

OCCUPATIONS CODE

TITLE 13. SPORTS, AMUSEMENTS, AND ENTERTAINMENT

SUBTITLE D. OTHER AMUSEMENTS AND ENTERTAINMENT

CHAPTER 2154. REGULATION OF FIREWORKS AND FIREWORKS DISPLAYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2154.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of insurance of Texas.

(2) "Department" means the United States Department of Transportation.

(3) "Distributor" means a person who:

(A) imports fireworks into this state; or

(B) sells fireworks to:

(i) a jobber, retailer, or other distributor for resale; or

(ii) a holder of a single public display permit, a multiple public display permit, or another fireworks permit.

(4) "Fire prevention officer" means a chief of a fire department, a fire marshal, a county fire marshal, a sheriff, a constable, another local enforcement officer primarily responsible for fire prevention, or, if there is no local fire authority, the state fire marshal.

(5) "Fireworks" means a composition or device:

(A) designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation; and

(B) defined by 49 C.F.R. Section 173.56(j) (1996).

(6) "Fireworks 1.3G" means a large fireworks device:

(A) primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and

(B) classified as a 1.3G explosive by the department in 49 C.F.R. Part 173 (1996).

(7) "Fireworks 1.4G" means a small fireworks device:

(A) primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;

(B) that complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 C.F.R. Part 1507 (1996), or the most recently adopted version of that rule; and

(C) that is classified by the department in 49 C.F.R. Part 173 (1996).

(8) "Illegal fireworks" means a fireworks device manufactured, distributed, or sold in violation of this chapter.

(9) "Indoor or proximate display" means a pyrotechnic display involving the ignition of Fireworks 1.3G or Fireworks 1.4G for public amusement where an audience is closer to the pyrotechnic devices than permitted by NFPA 1123 Code of Fireworks Display. The term does not include the use of Fireworks 1.4G by a retail consumer for private or personal amusement.

(10) "Insurance agent" means:

(A) a person, firm, or corporation licensed under Subchapter B, C, D, or E, Chapter 4051, or Chapter 981, Insurance Code;

(B) a salaried, state, or special agent; and

(C) a person authorized to represent an insurance fund or pool created by a city, county, or other political subdivision of the state under Chapter 791, Government Code.

(11) "Jobber" means a person who purchases fireworks only for resale to retailers.

(12) "Manufacturer" means a person, firm, corporation, or association who makes fireworks.

(13) "Person" means an individual or entity, including an owner, manager, officer, employee, or occupant.

(14) "Public display" means the igniting of Fireworks 1.3G for public or private amusement.

(15) "Pyrotechnic operator" means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising public displays of Fireworks 1.3G or Fireworks 1.4G.

(16) "Pyrotechnic special effects operator" means an

individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising proximate displays of Fireworks 1.3G or Fireworks 1.4G.

(17) "Retailer" means a person who purchases fireworks for resale only to the general public.

(18) "Sale" means selling or offering for sale merchandise, equipment, or service, at wholesale or retail, to the public or to any person, for an agreed sum of money or other consideration.

(19) "State fire marshal" means the chief law enforcement officer of the state charged with the responsibility of fire prevention.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.549, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 11.154, eff. September 1, 2005.

Sec. 2154.002. EXEMPTIONS. This chapter does not apply to:

(1) a toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 25 hundredths of a grain of explosive composition per cap and that is packed and shipped under 49 C.F.R. Part 173 (1996);

(2) a model rocket or model rocket motor designed, sold, and used to propel recoverable aero models;

(3) a propelling or expelling charge consisting of a mixture of sulfur, charcoal, and potassium nitrate;

(4) novelties or trick noisemakers;

(5) the sale, at wholesale, of any type of fireworks by a resident manufacturer, distributor, importer, or jobber if the fireworks are intended for shipment directly out of state under department regulations;

(6) the sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;

(7) the use of a fusee or a railway torpedo by a railroad;

(8) the sale of blank cartridges for:

(A) use in a radio, television, film, or theater production;

(B) a signal or ceremonial purpose in an athletic event; or

(C) an industrial purpose; or

(9) the use of a pyrotechnic device by a military organization.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.003. PERMISSIBLE FIREWORKS. (a) Except as provided by Subsection (b), Fireworks 1.4G are permissible fireworks.

