

IN THE SENATE

SENATE BILL NO. 1114

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO FIREWORKS; AMENDING SECTION 39-2602, IDAHO CODE, TO DEFINE A
2 TERM; AMENDING SECTION 39-2603, IDAHO CODE, TO PROVIDE FOR AERIAL COM-
3 MON FIREWORKS; AMENDING SECTION 39-2604, IDAHO CODE, TO PROVIDE FOR
4 AERIAL COMMON FIREWORKS; AMENDING SECTION 39-2605, IDAHO CODE, TO PRO-
5 VIDE FOR AERIAL COMMON FIREWORKS; AMENDING SECTION 39-2606, IDAHO CODE,
6 TO PROVIDE FOR AERIAL COMMON FIREWORKS; AMENDING SECTION 39-2607, IDAHO
7 CODE, TO PROVIDE FOR AERIAL COMMON FIREWORKS; AMENDING SECTION 39-2608,
8 IDAHO CODE, TO PROVIDE FOR AERIAL COMMON FIREWORKS; AND DECLARING AN
9 EMERGENCY.
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 39-2602, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 39-2602. DEFINITIONS. As used in this chapter, these terms shall have
15 the following meanings:

16 (1) "Aerial common fireworks" means fireworks that are launched into
17 the air above a height of twenty (20) feet, either by their own propulsion or
18 by being shot from a mortar.

19 ~~(1)~~ (2) "Authority having jurisdiction" means a city fire department
20 if the area is within a city, or a fire protection district formed pursuant
21 to provisions of the Idaho Code if the area is within a fire protection dis-
22 trict, or the county commission if the area is not within a city or fire pro-
23 tection district.

24 ~~(2)~~ (3) "Department" means the department of insurance, division of the
25 state fire marshal.

26 ~~(3)~~ (4) "Fireworks" means any combustible or explosive composition, or
27 any substance or combination of substances, or article prepared for the pur-
28 pose of producing a visible or audible effect by combustion, explosion, de-
29 flagration or detonation. Fireworks include items classified as common or
30 special fireworks by the United States bureau of explosives or contained in
31 the regulations of the United States department of transportation and desig-
32 nated as UN 0335 1.3G or UN 0336 1.4G. The term "fireworks" shall not include
33 any automotive safety flares, toy guns, toy cannons, caps or other items de-
34 signed for use with toy guns or toy cannons, party poppers, pop-its or other
35 devices which contain twenty-five hundredths (.25) of a grain or less of ex-
36 plosive substance.

37 ~~(4)~~ (5) "Importer" means any person who, for any purpose other than per-
38 sonal use, or a use associated with a specific public display or other event
39 permit, is the first receiver of any fireworks in this state.

40 ~~(5)~~ (6) "License" means a nontransferable, formal authorization, is-
41 sued by the department to engage in the acts of importing fireworks into this
42 state or operating a wholesale fireworks business within this state.

1 ~~(6)~~ (7) "Nonaerial common fireworks" means any fireworks such as ground
2 spinners, fountains, sparklers, smoke devices or snakes designed to remain
3 on or near the ground and not to travel outside a fifteen (15) foot diam-
4 eter circle or emit sparks or other burning material which land outside a
5 twenty (20) foot diameter circle or above a height of twenty (20) feet. Non-
6 aerial common fireworks do not include firecrackers, jumping jacks, or simi-
7 lar products.

8 ~~(7)~~ (8) "Permit" means an authorization given by the authority having
9 jurisdiction pursuant to section 39-2604 or 39-2605, Idaho Code.

10 ~~(8)~~ (9) "Special fireworks" means any fireworks designed primarily for
11 display and classified as special fireworks by the United States bureau of
12 explosives or designated as UN 0335 1.3G.

13 ~~(9)~~ (10) "Wholesale" means sale of fireworks to a retailer or whole-
14 saler.

