

House File 2328 - Introduced

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BY SIECK

A BILL FOR

1 An Act providing for licensing requirements related to the
2 provision of certain fireworks displays, and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 100.19, subsection 7, paragraph a, Code
2 2020, is amended to read as follows:

3 a. A consumer fireworks fee fund is created in the
4 state treasury under the control of the state fire marshal.
5 Notwithstanding [section 12C.7](#), interest or earnings on
6 moneys in the consumer fireworks fee fund shall be credited
7 to the consumer fireworks fee fund. Moneys in the fund are
8 appropriated to the state fire marshal to be used to fulfill
9 the responsibilities of the state fire marshal for the
10 administration and enforcement of [this section](#) and section
11 100.19A and to provide grants pursuant to paragraph "b". The
12 fund shall include the fees collected by the state fire marshal
13 under the fee schedule established pursuant to [subsection 3,](#)
14 the fees collected by the state fire marshal under the fee
15 schedule established pursuant to section 100.19B, subsection 4,
16 and the fees collected by the state fire marshal under section
17 100.19A for wholesaler registration.

18 Sec. 2. **NEW SECTION.** 100.19B **Pyrotechnic and proximate**
19 **displays — licensure requirements — penalty.**

20 1. As used in this section:

21 a. "*Display fireworks*" means the same as defined in section
22 727.2.

23 b. "*Lead pyrotechnic operator*" means an individual who
24 conducts a pyrotechnic display in the state and is responsible
25 for the overall safety, setup, discharge, and supervision of
26 the pyrotechnic display.

27 c. "*Person*" means the same as defined in section 80A.1.

28 d. "*Proximate display*" means the detonation, ignition,
29 or deflagration of proximate fireworks to produce a visual
30 or audible effect, or the display of any fireworks before a
31 proximate audience, or audience located at a closer distance
32 from such fireworks than permitted in the national fire
33 protection association standard 1123. "*Proximate display*" does
34 not include the personal private use of consumer fireworks or
35 novelties, as those terms are defined in section 727.2.

1 *e. "Proximate fireworks"* means a chemical mixture
2 used in the entertainment industry to produce visible or
3 audible effects, as enumerated in chapter 3 of the American
4 pyrotechnics association's standard 87-1.

5 *f. "Proximate operator"* means an individual who conducts
6 a proximate display in the state and is responsible for the
7 safety and control of the proximate display.

8 *g. "Pyrotechnic display"* means the detonation, ignition,
9 or deflagration of display fireworks to produce a visual or
10 audible effect.

11 *h. "Pyrotechnic distributor"* means a person who sells or
12 distributes display fireworks for a pyrotechnic display in the
13 state, or provides pyrotechnic display services in connection
14 with a pyrotechnic display in the state.

15 2. The state fire marshal shall establish the following
16 licenses:

17 *a. Lead pyrotechnic operator license.*

18 (1) An individual shall possess a lead pyrotechnic operator
19 license in order to conduct a pyrotechnic display in the state.

20 (2) An applicant for a lead pyrotechnic operator license
21 shall, at a minimum, meet the following requirements:

22 (a) Be at least twenty-one years of age.

23 (b) Meet the requisite training and education requirements
24 established by the state fire marshal.

25 (c) Be of good moral character and fitness, as prescribed by
26 rules adopted by the state fire marshal.

27 (d) Hold an explosives license or a letter of clearance
28 from the federal bureau of alcohol, tobacco, firearms, and
29 explosives.

30 (3) The state fire marshal may prepare and conduct, or
31 prescribe, an examination for applicants for a lead pyrotechnic
32 operator license.

33 *b. Pyrotechnic distributor license.*

34 (1) A person shall possess a pyrotechnic distributor
35 license in order to sell or distribute display fireworks for

1 pyrotechnic displays in the state, or provide pyrotechnic
2 display services in connection with pyrotechnic displays in the
3 state.

4 (2) An applicant for a pyrotechnic display license shall, at
5 a minimum, meet the following requirements:

6 (a) Hold a current license from the federal bureau of
7 alcohol, tobacco, firearms, and explosives for the type of
8 pyrotechnic display to be provided.

9 (b) Maintain product liability insurance coverage in the
10 amount of at least one million dollars.

11 (c) Maintain commercial general liability insurance
12 coverage in the amount of at least one million dollars.

13 (d) Maintain state workers' compensation insurance
14 coverage.

15 (e) Meet the requisite training and education requirements
16 established by the state fire marshal.

17 (f) Be subject to state taxation as a legal entity doing
18 business in the state.