(b) The following are not permissible fireworks:

(1) sky rockets or "bottle rockets" with:

(A) a total propellant charge of less than four grams;

(B) a casing size of less than five-eighths of an inch for the outside diameter and less than 3-1/2 inches in length; and

(C) an overall length, including stick, of less than 15 inches; and

(2) other fireworks determined not acceptable by the United States Consumer Product Safety Commission.

(c) The term "bottle rocket" may not be used in association with the advertisement or sale of fireworks.

(d) In addition to the items described by Subsection (b), pop rockets with a propellant casing length of less than five inches, an exterior diameter of less than three-fourths of an inch, and an overall total rocket length of less than 26 inches are not permissible fireworks.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1179 (H.B. 539), Sec. 1, eff. January 2, 2008.

Sec. 2154.004. EFFECT OF CHAPTER ON LOCAL REGULATION. (a) A municipal or county ordinance, order, or rule in effect on January 2, 1986, is not invalidated by this chapter.

(b) This chapter does not limit or restrict the authority of a county, where specifically authorized by law, or municipality to enact an ordinance or order prohibiting or further regulating fireworks.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. COMMISSIONER'S POWERS AND DUTIES

Sec. 2154.051. COMMISSIONER'S POWERS AND DUTIES. (a) The commissioner shall:

(1) determine reasonable criteria and qualifications for licenses and permits;

(2) set license and permit fees;

(3) determine the qualifications and examination requirements for pyrotechnics operators; and

(4) establish a procedure for reporting and processing complaints.

(b) The commissioner may, after notice and opportunity for hearing, increase or decrease the limits of insurance coverage.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.052. RULES. (a) The commissioner:

(1) shall administer this chapter through the state fire marshal; and

(2) may issue rules to administer this chapter.

(b) The commissioner shall adopt and the state fire marshal shall administer rules the commissioner considers necessary for the protection, safety, and preservation of life and property, including rules regulating:

(1) the issuance of licenses and permits to persons engaged in manufacturing, selling, storing, possessing, or transporting fireworks in this state;

(2) the conduct of public fireworks displays; and

(3) the safe storage of Fireworks 1.3G and Fireworks 1.4G.

(c) The commissioner shall adopt rules for applications for licenses and permits.

(d) In adopting a rule, the commissioner may use standards recognized by federal law or regulation and standards published by a nationally recognized standards-making organization.

(e) A rule may not be adopted under this chapter that is more restrictive than a rule in effect on September 1, 1998, without specific statutory authority.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 2.007, eff. September 1, 2011.

Sec. 2154.053. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commissioner may not adopt rules restricting advertising or competitive bidding by a license or permit holder under this chapter except to prohibit false, misleading, or deceptive practices.

(b) The commissioner may not include in the rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the holder's personal appearance or the use of a holder's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the holder; or

(4) restricts the holder's advertisement under a trade name.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.055. FIREWORKS SAFETY AND EDUCATION PROGRAM. (a) The commissioner shall establish a fireworks safety and education program.

(b) The program:

(1) shall provide information relating to the proper and safe use of fireworks and the dangers of the improper use of

fireworks; and

(2) may include any method of communicating the need for safe use of fireworks and the dangers of improper use.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1147, Sec. 2.008(16), eff. September 1, 2011.

(d) To fund the program, in addition to any other license or permit fees:

(1) the holder of a retail permit issued under Section 2154.202 shall pay, on issuance or renewal of the permit, a fee in the amount of \$10; and

(2) the holder of a manufacturer's, distributor's, or jobber's license issued under Section 2154.151, 2154.152, or 2154.153 shall pay, on issuance or renewal of the license, a fee in the amount of \$250.

(e) Money collected under Subsection (d) may be used only by the commissioner for the purposes of this section.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.708(a), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 2.008(16), eff. September 1, 2011.

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 2154.101. GENERAL REQUIREMENTS. (a) A person must obtain an appropriate license to:

(1) engage in the business of manufacturing, distributing, jobbing, or importing fireworks to be sold or used in this state; or

(2) supervise or conduct public fireworks displays.

