

MAR 30 2006  
WAYS & MEANS CALENDAR

HOUSE FILE 2785  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2668)

(SUCCESSOR TO HF 2254)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the licensure of operators authorized to use  
2 and explode fireworks and making penalties applicable.

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

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HF 2785

1 Section 1. NEW SECTION. 101B.1 FIREWORKS OPERATOR  
2 LICENSE.

3 The state fire marshal shall provide for the issuance of  
4 fireworks operator licenses to eligible persons. Licenses  
5 shall be issued for a period not to exceed one year and may be  
6 issued for shorter periods. The state fire marshal shall  
7 adopt rules governing criteria for the issuance and renewal of  
8 a license, the license fee, and for the revocation or  
9 suspension of a license. The license fee shall be reasonably  
10 related to the costs to the state fire marshal for  
11 administering this section and fees received shall be retained  
12 by the state fire marshal for this purpose.

13 Sec. 2. Section 461A.42, subsection 2, Code 2005, is  
14 amended to read as follows:

15 2. The use of fireworks, as defined in section 727.2, in  
16 state parks and preserves is prohibited except as authorized  
17 by a permit issued by the department. The commission shall  
18 establish, by rule adopted pursuant to chapter 17A, a  
19 fireworks permit system which authorizes the issuance of a  
20 limited number of permits to qualified persons with a  
21 fireworks operator license issued pursuant to section 101B.1  
22 to use or display fireworks in selected state parks and  
23 preserves. A person violating this subsection is guilty of a  
24 simple misdemeanor. In addition to any other penalties, the  
25 punishment imposed for a violation of this subsection shall  
26 include assessment of a fine of not less than two hundred  
27 fifty dollars. The court shall order restitution if any  
28 damages were caused by the violation which may include, but is  
29 not limited to, community service.

30 Sec. 3. Section 727.2, unnumbered paragraph 2, Code 2005,  
31 is amended to read as follows:

32 A person, firm, copartnership, or corporation who offers  
33 for sale, exposes for sale, sells at retail, or uses or  
34 explodes any fireworks, commits a simple misdemeanor. In  
35 addition to any other penalties, the punishment imposed for a

1 violation of this section shall include assessment of a fine  
2 of not less than two hundred fifty dollars. However, the  
3 council of a city or a county board of supervisors may, upon  
4 application in writing, grant a permit for the display of  
5 fireworks by municipalities, fair associations, amusement  
6 parks, and other organizations or groups of individuals  
7 approved by the city or the county board of supervisors when  
8 the fireworks display will be handled by a competent operator,  
9 but no such with a fireworks operator license issued pursuant  
10 to section 101B.1. A permit shall not be required for the  
11 display of fireworks at the Iowa state fairgrounds by the Iowa  
12 state fair board, at incorporated county fairs, or at district  
13 fairs receiving state aid except that the display of fireworks  
14 shall be handled by an operator with a fireworks operator  
15 license issued pursuant to section 101B.1. Sales of fireworks  
16 for such display may be made for that purpose only.

17 EXPLANATION

18 This bill establishes a fireworks operator license to be  
19 issued by the state fire marshal which authorizes the holder  
20 to use or detonate fireworks as authorized by law. The bill  
21 provides that licenses shall be issued for no longer than one  
22 year. The bill provides that the state fire marshal shall  
23 adopt rules governing the issuance of the license, the fee for  
24 the license, and provisions for the revocation or suspension  
25 of a license. The bill provides that the fee charged shall be  
26 retained by the state fire marshal for administering this new  
27 provision.

28 The bill provides that entities otherwise authorized to  
29 allow the display of fireworks shall only permit the display  
30 to be conducted by a person with a fireworks operator license.

31 Code section 461A.42, which permits the use of fireworks in  
32 state parks and preserves under certain circumstances, is  
33 amended to provide that any person authorized to use and  
34 explode fireworks shall have a fireworks operator license.

35 Code section 727.2, which authorizes fireworks displays for

1 fairs or if allowed by the applicable city or county, is also  
2 amended to provide that any person authorized to use and  
3 explode fireworks shall have a fireworks operator license. A  
4 violation of this section concerning fireworks is a simple  
5 misdemeanor and subjects the violator to a fine of not less  
6 than \$250.

