

HOUSE BILL No. 2888

By Committee on Appropriations

2-16

9 AN ACT concerning fireworks; enacting the Kansas fireworks act.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) Section 1 through section 14, and amendments
13 thereto, shall be known and may be cited as the “Kansas fireworks act”.

14 (b) This act shall be administered by the state fire marshal.

15 Sec. 2. As used in this act, unless the context otherwise requires: (a)
16 “Common fireworks” or “class C fireworks” means fireworks which are
17 designed primarily to be used by a consumer to produce visible effects
18 by combustion.

19 (1) Common fireworks includes any:

20 (A) Small device which contains not more than two grains of pyro-
21 technic compositions designed to produce an audible effect. Propelling
22 or expelling charges consisting of a mixture of sulfur, charcoal, and po-
23 tassium nitrate (saltpeter) are not considered to produce an audible effect.

24 (B) Cylindrical fountain whose total pyrotechnic composition shall
25 not exceed 75 grams in weight and whose inside diameter shall not exceed
26 .75 inch.

27 (C) Cone fountain whose total pyrotechnic composition shall not ex-
28 ceed 50 grams in weight;

29 (D) Wheel whose:

30 (i) Total pyrotechnic composition shall not exceed 60 grams for each
31 driver unit or 240 grams for the complete wheel; and

32 (ii) inside tube diameter of each driver unit shall not exceed ½ inch.

33 (E) Ground spinner, illuminating torch, sparkler, or any other fire-
34 work or similar device as defined by rules and regulations adopted by the
35 state fire marshal.

36 (2) Common fireworks does not include any device designed primar-
37 ily to produce visual or audible effects by combustion which, upon func-
38 tioning, projects, expels or disburses any metal, glass or brittle plastic
39 fragments.

40 (b) “Commercial fireworks” means class B fireworks which include
41 pyrotechnic materials and devices capable of producing a special effect
42 visually or audibly used for entertainment purposes, often produced to
43 create an illusion.

- 1 (c) “Display operator” means a person licensed to operate a display
2 of commercial or class B fireworks.
- 3 (d) “Display wholesaler” means any person, including a manufac-
4 turer, who:
- 5 (1) Is licensed as a fireworks display operator under the provisions of
6 this act; and
- 7 (2) sells, delivers, consigns, gives or otherwise furnishes commercial
8 fireworks to any person authorized by this act to discharge commercial
9 fireworks in Kansas.
- 10 (e) “Exporter” means any person, including a manufacturer, who:
- 11 (1) Is licensed as a fireworks display operator under the provisions of
12 section 5, and amendments thereto; and
- 13 (2) sells, delivers, consigns, gives or otherwise furnishes fireworks for
14 export outside of the state of Kansas.
- 15 (f) “Fireworks” means any article, device or substance prepared for
16 the primary purpose of producing a visual or auditory sensation by com-
17 bustion, explosion, deflagration or detonation.
- 18 (1) Fireworks includes common fireworks and commercial fireworks.
- 19 (2) Fireworks does not include:
- 20 (A) Toy caps which do not contain more than .25 grains of explosive
21 compound per cap.
- 22 (B) Highway flares, railroad fuses, ship distress signals, smoke candles
23 and other emergency signal devices.
- 24 (C) Educational rockets and toy propellant device type engines used
25 in such rockets when such rockets:
- 26 (i) Are constructed using nonmetallic substances; and
- 27 (ii) utilize replaceable engines or model cartridges designed to be
28 ignited by electrical means and which contain less than two ounces of
29 propellant.
- 30 (D) Fireworks which are used in testing or research by a licensed
31 explosives laboratory.
- 32 (g) “Local authority” means the duly authorized fire department, po-
33 lice department or sheriff’s department of a local jurisdiction.
- 34 (h) “Manufacturer” means any person who manufactures, makes,
35 constructs or produces fireworks.
- 36 (i) “Permitted fireworks” means common or class C fireworks.
- 37 (j) “Person” includes an individual, partnership, firm, company, as-
38 sociation, corporation or governmental entity.
- 39 (k) “Retailer” means any person who sells, delivers, consigns or fur-
40 nishes permitted fireworks to another person not for resale.
- 41 (l) “Storage” means the possession of fireworks for safe custody,
42 where the safekeeping is the principal object of deposit and not the con-
43 sumption or sale.

1 (m) "Wholesaler" means any person, including a manufacturer, who
2 is licensed under section 4, and amendments thereto, and who sells, de-
3 livers, consigns, gives or otherwise furnishes commercial fireworks to a
4 licensed fireworks display operator in Kansas.

5 Sec. 3. (a) Except as otherwise provided in this act, it shall be unlaw-
6 ful for any person:

7 (1) To knowingly furnish, by gift, sale, or any other means, to any
8 other person who is under 16 years of age any fireworks, including per-
9 mitted fireworks.

10 (2) Who is under 16 years of age to purchase any fireworks, including
11 permitted fireworks.

