

ACT No. 211

2018 Regular Session

HOUSE BILL NO. 532

BY REPRESENTATIVE MACK

1 AN ACT

2 To amend and reenact R.S. 51:650(introductory paragraph), (10), and (13), 651.1(D),
3 652(A) and (B), 655, and 656(A), (B), (C)(1)(f), and (E) and to enact R.S.
4 51:650(14) through (31) and 651.1(E) through (F), relative to the regulation of
5 fireworks; to provide for definitions; to provide relative to unlawful sales and use;
6 to provide for certain fireworks displays; to provide for licenses and permits; to
7 authorize the promulgation and adoption of administrative rules; to direct the
8 Louisiana State Law Institute to arrange in alphabetical order and renumber certain
9 definitions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 51:650(introductory paragraph), (10), and (13), 651.1(D), 652(A) and
12 (B), 655, and 656(A), (B), (C)(1)(f), and (E) are hereby amended and reenacted and R.S.
13 51:650(14) through (31) and 651.1(E) through (F) are hereby enacted to read as follows:

14 §650. Definitions

15 As used in this Part, the following terms ~~shall~~ have the meanings ascribed to
16 them in this Section unless the context clearly indicates otherwise:

17 * * *

18 (10) "Public display" means the display of 1.4S, 1.4G, or 1.3G fireworks,
19 including fireworks not listed as permissible in R.S. 51:651, used for any purpose
20 relating to the amusement of the general public.

21 * * *

22 (13) ~~"Resident" means any person who has been domiciled in Louisiana for~~
23 ~~a period of at least twelve months immediately preceding the date of application for~~
24 ~~the permit and who has not claimed residence in any other state for any other~~

1 ~~purpose~~ "1.3G Fireworks" is a United States Department of Transportation
2 (hereinafter referred to in this Section as "DOT") classification indicating display
3 fireworks to be used by professionals in a public display.

4 (14) "1.4G Fireworks" means consumer fireworks intended for use by the
5 general public.

6 (15) "Aerial luminary" means an airborne paper or membrane lantern
7 containing a small candle, or other device for fuel, that heats air from inside the
8 lantern causing the lantern to rise into the air and remain airborne until the candle or
9 other fuel device extinguishes or is caused to descend by environmental effects.
10 These items are commonly known as sky lanterns, Hawaii lanterns, Kongming
11 lanterns, Chinese lanterns, fire balloons, or flying luminaries.

12 (16) "Articles pyrotechnic" means a controlled pyrotechnic device intended
13 for professional use to create the effects of heat, gas, sound, dispersion of aerosols,
14 emission of visible electromagnetic radiation, or a combination of these effects that
15 may be similar to consumer fireworks in chemical composition and construction but
16 are not approved for consumer use. Such articles comply with the weight limits for
17 consumer fireworks, but are not labeled as such, and are classified by DOT in 49
18 CFR 172.101 as UN0431 or UN0432.

19 (17) "Class C Public Display" means the outdoor display of only 1.4G and
20 consumer fireworks for any purpose relating to the amusement of the general public
21 sanctioned or made by a public entity.

22 (18) "Consumer fireworks" are small fireworks usually sold at retail to
23 consumers during designated periods. These include a number of small devices
24 designed to produce audible effects, ground devices containing fifty milligrams (50
25 mg) or less of flash powder, and aerial devices containing one hundred thirty
26 milligrams (130 mg) or less of flash powder. The DOT classifies consumer
27 fireworks in 49 CFR 172.101 as UN0336 and UN0337.

28 (19)(a) "Display fireworks" are large fireworks used in commercial display
29 shows under the direct supervision of a licensed pyrotechnic operator. These
30 fireworks are designed primarily to produce visible or audible effects by combustion,

1 deflagration, or detonation. They include but are not limited to salutes containing
2 more than two grains (130 mg) of flash powder, aerial shells containing more than
3 forty grams of pyrotechnic compositions, and other display pieces which exceed the
4 limits of explosive materials for classification as consumer fireworks. They also
5 include fused set pieces containing components which together exceed fifty
6 milligrams (50 mg) of flash powder. Display fireworks are classified by DOT in 49
7 CFR 172.101 as UN0333, UN0334, or UN0335.

