

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 563
PROPOSED COMMITTEE SUBSTITUTE S563-PCS55482-RC-54

Short Title: Pyrotechnics Safety Permitting Act.

(Public)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO IMPROVE PYROTECHNICS SAFETY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-410 reads as rewritten:

"§ 14-410. **Manufacture, sale and use of pyrotechnics prohibited; exceptions; permit required; sale to persons under the age of 16 prohibited.**

(a) ~~It~~ Except as otherwise provided in this section, it shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, ~~use~~ use, handle, exhibit, or ~~cause to be discharged~~ discharge any pyrotechnics of any description whatsoever within the State of North ~~Carolina~~: provided, however, that ~~it~~ Carolina.

(a1) It shall be permissible for pyrotechnics to be transported, exhibited, used used, handled, or discharged at concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations: provided, further, that the use of said pyrotechnics in connection with concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, shall be under supervision of experts within the State, provided all of the following apply:

(1) The exhibition, use, or discharge is at a concert or public exhibition.

(2) All individuals who transport, exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training required under G.S. 58-82A-2(a) and are under the direct supervision and control of a display operator who holds a display operator permit issued by the State Fire Marshal under G.S. 14-410.1. The display operator must be present at the concert or public exhibition and must personally direct all aspects of transporting, exhibiting, using, handling, or discharging the pyrotechnics.

(3) The display operator has ~~who have~~ previously secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which said pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not ~~required, however,~~ required under this subdivision for a concert or public exhibition ~~authorized by~~ provided the display operator has secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill under



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1 G.S. 14-413, and pyrotechnics are exhibited ~~conducted~~ on lands or buildings
2 in Orange County owned by The University of North Carolina or the
3 University of North Carolina at Chapel Hill, but such exhibition, use, or
4 discharge of pyrotechnics shall be under supervision of experts who have
5 previously secured written authority from The University of North Carolina
6 or the University of North Carolina at Chapel Hill.

7 (a2) Notwithstanding any provision of this section, it shall not be unlawful for a common
8 carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.

9 (a3) The requirements of this section apply to G.S. 14-413(b) and ~~G.S. 14-413(e) apply~~
10 ~~to this section~~ G.S. 14-413(c).

11 (b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any
12 individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2),
13 (3), (4)c., (5), or (6) to persons under the age of 16.

14 (c) As used in this Article, the following terms mean:

15 (1) Concert or public exhibition. – Includes fairs, carnivals, shows of all
16 descriptions, and public celebrations.

17 (2) Display operator. – An individual issued a display operator permit under
18 G.S. 14-410.1.

19 (3) State Fire Marshal. – As defined in G.S. 58-80-1."

20 **SECTION 2.** Article 54 of Chapter 14 of the General Statutes is amended by
21 adding the following section to read:

22 **"§ 14-410.1. Pyrotechnics display operator permit.**

23 (a) The State Fire Marshal may issue a display operator permit to an individual to
24 transport, exhibit, use, handle, or discharge pyrotechnics under G.S. 14-410 if all of the
25 following apply:

26 (1) The individual is at least 21 years of age.

27 (2) On at least three occasions, the individual assisted with the exhibition, use,
28 or display of pyrotechnics authorized under G.S. 14-413.

29 (3) The individual successfully completes the minimum training requirements
30 established under G.S. 58-82A-2(a).

31 (4) The individual successfully passes an examination approved by the State
32 Fire Marshal that demonstrates the individual has the knowledge to safely
33 handle, store, and exhibit Class 1.3g and 1.4g pyrotechnics or otherwise
34 provides satisfactory evidence of current certification by a third party
35 acceptable to the State Fire Marshal.

36 (5) The individual pays the fee required under G.S. 58-82A-2(b).

37 (b) The State Fire Marshal may also issue a display operator permit to an individual
38 who holds a permit or certification issued by another state provided the minimum requirements
39 of that state are at least equal to the minimum requirements under this section and the person
40 pays the fee required under G.S. 58-82A-2(b).

41 (c) A permit issued under this section shall be valid for two years unless revoked by the
42 State Fire Marshal.

43 (d) The State Fire Marshal may refuse to issue a permit or may revoke a permit issued
44 under this section if any of the following apply:

45 (1) The display operator violates any provision of this Article.

46 (2) The display operator violates any requirement of a permit issued under
47 G.S. 14-413.

48 (3) The display operator fails to provide direct supervision and control over
49 individuals who assist the permit operator transport, handle, use, exhibit, or
50 display pyrotechnics.

51 (4) The display operator is convicted of a crime under G.S. 14-415.

1 (5) Another state revokes the permit or certification issued to that display
2 operator by that state."

3 **SECTION 3.** G.S. 14-413 is amended by adding a new subsection to read:

4 "(d) A board of county commissioners or the governing board of a city shall not issue a
5 permit under this section unless the display operator provides proof of insurance in the amount
6 of at least five hundred thousand dollars (\$500,000) or the minimum amount required under the
7 North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. A board
8 of county commissioners or the governing board of a city may require proof of insurance that
9 exceeds these minimum requirements."

10 **SECTION 4.** Chapter 58 of the General Statutes is amended by adding a new
11 Article to read:

12 "Article 82A.

13 "Pyrotechnics Training and Permitting.

14 "§ 58-82A-1. Authority of State Fire Marshal to develop training standards and issue
15 permits for handling pyrotechnics.

16 The State Fire Marshal, in consultation with the State Fire and Rescue Commission and
17 others in the discretion of the State Fire Marshal, shall establish mandatory minimum
18 guidelines, testing, and training requirements for (i) individuals who transport, exhibit, use,
19 handle, or discharge pyrotechnics in connection with a concert or public exhibition authorized
20 under Article 54 of Chapter 14 of the General Statutes and (ii) individuals seeking to obtain a
21 display operator permit under G.S. 14-410.1.

22 "§ 58-82A-2. Training; testing; fees.

23 (a) Prior to transporting, using, handling, exhibiting, or discharging pyrotechnics in
24 connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the
25 General Statutes, an individual must:

26 (1) Successfully complete the training approved or offered by the Commissioner
27 of Insurance through the Office of State Fire Marshal; or

28 (2) Be a current active member in good standing with any local fire or rescue
29 department, with experience in pyrotechnics or explosives, as verified by the
30 State Fire Marshal, and possess at least the qualifications provided in
31 G.S. 58-78-5(a)(14b) and any higher qualifications, if any, in the jurisdiction
32 where permitting is being sought and as otherwise required by the State Fire
33 Marshal.

34 (b) The State Fire Marshal shall approve an examination to be taken by individuals
35 seeking a display operator permit. The individual taking the examination shall pay the cost of
36 the examination. The State Fire Marshal shall charge a fee, not to exceed one hundred dollars
37 (\$100.00), for the issuance of a display operator permit authorized under G.S. 14-410.1.

38 (c) The Commissioner shall adopt rules to implement this Article and the provisions of
39 G.S. 14-410.1."

40 **SECTION 5.** Notwithstanding G.S. 58-82A-2(b), as enacted in Section 4 of this
41 act, effective until July 1, 2011, the Commissioner may issue a display operator permit to
42 individuals who meet the qualifications provided in G.S. 14-410.1 and shall waive the fee
43 required under G.S. 58-82A-2(b).

44 **SECTION 6.** The Commissioner of Insurance shall report to the General Assembly
45 by May 1, 2010, on the implementation of this act and may make recommendations regarding
46 additional statutory changes and the need for additional personnel or other resources to
47 implement the act.

48 **SECTION 7.** This act becomes effective January 2, 2010, and applies to offenses
49 committed on or after that date.