

1 ENGROSSED HOUSE
2 BILL NO. 1475

By: Armes and Ritze of the
House

3 and

4 Barrington of the Senate

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6
7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 1623, as amended by Section 2,
9 Chapter 408, O.S.L. 2010 (68 O.S. Supp. 2010, Section
10 1623), which relates to fireworks; prohibiting
11 certain cities from restricting fireworks sales;
12 amending 68 O.S. 2001, Section 1625, as amended by
13 Section 4, Chapter 408, O.S.L. 2010 (68 O.S. Supp.
14 2010, Section 1625), which relates to fireworks
15 license fees; increasing retail license fee; amending
16 68 O.S. 2001, Section 1626, which relates to
17 apportionment of fees; providing a portion of certain
18 fee to State Fire Marshal; amending 68 O.S. 2001,
19 Section 1634, which relates to sales tax on
20 fireworks; requiring sales tax be collected on sales
21 to consumer; and requiring sales tax permit.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1623, as
amended by Section 2, Chapter 408, O.S.L. 2010 (68 O.S. Supp. 2010,
Section 1623), is amended to read as follows:

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

1 Oklahoma Statutes. Novelties may be legally stored, transported,
2 sold and used in this state.

3 B. All fireworks storage and sales areas shall be conspicuously
4 posted with signs reading "FIREWORKS-NO SMOKING".

5 C. Fireworks offered for retail sale must be sold according to
6 the National Fire Protection Association (NFPA) 1124 Chapter 7, 2006
7 Edition. Any facility licensed to sell consumer fireworks prior to
8 November 15, 2009, shall be exempt from the NFPA regulations listed
9 in this subsection but shall remain under the regulation of the date
10 of licensure. Mail-order sales to consumers are prohibited through
11 any medium of either interstate or intrastate commerce. Sales of
12 fireworks may only be made at properly licensed retail locations
13 within the State of Oklahoma. A sales clerk must be on duty to
14 serve the consumer at the time of purchase.

15 D. Fireworks shall not be sold or displayed to the public
16 within any building or portion thereof or any vehicle which allows
17 entry by any persons other than employees within such building or
18 vehicle unless the fireworks are kept where they cannot be reached
19 or handled by those persons. An enclosed building used for sale of
20 fireworks to the public shall be built according to the
21 International Building Code (IBC) 2006 Edition and/or the codes and
22 standards adopted by the State Fire Marshal Commission or the
23 Oklahoma Uniform Building Code Commission. The use of tents or
24 other nonrigid shelters for the sale or storage of fireworks where

1 the public may move about under or within the confines of a shelter
2 is prohibited.

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

6 F. Fireworks may be sold by licensed manufacturers,
7 distributors or wholesalers at wholesale or retail to residents and
8 nonresidents of the state from January 1 until December 31 of each
9 calendar year. Fireworks may only be sold by licensed retailers
10 from June 15 until July 6, and from December 15 until January 2 to
11 residents and nonresidents of the state each calendar year.

12 G. Any city, town, or municipality that allows the display or
13 discharge of fireworks shall not prohibit the sale of fireworks
14 within the city, town, or municipality limits.

15 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1625, as
16 amended by Section 4, Chapter 408, O.S.L. 2010 (68 O.S. Supp. 2010,
17 Section 1625), is amended to read as follows:

18 Section 1625. The following license fees shall be due and
19 payable on or before March 1 of each and every year beginning March
20 1, 1981, to the Oklahoma Tax Commission except upon passage of this
21 act, for a period of sixty (60) days after passage, any licensed
22 manufacturer, distributor or wholesaler permitted to sell fireworks
23 at wholesale or retail, pursuant to Section 1623 of this title, may
24 apply for a license.

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

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

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

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

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

15 4. Any person operating a retail location where fireworks are
16 sold directly to the consumer shall be required to purchase a retail
17 fireworks license. The retail license fee shall be ~~Ten Dollars~~
18 ~~(\$10.00)~~ Twenty Dollars (\$20.00) annually and may be purchased from
19 any licensed wholesaler, manufacturer or distributor. These
20 serially numbered licenses shall be made available at any time to
21 the licensed wholesalers, manufacturers or distributors in books of
22 twenty (20) licenses to a book. Retail licenses which are unsold
23 may be exchanged for new licenses. Any person purchasing a retail
24 fireworks license pursuant to this paragraph shall, at the time of

1 purchasing such license, sign an affidavit attesting to the fact
2 that the name, mailing address and telephone number of the purchaser
3 as it appears on such license is correct and that the purchaser
4 operates a retail location where fireworks are sold directly to the
5 consumer. Said affidavit shall be an integral but easily detachable
6 part of the application form for a retail fireworks license. Any
7 person who signs said affidavit as required by this paragraph when
8 such person knows that it is not true, upon conviction, shall be
9 guilty of the felony of perjury and shall be punished as provided
10 for by law.

11 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1626, is
12 amended to read as follows:

13 Section 1626. All A. Except as provided in subsection B of
14 this section, all license fees specified in Section 1625 of this
15 title shall be collected by the Oklahoma Tax Commission and shall be
16 paid to the State Treasurer of the State of Oklahoma, to be placed
17 to the credit of the General Revenue Fund of the State Treasury.

18 B. Ten Dollars (\$10.00) of the retail license fee collected
19 pursuant to paragraph 4 of Section 1625 of this title shall be
20 placed to the credit of the State Fire Marshal Revolving Fund.

21 SECTION 4. AMENDATORY 68 O.S. 2001, Section 1634, is
22 amended to read as follows:

23 Section 1634. A. Any sale of fireworks to a consumer by a
24 wholesaler, distributor, manufacturer or a retailer shall be subject

1 to the levy and collection of sales tax pursuant to the provisions
2 of the Oklahoma State Tax Code. No exceptions or exemptions to the
3 Oklahoma State Tax Code shall apply to the levy or collection of
4 sales tax on sales of fireworks to consumers.

5 B. All retail fireworks locations shall possess a valid current
6 sales tax permit issued by the Oklahoma Tax Commission. The sales
7 tax permit shall be conspicuously posted in the immediate vicinity
8 of the sales operation and shall be immediately available for
9 examination by the public or any enforcement officer.

10 Passed the House of Representatives the 17th day of March, 2011.

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Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2011.

Presiding Officer of the Senate