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HOUSE FILE 2785

H-8446

- 1 Amend House File 2785 as follows:  
2 1. Page 1, line 2, by inserting after the word  
3 "LICENSE" the following: "AND INSPECTIONS".  
4 2. Page 1, line 3, by inserting before the words  
5 "The state" the following: "1."  
6 3. Page 1, line 8, by striking the words "and  
7 for".  
8 4. Page 1, line 9, by inserting after the words  
9 "suspension of a license" the following: ", and proof  
10 of financial responsibility, including but not limited  
11 to a surety bond, liability insurance, or another form  
12 of liability coverage".  
13 5. Page 1, by inserting after line 12 the  
14 following:  
15 "2. The state fire marshal shall adopt rules to  
16 allow for inspections of events permitted pursuant to  
17 section 727.2 if the applicable city or county does  
18 not perform an inspection, and charge a fee reasonably  
19 related to the costs to the state fire marshal for  
20 providing the inspections. The rules shall require  
21 that the applicable city or county notify the state  
22 fire marshal if the city or county will not perform an  
23 inspection. Inspection fees received shall be  
24 retained by the state fire marshal for this purpose."  
25 6. Page 1, line 23, by inserting after the word  
26 "preserves." the following: "The permit shall require  
27 that the person issued the fireworks operator license  
28 be physically present when fireworks are used pursuant  
29 to the permit."  
30 7. Page 2, line 9, by striking the word "with"  
31 and inserting the following: "who was issued".  
32 8. Page 2, line 9, by striking the words "issued  
33 pursuant" and inserting the following: "pursuant".  
34 9. Page 2, line 14, by striking the word "with"  
35 and inserting the following: "who was issued".  
36 10. Page 2, line 15, by striking the word  
37 "issued".  
38 11. Page 2, by inserting after line 16 the  
39 following:  
40 "Sec. \_\_\_\_ . EFFECTIVE DATE. This Act takes effect  
41 on January 1, 2007."  
42 12. Title page, line 1, by inserting after the  
43 word "licensure" the following: "and inspection".  
44 13. Title page, line 2, by inserting after the  
45 word "applicable" the following: "and providing an  
46 effective date".  
47 14. By renumbering as necessary.

By REASONER of Union  
TOMENGA of Polk

H-8446 FILED MARCH 30, 2006

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 2785 - Fireworks (LSB 5496 HZ)

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Fiscal Note Version - New

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**Description**

House File 2785 establishes a one-year Fireworks Operators License to be issued by the State Fire Marshal's Office, which authorizes the holder to use or detonate fireworks as authorized by law. The Fire Marshal's Office will adopt rules governing the issuance of the license, the fee for the license, and provisions for the revocation or suspension of the license. The license fee will be retained by the State Fire Marshal's Office for administering the new provision. Violators are subject to a simple misdemeanor penalty.

**Background**

1. In FY 2005, there were 50 convictions for violations of Section 727.2, Code of Iowa, for fireworks possession or sale.
2. In FY 2005, there were five convictions for improper fireworks in State parks.
3. Under the Bill, the State Fire Marshal's Office is allowed to keep the revenue from licensing and permits to offset staff costs.

**Assumptions**

1. The law will become effective July 1, 2006. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system (to allow for court case processing time).
2. The fireworks industry estimates approximately 1,000 citizens would pursue licensing in Iowa. The number of fireworks shows is unknown; however, the estimate is approximately 350 inspections per year.
3. The annual licensing fee will be established in Administrative Rules; however, the Department of Public Safety estimates the fee necessary to make the licensing portion of the Bill self-sustaining is an annual fee of \$60 per license.
4. The permit fee will be established in Administrative Rules; however, the Department estimates the fee necessary to make the inspection portion of the Bill self-sustaining is \$100 per show.
5. The Department estimates 1.5 FTE positions for an investigator (\$64,000) and a part-time clerical person (\$18,000) would be needed to perform these functions. Office expenses, travel, and equipment for the first year are estimated to be approximately \$36,000, of which \$25,000 are one-time expenses. The salary for the second year would be \$66,000 for the investigator and \$18,000 for the clerical person. Office expenses would be \$11,000.
6. Under the Bill, where a local jurisdiction conducts the inspection of a display show, they would be allowed to collect the permit fee. This is in addition to the 350 anticipated inspections the Department of Public Safety would perform.

**Correctional Impact**

By requiring a license, there may be a few additional violations; however, the impact will be minimal on the correctional system due to the simple misdemeanor penalty.

### **Fiscal Impact**

Based on the fees established in Administrative Rules, the total revenue generated from fireworks licensing and permitting would be approximately \$95,000, which is intended to offset any operating costs incurred by the State Fire Marshal's Office. Due to a lag in hiring, the estimated revenue should be sufficient to fund the 1.5 FTE positions in both the first and second year.

### **Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJPD)  
Department of Public Safety, State Fire Marshal's Office

/s/ Holly M. Lyons

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April 3, 2006

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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