

Substitute for HOUSE BILL No. 2245

By Committee on Appropriations

3-16

- 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) Sections 1 through 8, and amendments thereto, shall
13 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:
16 (a) “Consumer fireworks” means any small firework device designed
17 to produce visible effects by combustion and which must comply with the
18 construction, chemical composition and labeling regulations of the U.S.
19 consumer product safety commission, as set forth in title 16, C.F.R., parts
20 1500 and 1507, and including some small devices designed to produce
21 audible effects, such as whistling devices, ground devices containing 50
22 mg or less of explosive materials and aerial devices containing 130 mg or
23 less of explosive materials. Consumer fireworks are classified as fireworks
24 UN0336 and UN0337 by the U.S. department of transportation at 49
25 C.F.R. 172.101. This term shall not include fused setpieces containing
26 components which together exceed 50 mg of salute powder.
27 (b) “Display fireworks” means large fireworks designed primarily to
28 produce visible or audible effects by combustion, deflagration or deto-
29 nation. This term includes, but is not limited to, salutes containing more
30 than 2 grains (130 mg) of explosive materials, aerial shells containing more
31 than 40 grams of pyrotechnic compositions and other display pieces which
32 exceed the limits of explosive materials for classification as “consumer
33 fireworks.” Display fireworks are classified as fireworks UN0333, UN0334
34 or UN0335 by the U.S. department of transportation at 49 C.F.R.
35 172.101. This term also includes fused setpieces containing components
36 which together exceed 50 mg of salute powder.
37 (c) “Articles pyrotechnic” means pyrotechnic devices for professional
38 use similar to consumer fireworks in chemical composition and construc-
39 tion but not intended for consumer use and such articles meeting the
40 weight limits for consumer fireworks but not labeled as such and classified
41 by U.S. department of transportation regulations in 49 C.F.R. 172.101 as
42 UN0431 or UN0432.
43 (d) “Fireworks” means any composition or device designed to pro-

- 1 duce a visible or audible effect by combustion, deflagration or detonation.
2 The term shall include consumer fireworks, display fireworks, and articles
3 pyrotechnic. Fireworks shall not include:
- 4 (1) Novelty items;
 - 5 (2) highway flares, railroad flares or fuses, ships' distress signals,
6 smoke candles or other emergency distress devices;
 - 7 (3) rockets and rocket motors as defined in the 2000 edition of the
8 national fire protection association code 1125 and 1127;
 - 9 (4) signal or starting pistols;
 - 10 (5) small arms ammunition; or
 - 11 (6) devices used during the course of research or testing by an ap-
12 proved laboratory or research facility.
- 13 (e) "Licensed display fireworks operator" means a person licensed to
14 operate an outdoor display of display fireworks.
- 15 (f) "Licensed proximate pyrotechnic operator" means a person li-
16 censed to operate indoor or outdoor articles of pyrotechnic.
- 17 (g) "Manufacturer" means any person engaged in the manufacture
18 of fireworks of any kind in the state of Kansas. Manufacturer shall also
19 include the assembly of consumer fireworks or component parts into a
20 finished item or assortment, but shall not include repackaging finished
21 goods into an assortment.
- 22 (h) "Distributor" means any person who:
- 23 (1) Sells, delivers, transports, consigns, gives, imports, exports or oth-
24 erwise furnishes consumer fireworks to any person for the purpose of
25 resale to a retailer or any other distributor or reseller within the state of
26 Kansas;
 - 27 (2) sells, intends to sell, offer for sale, possess with intent to sell, or
28 consigns display fireworks or articles pyrotechnic to any person, distrib-
29 utor, municipality or any other organization within the state of Kansas;
 - 30 (3) produces, conducts or provides a licensed operator or imports any
31 display fireworks or articles pyrotechnic of any kind within the state of
32 Kansas for profit;
- 33 (i) "distributor" shall not include:
- 34 (1) Anyone who transports fireworks from one state to another state
35 through the state of Kansas and such fireworks ultimate destination is not
36 within the state of Kansas;
 - 37 (2) anyone who sells consumer fireworks during a fireworks season
38 as a seasonal retailer;
 - 39 (3) freight delivery companies or common carriers as defined in U.S.
40 department of transportation 49 C.F.R. 171.8; or
 - 41 (4) an out-of-state person who sells, transports, delivers, or gives
42 fireworks to a licensed manufacturer or distributor.
- 43 (j) "Hobbyist manufacturer" means any person who manufactures

1 consumer fireworks, display fireworks or articles pyrotechnic for their
2 personal use.

3 (k) "Person" means any individual, partnership, firm, company, as-
4 sociation, corporation, not-for-profit organization, municipality or limited
5 liability corporation.

6 (l) "Seasonal retailer" means a person who receives consumer
7 fireworks and sells, delivers, consigns, gives or otherwise furnishes con-
8 sumer fireworks only to the public for their personal use and only during
9 a fireworks season.

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

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

18 (o) "Fireworks display" means a private or public production of dis-
19 play fireworks or articles pyrotechnic, or both, which are intended for use
20 and designed to produce visible or audible effects for entertainment pur-
21 poses by combustion, deflagration or detonation.