19 *c. Proximate operator license.*

20 (1) An individual shall possess a proximate operator
21 license in order to conduct a proximate display in the state.

22 (2) An applicant for a proximate operator license shall, at
23 a minimum, meet the following requirements:

24 (a) Be at least twenty-one years of age.

25 (b) Meet the requisite training and education requirements
26 established by the state fire marshal.

27 (c) Provide proof of and maintain liability insurance
28 coverage in an amount established by the state fire marshal.

29 (3) The state fire marshal may prepare and conduct, or
30 prescribe, an examination for applicants for a proximate
31 operator license.

32 3. An application for a license described in subsection 2
33 shall be made on a form provided by the state fire marshal.

34 The state fire marshal shall adopt rules consistent with this
35 section establishing standards and requirements for licenses

1 issued pursuant to this section.

2 4. The state fire marshal shall establish by rule an annual
3 fee schedule for licenses issued pursuant to this section.
4 The fees collected by the state fire marshal under the fee
5 schedule shall be deposited in the consumer fireworks fee fund
6 established in section 100.19, subsection 7, paragraph "a".

7 5. A pyrotechnic display in the state shall be conducted
8 by a licensed lead pyrotechnic operator who meets one of the
9 following conditions:

10 a. Is employed by a licensed pyrotechnic distributor.

11 b. Is insured under a licensed pyrotechnic distributor's
12 product liability and commercial general liability insurance
13 coverage.

14 6. A proximate display in the state shall be conducted by
15 a licensed proximate operator.

16 7. a. The state fire marshal shall adopt rules to
17 provide that a lead pyrotechnic operator license, pyrotechnic
18 distributor license, or proximate operator license may be
19 revoked for an intentional violation of this section. A
20 proceeding for revocation shall be held before the division
21 of the state fire marshal, which may revoke the license or
22 licenses involved as provided in paragraph "b".

23 b. (1) If, upon the hearing of the order to show cause,
24 the division of the state fire marshal finds that a licensee
25 intentionally violated this section, then the license or
26 licenses shall be revoked.

27 (2) Judicial review of actions of the division of the state
28 fire marshal may be sought in accordance with chapter 17A. If
29 the licensee has not filed a petition for judicial review in
30 district court, revocation shall date from the thirty-first
31 day following the date of the order of the division of the
32 state fire marshal. If the licensee has filed a petition for
33 judicial review, revocation shall date from the thirty-first
34 day following entry of the order of the district court, if
35 action by the district court is adverse to the licensee.

1 (3) A new license shall not be issued to a person whose
2 license has been revoked.

3 8. The state fire marshal shall adopt rules for the
4 administration of this section.

5 9. A person who violates a provision of this section or a
6 rule adopted pursuant to this section is guilty of a simple
7 misdemeanor.

8 Sec. 3. Section 461A.42, subsection 2, Code 2020, is amended
9 to read as follows:

10 2. The use of consumer fireworks or display fireworks,
11 as defined in [section 727.2](#), in state parks and preserves is
12 prohibited except as authorized by a permit issued by the
13 department, provided, however, that a pyrotechnic display, as
14 defined in section 100.19B, in a state park or preserve must be
15 conducted by a licensed lead pyrotechnic operator as provided
16 in section 100.19B, subsection 5. The commission shall
17 establish, by rule adopted pursuant to [chapter 17A](#), a fireworks
18 permit system which authorizes the issuance of a limited number
19 of permits to qualified persons to use or display fireworks in
20 selected state parks and preserves.

21 Sec. 4. Section 727.2, subsection 2, paragraph a, Code 2020,
22 is amended to read as follows:

23 a. A person, firm, partnership, or corporation who offers
24 for sale, exposes for sale, sells at retail, or uses or
25 explodes any display fireworks, commits a simple misdemeanor,
26 punishable by a fine of not less than two hundred fifty
27 dollars. However, a city council of a city or a county board
28 of supervisors may, upon application in writing, grant a
29 permit for ~~the a pyrotechnic display of display fireworks~~ by
30 municipalities, fair associations, amusement parks, and other
31 organizations or groups of individuals approved by the city or
32 the county board of supervisors when the pyrotechnic display
33 ~~fireworks~~ will be handled conducted by a competent licensed
34 lead pyrotechnic operator as provided in section 100.19B,
35 subsection 5, but no such permit shall be required for ~~the~~

1 a pyrotechnic display ~~of display fireworks~~ at the Iowa state
2 fairgrounds by the Iowa state fair board, at incorporated
3 county fairs, or at district fairs receiving state aid. Sales
4 of display fireworks by a licensed pyrotechnic distributor for
5 such pyrotechnic display may be made for that purpose only.
6 For purposes of this paragraph, "pyrotechnic display" means the
7 same as defined in section 100.19B.

