

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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HOUSE BILL 783

Short Title: Pyrotechnics Technical and Conforming Changes. (Public)

Sponsors: Representative Starnes (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Regulatory Reform, if favorable, Finance.

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE LAWS GOVERNING PYROTECHNICS DISPLAYS.

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 license required; sale to persons under the age of 16 prohibited.

...

(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged 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 and licensing required under Article 82A of Chapter 58 of the General Statutes. The display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the General Statutes, must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics. Notwithstanding this subdivision, the display operator for the University of North Carolina School of the Arts may appoint an on-site representative to supervise any performances that include a proximate audience display subsequent to the opening performance, provided that the representative (i) is a minimum of 21 years of age and (ii) is properly trained in the safe discharge of proximate audience displays.

(3) The display operator has 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 the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition 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 on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

...



1        (a4) It shall be permissible for pyrotechnics to be exhibited, used, handled,  
2 manufactured, or discharged within the State as a special effect for a motion picture production,  
3 if the motion picture set is closed to the public or is separated from the public by a minimum  
4 distance of 500 feet.

5        (a5) It shall be permissible for pyrotechnics to be exhibited, used, handled,  
6 manufactured, or discharged within the State for pyrotechnic or proximate audience display  
7 instruction consisting of classroom and practical skills training approved by the Office of State  
8 Fire Marshall.

9        ...  
10        (c) The following definitions apply in this Article:

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

13            (2) Display operator. – An individual issued a display operator ~~permit~~-license  
14            under G.S. 58-82A-3.

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

16        **SECTION 2.** G.S. 14-413 reads as rewritten:

17        **"§ 14-413. Permits for use at public exhibitions.**

18        (a) For the purpose of enforcing the provisions of this Article, the board of county  
19 commissioners of any county, or the governing board of a city authorized pursuant to  
20 subsection (a1) of this section, may issue permits for use in connection with the conduct of  
21 concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public  
22 celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics  
23 will be used for the aforementioned purposes and none other. Provided that no such permit  
24 shall be required for a public exhibition under any of the following circumstances:

25            (1) The exhibition is authorized by The University of North Carolina or the  
26 University of North Carolina at Chapel Hill and conducted on lands or in  
27 buildings in Orange County owned by The University of North Carolina or  
28 the University of North Carolina at Chapel Hill.

29            (2) The exhibition is authorized by the University of North Carolina School of  
30 the Arts and conducted on lands or in buildings in Forsyth County owned by  
31 the University of North Carolina School of the Arts.

32        (a1) For the purpose of enforcing the provisions of this Article, a board of county  
33 commissioners may authorize the governing body of any city in the county to issue permits  
34 pursuant to the provisions of this Article for pyrotechnics to be exhibited, used, or discharged  
35 within the corporate limits of the city for use in connection with the conduct of concerts or  
36 public exhibitions. The board of county commissioners shall adopt a resolution granting the  
37 authority to the city, and it shall remain in effect until withdrawn by the board of county  
38 commissioners adopting a subsequent resolution withdrawing the authority. If a city lies in  
39 more than one county, the board of county commissioners of each county in which the city lies  
40 must adopt an authorizing resolution. If any county in which the city lies withdraws the  
41 authority of the city to issue permits for the use of pyrotechnics, the authority of the city to  
42 issue permits for the use of pyrotechnics will end, and all counties within which the city lies  
43 must resume their authority to issue the permits.

44        (b) For any indoor use of pyrotechnics at a concert or public exhibition, the board of  
45 commissioners or the governing body of an authorized city may not issue any permit unless the  
46 local fire marshal or the State Fire Marshal (or in the case of The University of North Carolina  
47 or the University of North Carolina at Chapel Hill it may not authorize such concert or public  
48 exhibition unless the State Fire Marshal) has certified that:

49            (1) Adequate fire suppression will be used at the site.

50            (2) The structure is safe for the use of such pyrotechnics with the type of fire  
51            suppression to be used.

1 (3) Adequate egress from the building is available based on the size of the  
2 expected crowd.

3 (c) The requirements of subsection (b) of this section also apply to any city authorized  
4 to grant pyrotechnic permits by local act and to the officer delegated the power to grant such  
5 permits by local act.