8 (b) As provided for in this Paragraph, aerial shells containing more than forty
9 grams of pyrotechnic compositions include any break charge and visible or audible
10 effect compositions, but are exclusive of lift charge.

11 (20) "Fire prevention officer" means a chief of a fire department, a sheriff,
12 a constable, another local enforcement officer primarily responsible for fire
13 prevention, or if there is no local fire authority, the state fire marshal or his designee.

14 (21) "Firework" and "pyrotechnic" mean a broad composition or device used
15 for the purpose of producing a visible or audible effect by combustion, explosion,
16 deflagration, or detonation, and which are further defined in three general categories:
17 "articles pyrotechnic", "consumer fireworks", and "display fireworks". The term
18 "firework" does not include blank cartridges, railroad flares, model rockets, or any
19 novelty or toy cap pistols, caps, toy canes, toy guns, or other devices in which paper
20 caps containing twenty-five hundredths (25/100) grains or less of explosive
21 compounds are used, provided they are so constructed that the hand cannot come in
22 contact with the cap when in place for exploding, and toy paper pistol caps which
23 contain less than twenty-five hundredths (25/100) grains of explosive compounds.
24 The provisions of this Paragraph shall not be construed to impose labeling
25 requirements for any fireworks or novelties other than those required as provided in
26 federal law.

27 (22) "Firm" means a sole proprietorship, partnership, corporation, limited
28 liability company, or any other entity.

29 (23) "Illegal firework" means a firework device assembled, manufactured,
30 distributed, or sold in violation of this Part.

1 E. Illegal fireworks or aerial luminaries as provided in this Part shall be
 2 subject to seizure by the state fire marshal, his deputies, or any authorized law
 3 enforcement officer as contraband and further subject to forfeiture as provided in
 4 R.S. 15:41.

5 F. Whoever violates this Section shall, upon conviction, be fined not more
 6 than one thousand dollars or imprisoned, with or without hard labor, for not more
 7 than two years, or both. Each violation of this Section constitutes a separate offense.

8 §652. Proper naming; certification on shipping cases; time for selling; exceptions;
 9 sale and storage in homes prohibited

10 A. No permissible articles of consumer fireworks enumerated in R.S. 51:651
 11 shall be sold, offered for sale, or used in the state of Louisiana, unless it shall be such
 12 fireworks are properly named to conform to the nomenclature of R.S. 51:651 and
 13 ~~unless it is~~ certified on all shipping cases and by imprinting on the article or retail
 14 container "United States Department of Transportation ~~UN 0336~~ UN0336, 1.4G,
 15 1.4S₂ or consumer fireworks". Such imprint shall be of sufficient size and so
 16 positioned as to be readily recognized by law enforcement authorities and the general
 17 public.

18 B. Permissible items of fireworks, enumerated in R.S. 51:651, may be sold
 19 at retail only from noon June sixteenth through midnight July fifth and noon
 20 December fifteenth through midnight January first of each calendar year. ~~only,~~
 21 ~~except that the term "fireworks" shall not include toy pistols, toy canes, toy guns, or~~
 22 ~~other devices in which paper caps containing twenty-five hundredths (25/100) grains~~
 23 ~~or less of explosive compounds are used, provided they are so constructed that the~~
 24 ~~hand cannot come in contact with the cap when in place for exploding, and toy paper~~
 25 ~~pistol caps which contain less than twenty-five hundredths (25/100) grains of~~
 26 ~~explosive compounds, and the sale and use of which shall be permitted at all times.~~

27 * * *

1 §655. ~~Fireworks for public displays; permits; fee;~~ Public displays; proximate
 2 ~~displays; Class C public displays; licenses; permits; fees; adoption of rules~~
 3 and regulations

