

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 783
Committee Substitute Favorable 4/24/13
Committee Substitute #2 Favorable 5/1/13

Short Title: Pyrotechnics Technical and Conforming Changes.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE LAWS
3 GOVERNING PYROTECHNICS DISPLAYS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 14-410 reads as rewritten:

6 "§ 14-410. **Manufacture, sale and use of pyrotechnics prohibited; exceptions; permit**
7 **license required; sale to persons under the age of 16 prohibited.**

8 ...

9 (a1) It shall be permissible for pyrotechnics to be exhibited, used, handled,
10 manufactured, or discharged within the State, provided all of the following apply:

11 (1) The exhibition, use, or discharge is at a concert or public exhibition.

12 (2) All individuals who exhibit, use, handle, or discharge pyrotechnics in
13 connection with a concert or public exhibition have completed the training
14 and licensing required under Article 82A of Chapter 58 of the General
15 Statutes. The display operator or proximate audience display operator, as
16 required under Article 82A of Chapter 58 of the General Statutes, must be
17 present at the concert or public exhibition and must personally direct all
18 aspects of exhibiting, using, handling, or discharging the pyrotechnics.
19 Notwithstanding this subdivision, the display operator for the University of
20 North Carolina School of the Arts may appoint an on-site representative to
21 supervise any performances that include a proximate audience display
22 subsequent to the opening performance, provided that the representative (i)
23 is a minimum of 21 years of age and (ii) is properly trained in the safe
24 discharge of proximate audience displays.

25 (3) The display operator has secured written authority under G.S. 14-413 from
26 the board of county commissioners of the county, or the city if authorized
27 under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or
28 discharged. Written authority from the board of commissioners or city is not
29 required under this subdivision for a concert or public exhibition provided
30 the display operator has secured written authority from (i) The University of
31 North Carolina or the University of North Carolina at Chapel Hill under
32 G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange
33 County owned by The University of North Carolina or the University of
34 North Carolina at Chapel Hill or (ii) the University of North Carolina
35 School of the Arts and pyrotechnics are exhibited on lands or in buildings



1 owned by the State and used by the University of North Carolina School of
2 the Arts.

3 ...

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

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

12 ...

13 (c) The following definitions apply in this Article:

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

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

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

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

20 **"§ 14-413. Permits for use at public exhibitions.**

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

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

32 (2) The exhibition is authorized by the University of North Carolina School of
33 the Arts and conducted on lands or in buildings owned by the State and used
34 by the University of North Carolina School of the Arts.

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

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

- 1 (1) Adequate fire suppression will be used at the site.
- 2 (2) The structure is safe for the use of such pyrotechnics with the type of fire
- 3 suppression to be used.
- 4 (3) Adequate egress from the building is available based on the size of the
- 5 expected crowd.

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

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

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

16 **"§ 58-82A-3. Pyrotechnics display operator license.**

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

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

- 24 (1) The individual is at least 21 years of age.
- 25 (2) The individual has assisted a display operator as an assistant display operator
26 in the exhibition, use, or display of pyrotechnics at a concert or public
27 exhibition, as allowed under Article 54 of Chapter 14 of the General
28 Statutes, on at least three occasions, ~~or is a proximate audience display~~
29 ~~operator occasions.~~
- 30 (3) The individual successfully completes the minimum training requirements
31 established by the State Fire Marshal.
- 32 (4) The individual successfully passes an examination approved by the State
33 Fire Marshal that demonstrates the individual has the knowledge to safely
34 handle, store, and exhibit Class 1.4g, 1.3g, 1.2g, and 1.1g pyrotechnics or
35 provides satisfactory evidence of current certification by a third party
36 acceptable to the State Fire Marshal.
- 37 (5) Repealed by Session Laws 2010-22, s. 6, effective October 1, 2010.
- 38 (6) The individual has no violations of any provision of this Article or of any
39 similar provision of any other state and submits an "Employer Possessor
40 Letter of Clearance" issued to the individual by the Bureau of Alcohol,
41 Tobacco and Firearms pursuant to ~~18 U.S.C. Chapter 40~~ or, if the Bureau of
42 ~~Alcohol, Tobacco and Firearms~~ has not issued a Letter of Clearance to the
43 ~~individual, the individual signs a statement provided by the Commissioner~~
44 ~~affirming that the individual has not been convicted of violating 18 U.S.C.~~
45 ~~Chapter 40, Section 842(i).~~ 18 U.S.C. Chapter 40.

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

1 otherwise prohibited from possessing pyrotechnic materials by any provision of 18 U.S.C.
2 Chapter 40, Section 842(i).

3 ...
4 (e) Public exhibitions consisting of materials exempted by G.S. 14-414 are exempt
5 from the operator license requirements."

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

7 "**§ 58-82A-25. Qualifications for event employees.**

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

- 11 (1) Is at least 18 years of age.
- 12 (2) Possesses and provides a valid drivers license or other state-issued
13 identification card.
- 14 (3) Correctly passes an on-site examination, administered by the Office of the
15 State Fire Marshal or fire code official for the jurisdiction issuing the permit
16 under G.S. 14-413, of a minimum of five questions to test basic pyrotechnic
17 safety knowledge.
- 18 (4) Provides written confirmation from the licensed display operator or
19 proximate audience display operator that the event employee is working
20 under the supervision of the operator and that the event employee will not
21 handle the pyrotechnic materials. be in the presence of the pyrotechnic
22 materials without signing a statement provided by the Commissioner
23 affirming that the individual has not been convicted of violating 18 U.S.C.
24 Chapter 40, Section 842(i), or is not otherwise prohibited from possessing
25 pyrotechnic materials by any provision of 18 U.S.C. Chapter 40, Section
26 842(i). The event employee shall not be allowed to discharge or be in the
27 presence of the pyrotechnic materials unless under direct supervision of a
28 licensed pyrotechnic operator or an on-site representative as provided in
29 G.S. 14-410(a1)(2). An event employee certification is valid only for the
30 concert or public exhibition listed on the pyrotechnic permit and cannot be
31 renewed."

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