal deems  
17 necessary to implement this act.

18 SECTION 10. AMENDATORY 68 O.S. 2001, Section 1625, as  
19 amended by Section 4, Chapter 408, O.S.L. 2010 (68 O.S. Supp. 2010,  
20 Section 1625), is amended to read as follows:

21 Section 1625. The following license fees shall be due and  
22 payable on or before March 1 of each ~~and every year beginning March~~  
23 ~~1, 1981, to the Oklahoma Tax Commission except upon passage of this~~  
24 ~~act, for a period of sixty (60) days after passage, any to the~~

1 Office of the State Fire Marshal. Any licensed manufacturer,  
2 distributor or wholesaler permitted to sell fireworks at wholesale  
3 or retail, pursuant to Section 1623 of this title, may apply for a  
4 license.

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

9 a. proof of inspection by the State Fire Marshal pursuant  
10 to Section 1633 of this title, and

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

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

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

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

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

14 Any person engaged in more than one of the licensed activities  
15 provided in this section shall only pay one fee to be based on the  
16 classification requiring the higher fee.

17 SECTION 11. This act shall become effective May 1, 2012.”  
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