4 ~~A.(1) Nothing in this Part shall be construed as applying to the shipping,~~
 5 ~~sale, possession, and use of fireworks for public displays by holders of a permit for~~
 6 ~~a public display to be conducted in accordance with the rules and regulations~~
 7 ~~promulgated by the state fire marshal. Fireworks which are to be used for public~~
 8 ~~display only and which are otherwise prohibited for retail sale and use within the~~
 9 ~~state shall include all items of fireworks designated by the regulations of the United~~
 10 ~~States Department of Transportation as class "UNO335, 1.3G Display Fireworks"~~
 11 ~~and shall consist of any items not enumerated and classified as permissible in R.S.~~
 12 ~~51:651. Fireworks that are to be used for public display only must at all times be~~
 13 ~~kept in the possession of those responsible and be stored in an appropriate storage~~
 14 ~~in accordance with the regulations of the National Fire Protection Association,~~
 15 ~~Pamphlet 44A, 1983, or any subsequent amended editions thereof that are adopted~~
 16 ~~by the state fire marshal. Fireworks that are to be used for public display must be~~
 17 ~~confined to that use only.~~

18 (2) ~~Purchase, storage, and transportation of fireworks used for public display~~
 19 ~~shall be governed by R.S. 40:1472.1 et seq. Fireworks that are to be used for public~~
 20 ~~display shall, from the time of issuance of a permit by the fire marshal and upon~~
 21 ~~placement at the site of display, be appropriately stored in accordance with the~~
 22 ~~National Fire Protection Association, Pamphlet 44A, as adopted by the state fire~~
 23 ~~marshal.~~

24 ~~B.(1) A person, firm, corporation, or other legal entity desiring a permit for~~
 25 ~~a public display may either apply to the office of state fire marshal or to a certified~~
 26 ~~local authority certified under the provisions of R.S. 40:1563, which application shall~~
 27 ~~be received by either the state fire marshal or the certified local authority at least five~~
 28 ~~days prior to the event. The application shall contain the following information in~~
 29 ~~the form of an affidavit sworn to and subscribed to before a notary public:~~

1 (a) ~~The date, time, and place of the public display including the length of~~
 2 ~~time of the display.~~

3 (b) ~~All fire prevention plans and provisions that will be in force and all fire~~
 4 ~~prevention personnel and equipment available to assure safety of the public attending~~
 5 ~~the public display.~~

6 (c) ~~A copy of the permit issued by the office of state fire marshal to the~~
 7 ~~distributor who will be supplying or conducting the public display to assure the state~~
 8 ~~fire marshal or his certified local authority that the fireworks and the actual~~
 9 ~~presentation and conduct of the public display will not endanger the public safety.~~

10 (2) ~~The fee for application for a permit for a public display shall be one~~
 11 ~~hundred dollars and shall be used to offset the cost of processing the permit request~~
 12 ~~and cover the expense of on-site inspections.~~

13 C. ~~No person, firm, or corporation supplying fireworks for public display~~
 14 ~~shall ship, sell, possess, or use fireworks designed for public display unless the~~
 15 ~~supplier has obtained a distributor's permit as provided in R.S. 51:656. No person,~~
 16 ~~firm, or corporation holding a permit for a public display may obtain fireworks for~~
 17 ~~use in any public display from any person, firm, or corporation that has not obtained~~
 18 ~~a distributor's permit as provided in R.S. 51:656.~~

19 D. ~~The state fire marshal is authorized to adopt and promulgate rules and~~
 20 ~~regulations in accordance with the Administrative Procedure Act to ensure that the~~
 21 ~~supplier of the fireworks and the holder of a public display permit will adequately~~
 22 ~~protect the public safety.~~

