

Senate File 374 - Introduced

SENATE FILE 374

BY ZAUN

A BILL FOR

1 An Act providing for the licensure of operators authorized
2 to purchase, use, and explode fireworks, and including
3 penalties.

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

1 Section 1. NEW SECTION. 101D.1 Definitions.

2 For purposes of this chapter, unless the context otherwise
3 requires:

4 1. "*Department*" means the department of public safety.

5 2. "*Division*" means the division of the state fire marshal
6 in the department.

7 3. "*Fireworks*" means permissible fireworks as described in
8 section 727.2A.

9 4. "*License*" means a privilege granted by the state fire
10 marshal to operate fireworks, including any privilege related
11 to a license granted by issuance of a stamp or a payment of a
12 fee.

13 5. "*License agent*" means an individual, business, or
14 governmental agency authorized to sell a license.

15 Sec. 2. NEW SECTION. 101D.2 Fireworks operator license —
16 fee.

17 1. A person shall not purchase, operate, or ignite fireworks
18 within this state without first obtaining a license from the
19 division for those purposes and paying a fee of forty-one
20 dollars.

21 2. The division shall provide for the issuance of fireworks
22 operator licenses to eligible persons. A person must be at
23 least eighteen years of age and must successfully complete the
24 firework safety education program created in section 101D.3 to
25 be eligible for a license under this chapter.

26 3. A license shall be issued for a period not to exceed one
27 year.

28 4. The state fire marshal shall adopt rules for
29 the revocation or suspension of a license and for the
30 administration of this chapter.

31 Sec. 3. NEW SECTION. 101D.3 Firework safety education
32 program — license requirements.

33 1. A person shall not obtain a fireworks operator license
34 unless the person has satisfactorily completed a fireworks
35 safety education course approved by the division and offered

1 by the department. A person who is seventeen years of age or
2 older may enroll in an approved fireworks safety education
3 course, but a person who is seventeen years of age and who
4 has successfully completed the course, shall be issued a
5 certificate of completion which becomes valid on the person's
6 eighteenth birthday. A certificate of completion from an
7 approved fireworks safety education course issued in this state
8 is valid for the requirements of this section.

9 2. *a.* A certificate of completion shall not be issued
10 to a person who has not satisfactorily completed the minimum
11 requirements of such a course as adopted by the state fire
12 marshal pursuant to chapter 17A. The state fire marshal shall
13 establish the curriculum for the course.

14 *b.* Upon completion of the course, each person shall be
15 required to pass an individual oral test or a written test
16 provided by the division in order to receive a certificate
17 of completion. The state fire marshal shall establish
18 the criteria for successfully passing the test. Based on
19 the results of the test and demonstrated safe handling of
20 fireworks, the instructor shall determine the persons who shall
21 be issued a certificate of completion.

22 3. The department shall provide a manual for fireworks
23 safety which shall be used by all instructors and persons
24 receiving fireworks safety education training in this state.
25 The department may produce the manual in a print or electronic
26 format.

27 4. The division shall provide for the certification of
28 persons who wish to become fireworks safety instructors. A
29 person shall not act as an instructor in a fireworks safety
30 education course as provided in this section without first
31 obtaining an instructor's certificate from the division.

32 5. An officer of the department or a certified instructor
33 may issue a certificate to a person who has not completed the
34 fireworks safety education course but meets other criteria
35 established by the state fire marshal.

1 6. A fireworks operator license obtained under this
2 chapter by a person who gave false information or presented a
3 fraudulent certificate of completion shall be revoked and a new
4 license shall not be issued for at least two years from the
5 date of revocation. A license obtained by a person who has not
6 satisfactorily completed the fireworks safety education course
7 or has not met the requirements established by the state fire
8 marshal shall be revoked.

9 7. An initial firework safety certificate of completion
10 shall be issued without cost. A duplicate certificate shall be
11 issued at a cost of three dollars.

12 8. Enrollment in the program shall be free for a person's
13 initial enrollment. The division shall charge a one hundred
14 dollar fee for any subsequent enrollment.

15 Sec. 4. NEW SECTION. 101D.4 License agents.

16 The state fire marshal may designate license agents for the
17 sale of licenses, but in so doing the interest of the state
18 shall be fully protected.

19 Sec. 5. NEW SECTION. 101D.5 Allocation of fee revenue.

20 All revenue collected from the fireworks operator license
21 fees as provided in section 101D.2, subsection 1, that is
22 collected by the division shall be allocated as follows:

23 1. One dollar of each license fee collected shall be
24 allocated to the division.

