

OKLAHOMA

68-1621. Purpose and intent of act.

The purpose and intent of this act is to establish orderly sales, use and storage of fireworks, to specify conditions of sales and licensing provisions, to prohibit certain fireworks, to provide for seizure and disposition of illegal fireworks and to establish penalties for violations.

68-1622. Definitions.

As used in Section 1621 et seq. of this title:

1. "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and which are further described as Consumer Fireworks 1.4G, Display Fireworks 1.3G, Articles, Pyrotechnic 1.4G or 1.4S as defined by the United States Department of Transportation (DOT) Title 49, CFR. The term "consumer fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares and model rockets or any novelty. This provision shall not impose labeling requirements for any fireworks or novelties other than those required under federal law;

2. "Consumer Fireworks" means any devices suitable for use by the public that conform with the requirements of the United States Consumer Products Safety Commission (CPSC) and are designed primarily to produce visible effects by combustion, and some small devices designed to produce an audible effect;

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

4. "Manufacturer" means any person engaged in the making or constructing of fireworks;

5. "Novelty" means a device containing small amounts of pyrotechnic and/or explosive composition. Such devices produce limited visible or audible effects. These items must be approved by the United States Department of Transportation (DOT) or have been deregulated by DOT;

6. "Distributor" means any person who sells fireworks and novelties to other distributors, wholesalers or retailers for resale or provides them as part of a pyrotechnic display service in the State of Oklahoma;

7. "Wholesaler" means any person who purchases fireworks and novelties for resale only to retailers and consumers;

8. "Retailer" means any person who purchases fireworks and novelties for resale to consumers only. A retailer who sells fireworks to the consumer buys only an Oklahoma Retail License and may purchase merchandise in or out of the state as long as the retailer buys from a person that has a legal license to do business in the State of Oklahoma; and

9. "Person" means any corporation, association, partnership or one or more individuals.

68-1623. Conditions for storage, transportation, sale, and use.

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

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

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

D. Fireworks shall not be sold or displayed to the public within any building or portion thereof or any vehicle which allows entry by any persons other than employees within such building or vehicle unless the fireworks are kept where they cannot be reached or handled by those persons. An enclosed building used for sale of fireworks to the public shall be built according to the International Building Code (IBC) 2006 Edition and/or the codes and standards adopted by the State Fire Marshal Commission or the Oklahoma Uniform Building Code Commission. The use of tents or other nonrigid shelters for the sale or storage of fireworks where the public may move about under or within the confines of a shelter is prohibited.

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

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

68-1624. Certain fireworks prohibited-Labeling of fireworks.

A. From and after July 5, 1981, the sale, gift, distribution or use of skyrockets with sticks as defined by the United States Consumer Product Safety Commission is hereby prohibited within the State of Oklahoma. This prohibition shall include, but is not limited to, explosive devices commonly known as "bottlerockets" or "stickrockets". Distribution, gift or sale from Oklahoma to a person outside the State of Oklahoma shall not be considered as occurring within the State of Oklahoma.

B. Any and all items of Consumer Fireworks not properly labeled according to the United States Consumer Product Safety Commission and identified with the appropriate United States Department of Transportation markings is prohibited under the provisions of Section 1621 et seq. of this title.

68-1625. License fees.

The following license fees shall be due and payable on or before March 1 of each and every year beginning March 1, 1981, to the Oklahoma Tax Commission except upon passage of this act, for a period of sixty (60) days after passage, any licensed manufacturer, distributor or wholesaler permitted to sell fireworks at wholesale or retail, pursuant to Section 1623 of this title, may apply for a license.