23 E.(1) ~~Applicants for a pyrotechnic operator license or pyrotechnic special~~
 24 ~~effects operator license shall take a written examination and obtain a passing grade~~
 25 ~~of at least seventy percent. Persons holding a valid blaster's license, as described in~~
 26 ~~R.S. 40:1472.1 et seq., on September 30, 2003, may forego the written examination~~
 27 ~~by the demonstration of practical tests or documentation deemed necessary by the~~
 28 ~~state fire marshal to determine the applicant's knowledge and ability. The content,~~
 29 ~~type, frequency, and location of the examinations shall be set by the state fire~~
 30 ~~marshal.~~

1 ~~(2) Applicants who fail may refile and take a reexamination.~~

2 ~~(3) A licensee whose license has been expired for two years or more and~~
 3 ~~makes application for a new license must retake and pass the written examination.~~

4 ~~(4) A license shall not be issued to any person if any of the following apply:~~

5 ~~(a) The applicant is a convicted felon.~~

6 ~~(b) The applicant fails to meet the requirements of Paragraph (1) of this~~
 7 ~~Subsection.~~

8 ~~(c) The applicant has not assisted in conducting at least five permitted public~~
 9 ~~displays and has not served as lead operator on at least one permitted public display~~
 10 ~~in this state, under the direct supervision of and verified in writing by a pyrotechnic~~
 11 ~~operator or pyrotechnic special effects operator licensed in Louisiana.~~

12 ~~(d) The applicant is under the age of twenty-one years.~~

13 ~~(5) A conviction or a plea of guilty or nolo contendere shall not constitute~~
 14 ~~an automatic disqualification as otherwise required pursuant to Paragraph (4) of this~~
 15 ~~Subsection, if more than ten years has elapsed between the date of application and~~
 16 ~~the successful completion or service of any sentence, deferred adjudication, or period~~
 17 ~~of probation or parole, or Code of Criminal Procedure Article 893 or equivalent~~
 18 ~~judicial dismissal process granted.~~

19 ~~(6) The pocket license document issued along with the regular license~~
 20 ~~document is for identification purposes only and must be carried by the licensee~~
 21 ~~when engaged in the business.~~

22 ~~(7) The license shall be good for a period of one year from the date of issue.~~

23 ~~(8) The cost of the license shall be fifty dollars for a new license and twenty-~~
 24 ~~five dollars for renewals.~~

25 A. A person or firm shall not make a public display, as defined by this Part,
 26 without obtaining a pyrotechnic operator's license properly issued by the office of
 27 state fire marshal. The pyrotechnic operator is responsible for safely storing, setting
 28 up, and removing pyrotechnic materials and devices after a display and in
 29 accordance with manufacturer standards.

1 B. A person or firm shall not make a proximate display, as defined by this
2 Part, without obtaining a pyrotechnic special effects operator's license properly
3 issued by the office of state fire marshal.

4 C.(1) Applicants for a pyrotechnic operator's license or pyrotechnic special
5 effects operator's license shall make application to the office of state fire marshal,
6 take a written examination, and obtain a passing grade of at least seventy percent.
7 Persons holding a valid blaster's license, as described in R.S. 40:1472.1 et seq., on
8 or before September 30, 2003, may forego the written examination by the
9 demonstration through practical tests or documentation deemed necessary by the
10 state fire marshal to determine the applicant's knowledge and ability. The content,
11 type, frequency, and location of the examinations shall be set by the state fire
12 marshal.

13 (2) Applicants who fail may reapply and take a reexamination.

14 (3) A licensee whose license has been expired for two years or more and who
15 makes application for a new license shall retake and pass the written examination to
16 receive a renewed license.

17 (4) A license shall not be issued to any person if any of the following apply:

18 (a) The applicant is a convicted felon.

19 (b) The applicant fails to meet the requirements of Paragraph (1) of this
20 Subsection.

21 (c)(i) The pyrotechnic operator applicant has not assisted in conducting at
22 least five permitted public displays and has not served as lead operator on at least
23 one permitted public display in this state, under the direct supervision of and verified
24 in writing by a pyrotechnic operator licensed in Louisiana.

25 (ii) The pyrotechnic special effects operator applicant has not assisted in
26 conducting at least five permitted proximate displays and has not served as lead
27 operator on at least one permitted proximate display in this state, under the direct
28 supervision of and verified in writing by a pyrotechnic special effects operator
29 licensed in Louisiana.

