GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2009

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SENATE BILL 563 State and Local Government Committee Substitute Adopted 7/22/09

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; <u>permit</u> 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 eause to be discharged discharge 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 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.
 - 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.
 - 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 byprovided 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 University of North Carolina at Chapel Hill, but such exhibition, use, or



discharge of pyrotechnics shall be under supervision of experts who have previously secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill.

- (a2) Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.
- (a3) The requirements of this section apply to G.S. 14-413(b) and G.S. 14-413(c) apply to this section G.S. 14-413(c).
- (b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to persons under the age of 16.
 - (c) As used in this Article, the following terms mean:
 - (1) <u>Concert or public exhibition. Includes fairs, carnivals, shows of all descriptions, and public celebrations.</u>
 - (2) <u>Display operator. An individual issued a display operator permit under</u> G.S. 14-410.1.
 - (3) State Fire Marshal. As defined in G.S. 58-80-1."

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

"§ 14-410.1. Pyrotechnics display operator permit.

- (a) The State Fire Marshal may issue a display operator permit to an individual to transport, exhibit, use, handle, or discharge pyrotechnics under G.S. 14-410 if all of the following apply:
 - (1) The individual is at least 21 years of age.
 - On at least three occasions, the individual assisted with the exhibition, use, or display of pyrotechnics authorized under G.S. 14-413.
 - (3) The individual successfully completes the minimum training requirements established under G.S. 58-82A-2(a).
 - (4) The individual successfully passes an examination approved by the State Fire Marshal that demonstrates the individual has the knowledge to safely handle, store, and exhibit Class 1.3g and 1.4g pyrotechnics or otherwise provides satisfactory evidence of current certification by a third party acceptable to the State Fire Marshal.
 - (5) The individual pays the fee required under G.S. 58-82A-2(b).
- (b) The State Fire Marshal may also issue a display operator permit to an individual who holds a permit or certification issued by another state provided the minimum requirements of that state are at least equal to the minimum requirements under this section and the person pays the fee required under G.S. 58-82A-2(b).
- (c) A permit issued under this section shall be valid for two years unless revoked by the State Fire Marshal.
- (d) The State Fire Marshal may refuse to issue a permit or may revoke a permit issued under this section if any of the following apply:
 - (1) The display operator violates any provision of this Article.
 - (2) The display operator violates any requirement of a permit issued under G.S. 14-413.
 - (3) The display operator fails to provide direct supervision and control over individuals who assist the permit operator transport, handle, use, exhibit, or display pyrotechnics.
 - (4) The display operator is convicted of a crime under G.S. 14-415.
 - (5) Another state revokes the permit or certification issued to that display operator by that state."
 - **SECTION 3.** G.S. 14-413 is amended by adding a new subsection to read:

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

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

"Article 82A.

"Pyrotechnics Training and Permitting.

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

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

"§ 58-82A-2. Training: testing; fees.

- Prior to transporting, using, handling, exhibiting, or discharging pyrotechnics in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes, an individual must:
 - Successfully complete the training approved or offered by the Commissioner (1) of Insurance through the Office of State Fire Marshal; or
 - Be a current active member in good standing with any local fire or rescue **(2)** department, with experience in pyrotechnics or explosives, as verified by the State Fire Marshal, and possess at least the qualifications provided in G.S. 58-78-5(a)(14b) and any higher qualifications, if any, in the jurisdiction where permitting is being sought and as otherwise required by the State Fire Marshal.
- The State Fire Marshal shall approve an examination to be taken by individuals seeking a display operator permit. The individual taking the examination shall pay the cost of the examination. The State Fire Marshal shall charge a fee, not to exceed one hundred dollars (\$100.00), for the issuance of a display operator permit authorized under G.S. 14-410.1.
- The Commissioner shall adopt rules to implement this Article and the provisions of G.S. 14-410.1."
- **SECTION 5.** Notwithstanding G.S. 58-82A-2(b), as enacted in Section 4 of this act, effective until July 1, 2011, the Commissioner may issue a display operator permit to individuals who meet the qualifications provided in G.S. 14-410.1 and shall waive the fee required under G.S. 58-82A-2(b).
- **SECTION 6.** The Commissioner of Insurance shall report to the General Assembly by May 1, 2010, on the implementation of this act and may make recommendations regarding additional statutory changes and the need for additional personnel or other resources to implement the act.
- **SECTION 7.** This act becomes effective January 2, 2010, and applies to offenses committed on or after that date.