

SENATE BILL No. 199

AN ACT concerning fire protection; relating to the fallen firefighters memorial; designating the existing fallen firefighters memorial within the Kansas firefighters museum in Wichita as the official fallen firefighters memorial of the state of Kansas; creating the Kansas fallen firefighters memorial council; abolishing the existing Kansas firefighters memorial advisory committee and transferring such committee's powers, duties, functions, records and other property to the newly created council; requiring expenditures from the Kansas fallen firefighters memorial fund for the purposes of constructing, updating and repairing the memorial and allowing expenditures to be made for other purposes related to memorializing and honoring Kansas firefighters; relating to fireworks; defining the fireworks sales season for seasonal retailers of consumer fireworks and providing for year-round sales by permanent retailers of consumer fireworks; requiring registration with the state fire marshal by permanent retailers; creating the license categories of distributor of display fireworks, distributor of articles pyrotechnic and unlimited distributor; limiting lawful sale of fireworks labeled "For Professional Use Only" to certain license categories; amending K.S.A. 31-502, 31-503 and 75-36,102 and repealing the existing sections; also repealing K.S.A. 75-36,103.

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

New Section 1. The Kansas firefighters memorial advisory committee is hereby abolished, and all powers, duties, functions, records and other property of the Kansas firefighters memorial advisory committee are hereby transferred to the Kansas fallen firefighters memorial council created by section 2, and amendments thereto.

New Sec. 2. (a) There is hereby established the Kansas fallen firefighters memorial council, which shall be composed of nine members as follows:

- (1) A representative of the Kansas state firefighters association appointed by the governor;
- (2) a representative of the Kansas state association of fire chiefs appointed by the governor;
- (3) a representative of the Kansas firefighters museum appointed by the governor;
- (4) a representative of the Kansas council of firefighters appointed by the governor;
- (5) a representative of the Wichita park board appointed by the governor;
- (6) a representative of the Kansas state funeral assistance team appointed by the governor;
- (7) a representative of the fire marshal's association of Kansas appointed by the governor;
- (8) the state fire marshal or the marshal's designee; and
- (9) the executive director of the Kansas state historical society or the executive director's designee.

(b) The council shall make recommendations to the governor and the legislature regarding appropriate activities memorializing or commemorating the services of firefighters in Kansas, including, but not limited to, recommendations concerning the updating and repairing of the fallen firefighters memorial pursuant to K.S.A. 75-36,102, and amendments thereto. The council may solicit grants, gifts, contributions and bequests for the memorial and shall remit all moneys so received for deposit in the state treasury to the credit of the Kansas firefighters memorial fund in accordance with K.S.A. 75-36,102, and amendments thereto.

(c) The members of the council shall organize annually by electing a chairperson and vice chairperson. The council shall meet at least once each year upon the call of the chairperson. The secretary of administration, or the secretary's designee, shall serve as secretary for the council. Members of the council appointed by the governor under this section shall serve at the pleasure of the governor.

Sec. 3. K.S.A. 31-502 is hereby amended to read as follows: 31-502. As used in this act, unless the context otherwise requires:

- (a) ~~"Licensed display fireworks operator" means a person licensed~~

to operate an outdoor display of display fireworks.

~~(b) "Licensed proximate pyrotechnic operator" means a person licensed to operate indoor or outdoor articles of pyrotechnic.~~

~~(c) "Manufacturer" means any person engaged in the manufacture of fireworks of any kind in the state of Kansas. Manufacturer shall also include any person engaged in the assembly of consumer fireworks or component parts into a finished item or assortment, but shall not include repackaging finished goods into an assortment.~~

~~(d) "Distributor" means any person engaged in the distribution of fireworks of any kind in the state of Kansas to include the following:~~

~~(1) Sells, delivers, transports, consigns, gives, imports, exports or otherwise furnishes consumer fireworks to any person for the purpose of resale to a retailer or any other distributor or reseller within the state of Kansas;~~

