

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1475

By: Armes

7 COMMITTEE SUBSTITUTE

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

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

1 conditions specified under the provisions of Section 1621 et seq. of
2 this title and consistent with Section 22-110 of Title 11 of the
3 Oklahoma Statutes. Novelties may be legally stored, transported,
4 sold and used in this state.

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

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

17 D. Fireworks shall not be sold or displayed to the public
18 within any building or portion thereof or any vehicle which allows
19 entry by any persons other than employees within such building or
20 vehicle unless the fireworks are kept where they cannot be reached
21 or handled by those persons. An enclosed building used for sale of
22 fireworks to the public shall be built according to the
23 International Building Code (IBC) 2006 Edition and/or the codes and

1 standards adopted by the State Fire Marshal Commission or the
2 Oklahoma Uniform Building Code Commission. The use of tents or
3 other nonrigid shelters for the sale or storage of fireworks where
4 the public may move about under or within the confines of a shelter
5 is prohibited.

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

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

15 G. Any city, town, or municipality that allows the display or
16 discharge of fireworks shall not prohibit the sale of fireworks
17 within the city, town, or municipality limits.

18 SECTION 2. 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
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1 act, for a period of sixty (60) days after passage, any licensed
2 manufacturer, distributor or wholesaler permitted to sell fireworks
3 at wholesale or retail, pursuant to Section 1623 of this title, may
4 apply for a 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)~~ Twenty Dollars (\$20.00) annually and may be purchased from
23 any licensed wholesaler, manufacturer or distributor. These

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1 serially numbered licenses shall be made available at any time to
2 the licensed wholesalers, manufacturers or distributors in books of
3 twenty (20) licenses to a book. Retail licenses which are unsold
4 may be 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 3. AMENDATORY 68 O.S. 2001, Section 1626, is
17 amended to read as follows:

18 Section 1626. ~~All~~ A. Except as provided in subsection B of
19 this section, all license fees specified in Section 1625 of this
20 title shall be collected by the Oklahoma Tax Commission and shall be
21 paid to the State Treasurer of the State of Oklahoma, to be placed
22 to the credit of the General Revenue Fund of the State Treasury.

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

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

6 Section 1634. A. Any sale of fireworks to a consumer by a
7 wholesaler, distributor, manufacturer or a retailer shall be subject
8 to the levy and collection of sales tax pursuant to the provisions
9 of the Oklahoma State Tax Code. No exceptions or exemptions to the
10 Oklahoma State Tax Code shall apply to the levy or collection of
11 sales tax on sales of fireworks to consumers.

12 B. All retail fireworks locations shall possess a valid current
13 sales tax permit issued by the Oklahoma Tax Commission. The sales
14 tax permit shall be conspicuously posted in the immediate vicinity
15 of the sales operation and shall be immediately available for
16 examination by the public or any enforcement officer.

17 SECTION 5. This act shall become effective June 1, 2011.

18 SECTION 6. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 03-03-2011 - DO PASS, As Amended.