12 (b) No provision of this section shall be construed to prohibit any city
13 or county from enacting any ordinance or resolution which prohibits a
14 person under 16 years of age from purchasing any fireworks.

15 (c) Any person who sells or offers to sell any fireworks, including
16 permitted fireworks, shall display a warning sign. The warning sign shall:

17 (1) Be displayed in a prominent place on the premises at all times;

18 (2) have a minimum height of eight and one-half inches, a minimum
19 width of 11 inches, and shall read as follows:

20 **WARNING**

21 **IT IS ILLEGAL FOR ANY PERSON UNDER SIXTEEN YEARS**
22 **OF AGE TO PURCHASE ANY FIREWORKS. VIOLATORS MAY BE**
23 **PUNISHED BY A FINE OF UP TO _____, BY IMPRISONMENT FOR**
24 **UP TO SIX MONTHS, OR BY BOTH SUCH FINE AND**
25 **IMPRISONMENT.**

26 (d) Except as otherwise provided in this act, it shall be unlawful for
27 any person to possess or discharge any commercial fireworks anywhere
28 in this state.

29 (e) At all times that it is lawful for any person over the age of 16 years
30 to possess and discharge permitted fireworks, it shall also be lawful for a
31 person under the age of 16 years to possess and discharge permitted
32 fireworks when such person does so under adult supervision.

33 (f) No provision of this act shall prevent or regulate the:

34 (1) Use of fireworks by railroads or other transportation agencies for
35 signal purposes or illumination.

36 (2) Sale or use of blank cartridges for:

37 (A) As part of a show or theater presentation;

38 (B) signal or ceremonial purposes in athletics or sports; or

39 (C) use by military organizations.

40 (3) Sale, purchase, possession or use for agricultural purposes of
41 fireworks distributed by the division of wildlife in the department of wild-
42 life and parks for agricultural purposes under conditions approved by such
43 department.

1 (4) Sale, delivery, consignment, gift or furnishing of fireworks among
2 fireworks display operators licensed under this act.

3 Sec. 4. (a) No provision of this act shall prohibit any city or county
4 from imposing any additional or more restrictive requirements regarding
5 the storage or use of commercial fireworks.

6 (b) No provision of this act shall prohibit any city or county from
7 imposing any further regulation of or prohibition upon the sale, use and
8 possession of permitted fireworks.

9 (c) No city or county shall permit or authorize the sale, use or pos-
10 session of any fireworks in any manner which violates any provision of
11 this act or any rule and regulation promulgated thereunder.

12 Sec. 5. (a) It shall be unlawful for any person who has not been issued
13 a fireworks display operator license to:

14 (1) Possess, sell, offer for sale, expose for sale or possess with intent
15 to sell any commercial fireworks;

16 (2) sell, deliver, consign, give or furnish commercial fireworks to any
17 person authorized by this section to discharge commercial fireworks in
18 Kansas; or

19 (3) participate in the performance of an indoor or outdoor fireworks
20 display except that a person over the age of 18 years may assist in an
21 indoor or outdoor fireworks display under the direct supervision of a
22 licensed fireworks display operator.

23 (b) Each application for a fireworks display operator license shall be
24 filed with the state fire marshal at least 30 days before the start of activities
25 for which the license is required. Each fireworks display operator's license
26 shall be valid for a period of four years from the date the license was
27 issued.

28 (c) An application for a fireworks display operator license shall be
29 made on a form and in the manner prescribed by the Kansas state fire
30 marshal.

31 (d) Each application for a fireworks display operator license shall be
32 accompanied by a nonrefundable fee in the amount of \$50. The state fire
33 marshal is hereby authorized to adjust the amount of such fee by rule
34 and regulation, except that such fee shall not exceed \$100.

35 (e) Each applicant for a fireworks display operator license shall fur-
36 nish evidence satisfactory to the Kansas state fire marshal that the
37 applicant:

38 (1) Is at least 21 years of age;

39 (2) has passed a comprehensive written examination covering state
40 statutes, regulations and standards pertaining to the display of fireworks
41 and safety practices in the discharge of fireworks; and

42 (3) has actively participated in the performance of at least five out-
43 door and/or indoor fireworks displays within the preceding four years

1 under the direct supervision of a licensed fireworks display operator.

2 Sec. 6. (a) The state fire marshal may deny, suspend, revoke or refuse
3 renewal of any license or permit issued under this act if the state fire
4 marshal finds that the applicant or permit holder has:

5 (1) Violated any provision of the Kansas fire prevention code, K.S.A.
6 31-132 et seq. and amendments thereto or any rule and regulation
7 adopted thereunder.

8 (2) Been convicted of any felony.

9 (3) Failed, neglected or refused to provide direct supervision over
10 any unlicensed person who assisted in the performance of a fireworks
11 display.

12 (4) Was negligent in providing direct supervision over any unlicensed
13 person who assisted in the performance of a fireworks display.

14 (5) Provided false information in conjunction with an application for
15 a license issued under this act.