~~(2) sells, intends to sell, offer for sale, possess with intent to sell or consigns display fireworks or articles pyrotechnic to any person, distributor, municipality or any other organization within the state of Kansas; or~~

~~(3) produces, conducts or provides a licensed operator or imports any display fireworks or articles pyrotechnic of any kind within the state of Kansas for profit.~~

~~(e) "Distributor" shall not include:~~

~~(1) Anyone who transports fireworks from one state to another state through the state of Kansas and such fireworks ultimate destination is not within the state of Kansas;~~

~~(2) anyone who sells consumer fireworks during a fireworks season as a seasonal retailer;~~

~~(3) freight delivery companies or common carriers as defined in U.S. department of transportation 49 C.F.R. § 171.8; or~~

~~(4) an out-of-state person who sells, transports, delivers or gives fireworks to a licensed manufacturer or distributor.~~

~~(f) "Hobbyist manufacturer" means any person who manufactures consumer fireworks, display fireworks or articles pyrotechnic for their personal use.~~

~~(g) "Person" means any individual, partnership, firm, company, association, corporation, not-for-profit organization, municipality or limited liability corporation.~~

~~(h) "Seasonal retailer" means a person who receives consumer fireworks and sells, delivers, consigns, gives or otherwise furnishes consumer fireworks only to the public for their personal use and only during a fireworks season.~~

~~(i) "Storage" means the safekeeping of fireworks in a warehouse or magazine or comparable appropriate depository. Consumer fireworks that are located at the destination of their retail sale and that are being held in anticipation of retail sale shall not be considered as in storage.~~

~~(j) "Fireworks season" means a period in time as set forth in the regulations authorized to be adopted by the state fire marshal during a calendar year in which seasonal retailers are permitted to sell consumer fireworks to the public.~~

~~(k) "Fireworks display" means a private or public production of display fireworks or articles pyrotechnic, or both, which are intended for use and designed to produce visible or audible effects for entertainment purposes by combustion, deflagration or detonation.~~

~~(a) (1) "Distributor of display fireworks" means any person engaged in the distribution of display fireworks in the state of Kansas, including:~~

~~(A) Selling, intending to sell, offering for sale, possessing with intent to sell or consigning display fireworks to any person, distributor,~~

municipality or any other organization within the state of Kansas; or

(B) producing, conducting or providing to a licensed operator or importing any display fireworks of any kind within the state of Kansas for profit.

(2) "Distributor of display fireworks" does not include the exclusions set forth in the definition of "unlimited distributor."

(b) (1) "Distributor of articles pyrotechnic" means any person engaged in the distribution of articles pyrotechnic in the state of Kansas, including:

(A) Selling, intending to sell, offering for sale, possessing with intent to sell or consigning articles pyrotechnic to any person, distributor, municipality or any other organization within the state of Kansas; or

(B) producing, conducting or providing to a licensed operator or importing any articles pyrotechnic of any kind within the state of Kansas for profit.

(2) "Distributor of display fireworks" does not include the exclusions set forth in the definition of "unlimited distributor."

(c) "Fireworks display" means a private or public production of display fireworks or articles pyrotechnic, or both, that are intended for use and designed to produce visible or audible effects for entertainment purposes by combustion, deflagration or detonation.

(d) "Hobbyist manufacturer" means any person who manufactures consumer fireworks, display fireworks or articles pyrotechnic for their personal use.

(e) "Licensed display fireworks operator" means a person licensed to operate an outdoor display of display fireworks.

(f) "Licensed proximate pyrotechnic operator" means a person licensed to operate indoor or outdoor articles pyrotechnic.

(g) "Manufacturer" means any person engaged in the manufacture of fireworks of any kind in the state of Kansas. "Manufacturer" includes any person engaged in the assembly of consumer fireworks or component parts into a finished item or assortment but does not include repackaging finished goods into an assortment.