25 2. Ten dollars of each license fee collected shall be
26 allocated to fire departments throughout the state of Iowa.
27 The state fire marshal shall adopt rules pursuant to chapter
28 17A for the direction of such moneys.

29 3. Ten dollars of each license fee collected shall be
30 allocated to public school districts throughout the state of
31 Iowa. The state fire marshal shall adopt rules pursuant to
32 chapter 17A for the direction of such moneys.

33 4. Twenty dollars of each license fee collected shall be
34 allocated to the state general fund.

35 Sec. 6. NEW SECTION. 101D.6 Accounting.

1 The state fire marshal shall by rule establish specific
2 requirements for remittance of funds and the necessary
3 accounting and reporting for licenses issued.

4 Sec. 7. NEW SECTION. 101D.7 Operation of fireworks —
5 penalty.

6 1. A person who does not possess a valid fireworks operator
7 license shall not operate fireworks.

8 2. A person may only operate fireworks during the months of
9 January, May, June, July, or December of each year, or during
10 certain holiday weekends, as permitted by rule adopted by the
11 state fire marshal pursuant to chapter 17A.

12 3. A person shall not operate fireworks at any time when
13 the state fire marshal has declared the operation of fireworks
14 to be a threat to public safety. The state fire marshal may
15 declare such a threat if conditions warrant such a declaration.

16 4. A person shall not operate, ignite, or store fireworks
17 in an unsafe manner as described within the fireworks safety
18 manual described in section 101D.3, subsection 3.

19 5. A licensee who violates the provisions of this section
20 shall have their license suspended and shall be required to
21 successfully complete the firework safety education program
22 created in section 101D.3 again before the division may issue
23 another license to that person.

24 6. Any person who violates the provisions of this section is
25 subject to a civil penalty not to exceed three hundred dollars
26 for each offense.

27 Sec. 8. NEW SECTION. 101D.8 Sales permits.

28 1. The division shall issue permits for the sale of
29 fireworks. A permit shall not be issued to a person under
30 eighteen years of age.

31 2. All permits shall be for the calendar year or any
32 fraction thereof and shall expire on the thirty-first day of
33 December of each year. The division may set a fee for issuance
34 of such a permit to cover administrative costs of this section.

35 3. Permits shall be conspicuously displayed in the permit

1 holder's place of business along with a clearly visible sign
2 that states the law concerning the sale, use, and possession of
3 fireworks in this state.

4 4. The state fire marshal shall adopt rules in accordance
5 with chapter 17A to regulate fireworks sellers and the sale of
6 fireworks, including the establishment of a fee for a permit
7 issued pursuant to this section.

8 Sec. 9. Section 727.2, subsection 2, Code 2011, is amended
9 to read as follows:

10 2. a. A person, or a firm, partnership, or corporation
11 ~~who offers~~ permitted under section 101D.8 may offer for
12 ~~sale, exposes for sale, sells at retail, or uses or explodes~~
13 ~~any fireworks, commits a simple misdemeanor~~ permissible
14 under sections 727.2A and 727.2B. In addition to any other
15 penalties, the punishment imposed for a violation of this
16 section shall include assessment of a fine of not less than two
17 hundred fifty dollars. ~~However, the~~

18 b. The council of a city or a county board of supervisors
19 may, upon application in writing, grant a permit for the
20 display of fireworks not permissible under section 727.2A by
21 municipalities, fair associations, amusement parks, and other
22 organizations or groups of individuals approved by the city
23 or the county board of supervisors when the fireworks display
24 will be handled by a competent operator, but no such permit
25 shall be required for the display of fireworks at the Iowa
26 state fairgrounds by the Iowa state fair board, at incorporated
27 county fairs, or at district fairs receiving state aid. Sales
28 of fireworks for such display may be made for that purpose
29 only.

30 Sec. 10. Section 727.2, subsection 3, Code 2011, is amended
31 by striking the subsection.

32 Sec. 11. NEW SECTION. **727.2A Permissible fireworks.**

33 Permissible fireworks are the consumer fireworks enumerated
34 in chapter 3 of the American pyrotechnics association, inc.,
35 standard 87-1, and that comply with the labeling regulations

1 promulgated by the United States consumer product safety
2 commission.

3 Sec. 12. NEW SECTION. **727.2B Examination of fireworks —**
4 **penalty.**

5 If consumer fireworks are not permissible under section
6 727.2A, the proposed seller must submit the fireworks to the
7 state fire marshal for examination and approval prior to the
8 sale of such fireworks. A person who violates this section
9 commits a serious misdemeanor.