8

EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill establishes new Code section 100.19B, which
12 provides licensing requirements in connection with certain
13 fireworks displays in Iowa.

14 Current law prohibits the sale and use of display fireworks,
15 provided that cities and counties may issue permits for the
16 display of display fireworks if the display is handled by a
17 competent operator. The department of natural resources may
18 also issue permits for the use of display fireworks in state
19 parks and preserves.

20 The bill requires the state fire marshal to establish a lead
21 pyrotechnic operator license. The lead pyrotechnic operator
22 license is required for an individual to conduct a pyrotechnic
23 display in Iowa. The bill defines "pyrotechnic display" to
24 mean the detonation, ignition, or deflagration of display
25 fireworks, as defined in the bill by reference, to produce a
26 visual or audible effect. An applicant for such a license
27 shall, at a minimum, be at least 21 years of age, meet the
28 requisite training and education requirements established by
29 the state fire marshal, be of good moral character and fitness,
30 and hold an explosives license or a letter of clearance
31 from the federal bureau of alcohol, tobacco, firearms, and
32 explosives (BATFE). The state fire marshal may also require an
33 applicant for such license to take an examination.

34 The bill requires the state fire marshal to establish a
35 pyrotechnic distributor license. The pyrotechnic distributor

1 license is required for a person to sell or distribute display
2 fireworks for pyrotechnic displays in Iowa, or provide
3 pyrotechnic display services in connection with such displays.
4 An applicant for such license shall, at a minimum, hold a
5 current and applicable license from the BATFE, maintain product
6 liability insurance coverage in the amount of at least \$1
7 million, maintain commercial general liability insurance
8 coverage in the amount of at least \$1 million, maintain state
9 workers' compensation insurance coverage, meet the requisite
10 training and education requirements, and be subject to state
11 taxation as a legal entity doing business in Iowa.

12 The bill requires the state fire marshal to establish a
13 proximate operator license. The proximate operator license
14 is required for an individual to conduct a proximate display
15 in Iowa. The bill defines "proximate display" to mean the
16 detonation, ignition, or deflagration of proximate fireworks,
17 as defined in the bill, to produce a visual or audible effect,
18 or the use of any fireworks before a proximate audience, as
19 described in the bill, but does not include the personal
20 private use of consumer fireworks or novelties. An applicant
21 for such a license shall, at a minimum, be at least 21 years
22 of age, meet the requisite training and education requirements
23 established by the state fire marshal, and provide proof of and
24 maintain liability insurance coverage in an amount established
25 by the state fire marshal. The state fire marshal may also
26 require an applicant to take an examination.

27 The bill provides that an application for any license
28 provided in the bill shall be made on a form provided by the
29 state fire marshal. The state fire marshal shall adopt rules
30 establishing standards and requirements for such licenses that
31 are consistent with the bill.

32 The bill requires the state fire marshal to establish by
33 rule an annual fee schedule for licenses provided in the bill.
34 Such fees shall be deposited in the consumer fireworks fee fund
35 established in Code section 100.19(7)(a).

1 The bill provides that a pyrotechnic display in Iowa shall
2 be conducted by a licensed lead pyrotechnic operator who is
3 employed by a licensed pyrotechnic distributor or insured under
4 a licensed pyrotechnic distributor's product liability and
5 commercial general liability insurance coverage.

6 The bill provides that a proximate display in Iowa shall be
7 conducted by a licensed proximate operator.

8 The bill requires the state fire marshal to adopt rules
9 to provide that a person's license may be revoked for an
10 intentional violation of the bill's provisions. The bill
11 establishes a procedure for any such action by the state fire
12 marshal, as described in the bill. The bill provides that a
13 new license shall not be issued to a person whose license is
14 revoked.

15 The bill requires the state fire marshal to adopt rules to
16 administer Code section 100.19B.

17 The bill provides that a person who violates a provision
18 of Code section 100.19B or a rule adopted pursuant to such
19 Code section is guilty of a simple misdemeanor. A simple
20 misdemeanor is punishable by confinement for no more than 30
21 days or a fine of at least \$65 but not more than \$625 or by
22 both.

23 The bill makes conforming changes by specifying that any
24 permit for a pyrotechnic display issued by a city, county, or
25 department of natural resources, shall require the pyrotechnic
26 display to be conducted by a licensed lead pyrotechnic operator
27 as provided in the bill.