(b) A person who is younger than 21 years of age may not be issued a pyrotechnic operator's license. The minimum age of a person issued another license under Subchapter D is 18 years of age.

(c) A person may not:

(1) transfer a license; or

(2) obtain or attempt to obtain a license by fraudulent representation.

(d) A person may not alter or deface a license. An altered or defaced license is void.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.102. WAIVER OF EXAMINATION REQUIREMENT. The commissioner may waive an examination requirement for an applicant with a valid license from another state if, in the commissioner's opinion, the license requirements of the other state are substantially equivalent to those of this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.1025. STATE FIRE MARSHAL'S AUTHORITY REGARDING EXAMINATIONS; RULES. (a) The state fire marshal shall establish the scope and type of an examination required under this chapter.

(b) The state fire marshal may administer the examination or may enter into an agreement with a testing service.

(c) The state fire marshal shall adopt rules as necessary to implement examination requirements under this chapter.

Added by Acts 2003, 78th Leg., ch. 1014, Sec. 7, eff. June 20, 2003.

Sec. 2154.1026. USE OF TESTING SERVICE FOR EXAMINATION.

(a) If a testing service is used, the state fire marshal may contract with the testing service regarding requirements for the examination required by this chapter, including examination development, scheduling, site arrangements, grading, reporting, analysis, or other administrative duties.

(b) The state fire marshal may require the testing service to:

(1) correspond directly with an applicant regarding the administration of the examination;

(2) collect a reasonable fee from an applicant for administering the examination; or

(3) administer the examination at a specific location or time.

Added by Acts 2003, 78th Leg., ch. 1014, Sec. 7, eff. June 20, 2003.

Sec. 2154.103. EXAMINATION RESULTS. (a) The state fire

marshal shall notify each examinee of the results of the examination not later than the 30th day after the date an examination is administered.

(b) If the examination is conducted, graded, or reviewed by a testing service, the state fire marshal shall notify the examinee of the result of the examination not later than the 14th day after the date the state fire marshal receives the result from the testing service.

(c) If the notice of the examination result will be delayed for longer than 90 days after the examination date, the state fire marshal shall notify the examinee of the reason for the delay before the 90th day.

(d) If requested in writing by a person who fails the licensing examination, the state fire marshal shall send the person an analysis of the person's performance on the examination.

(e) The state fire marshal may require a testing service to notify a person of the results of the person's examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1014, Sec. 8, eff. June 20, 2003.

Sec. 2154.104. DUPLICATE LICENSE; LICENSE CHANGES. A person must be charged a fee in an amount not to exceed \$20 for a duplicate license issued by the commissioner and for any requested change to a license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.105. LICENSE EXPIRATION DATE. (a) The commissioner by rule may provide for different expiration dates for the various types of licenses.

(b) If the expiration date of a license is less than one year from the date of its issuance or anniversary date, the license fee shall be prorated on the basis of the number of months during which the license is valid. The total annual fee is payable each time the license is renewed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.106. LICENSE RENEWAL. (a) A license holder may

renew an unexpired license by paying the required renewal fee to the state fire marshal any time before the license expires.

(b) Not later than the 30th day before the expiration date of a license, the state fire marshal shall send written notice of the impending license expiration to the license holder at the license holder's last known address.

(c) A person whose license has been expired for 90 days or less may renew the license by paying to the state fire marshal the required annual fee and an additional amount equal to one-half of the original license fee.

(d) A person whose license has been expired for more than 90 days but less than two years may renew the license by paying to the state fire marshal all unpaid annual fees and an additional amount equal to the original license fee.

(e) A person may not renew a license that has been expired for two years or more. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(f) This section does not prevent the state fire marshal from denying or refusing to renew a license for any reason provided by law or the rules of the commissioner.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. TYPES OF LICENSES

Sec. 2154.151. MANUFACTURER'S LICENSE. (a) A person manufacturing, storing, possessing, and selling fireworks constructed by that person must have a manufacturer's license.

(b) The commissioner shall set and collect an annual manufacturer's license fee in an amount not to exceed \$1,000.

(c) A licensed manufacturer may sell:

(1) Fireworks 1.4G only to a licensed distributor or jobber; and

(2) Fireworks 1.3G only to a licensed distributor or pyrotechnic operator, or to a fireworks public display permit holder for use in public fireworks displays in this state.