16 (6) Made any misrepresentation in conjunction with an application
17 for a license issued under this act.

18 (7) Violated any provision of this act or any rule and regulation prom-
19 ulgated thereunder.

20 (b) In any case involving the denial, suspension, revocation or refusal
21 to renew any license or permit issued under this act, the state fire marshal
22 shall promptly notify the applicant or holder of such license or permit.
23 Such notification shall specify the basis for proposed action and shall state
24 that, upon written request by the applicant or holder, a hearing before
25 the state fire marshal will be held within 30 days after the date of the
26 request.

27 (c) Any action taken under this section which affects any license or
28 permit issued under this act shall be taken only after notice and an op-
29 portunity for a hearing conducted in accordance with the provisions of
30 the Kansas administrative procedures act.

31 (d) Upon notice of the denial, suspension, revocation or refusal to
32 renew any license or permit, the holder thereof shall immediately sur-
33 render to the state fire marshal the affected license or permit and all
34 copies thereof.

35 Sec. 7. (a) It shall be unlawful for any person not licensed as a
36 fireworks display operator to bring, or cause to be brought, any commer-
37 cial fireworks into this state.

38 (b) Any person who stores or discharges commercial fireworks pur-
39 suant to this act shall keep available for inspection by local authorities a
40 copy of each invoice for such fireworks purchased as long as any such
41 fireworks included on the invoice are held in such person's possession.
42 Such invoice shall show the license number of the wholesaler from whom
43 such fireworks were purchased.

1 Sec. 8. (a) It shall be unlawful for any person to export fireworks
2 from the state of Kansas unless:

3 (1) Such fireworks are transported in accordance with the regulations
4 of the United States department of transportation regulating the trans-
5 portation of explosives, fireworks and other dangerous articles by motor,
6 rail, air and water; and

7 (2) the exporter obtains from each person transporting such
8 fireworks, a signed bill of lading which shows the quantity and types of
9 fireworks transported and the recipient's full legal name and address.

10 (b) The bills of lading required by this section shall be retained by
11 the exporter for a period of three years from the date of such sale.

12 Sec. 9. All fireworks shall be stored in accordance with the provisions
13 of:

14 (a) The provisions of any statute administered by the state fire
15 marshal;

16 (b) any rule and regulation adopted by the state fire marshal; or

17 (c) any building or fire code adopted by any city or county, whichever
18 is more restrictive.

19 Sec. 10. (a) The local authorities, the state fire marshal, any deputy
20 state fire marshal, any law enforcement official, or any fire department
21 or fire district shall seize, take and remove, at the expense of the owner,
22 all stocks of fireworks, including permitted fireworks, offered or exposed
23 for sale, stored or held in violation of this article.

24 (b) Any person whose fireworks are seized may petition the seizing
25 entity for the return of the illegally or erroneously seized fireworks.

26 Sec. 11. Any person who violates any provision of this act or rule and
27 regulation promulgated thereunder, shall be guilty of a class B misde-
28 meanor. If the violation involves the potential for bodily harm, the person
29 shall be deemed guilty of a class A misdemeanor. Each separate violation
30 shall constitute a separate offense.

31 Sec. 12. In the administration of this act:

32 (a) All fees collected pursuant to this act shall be transmitted to the
33 state treasurer who shall credit the same to the state fire marshal fee
34 fund.

35 (b) The state fire marshal shall set fees pursuant to this article at such
36 rates as are necessary to provide for the direct and indirect costs and
37 expenses of the office of the state fire marshal in the administration of
38 this article. Such rates shall be reviewed annually by the state fire marshal.

39 (c) (1) The state fire marshal shall promulgate rules and regulations
40 necessary to implement the provisions of this article. Such rules and reg-
41 ulations may include requirements which are reasonably necessary for the
42 safety of workers and the public and the protection of property.

43 (2) All rules and regulations of the state fire marshal pertaining to

1 fireworks regulated by this act in existence on the effective date of this
2 act shall continue to be effective until revised, amended, revoked or nul-
3 lified pursuant to law.

4 Sec. 13. The district courts of the state of Kansas shall have jurisdic-
5 tion to restrain violations of this act or the rules and regulations prom-
6 ulgated thereunder. The court may issue such orders, including tempo-
7 rary restraining orders, as the facts may warrant without first requiring
8 proof that an adequate remedy at law does not exist. Any orders issued
9 pursuant to this section shall be issued without bond. Proceedings may
10 be instituted under this section without any criminal proceedings, admin-
11 istrative proceedings or civil penalty proceedings being first initiated.

12 Sec. 14. The state fire marshal may issue subpoenas for a witness or
13 any material that is relevant to the administration of this act. The state
14 fire marshal may issue subpoenas to compel the attendance of witnesses
15 and/or production of books, documents and records anywhere in the state
16 in any hearing held under the provisions of this act.

17 Sec. 15. This act shall take effect and be in force from and after its
18 publication in the statute book.