30 (d) The applicant is under the age of twenty-one years.

1 (5) A conviction or a plea of guilty or nolo contendere does not constitute
2 an automatic disqualification, as otherwise provided in Paragraph (4) of this
3 Subsection, if more than ten years have elapsed between the date of application and
4 the successful completion or service of any sentence, deferred adjudication, or period
5 of probation or parole, or Code of Criminal Procedure Article 893, or equivalent
6 judicial dismissal process granted.

7 (6) The pocket license document issued along with the regular license
8 document is for identification purposes only and shall be carried by the licensee
9 when engaged in the business.

10 (7) The license is valid for a period of one year from the date of issue.

11 (8) The cost of the license is fifty dollars for a new license and twenty-five
12 dollars for renewals.

13 D. A person or firm shall not make a Class C public display, as defined by
14 this Part, without obtaining a Class C pyrotechnic operator's license properly issued
15 by the office of state fire marshal.

16 (1) Applicants for a Class C pyrotechnic operator license shall receive
17 training and certification from the office of state fire marshal.

18 (2) A licensee whose license has been expired for three years or more and
19 who makes application for a new license shall receive training and recertification by
20 the office of state fire marshal.

21 (3) A license shall not be issued to any person if any of the following apply:

22 (a) The applicant fails to meet the requirements of Paragraph (1) of this
23 Subsection.

24 (b) The applicant is under the age of twenty-one years.

25 (4) The pocket license document issued along with the regular license
26 document is for identification purposes only and shall be carried by the licensee
27 when engaged in the business.

28 (5) The license is valid for a period of one year from the date of issue.

29 (6) The cost of the license is twenty-five dollars for a new license and fifteen
30 dollars for renewals.

1 E.(1) A person or firm shall not make or perform a public display, proximate
2 display, or Class C public display, as defined in this Part, without first obtaining a
3 permit from the office of state fire marshal.

4 (2) A person or firm desiring a permit for a public display or proximate
5 display may either apply to the office of state fire marshal or to a certified local
6 authority certified under the provisions of R.S. 40:1563, which application shall be
7 received by either the state fire marshal or the certified local authority at least five
8 days prior to the event. The application shall contain all of the following
9 information:

10 (a) The date, time, and place of the public display or proximate display
11 including the length of time of the display.

12 (b) All fire prevention plans and provisions that will be in force and all fire
13 prevention personnel and equipment available to ensure the safety of the public
14 attending the display.

15 (c) A copy of the permit issued by the office of state fire marshal to the
16 distributor who will be supplying or conducting the public display or proximate
17 display to assure the state fire marshal or his certified local authority that the
18 fireworks and the actual presentation and conduct of the public display or proximate
19 display will not endanger the public safety.

20 (3) A public entity desiring a permit for a Class C public display may apply
21 to the office of state fire marshal, which application shall be received by the state fire
22 marshal at least five days prior to the event. The application shall contain the
23 following information:

24 (a) The date, time, and place of the Class C public display including the
25 length of time of the display.

26 (b) All plans and provisions that will be in force to ensure the safety of the
27 public attending the public display.

28 (c) A copy of the training certification issued by the office of state fire
29 marshal to the person or firm who will be conducting the Class C public display to

1 assure the state fire marshal that the fireworks and the actual presentation and
2 conduct of the Class C public display will not endanger the public safety.

3 (4) The fee for application for a permit for a public display or proximate
4 display is one hundred dollars and shall be used to offset the cost of processing the
5 permit request and cover the expense of onsite inspections. The fee for the
6 application for a permit for a Class C public display is twenty-five dollars and shall
7 be used to offset the cost of processing the permit request and any necessary onsite
8 inspections.