(d) A licensed manufacturer may manufacture, store,

possess, and sell an item other than a permissible firework if the item is only for sale and delivery to authorized persons in a state in which the item is permissible.

(e) A licensed manufacturer may be required to submit samples of all fireworks to the state fire marshal for approval.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.152. DISTRIBUTOR'S LICENSE. (a) A person must be a licensed distributor if the person:

(1) imports into this state or stores, possesses, and sells Fireworks 1.3G to a licensed pyrotechnic operator or distributor or to a single public display, multiple public display, or agricultural, industrial, and wildlife control fireworks permit holder; or

(2) imports or stores, possesses, and sells Fireworks 1.4G to a licensed jobber, retailer, or distributor in this state.

(b) The commissioner shall set and collect an annual distributor's license fee in an amount not to exceed \$1,500.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.153. JOBBER'S LICENSE. (a) A person must be a licensed jobber if the person stores, possesses, and sells Fireworks 1.4G only to retailers in this state.

(b) The commissioner shall set and collect an annual jobber's license fee in an amount not to exceed \$1,000.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.154. PYROTECHNIC OPERATOR'S LICENSE. (a) A person must be a licensed pyrotechnic operator if the person assembles, conducts, and supervises public fireworks displays using Fireworks 1.3G.

(b) The commissioner shall set and collect an annual pyrotechnic operator's license fee in an amount not to exceed \$100.

(c) To qualify for a pyrotechnic operator's license, a person must take and pass an examination, if required, conducted by the commissioner through the state fire marshal's office.

(d) Unless the examination is administered by a testing

service, a person shall be charged a nonrefundable initial examination fee in an amount not to exceed \$50. Unless the reexamination is administered by a testing service, a person shall be charged a nonrefundable fee in an amount not to exceed \$20 for each reexamination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1014, Sec. 9, eff. June 20, 2003.

Sec. 2154.155. PYROTECHNIC SPECIAL EFFECTS OPERATOR'S LICENSE. (a) A person must be a licensed pyrotechnic special effects operator if the person assembles, conducts, and supervises proximate displays using Fireworks 1.3G or Fireworks 1.4G as defined in NFPA 1126 Standard of the Use of Pyrotechnics Before a Proximate Audience.

(b) The commissioner shall set and collect an annual pyrotechnic special effects operator's license fee in an amount not to exceed \$100.

(c) To qualify for a pyrotechnic special effects operator's license, a person must take and pass an examination, if required, conducted by the commissioner through the state fire marshal's office.

(d) Unless the examination is administered by a testing service, a person shall be charged a nonrefundable initial examination fee in an amount not to exceed \$50. Unless the reexamination is administered by a testing service, a person shall be charged a nonrefundable fee in an amount not to exceed \$20 for each reexamination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1014, Sec. 10, eff. June 20, 2003.

Sec. 2154.156. FLAME EFFECTS OPERATOR'S LICENSE. (a) A person must be a licensed flame effects operator if the person assembles, conducts, or supervises flame effects under Section [2154.253](#).

(b) The commissioner shall set and collect an annual flame effects operator's license fee in an amount not to exceed \$100.

(c) To qualify for a flame effects operator's license, a

person must take and pass an examination and comply with any other requirements set by the commissioner through the state fire marshal's office.

(d) A person shall be charged a nonrefundable initial examination fee in an amount not to exceed \$30. A person shall be charged a nonrefundable fee in an amount not to exceed \$20 for each reexamination.

Added by Acts 2003, 78th Leg., ch. 872, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER E. PERMIT REQUIREMENTS

Sec. 2154.201. GENERAL REQUIREMENTS. (a) A person who is younger than 21 years of age may not be issued a public fireworks display permit. A person who is younger than 18 years of age may not be issued another permit under this subchapter.

(b) A person may not:

(1) transfer a permit issued under this subchapter;
or

(2) obtain or attempt to obtain a permit under this subchapter by fraudulent representation.

(c) A person may not alter or deface a permit. An altered or defaced permit is void.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.202. RETAIL FIREWORKS PERMIT. (a) A person selling fireworks directly to the public must annually obtain a nonrenewable retail fireworks permit for each retail location.

