

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

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

5 A. The purpose of this act is to enact a licensing program for
6 outdoor display fireworks, pyrotechnic exhibitors and a
7 certification program for individuals conducting outdoor fireworks
8 displays in this state. The purpose of these programs is to ensure
9 a level of competence that promotes safety for the public, fire
10 service personnel, and fireworks display operators and their
11 employees and service personnel. It is not the purpose of this act
12 to regulate United States Department of Transportation Division 1.4
13 common fireworks or consumer fireworks as defined by NFPA standards
14 or paragraph 2 of Section 1622 of Title 68 of the Oklahoma Statutes.

15 B. As used in this act:

16 1. "Licensed outdoor display operator" means an individual who
17 by experience, training, and examination recognized and approved by
18 the State Fire Marshal has demonstrated the necessary knowledge and
19 ability to safely assemble, discharge and supervise outdoor display
20 fireworks in accordance with NFPA 1123;

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

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

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

16 5. "Distributor" means any person engaged in the business of
17 making sales of display fireworks as defined in paragraph 3 of
18 Section 1622 of Title 68 of the Oklahoma Statutes or materials to
19 Oklahoma-licensed or -permitted entities for the purpose of
20 providing fireworks, pyrotechnic or flame effect display services in
21 this state. A distributor may sell display fireworks only to
22 holders of an Oklahoma exhibitor's permit. An out-of-state
23 distributor shall not be required to obtain an Oklahoma license when

1 selling exclusively to a holder of an Oklahoma manufacturer,
2 distributor, or wholesaler license;

3 6. "Licensed exhibitor" means a sole proprietor, partnership,
4 corporation, company, firm or other entity licensed under this act
5 to conduct outdoor fireworks displays or provide fireworks or
6 pyrotechnic materials for outdoor fireworks displays;

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

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

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

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

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

21 12. "Proximate pyrotechnics" means pyrotechnic devices for
22 professional use only, used outdoors or indoors, that are similar to
23 consumer fireworks in chemical composition but that are not intended

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1 for consumer use, and that are defined by NFPA 1126 as 1.4G or 1.4S
2 fireworks or pyrotechnics;

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

7 14. "Sponsor" means any person or organization which contracts
8 with a licensed entity, licensed distributor or licensed outdoor
9 display operator to conduct a fireworks display.

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

13 A. An individual or entity shall have the appropriate Oklahoma
14 license and/or permit to conduct an outdoor fireworks display.

15 B. To receive a licensed outdoor display operator license, an
16 applicant shall make application to the State Fire Marshal on a form
17 prescribed by the State Fire Marshal. An individual seeking a
18 license as a sole proprietor or on behalf of a business entity must
19 be at least twenty-one (21) years of age and not have been convicted
20 of or pled guilty or nolo contendere to any state or federal felony.
21 In the case of a business seeking a license, no officer or member of
22 its governing board may have been convicted of or pled guilty or
23 nolo contendere to any state or 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 be conducted under the code of
15 regulations as adopted by the State Fire Marshal Commission. Before
16 a permit is granted, a local fire inspector or an agent of the State
17 Fire Marshal shall inspect and approve or reject the site of the
18 display. No permit so granted shall be transferable.

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

22 If an applicant for an outdoor display operator license complies
23 with the requirements of this act and the rules of the State Fire
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Marshal, the State Fire Marshal shall issue the license within sixty
2 (60) days of receiving the application. The term of the license is
3 three (3) years from the date of issuance. Each license issued
4 shall contain a distinct number assigned to the particular operator.
5 The State Fire Marshal shall maintain a list of all licensed
6 operators. In this list, next to the operator's name, the State
7 Fire Marshal shall insert the period of licensure and the operator's
8 license number. The list of licensed operators shall be posted on
9 the State Fire Marshal's website.

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

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

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

18 A. The State Fire Marshal may refuse to grant, or may suspend,
19 revoke, or refuse to renew, any license or certification held under
20 the provisions of this act. The provisions of the Administrative
21 Procedures Act shall govern all matters and procedures respective to
22 hearings and judicial review of any contested case arising under
23 this act.