9 F. A person or firm supplying fireworks for public display or proximate
10 display shall not ship, sell, possess, or use fireworks designed for public display or
11 proximate display unless the supplier has obtained a distributor's permit as provided
12 in R.S. 51:656. No person or firm holding a permit for a public display or proximate
13 display may obtain fireworks for use in any public display or proximate display from
14 any person or firm that has not obtained a distributor's permit as provided in R.S.
15 51:656.

16 G. The state fire marshal may promulgate and adopt rules and regulations in
17 accordance with the Administrative Procedure Act to ensure that the supplier of the
18 fireworks and the holder of a public display, proximate display, or Class C public
19 display permit will adequately protect the public safety.

20 H.(1) Fireworks that are to be used for public display or proximate display
21 only shall at all times be kept in the possession of those responsible and be stored in
22 an appropriate storage in accordance with the regulations of NFPA 1124 as published
23 by the National Fire Protection Association, or any subsequent amended editions
24 thereof that are adopted by the state fire marshal. Fireworks that are to be used for
25 public display shall be confined to that use only.

26 (2) Purchase, storage, and transportation of fireworks used for public display
27 or proximate display are governed by R.S. 40:1472.1 et seq. Fireworks that are to
28 be used for public display or proximate display shall, from the time of issuance of
29 a permit by the state fire marshal and upon placement at the site of display, be
30 appropriately stored in accordance with NFPA 1124 as published by the National

1 Fire Protection Association, or any subsequent amended editions thereof that are
 2 adopted by the state fire marshal.

3 §656. Permit to sell fireworks; application; fees; permit numbers

4 A. It ~~shall be~~ is unlawful to sell, construct, or manufacture any items of
 5 fireworks without first obtaining a retail permit ~~therefor to be~~ properly issued by the
 6 state fire marshal.

7 B.(1) Prior to engaging in the sale of fireworks, an applicant shall submit to
 8 the state fire marshal an application on a form provided by the state fire marshal, or
 9 electronically through the IMS system, on or before ~~April~~ June first of each year
 10 setting forth any facts and information as the state fire marshal may determine
 11 necessary and proper considering the requirements of public health, safety, and
 12 welfare. Prior to obtaining and in order to maintain a permit, the facilities of the
 13 permittee shall comply with the applicable provisions of the Life Safety Code and
 14 subsequent referenced standards as adopted by the state fire marshal ~~under the~~
 15 requirements pursuant to the provisions of R.S. 40:1578.6.

16 (2) The retail permit ~~shall be~~ is effective for purchases of wholesale
 17 fireworks, and ~~the permit shall be~~ such permit is effective from the date of issuance
 18 through midnight December thirty-first of the applicable year. ~~No~~ A retailer's permit
 19 shall not be issued pursuant to this Part from June sixteenth through July fifth nor
 20 from December fifteenth through January first of each year. All other permits issued
 21 pursuant to the provisions of this Section ~~shall be~~ are valid from the date issued
 22 through midnight April first of the ensuing permit year. All applications filed after
 23 April first ~~shall~~ will be assessed a late fee equal to the amount of the permit required
 24 by this Section.

25 C.(1) The applicant shall pay a permit fee for each type of business
 26 conducted and for each location at which the business is conducted, according to the
 27 following schedule:

28 * * *

1	(f) Retailer	<u>\$100.00</u>
2	Resident	\$100.00
3	Nonresident	\$800.00

4 * * *

5 E. It ~~shall be~~ is unlawful for a jobber or retailer who holds a permit issued
6 ~~under pursuant to the provisions of~~ this Part to purchase fireworks from a distributor
7 domiciled outside the state of Louisiana unless that distributor can show proof that
8 he holds a valid permit issued ~~under~~ as provided in this Part to perform the functions
9 of a distributor and importer. If the distributor does not hold a valid permit, ~~then~~ the
10 jobber or retailer ~~shall become~~ is then liable for the permit and shall immediately
11 purchase a permit from the office of state fire marshal.

12 Section 2. This Act shall become effective upon signature by the governor or, if not
13 signed by the governor, upon expiration of the time for bills to become law without signature
14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
16 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.