(b) The commissioner shall set and collect a retail fireworks permit fee in an amount not to exceed \$20.

(c) A retail fireworks permit may be purchased from a licensed manufacturer, distributor, or jobber or from the state fire marshal's office.

(d) A licensed manufacturer, distributor, or jobber may obtain retail fireworks permits from the commissioner at any time. The commissioner shall provide permits in books containing 20 permits each. Each permit must be clearly printed with the year, date, and permit number. The manufacturer, distributor, or jobber

shall keep a record of all permits issued and shall submit the record to the commissioner through the state fire marshal in the manner required by the commissioner.

(e) A retail fireworks permit expires on January 31 each year and is not renewable.

(f) An outdated permit may be exchanged for a current permit only in the year following the permit's expiration.

(g) Except as provided by Subsection (h), a retail fireworks permit holder may sell fireworks only to the public, and only during periods:

(1) beginning June 24 and ending at midnight on July 4;

(2) beginning December 20 and ending at midnight on January 1 of the following year; and

(3) beginning May 1 and ending at midnight on May 5 if the fireworks are sold at a location that is not more than 100 miles from the Texas-Mexico border and that is in a county in which the commissioners court of the county has approved the sale of fireworks during the period.

(h) In addition to the periods during which the sale of fireworks is authorized under Subsection (g), the commissioners court of a county by order may allow a retail fireworks permit holder to sell fireworks in that county only to the public and only during one or more of the following periods:

(1) beginning February 25 and ending at midnight on March 2;

(2) beginning April 16 and ending at midnight on April 21; and

(3) beginning the Wednesday before the last Monday in May and ending at midnight on the last Monday in May.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1179 (H.B. 539), Sec. 3, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 710 (H.B. 1150), Sec. 1, eff. September 1, 2015.

Sec. 2154.203. AGRICULTURAL, INDUSTRIAL, AND WILDLIFE

CONTROL PERMIT. (a) The commissioner shall set and collect a permit fee in an amount not to exceed \$50 for a permit to use Fireworks 1.3G for agricultural, industrial, or wildlife control purposes.

(b) The applicant must specify the exact purpose for which the fireworks are to be used before a permit may be issued.

(c) A permit expires one year from the date of issuance and is not renewable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.204. PUBLIC DISPLAY PERMIT. (a) The commissioner shall set and collect a permit fee in an amount not to exceed \$50 for a Fireworks 1.3G single public display permit. The permit shall be obtained from the commissioner through the state fire marshal.

(b) A single public fireworks display permit is valid for only one public fireworks display to be held during the hours and on the date or alternate date, if provided, stated on the permit and is not renewable.

(c) A person conducting multiple fireworks displays at a single location may be issued a multiple public display permit. The commissioner shall set and collect an annual multiple public display permit fee in an amount not to exceed \$400.

(d) The holder of a multiple public display permit is not required to obtain a single public display permit. A multiple public display permit is valid for one year from the date of issuance and is not renewable.

(e) This chapter does not limit the authority of the state fire marshal to inspect the location of the display or to require appropriate fire protection measures.

(f) The commissioner shall adopt by reference the provisions of:

(1) NFPA 1123, Code for Fireworks Display, 1995 Edition, as rules governing public displays; and

(2) NFPA 1126, Standards for the Use of Pyrotechnics Before a Proximate Audience, 1996 Edition, as rules governing indoor displays.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.205. INSURANCE REQUIREMENT FOR PUBLIC DISPLAY PERMIT. (a) In addition to any other requirements, an applicant for a public display permit must submit to the state fire marshal evidence of a general liability insurance policy in an amount of not less than \$500,000 unless the commissioner increases or decreases the amount under Section 2154.051. A multiple public display permit or single public display permit may not be issued without evidence of general liability insurance as required by this section.

(b) The policy shall be conditioned to pay the amount of money the insured becomes obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of a public fireworks display.

(c) Evidence of the liability insurance policy required by this section must be in the form of a certificate of insurance issued by an insurer authorized to do business in this state and countersigned by an insurance agent licensed in this state.

(d) A certificate of insurance for surplus lines coverage obtained under Chapter 981, Insurance Code, through a licensed Texas surplus lines agent resident in this state may be filed with the commissioner as evidence of coverage required by this section.

