

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

4

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

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 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 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 G.S. 14-413 and pyrotechnics are exhibited ~~conducted~~ on lands or buildings in Orange County owned by The University of North Carolina or the



1 University of North Carolina at Chapel Hill, but such exhibition, use, or
2 discharge of pyrotechnics shall be under supervision of experts who have
3 previously secured written authority from The University of North Carolina
4 or the University of North Carolina at Chapel Hill.

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

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

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

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

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

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

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

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

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

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

27 "Article 82A.

28 "Pyrotechnics Training and Permitting.

29 "**§ 58-82A-1. State Fire Marshal establish pyrotechnic safety guidelines.**

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

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

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

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

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

38 "**§ 58-82A-2. Individual training requirements.**

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

44 (1) Is an active member in good standing with a local fire or rescue department
45 that has experience in pyrotechnics or explosives, as verified by the State
46 Fire Marshal.

47 (2) Possesses the professional qualifications required by the State Fire Marshal
48 or the professional qualifications required by the jurisdiction where
49 permitting is being sought, whichever is greater. The professional
50 qualifications set by the State Fire Marshal may not be less than the
51 voluntary minimum professional qualifications for all levels of fire service

1 and rescue service personnel established by the State Fire and Rescue
2 Commission under G.S. 58-78-5.

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

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

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

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

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

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

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

22 (5) The individual pays an application fee not to exceed one hundred dollars
23 (\$100.00) and pays the cost of the examination not to exceed one hundred
24 dollars (\$100.00).

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

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

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

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

34 (3) The display operator fails to provide direct supervision and control over
35 individuals who assist the permit operator handle, use, exhibit, or display
36 pyrotechnics.

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

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

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

45 **SECTION 5.** This act becomes effective July 1, 2010, and applies to offenses
46 committed on or after that date.