(h) "Permanent retailer" means any person engaged in the year-round retail sale of consumer fireworks, including the receipt and possession with intent to sell of consumer fireworks and the retail sale, delivery, consignment, gifting or other distribution at retail of consumer fireworks to any person from a permanent structure at a permanent location within this state.

(i) "Person" means any individual, partnership, firm, company, association, corporation, not-for-profit organization, municipality or limited liability corporation.

(j) "Seasonal retailer" means a person who receives consumer fireworks and sells, delivers, consigns, gives or otherwise furnishes consumer fireworks only to the public for their personal use and only during the period of June 20 through July 7 of a calendar year.

(k) "Storage" means the safekeeping of fireworks in a warehouse or magazine or comparable appropriate depository. Consumer fireworks that are located at the destination of their retail sale and being held in anticipation of retail sale are not considered as in "storage."

(l) (1) "Unlimited distributor" means any person engaged in the distribution of fireworks of any kind in the state of Kansas, including:

(A) Selling, delivering, transporting, consigning, giving, importing, exporting or otherwise furnishing consumer fireworks to any person for the purpose of reselling to a retailer or any other distributor or reseller within the state of Kansas;

(B) selling, intending to sell, offering for sale, possessing with

intent to sell or consigning display fireworks or articles pyrotechnic to any person, distributor, municipality or any other organization within the state of Kansas; or

(C) producing, conducting or providing a licensed operator or importing any display fireworks or articles pyrotechnic of any kind for profit within the state of Kansas.

(2) "Unlimited distributor" does not include:

(A) Any person who transports fireworks from one state to another state through the state of Kansas and such fireworks' ultimate destination is not within the state of Kansas;

(B) any person who sells consumer fireworks during the period of June 20 through July 7 of a calendar year as a seasonal retailer;

(C) any person who sells consumer fireworks year-round as a permanent retailer;

(D) freight delivery companies or common carriers as defined in U.S. department of transportation 49 C.F.R. § 171.8; or

(E) an out-of-state person who sells, transports, delivers or gives fireworks to a licensed manufacturer or distributor.

Sec. 4. K.S.A. 31-503 is hereby amended to read as follows: 31-503. (a) Any person who intends to sell, offer for sale, possess with intent to sell, any consumer fireworks, display fireworks or articles pyrotechnic or discharge, use, display fireworks or articles pyrotechnic shall first obtain the appropriate license from the state fire marshal. This shall not include seasonal retailers.

(b) The types of license shall be as follows:

(1) Manufacturer;

(2) hobbyist manufacturer;

(3) distributor of display fireworks;

(4) distributor of articles pyrotechnic;

(5) unlimited distributor;

~~(4)~~(6) display fireworks operator; and

~~(5)~~(7) proximate pyrotechnic operator.

(c) *It shall be unlawful for any person to possess, purchase, sell or offer for sale fireworks labeled "For Professional Use Only" that is not a current licensee and in physical possession of a license, issued by the state fire marshal, as a:*

(1) Manufacturer;

(2) hobbyist manufacturer;

(3) distributor of display fireworks;

(4) distributor of articles pyrotechnic;

(5) unlimited distributor;

(6) display fireworks operator; or

(7) proximate pyrotechnic operator.

(d) Before a license holder may operate, such license holder ~~must~~ shall satisfy the requirements of this act and regulations adopted by the state fire marshal.

~~(d)~~(e) The license holder shall be at least 21 years of age upon applying for a license.

~~(e)~~(f) Licenses shall not be transferable.

~~(f)~~(g) The state fire marshal shall not charge or collect fees for licensure. The licenses shall be valid for the following period of time:

(1) A manufacturer license shall be valid for a period of one year. A holder of a manufacturer license is not required to have any additional licenses in order to manufacture and sell any fireworks defined by this act.

(2) A hobbyist manufacturer license shall be valid for a period of four years.

(3) A distributor license shall be valid for a period of one year.

(4) A display fireworks operator license shall be valid for a period

of four years.

(5) A proximate pyrotechnics operator license shall be valid for a period of four years.