(e) An insurer may not cancel a certificate of insurance issued under this section unless the insurer gives the state fire marshal notice of intent to cancel as required by the commissioner.

(f) This section may be satisfied by a city, county, or other political subdivision presenting proof of its participation in a self-insurance fund or other fund created under Chapter 791, Government Code, covering the liability requirements under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.550, eff. Sept. 1, 2003.

Sec. 2154.206. INSPECTION OF PUBLIC FIREWORKS DISPLAY. (a) In this section, "appropriate fire prevention officer" means a

person with fire prevention authority in a particular jurisdiction.

(b) A person planning to make a public fireworks display shall submit, under rules adopted by the commissioner, a written application to the state fire marshal for a permit.

(c) An appropriate fire prevention officer, as designated or approved by the state fire marshal, shall make a site investigation to determine whether a proposed fireworks display is of a nature or in a location that may be hazardous to property or dangerous to any person. The officer may, in the exercise of reasonable discretion, approve or disapprove the display site and may impose reasonable conditions on the display.

(d) After inspecting the proposed display site, the fire prevention officer shall notify the state fire marshal of the results of the inspection, and the state fire marshal shall determine if a permit is to be issued.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.207. INSURANCE REQUIREMENT. (a) In addition to any other requirements, an applicant for a permit under Section [2154.253](#) must submit to the authority having jurisdiction evidence of a general liability insurance policy in an amount of not less than \$1 million unless the commissioner decreases the amount under Section [2154.051](#). The permit may not be issued without evidence of insurance as required by this section.

(b) The general liability insurance policy required by this section shall be conditioned to pay the amount of money the insured becomes obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of a display of pyrotechnics and flame effects.

(c) Evidence of the general liability insurance policy required by this section must be in the form of a certificate of insurance issued by an insurer authorized to do business in this state and countersigned by an insurance agent licensed in this state.

(d) A certificate of insurance for surplus lines coverage obtained under Chapter [981](#), Insurance Code, through a licensed

Texas surplus lines agent resident in this state may be filed with the commissioner as evidence of coverage required by this section.

(e) An insurer may not cancel a certificate of insurance issued under this section unless the insurer gives the authority having jurisdiction notice of intent to cancel.

(f) This section may be satisfied by a city, county, or other political subdivision presenting proof of its participation in a self-insurance fund or a fund created under Chapter 791, Government Code, covering the liability requirements under this chapter.

Added by Acts 2003, 78th Leg., ch. 872, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.155, eff. September 1, 2005.

SUBCHAPTER F. PROHIBITED ACTS

Sec. 2154.251. PROHIBITED USE OF FIREWORKS. (a) A person may not:

(1) explode or ignite fireworks within 600 feet of any church, a hospital other than a veterinary hospital, an asylum, a licensed child care center, or a public or private primary or secondary school or institution of higher education unless the person receives authorization in writing from that organization;

(2) sell at retail, explode, or ignite fireworks within 100 feet of a place where flammable liquids or flammable compressed gasses are stored and dispensed;

(3) explode or ignite fireworks within 100 feet of a place where fireworks are stored or sold;

(4) ignite or discharge fireworks in or from a motor vehicle;

(5) place ignited fireworks in, or throw ignited fireworks at, a motor vehicle;

(6) conduct a public fireworks display that includes Fireworks 1.3G unless the person is a licensed pyrotechnic operator;

(7) conduct a proximate display of fireworks that

includes Fireworks 1.3G or Fireworks 1.4G as defined in NFPA 1126 Standards for the Use of Pyrotechnics Before a Proximate Audience unless the person is a licensed pyrotechnic special effects operator and has the approval of the local fire prevention officer; or

(8) sell, store, manufacture, distribute, or display fireworks except as provided by this chapter or rules adopted by the commissioner under this chapter.

(b) A person may not manufacture, distribute, sell, or use fireworks in a public fireworks display or for agricultural, industrial, or wildlife control purposes without an appropriate license or permit. Fireworks manufactured, distributed, sold, or used without an appropriate license or permit are illegal fireworks.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.252. CERTAIN SALES OF FIREWORKS PROHIBITED. (a) Unless the fireworks conform to the standards of the United States Consumer Product Safety Commission and the department, a person in this state may not:

- (1) sell the fireworks at retail;
- (2) offer the fireworks for retail sale;
- (3) possess the fireworks for retail sale in this state; or
- (4) transport, use, or explode the fireworks in this state.