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

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

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

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

4. Any person operating a retail location where fireworks are sold directly to the consumer shall be required to purchase a retail fireworks license. The retail license fee shall be Ten Dollars (\$10.00) annually and may be purchased from any licensed wholesaler, manufacturer or distributor. These serially numbered licenses shall be made available at any time to the licensed wholesalers, manufacturers or distributors in books of twenty (20) licenses to a book. Retail licenses which are unsold may be exchanged for new licenses. Any person purchasing a retail fireworks license pursuant to this paragraph shall, at the time of purchasing such license, sign an affidavit attesting to the fact that the name, mailing address and telephone number of the purchaser as it appears on such license is correct and that the purchaser operates a retail location where fireworks are sold directly to the consumer. Said affidavit shall be an integral but easily detachable part of the application form for a retail fireworks license. Any person who signs said affidavit as required by this paragraph when such person knows that it is not true, upon conviction, shall be guilty of the felony of perjury and shall be punished as provided for by law.

68-1625.1. Certain persons to deliver license copies to Tax Commission.

A. Any wholesaler, manufacturer or distributor who sells retail fireworks licenses, pursuant to paragraph (d) of Section 1625 of Title 68 of the Oklahoma Statutes, shall deliver to the Tax Commission on January 31 and July 31 of each calendar year all copies of retail fireworks licenses which such wholesaler, manufacturer or distributor has issued during the preceding six month period.

B. If the license copies are not delivered to the Tax Commission on January 31 and July 31 of each calendar year, an additional penalty of Five Dollars (\$5.00) shall accrue for each day thereafter that said license copies are not delivered pursuant to the provisions of this section.

68-1626. Collection and disposition of fees.

All license fees specified in Section 1625 of this title shall be collected by the Oklahoma Tax Commission and shall be paid to the State Treasurer of the State of Oklahoma, to be placed to the credit of the General Revenue Fund of the State Treasury.

68-1627. Necessity for licenses, Unlawful sales, Unlawful discharging.

(a) No person shall knowingly sell, purchase or deliver, or cause to be sold, purchased or delivered, fireworks for resale to any other person who does not possess a valid license under this act. It shall be unlawful for a distributor, wholesaler or retailer, licensed under this act, to purchase fireworks from any person, unless the distributor, wholesaler or retailer determines that the person holds a valid distributor's, wholesaler's or manufacturer's license under this act. All retail sales outlets shall have a current retail license. The license shall be conspicuously posted in the immediate vicinity of the sales operation and shall be immediately available for examination by the public or any enforcement officer. No license provided for herein shall be transferable nor shall any person be permitted to operate under a license granted to another person.

(b) It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of twelve (12) years, unless accompanied by an adult, or to any intoxicated or irresponsible person.

(c) It shall be unlawful to explode or ignite fireworks within five hundred (500) feet of any church, hospital, asylum, unharvested, flammable agricultural crop, public school or where fireworks are stored, sold or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle; nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle or at or near any group of people.

68-1628. Violations and penalties, Contraband, Enforcement.

Violation of any provision of this act is a misdemeanor punishable as follows:

(a) Discharging fireworks in violation of this act shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00).

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

(c) The State Fire Marshal, his deputies, or any authorized police or peace officer of this state shall seize as contraband any illegal fireworks as defined under the terms of this act. Fireworks seized in the enforcement of this act shall be held in custody of the county sheriff in which county such fireworks were seized. The party surrendering the fireworks, if aggrieved by the action, may file an appeal in writing to the district court in the county where fireworks were seized. Upon hearing the appeal, the district court may authorize the return of part or all of the confiscated fireworks; otherwise, the court shall authorize and direct that such contraband fireworks be destroyed.

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

68-1631. Minimum requirements-Additional regulation by city ordinance.

The provisions of this act shall be construed as imposing minimum requirements and shall not be construed as prohibiting any city or town within the State of Oklahoma from passing such ordinances as may be deemed necessary to properly regulate or prohibit the sale and use of fireworks within its corporate limits.

68-1634. Sales tax on fireworks.

Any sale of fireworks to a consumer by a wholesaler or a retailer shall be subject to the levy and collection of sales tax pursuant to the provisions of the Oklahoma State Tax Code.