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

12 **SECTION 3.** G.S. 58-82A-3 reads as rewritten:

13 **"§ 58-82A-3. Pyrotechnics display operator license.**

14 (a) License Required. – A display operator license issued by the Commissioner is  
15 required for an individual to obtain the necessary authorization under Article 54 of Chapter 14  
16 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a  
17 concert or public exhibition in this State. A license issued under this section is valid for three  
18 years unless it is revoked by the Commissioner.

19 (b) Requirements. – The Commissioner may issue a display operator license to an  
20 individual if all of the following conditions are met:

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

22 (2) The individual has assisted a display operator as an assistant display operator  
23 in the exhibition, use, or display of pyrotechnics at a concert or public  
24 exhibition, as allowed under Article 54 of Chapter 14 of the General  
25 Statutes, on at least three occasions, ~~or is a proximate audience display~~  
26 ~~operator occasions.~~

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

29 (4) The individual successfully passes an examination approved by the State  
30 Fire Marshal that demonstrates the individual has the knowledge to safely  
31 handle, store, and exhibit Class 1.4g, 1.3g, 1.2g, and 1.1g pyrotechnics or  
32 provides satisfactory evidence of current certification by a third party  
33 acceptable to the State Fire Marshal.

34 (5) Repealed by Session Laws 2010-22, s. 6, effective October 1, 2010.

35 (6) The individual has no violations of any provision of this Article or of any  
36 similar provision of any other state and submits an "Employer Possessor  
37 Letter of Clearance" issued to the individual by the Bureau of Alcohol,  
38 Tobacco and Firearms pursuant to ~~18 U.S.C. Chapter 40~~ or, if the Bureau of  
39 Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the  
40 individual, the individual signs a statement provided by the Commissioner  
41 affirming that the individual has not been convicted of violating ~~18 U.S.C.~~  
42 ~~Chapter 40, Section 842(i).~~ 18 U.S.C. Chapter 40.

43 (b1) The Commissioner may issue a Limited Pyrotechnic Operator license to an  
44 individual meeting all the requirements of subsection (b) of this section with the exception of  
45 the "Employer Possessor Letter of Clearance" required by subdivision (b)(6) if the individual  
46 signs a statement provided by the Commissioner affirming that the individual has not been  
47 convicted of violating 18 U.S.C. Chapter 40, Section 842(i), and is not otherwise prohibited  
48 from possessing pyrotechnic materials by any provision of 18 U.S.C. Chapter 40, Section  
49 842(i).

50 ...

1 (e) Public exhibitions consisting of materials exempted by G.S. 14-414 are exempt  
2 from the operator license requirements."

3 **SECTION 4.** G.S. 58-82A-25 reads as rewritten:

4 "**§ 58-82A-25. Qualifications for event employees.**

5 Notwithstanding the provisions of this Article, the Commissioner or the fire code official  
6 for the jurisdiction issuing the pyrotechnics permit under G.S. 14-413 may certify an individual  
7 as an event employee if the individual meets the following requirements:

- 8 (1) Is at least 18 years of age.
- 9 (2) Possesses and provides a valid drivers license or other state-issued  
10 identification card.
- 11 (3) Correctly passes an on-site examination, administered by the Office of the  
12 State Fire Marshal or fire code official for the jurisdiction issuing the permit  
13 under G.S. 14-413, of a minimum of five questions to test basic pyrotechnic  
14 safety knowledge.
- 15 (4) Provides written confirmation from the licensed display operator or  
16 proximate audience display operator that the event employee is working  
17 under the supervision of the operator and that the event employee will not  
18 ~~handle the pyrotechnic materials.~~ be in the presence of the pyrotechnic  
19 materials without signing a statement provided by the Commissioner  
20 affirming that the individual has not been convicted of violating 18 U.S.C.  
21 Chapter 40, Section 842(i), or is not otherwise prohibited from possessing  
22 pyrotechnic materials by any provision of 18 U.S.C. Chapter 40, Section  
23 842(i). The event employee shall not be allowed to discharge or be in the  
24 presence of the pyrotechnic materials unless under direct supervision of a  
25 licensed pyrotechnic operator. An event employee certification is valid only  
26 for the concert or public exhibition listed on the pyrotechnic permit and  
27 cannot be renewed."

28 **SECTION 5.** This act is effective when it becomes law.