(b) A person may offer for sale to the general public Fireworks 1.4G only at authorized retail locations. All mail order sales of Fireworks 1.4G are prohibited.

(c) Fireworks may not be sold or offered for sale to children under 16 years of age or to an intoxicated or incompetent person. A person selling fireworks at retail shall make a reasonable effort to determine that potential purchasers of fireworks are of the minimum age required by this subsection.

(d) A licensed manufacturer, distributor, jobber, or importer may not sell fireworks to a person who does not hold a license or permit.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1179 (H.B. 539), Sec. 4, eff. June 15, 2007.

Sec. 2154.253. USE OF FLAME EFFECTS OR PYROTECHNICS. (a) Definitions. In this section:

(1) "Authority having jurisdiction" means the fire marshal of a political subdivision. If the political subdivision has no fire marshal, the chief executive of the local fire protection district or emergency services district shall be the authority having jurisdiction. The state fire marshal or the state fire marshal's designee shall be the authority having jurisdiction if the political subdivision has no fire marshal, local fire protection district, or emergency services district.

(2) "Flame effects" means a stationary or hand-held device of solid, liquid, or gas, designed specifically to produce an open flame when ignited to display a thermal, physical, visual, or audible phenomenon as defined in NFPA Standard 160. Such devices include paraffin wax candles, LPG candles, torches, and LPG burners.

(3) "NFPA Standard 1126" means the edition of the National Fire Protection Association, Standard 1126, "Standard for the Use of Pyrotechnics before a Proximate Audience," as adopted and amended by the commissioner.

(4) "NFPA Standard 160" means the edition of the National Fire Protection Association, Standard 160, "Standard for Flame Effects Before an Audience," as adopted and amended by the commissioner.

(5) "Pyrotechnics" means an explosive composition or device designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation as defined by NFPA Standard 1126.

(b) The use of flame effects or pyrotechnics for entertainment, exhibition, demonstration, or simulation before an assembly of 50 people or more, except for public safety demonstrations, must comply with NFPA Standard 160 and NFPA

Standard 1126 and the following standards and requirements:

(1) if flame effects or pyrotechnics are used inside a building, the building must contain a complete operational fire-sprinkler system or provide personnel to implement a standby fire watch acceptable to the authority having jurisdiction;

(2) before flame effects or pyrotechnics are used inside a building, an announcement to the assembly must be made giving verbal instruction regarding the location and use of available exits and information about the building fire protection and fire alarm systems; a determination by the authority having jurisdiction that an exit door is locked or obstructed constitutes a violation of this section;

(3) the plan required by NFPA Standard 1126 or NFPA Standard 160 detailing the criteria for use and display of pyrotechnics and flame effects must be provided to the local authority having jurisdiction;

(4) at least one Texas pyrotechnic special effects operator's licensee must be present on-site at all times where pyrotechnics are used, discharged, or ignited;

(5) at least one Texas flame effects operator's licensee must be present on-site at all times where flame effects are used, discharged, or ignited;

(6) the on-site licensee shall be responsible for complying with this section;

(7) the licensee or the licensee's employer must obtain a permit from the local authority having jurisdiction before the use, discharge, or ignition of a flame effect or pyrotechnics; and

(8) the applicant for the permit must provide with the application the evidence of insurance required by Section [2154.207](#).

(c) The requirements provided by Subsection (b) do not apply to traditional, nontheatrical public displays such as:

(1) use of lighted candles in restaurants or during religious services;

(2) fireplaces in areas open to the public;

(3) restaurant cooking visible to the public;

(4) the outdoor use of consumer fireworks by the

general public; or

(5) an outdoor public display permitted under Section [2154.204](#).

(d) The authority having jurisdiction may adopt regulations governing the issuance of permits for the use of flame effects or pyrotechnics and may charge a fee to recover its costs.

(e) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor. Each day a violation occurs or continues constitutes a separate offense. Venue under this section is in the county in which the offense is committed or in Travis County.

