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February 7, 2013

SENATE BILL NO. 64

By: Barrington and Shortey of  
the Senate

and

Joyner of the House

An Act relating to aerial luminaries; making it unlawful to sell, offer for sale, distribute, possess, ignite or otherwise use aerial luminaries; defining term; amending 68 O.S. 2011, Section 1628, which relates to certain violations, penalties and 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.

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

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

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

B. As used in this section, "aerial luminary" means an airborne paper lantern containing a small candle, or other device for fuel,

1 that heats air from inside the lantern causing the lantern to rise  
2 into the air and remain airborne until the candle or other device  
3 extinguishes.

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

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

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

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

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

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 2-7-13 - DO  
17 PASS.  
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