

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 563

State and Local Government Committee Substitute Adopted 7/22/09

Finance Committee Substitute Adopted 7/23/09

House Committee Substitute Favorable 8/4/09

PROPOSED HOUSE COMMITTEE SUBSTITUTE S563-PCS85275-RDf-82

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 dischargeddischarge any pyrotechnics of any description whatsoever within the State of North Carolina: provided, however, that itCarolina.~~

(a1) ~~It shall be permissible for pyrotechnics to be exhibited, used-used, handled, manufactured, 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 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 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. 58-82A-3. The display operator must be present at the concert or public exhibition and must personally direct all aspects of 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-the 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-byprovided the~~



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

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

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

13 (b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any  
14 individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2),  
15 (3), (4)c., (5), or (6) to persons under the age of 16.

16 (c) The following definitions apply in this Article:

17 (1) Concert or public exhibition. – A fair, carnival, show of any description, or  
18 public celebration.

19 (2) Display operator. – An individual issued a display operator permit under  
20 G.S. 58-82A-3.

21 (3) State Fire Marshal. – Defined in G.S. 58-80-1."

22 **SECTION 2.** G.S. 14-413 is amended by adding a new subsection to read:

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

29 **SECTION 3.** Chapter 58 of the General Statutes is amended by adding a new  
30 Article to read:

31 "Article 82A.

32 "Pyrotechnics Training and Permitting.

33 "**§ 58-82A-1. State Fire Marshal establish pyrotechnic safety guidelines.**

34 (a) Guidelines. – The State Fire Marshal, in consultation with the State Fire and Rescue  
35 Commission, must establish guidelines, testing, and training requirements for the following:

36 (1) Individuals who assist a display operator with the exhibition, use, handling,  
37 or discharge of pyrotechnics in connection with a concert or public  
38 exhibition authorized under Article 54 of Chapter 14 of the General Statutes.

39 (2) Individuals seeking to obtain a display operator permit under this Article.

40 (b) Definitions. – The definitions in G.S. 14-410 apply in this Article.

41 (c) Rule making. – The Commissioner may adopt rules to implement this Article.

42 "**§ 58-82A-2. Individual training requirements.**

43 An individual may not use, handle, exhibit, or discharge pyrotechnics in connection with a  
44 concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes,  
45 unless the individual successfully completes the training approved or offered by the  
46 Commissioner of Insurance through the Office of State Fire Marshal or meets all of the  
47 following conditions:

48 (1) Is an active member in good standing with a local fire or rescue department  
49 and has experience in pyrotechnics or explosives, as verified by the State  
50 Fire Marshal.

1           (2) Possesses the professional qualifications required by the State Fire Marshal  
2 or the professional qualifications required by the jurisdiction where  
3 permitting is being sought, whichever is greater. The professional  
4 qualifications set by the State Fire Marshal may not be less than the  
5 voluntary minimum professional qualifications for all levels of fire service  
6 and rescue service personnel established by the State Fire and Rescue  
7 Commission under G.S. 58-78-5.

8 **"§ 58-82A-3. Display operator permit.**

9           (a) Permit Required. – A display operator permit issued by the State Fire Marshal is  
10 required for an individual to obtain the necessary authorization under Article 54 of Chapter 14  
11 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a  
12 concert or public exhibition in this State. A permit issued under this section is valid for three  
13 years unless it is revoked by the State Fire Marshal.

14           (b) Requirements. – The State Fire Marshal may issue a display operator permit to an  
15 individual if all of the following conditions are met:

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

17           (2) The individual has assisted with the exhibition, use, or display of  
18 pyrotechnics at a concert or public exhibition, as allowed under Article 54 of  
19 Chapter 14 of the General Statutes, on at least three occasions.

20           (3) The individual successfully completes the minimum training requirements  
21 established by the State Fire Marshal.

22           (4) The individual successfully passes an examination approved by the State  
23 Fire Marshal that demonstrates the individual has the knowledge to safely  
24 handle, store, and exhibit Class 1.3g and 1.4g pyrotechnics or provides  
25 satisfactory evidence of current certification by a third party acceptable to  
26 the State Fire Marshal.

27           (5) The individual pays an application fee not to exceed one hundred dollars  
28 (\$100.00) and the cost of the examination.

29           (c) Reciprocity. – The State Fire Marshal may issue a display operator permit to an  
30 individual who holds a permit or certification issued by another state, provided the minimum  
31 requirements of that state are at least equal to the minimum requirements under this section and  
32 the person pays the application fee required under subsection (b) of this section.

33           (d) Refusal and Revocation. – The State Fire Marshal may refuse to issue a permit or  
34 may revoke a permit issued under this section if any of the following apply:

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

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

38           (3) The display operator fails to provide direct supervision and control over  
39 individuals who assist the permit operator in handling, using, exhibiting, or  
40 displaying pyrotechnics.

41           (4) The display operator is convicted of a crime under Article 54 of Chapter 14  
42 of the General Statutes.

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

45           **SECTION 4.** The Commissioner of Insurance must report to the General Assembly  
46 by May 1, 2010, on the implementation of this act and may make recommendations regarding  
47 additional statutory changes and the need for additional personnel or other resources to  
48 implement this act.

49           **SECTION 5.** This act becomes effective February 1, 2010, and applies to offenses  
50 committed on or after that date.