(f) A municipal or county ordinance, order, or rule in effect on September 1, 2003, is not invalidated by this chapter.

(g) This section does not limit or restrict the authority of a county, where specifically authorized by law, or municipality to enact an ordinance or order prohibiting or further regulating flame effects or pyrotechnics.

Added by Acts 2003, 78th Leg., ch. 872, Sec. 1, eff. Sept. 1, 2003.

Sec. 2154.254. EMPLOYMENT OF MINORS. (a) Except as provided by Subsection (c), a person may not employ or allow a person younger than 16 years of age to manufacture, distribute, sell, or purchase fireworks in the course of the person's business.

(b) Except as provided by Subsection (c), a person may not employ a person 16 years of age or older but younger than 18 years of age to sell fireworks at a retail sales location unless the person selling fireworks at that location is accompanied by another person who is at least 18 years of age.

(c) An owner of a retail sales location may employ a person who is otherwise prohibited from engaging in that activity by Subsection (a) or (b) to sell fireworks at the owner's retail sales location if the person employed is:

- (1) a member of the owner's immediate family;
- (2) 12 years of age or older; and
- (3) accompanied by another person who is at least 18 years of age while the person is engaged in selling fireworks at that location.

Added by Acts 2007, 80th Leg., R.S., Ch. 1179 (H.B. 539), Sec. 5, eff. June 15, 2007.

SUBCHAPTER G. DISCIPLINARY ACTIONS; PENALTIES

Sec. 2154.301. DISCIPLINARY POWERS OF COMMISSIONER. (a) The commissioner may, through the state fire marshal, suspend, revoke, or refuse to issue or renew a license or permit if the commissioner finds that any provision of this chapter, or any rule adopted under this chapter, has been violated.

(b) A person who has a license or permit revoked may not reapply for the license or permit earlier than one year from the date of revocation. A person reapplying under this subsection must request a public hearing on the reissuance of the license or permit and has the burden of proving that a license or permit should be granted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.302. DISCIPLINARY HEARING. (a) If the state fire marshal proposes to suspend, revoke, or refuse to renew a person's license or permit, the person is entitled to a hearing conducted by the State Office of Administrative Hearings.

(b) Disciplinary proceedings are governed by Chapter 2001, Government Code.

(c) Rules of practice adopted by the commissioner applicable to the disciplinary proceedings may not conflict with the rules adopted by the State Office of Administrative Hearings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2154.303. PENALTIES. (a) A person commits an offense if the person violates Section 2154.101(b), (c)(2), or (d), 2154.151(e), or 2154.201(a), (b)(2), or (c) or Subchapter F.

(b) Except as provided by Subsection (c), an offense under this section is a Class B misdemeanor.

(c) A violation of Section 2154.251(a)(1), (2), (3), (4), (5), or (8) that results in property damage in an amount of less than \$200 and does not result in bodily injury or death, or a

violation of Section 2154.254(a) or (b), is a Class C misdemeanor.

(d) Each day a violation occurs or continues constitutes a separate offense.

(e) Venue under this section is in the county in which the offense is committed or in Travis County.

(f) If the commissioner determines that a violation of this chapter creates a threat to the public safety, the commissioner may bring suit in the district court of the county in which the person who committed the offense resides or has an office to enjoin the person from engaging in the prohibited activity. The commissioner is not required to give bond as a condition to the issuance of injunctive relief.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.709(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1179 (H.B. 539), Sec. 6, eff. June 15, 2007.

Sec. 2154.304. SEIZURE OF ILLEGAL FIREWORKS. (a) The state fire marshal, a fire chief, a fire marshal, their deputies, or a peace officer may seize illegal fireworks. Fireworks seized in the enforcement of this chapter shall be kept in the custody of the seizing agent or the sheriff of the county in which the fireworks were seized.

(b) The owner of the seized fireworks may file an action contesting the seizure in a district court in the county in which the fireworks were seized.

(c) Not later than the 30th day after the hearing on the seizure, the court may authorize the return of part or all of the confiscated fireworks. The court shall order any fireworks not returned to be destroyed. If an action contesting the seizure is not filed by the 30th day after the seizure, the seizing agent or the sheriff shall destroy the fireworks.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.