10

EXPLANATION

11 This bill provides for the legal sale and use of consumer
12 fireworks within the state.

13 The bill provides for the licensure of consumer fireworks
14 operators by the division of the state fire marshal of the
15 department of public safety. The bill provides that a person
16 may not purchase, operate, or explode fireworks within the
17 state without being licensed under the bill. The bill provides
18 that a person must be at least 18 years of age, have completed
19 a fireworks safety education program, and paid a fee of \$41
20 in order to receive a license pursuant to the bill. The bill
21 provides that a license will not be for longer than one year.
22 The bill provides that the state fire marshal shall adopt
23 rules for the revocation or suspension of a fireworks operator
24 license and for the administration of the bill.

25 The bill provides for the creation of a fireworks safety
26 education program. The bill provides that successful
27 completion of the program is required in order to be issued a
28 fireworks operator license. The bill provides that a person
29 may enroll in the program upon reaching the age of 17. The
30 bill states that any certificate of completion issued to a
31 person under the age of 18 will not become valid until the
32 person reaches the age of 18. A certificate of completion
33 will not be issued to a person who has not satisfactorily
34 completed the requirements of the program, as adopted by the
35 state fire marshal. The state fire marshal shall establish the

1 curriculum for the program. The program instructor shall issue
2 a certificate of completion based upon passage of the test and
3 upon demonstrated safe handling of fireworks.

4 The bill provides that the division shall administer
5 individual oral or written tests, and that the division shall
6 require passage of the test in order to issue a certificate of
7 completion. The state fire marshal shall establish criteria
8 for passing.

9 The department of public safety shall provide a manual for
10 fireworks safety to be used by all instructors and persons
11 receiving fireworks safety training. The department may
12 produce this manual in either print or electronic form.

13 The division of the state fire marshal shall provide for the
14 certification of instructors. The bill allows for an officer
15 of the department or an instructor to issue a certificate of
16 completion to any person who has not completed the program but
17 who meets other criteria established by the state fire marshal.

18 The bill provides that a person who obtained a license by
19 providing false information or a fraudulent certificate shall
20 have the license revoked and the person shall not be issued a
21 license for at least two years from the date of revocation.
22 The bill also provides for the revocation of licenses where a
23 licensee has not met the requirements of the bill. The bill
24 provides that the initial certificate shall be issued at no
25 cost, but that duplicate certificates shall cost \$3. The bill
26 provides that enrollment within the program shall be free for a
27 person's initial enrollment, but that any subsequent enrollment
28 shall result in a \$100 fee.

29 The bill allows the state fire marshal to designate license
30 agents. The bill provides for the distribution of the
31 fireworks operator license fees. From each \$41 license fee,
32 \$1 will be directed to the division of the fire marshal, \$10
33 will be directed to fire departments throughout the state as
34 designated by the fire marshal, \$10 will be directed to public
35 school districts throughout the state as designated by the fire

1 marshal, and \$20 will be directed to the general fund of the
2 state.

3 The bill provides that a person who does not possess a valid
4 fireworks operator license shall not be allowed to operate
5 fireworks. The bill provides that fireworks may only be
6 operated during certain months and certain holiday weekends.
7 The bill provides that the state fire marshal may, when
8 warranted, declare the operation of fireworks to be a threat
9 to public safety. Operation of fireworks during the time of
10 such a declaration is not permitted. The bill provides that
11 a person shall not operate, ignite, or store fireworks in an
12 unsafe manner as described in the fireworks safety manual. The
13 bill requires that any person violating these provisions have
14 their license suspended and be required to successfully retake
15 the fireworks safety education course before the person could
16 be issued another license. The bill also provides that any
17 person violating the provisions is subject to a civil penalty
18 not to exceed \$300 per offense.

19 The bill also provides for the permitting of fireworks
20 sales. The division shall issue such permits and shall not
21 provide such permits to persons under the age of 18. The
22 bill requires that these permits be displayed by the vendor
23 conspicuously. The bill requires that the fire marshal adopt
24 rules to regulate fireworks vendors and the sale of fireworks.

25 The bill amends criminal provisions related to fireworks to
26 allow for the use of consumer fireworks by licensed operators.
27 The bill provides that permissible consumer fireworks, for use
28 by licensed fireworks operators pursuant to the bill, will
29 include those fireworks listed in chapter 3 of the American
30 pyrotechnics association, inc., standard 87-1 that comply with
31 certain labeling regulations.

32 The bill also provides that if a consumer firework is
33 not contained within that chapter, a seller must submit
34 the fireworks to the state fire marshal for examination and
35 approval prior to their sale. The bill provides that violating

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1 this provision is a serious misdemeanor.