

1 ENGROSSED SENATE
2 BILL NO. 844

By: Anderson and Barrington of
the Senate

3 and

4 Armes of the House

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8 [fireworks displays - requiring licensing - certain
9 exemption - firework license fees - codification -
effective date]

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

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

16 A. The purpose of this act is to enact a licensing program for
17 outdoor display fireworks, pyrotechnic exhibitors and a
18 certification program for individuals conducting outdoor fireworks
19 displays in this state. The purpose of these programs is to ensure
20 a level of competence that promotes safety for the public, fire
21 service personnel, and fireworks display operators and their
22 employees and service personnel. It is not the purpose of this act
23 to regulate United States Department of Transportation Division 1.4

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1 common fireworks or consumer fireworks as defined by NFPA standards
2 or paragraph 2 of Section 1622 of Title 68 of the Oklahoma Statutes.

3 B. As used in this act:

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

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

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

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

3 5. "Distributor" means any person engaged in the business of
4 making sales of display fireworks as defined in paragraph 3 of
5 Section 1622 of Title 68 of the Oklahoma Statutes or materials to
6 Oklahoma-licensed or -permitted entities for the purpose of
7 providing fireworks, pyrotechnic or flame effect display services in
8 this state. A distributor may sell display fireworks only to
9 holders of an Oklahoma exhibitor's permit. An out-of-state
10 distributor shall not be required to obtain an Oklahoma license when
11 selling exclusively to a holder of an Oklahoma manufacturer,
12 distributor, or wholesaler license;

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

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

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

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

1 10. "NFPA 1126" means the NFPA publication entitled "NFPA 1126:
2 Standards for the Use of Pyrotechnics Before a Proximate Audience,"
3 2011 Edition or any subsequent edition that has been adopted by the
4 State Fire Marshal by rule;

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

7 12. "Proximate pyrotechnics" means pyrotechnic devices for
8 professional use only, used outdoors or indoors, that are similar to
9 consumer fireworks in chemical composition but that are not intended
10 for consumer use, and that are defined by NFPA 1126 as 1.4G or 1.4S
11 fireworks or pyrotechnics;

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

16 14. "Sponsor" means any person or organization which contracts
17 with a licensed entity, licensed distributor or licensed outdoor
18 display operator to conduct a fireworks display.

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

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

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1 B. To receive a licensed outdoor display operator license, an
2 applicant shall make application to the State Fire Marshal on a form
3 prescribed by the State Fire Marshal. An individual seeking a
4 license as a sole proprietor or on behalf of a business entity must
5 be at least twenty-one (21) years of age and not have been convicted
6 of or pled guilty or nolo contendere to any state or federal felony.
7 In the case of a business seeking a license, no officer or member of
8 its governing board may have been convicted of or pled guilty or
9 nolo contendere to any state or federal felony.

10 Nothing in this act shall be construed as applying to shipping,
11 sale, possession or use of display fireworks when displayed by
12 holders of a permit for a public display to be conducted in
13 accordance with the rules and regulations of the State Fire Marshal
14 Commission.

15 Applications for permits for display fireworks shall be
16 submitted in writing prior to the date of display to the Authority
17 Having Jurisdiction (AHJ) as defined by the NFPA 1123 where the
18 display is to occur. If the display is in an area outside the
19 jurisdiction of a municipality, application for the permit shall be
20 submitted in writing to the Office of the State Fire Marshal ten
21 (10) days prior to the date of the display. Every display shall be
22 under the direction of a competent, responsible, licensed outdoor
23 display operator, of legal age, and be conducted under the code of
24 regulations as adopted by the State Fire Marshal Commission. Before

1 a permit is granted, a local fire inspector or an agent of the State
2 Fire Marshal shall inspect and approve or reject the site of the
3 display. No permit so granted shall be transferable.

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

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

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

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

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

4 A. The State Fire Marshal may refuse to grant, or may suspend,
5 revoke, or refuse to renew, any license or certification held under
6 the provisions of this act. The provisions of the Administrative
7 Procedures Act shall govern all matters and procedures respective to
8 hearings and judicial review of any contested case arising under
9 this act.

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

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

20 A. The State Fire Marshal shall establish a program for
21 certification or licensure for outdoor display operators. To
22 receive certification or licensure, an individual shall apply for
23 certification or licensure to the State Fire Marshal on a form to be
24 prescribed by the State Fire Marshal, must be at least twenty-one

1 (21) years of age and not have been convicted of or pled guilty or
2 nolo contendere to any state or federal felony, and must show that
3 the applicant has worked under complete supervision on at least
4 three (3) displays in the three (3) years immediately preceding the
5 application.

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

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

13 A. It is unlawful for anyone other than a certified outdoor
14 display operator to conduct an outdoor display using only display
15 fireworks.

16 B. It is unlawful for any licensed outdoor display operator to
17 conduct an outdoor fireworks display except in accordance with NFPA
18 1123.

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

21 D. A violation of subsection A or B of this section shall be a
22 misdemeanor.

23 E. Notwithstanding any provision of the law to the contrary,
24 any municipality may adopt the provisions of subsections A and B of

1 this section by reference or substantial duplication as an ordinance
2 violation.

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

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

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

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

20 The State Fire Marshal shall administer and enforce the
21 provisions of this act and may call upon any federal, state, county,
22 or municipal officer or employee for assistance. The State Fire
23 Marshal may promulgate rules to carry out the responsibilities under
24 this act, including rules relative to:

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

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

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

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

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

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

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

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

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

1 affidavit as required by this paragraph when such person knows that
2 it is not true, upon conviction, shall be guilty of the felony of
3 perjury and shall be punished as provided for by law.

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

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

8 Passed the Senate the 14th day of March, 2011.

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Presiding Officer of the Senate

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12 Passed the House of Representatives the ____ day of _____,
13 2011.

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Presiding Officer of the House
of Representatives

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