1 B. If an operator's license is suspended or revoked, the
2 operator shall cease conducting displays and distributing display
3 fireworks immediately. If an operator's license is revoked for any
4 reason, the operator is prohibited from applying for a new license
5 for one (1) year from the date of revocation. Upon a finding that
6 the operator's federal license, if applicable, has been revoked, the
7 State Fire Marshal shall revoke the operator's state license.

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

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

21 B. The State Fire Marshal shall establish the scope and type of
22 curriculum and examinations required by this section, and may
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1 require applicants to take a test created by a nationally recognized
2 pyrotechnic association.

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

6 A. It is unlawful for anyone other than a certified outdoor
7 display operator to conduct an outdoor display using only display
8 fireworks.

9 B. It is unlawful for any licensed outdoor display operator to
10 conduct an outdoor fireworks display except in accordance with NFPA
11 1123.

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

14 D. A violation of subsection A or B of this section shall be a
15 misdemeanor.

16 E. Notwithstanding any provision of the law to the contrary,
17 any municipality may adopt the provisions of subsections A and B of
18 this section by reference or substantial duplication as an ordinance
19 violation.

20 F. The provisions of subsection A or B of this section do not
21 apply to individuals or organizations employing consumer fireworks
22 for their personal or display use.

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

4 Any person or entity that stores fireworks or pyrotechnic
5 materials, or both, that are defined as consumer fireworks 1.4G,
6 display fireworks 1.3G, Articles, Pyrotechnic 1.4G or 1.4S as
7 defined by the United States Department of Transportation (DOT) in
8 Title 49 of the Code of Federal Regulations, shall store them in
9 accordance with current NFPA standards, including NFPA 1124, and any
10 applicable federal, state, and local laws or ordinances. Violations
11 of this section shall be a misdemeanor.

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

15 The State Fire Marshal shall administer and enforce the
16 provisions of this act and may call upon any federal, state, county,
17 or municipal officer or employee for assistance. The State Fire
18 Marshal may promulgate rules to carry out the responsibilities under
19 this act, including rules relative to:

- 20 1. Certification of or licensing of outdoor display operators;
- 21 2. Training;
- 22 3. Examinations;
- 23 4. The responsible handling of display fireworks; and

1 5. Any other reasonable rules the State Fire Marshal deems
2 necessary to implement this act.

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

6 Section 1625. The following license fees shall be due and
7 payable on or before March 1 of each ~~and every year beginning March~~
8 ~~1, 1981, to the Oklahoma Tax Commission except upon passage of this~~
9 ~~act, for a period of sixty (60) days after passage, any to the~~
10 Office of the State Fire Marshal. Any licensed manufacturer,
11 distributor or wholesaler permitted to sell fireworks at wholesale
12 or retail, pursuant to Section 1623 of this title, may apply for a
13 license.

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

- 18 a. proof of inspection by the State Fire Marshal pursuant
19 to Section 1633 of this title, and
- 20 b. proof of workers' compensation coverage pursuant to
21 the provisions of Title 85 of the Oklahoma Statutes.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 2. 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 distributor.

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

7 4. Any person operating a retail location where fireworks are
8 sold directly to the consumer shall be required to purchase a retail
9 fireworks license. The retail license fee shall be Ten Dollars
10 (\$10.00) annually and may be purchased from any licensed wholesaler,
11 manufacturer or distributor. These serially numbered licenses shall
12 be made available at any time to the licensed wholesalers,
13 manufacturers or distributors in books of twenty ~~(20)~~ licenses to a
14 book. Retail licenses which are unsold may be exchanged for new
15 licenses. Any person purchasing a retail fireworks license pursuant
16 to this paragraph shall, at the time of purchasing such license,
17 sign an affidavit attesting to the fact that the name, mailing
18 address and telephone number of the purchaser as it appears on such
19 license is correct and that the purchaser operates a retail location
20 where fireworks are sold directly to the consumer. Said affidavit
21 shall be an integral but easily detachable part of the application
22 form for a retail fireworks license. Any person who signs said
23 affidavit as required by this paragraph when such person knows that

1 it is not true, upon conviction, shall be guilty of the felony of
2 perjury and shall be punished as provided for by law.

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

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

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8 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND
9 FINANCIAL SERVICES, dated 03-24-2011 - DO PASS, As Amended and
Coauthored.

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