~~(g)~~(h) A permit to conduct a fireworks display shall be obtained by the sponsor or operator of a fireworks display from and approved by the city or county where the fireworks display is to be discharged.

~~(h)~~(i) No fee shall be charged for a license or permit under this section for any person who is an officer or employee of the state or any political or taxing subdivision of the state when that person is acting on behalf of the state or political or taxing subdivision.

(j) *All retail sales or transfers of consumer fireworks shall be made by a registered permanent retailer or a seasonal retailer at a physical location.*

(k) *Any person who intends to sell consumer fireworks at retail as a permanent retailer shall register annually as a permanent retailer with the state fire marshal. Such registration shall entitle the person to engage in the possession for purposes of retail sale, delivery, consignment, gifting or other distribution at retail of consumer fireworks to any person as a permanent retailer, subject to the provisions, limitations and requirements of this act and regulations of the state fire marshal for a permanent retailer. Registration shall be effective for one year from the date of registration. Registration shall be made in the form and manner as determined by the state fire marshal. Registration requirements shall include submission by a registrant of permanent business contact information, the address of the physical location or locations that retail sales will occur, the time period or periods sales will occur and any other information that may be required by the state fire marshal.*

(l) *The state fire marshal shall adopt rules and regulations as necessary for the purpose of implementing the provisions of subsections (c), (j) and (k).*

Sec. 5. K.S.A. 75-36,102 is hereby amended to read as follows:

~~75-36,102. (a) There shall be placed on state property within the state capitol plaza area a memorial to Kansas firefighters who have lost their lives in the line of duty in the service of the state. Such memorial shall be located at a site to be selected by the director. Such memorial shall be constructed in accordance with the design and architectural drawings approved by the director. The memorial shall be of such a design that the names of the firefighters to be honored, both past and future, may be inscribed thereon. The fallen firefighters memorial adjacent to the Kansas firefighters museum at 1300 S. Broadway Wichita, KS 67211, is hereby designated as the official fallen firefighters memorial within the state of Kansas. Annually, the director shall cause annually the name or names of any firefighters who have lost their lives in the line of duty in the service of the state to be inscribed upon the memorial. The memorial for Kansas firefighters is subject to the provisions, procedures and approvals required under K.S.A. 75-36,102 through 75-36,106, and amendments thereto, except that such memorial for Kansas firefighters is hereby authorized by the legislature for purposes of subsection (b) of K.S.A. 75-36,106, and amendments thereto.~~

(b) It shall be the duty of the state fire marshal on or before the 15th day of March of each year to notify the secretary of administration of the name or names of any firefighters who *have* lost their lives in the line of duty during the preceding calendar year. The state fire marshal shall ~~assemble~~ *gather* the necessary information regarding any such firefighter and report ~~the same~~ *such information* to the director.

(c) ~~The secretary of administration~~ *Kansas fallen firefighters memorial council* is hereby authorized to receive any grants, gifts, contributions or bequests made for the purpose of financing ~~the~~

~~construction of such memorial or for its upkeep and the addition of names thereto and to expend the same for the purpose for which received expenditures authorized pursuant to subsection (d).~~

(d) There is hereby established in the state treasury the Kansas *fallen* firefighters memorial fund. Expenditures from the fund ~~may~~ *shall* be made for the purposes of ~~constructing~~ updating and repairing ~~such the fallen firefighters memorial; and may be made~~ for other purposes related to memorializing and honoring Kansas firefighters and for such purposes as may be specified with regard to any grant, gift, contribution or bequest. All such expenditures shall be authorized by the Kansas *fallen* firefighters memorial ~~advisory committee~~ *council* and made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of administration or the secretary's designee.

(e) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas *fallen* firefighters memorial fund interest earnings based on:

- (1) The average daily balance of moneys in the Kansas *fallen* firefighters memorial fund for the preceding month; and
- (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

Sec. 6. K.S.A. 31-502, 31-503, 75-36,102 and 75-36,103 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the
SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.