22 Sec. 3. (a) Any person who intends to sell, offer for sale, possess with
23 intent to sell, any consumer fireworks, display fireworks or articles py-
24rotechnic or discharge, use, display fireworks or articles pyrotechnic shall
25 first obtain the appropriate license from the state fire marshal.

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

- 27 (1) Manufacturer;
- 28 (2) hobbyist manufacturer;
- 29 (3) distributor (consumer, display or articles pyrotechnic);
- 30 (4) display fireworks operator; and
- 31 (5) proximate pyrotechnic operator (articles pyrotechnic).

32 (c) Before a license holder may operate, they must satisfy the require-
33 ments of this act and regulations adopted by the state fire marshal.

34 (d) The license holder shall be at least 21 years of age prior to apply-
35 ing for the license.

36 (e) Each license shall be valid for the period specified in subsection

37 (f). Licenses shall not be transferable.

38 (f) Except as otherwise provided in this section, the state fire marshal
39 shall have the authority to fix, charge and collect fees as provided in this
40 subsection:

41 (1) A manufacturer license shall be valid for a period of one year.
42 The annual license fee shall not be less than \$400 or more than \$600.

43 (A) A holder of a manufacturer license is not required to have any

1 additional licenses in order to manufacture and sell any fireworks defined
2 by this act.

3 (2) A hobbyist manufacturer license shall be valid for a period of four
4 years. The license fee shall not be less than \$50 or more than \$80.

5 (3) A distributor license of consumer, display and articles pyrotechnic
6 shall be valid for a period of one year. The annual fee shall not be less
7 than \$300 or more than \$500.

8 (4) A display fireworks operator license shall be valid for a period of
9 four years. The license fee shall not be less than \$40 or more than \$80.

10 (5) A proximate pyrotechnics operator license shall be valid for a pe-
11 riod of four years. The license fee shall not be less than \$40 or more than
12 \$80.

13 (g) A permit to conduct a fireworks display shall be obtained by the
14 sponsor or operator of a fireworks display from and approved by the local
15 municipality where the fireworks display is to be discharged.

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

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

23 (1) Violated any provision of the Kansas fire prevention code, and
24 amendments thereto, or any rules and regulations promulgated
25 hereunder;

26 (2) been convicted of a felony;

27 (3) failed, neglected or refused to provide direct supervision over any
28 unlicensed person who assisted in the performance of a fireworks display;

29 (4) provide known false information in conjunction with an applica-
30 tion for a license issued under this act;

31 (5) made any known misrepresentation in conjunction with an appli-
32 cation for a license issued under this act; or

33 (6) violated any provision of this act or any rule and regulation prom-
34 ulgated hereunder.

35 Sec. 5. Any person aggrieved by any order or ruling issued pursuant
36 to the provisions of this act may appeal such order or ruling to the state
37 fire marshal within 15 days from the date of the service of such order by
38 filing a notice of such appeal in the office of the state fire marshal. The
39 state fire marshal or the state fire marshal's authorized representative
40 shall hear such person within 30 days after the receipt of such notice of
41 appeal and the hearing shall be held in accordance with the provisions of
42 the Kansas administrative procedure act. The state fire marshal shall file
43 a decision thereon and, unless by authority of the state fire marshal the

1 order is revoked or modified, the order shall be complied with within the
2 time fixed in such decision.

3 Sec. 6. (a) Any person who discharges display fireworks or articles
4 pyrotechnic shall obtain a written permit for a fireworks display issued by
5 the local municipality.

6 (b) Nothing shall prohibit the use of consumer fireworks in any dis-
7 play fireworks, except those fireworks prohibited by K.S.A. 31-155 et seq.,
8 and amendments thereto.

9 Sec. 7. (a) The owner of any display fireworks storage facility shall
10 obtain a storage site permit from the state fire marshal for permanent or
11 temporary storage. Storage permits are not required for day boxes used
12 at a display site.

13 (b) A storage site permit shall be valid for a period of four years. The
14 fee for a storage site permit shall be not less than \$25 or more than \$75.

15 Sec. 8. In the administration of this act:

16 (a) All fees collected pursuant to this act shall be transmitted to the
17 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
18 amendments thereto. Upon receipt of each such remittance, the state
19 treasurer shall deposit the entire amount in the state treasury to the credit
20 of the state fire marshal fee fund.

21 (b) The state fire marshal is hereby authorized to adjust the amount
22 of such fee or fees by rule and regulation.

23 (c) Any rules and regulations of the state fire marshal adopted pur-
24 suant to this act may incorporate by reference specific editions, or por-
25 tions thereof, of nationally recognized fire prevention codes.

26 (d) All rules and regulations of the state fire marshal pertaining to
27 fireworks regulated by this act in existence on the effective date of this
28 act shall continue to be effective until revised, amended, revoked or nul-
29 lified pursuant to law.

30 Sec. 9. This act shall take effect and be in force on and after January
31 1, 2007, and its publication in the statute book.