

1 ENGROSSED SENATE
2 BILL NO. 64

By: Barrington and Shortey of
the Senate

3 and

4 Joyner of the House

5
6 An Act relating to aerial luminaries; making it
7 unlawful to sell, offer for sale, distribute,
8 possess, ignite or otherwise use aerial luminaries;
9 defining term; amending 68 O.S. 2011, Section 1628,
10 which relates to certain violations, penalties and
11 enforcement; providing penalties for certain
violations; providing for seizure and custody of
certain contraband; providing for certain appeal;
authorizing certain court to return or destroy
certain contraband; providing for codification; and
declaring an emergency.

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1624.1 of Title 68, unless there
17 is created a duplication in numbering, reads as follows:

18 A. It shall be unlawful to sell, offer for sale, distribute,
19 possess, ignite, or otherwise use aerial luminaries, commonly known
20 as sky lanterns, Hawaii lanterns, Knogming Lanterns, Chinese
21 lanterns, sky candles, fire balloons or flying luminaries.

22 B. As used in this section, "aerial luminary" means an airborne
23 paper lantern containing a small candle, or other device for fuel,
24 that heats air from inside the lantern causing the lantern to rise

1 into the air and remain airborne until the candle or other device
2 extinguishes.

3 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1628, is
4 amended to read as follows:

5 Section 1628. A. Violation of any provision of this act is a
6 misdemeanor punishable as follows:

7 ~~(a)~~ 1. Discharging fireworks or igniting aerial luminaries in
8 violation of this act shall be punishable by a fine not to exceed
9 One Hundred Dollars (\$100.00)~~;~~ and

10 ~~(b)~~ 2. Illegal sale, violation of licensing provision, false
11 labeling, or any other violation of this act shall be punishable by
12 a fine not to exceed One Thousand Dollars (\$1,000.00), ninety (90)
13 days' imprisonment in the county jail, or both. In the event of a
14 second conviction the license shall be revoked for a period of
15 eighteen (18) months. Each violation of this act shall constitute a
16 separate offense. No other person shall be granted a license to
17 operate in the same location during the period of a revoked license.

18 ~~(c)~~ B. The State Fire Marshal, his deputies, or any authorized
19 police or peace officer of this state shall seize as contraband any
20 illegal fireworks or aerial luminaries as defined under the terms of
21 this act. Fireworks or aerial luminaries seized in the enforcement
22 of this act shall be held in custody of the county sheriff in which
23 county such fireworks or aerial luminaries were seized. The party
24 surrendering the fireworks or aerial luminaries, if aggrieved by the

1 action, may file an appeal in writing to the district court in the
2 county where fireworks or aerial luminaries were seized. Upon
3 hearing the appeal, the district court may authorize the return of
4 part or all of the confiscated fireworks or aerial luminaries;
5 otherwise, the court shall authorize and direct that such contraband
6 fireworks or aerial luminaries be destroyed.

7 ~~(d)~~ C. The provisions of this act shall be enforced by the
8 State Fire Marshal and local fire marshals, the sheriff, the police
9 or any peace officer licensed or authorized by this state or by
10 their respective deputies.

11 SECTION 3. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 Passed the Senate the 18th day of February, 2013.

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Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2013.

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23 Presiding Officer of the House
24 of Representatives