15 SECTION 2. That Section 39-2603, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 39-2603. WHOLESALE AND IMPORT LICENSE REQUIRED. (1) A license shall be
18 required for any person to import fireworks into this state or to operate a
19 wholesale fireworks business in this state.

20 (2) Fireworks shall only be delivered in this state by a person with a
21 valid wholesale or import license under the following circumstances:

22 (a) (i) To a person with a valid sales tax seller's permit issued
23 pursuant to section 63-3620, Idaho Code; and

24 (ii) During a period beginning sixty (60) days prior to a date on
25 which the retail sale or use of aerial and nonaerial common fire-
26 works is authorized under this chapter; or

27 (b) To a person with a valid permit issued pursuant to section 39-2605,
28 Idaho Code, within a reasonable time period before the display or event.

29 (3) Possession of a wholesale or import license does not authorize the
30 holder of the license to sell aerial and nonaerial common fireworks at re-
31 tail, but a wholesaler or importer may also hold a retail permit in compli-
32 ance with the provisions of this chapter.

33 (4) Wholesale or import licenses shall be issued for a twelve (12) month
34 period beginning on March 31 each year and shall be nontransferable. The li-
35 cense shall be issued if the application is complete and in compliance with
36 applicable law.

37 (5) Wholesale or import license applications shall be on a form ap-
38 proved by the department and shall include the name and address of the
39 applicant (or the names of all partners, if a partnership, the name of the
40 corporation and the corporate officers if a corporation, or the name of the
41 limited liability company and all of its members, if a limited liability com-
42 pany) the primary location of the business, each location at which fireworks
43 are to be stored and the applicant's Idaho sales tax seller's permit number,
44 if applicable.

45 (6) A bond or valid certificate of public liability and property-casu-
46 alty insurance providing coverage of at least one hundred thousand dollars
47 (\$100,000) for personal injury and property damage shall be presented at the
48 time of application.

1 (7) The department may impose a fee for issuing a license under this
2 section which shall not exceed one hundred dollars (\$100).

3 (8) The license required under this section may be revoked if the li-
4 censee violates any provisions of this chapter. A license revocation pro-
5 ceeding shall comply with the provisions of chapter 52, title 67, Idaho Code.

6 (9) The license shall be displayed in public view at each location
7 listed on the license.

8 (10) An importer or wholesaler shall keep a record of all wholesale
9 transactions showing the name, address, sales tax seller's permit number, if
10 applicable, and type and quantity of items sold.

11 SECTION 3. That Section 39-2604, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 39-2604. PERMIT REQUIRED FOR RETAIL SALES. (1) The local authority
14 having jurisdiction may require a permit for the retail sale of aerial and
15 nonaerial common fireworks.

16 (2) If a permit is required the applications shall be on a form approved
17 by the authority having jurisdiction and shall include the name and address
18 of the applicant (or the names of all partners, if a partnership, the name of
19 the corporation and the corporate officers if a corporation, or the name of
20 the limited liability company and all of its members, if a limited liability
21 company) the primary location of the business, each location at which fire-
22 works are to be stored and the applicant's Idaho sales tax seller's permit
23 number, if applicable.

24 (3) A bond or valid certificate of public liability and property-ca-
25 sualty insurance providing coverage of up to one hundred thousand dollars
26 (\$100,000) for personal injury and property damage may be required at the
27 time of application.

28 (4) The authority having jurisdiction may assess a fee for issuing
29 a permit under this section which shall not exceed twenty-five dollars
30 (\$25.00).

31 (5) The permit shall be issued if the application is complete and in
32 compliance with applicable law, shall be valid for twelve (12) months from
33 the date of issuance and shall be nontransferable.

34 (6) The permit required under this section may be revoked if the permit-
35 tee violates any provisions of this chapter. A permit revocation proceeding
36 shall comply with the provisions of chapter 52, title 67, Idaho Code.

37 (7) The permit shall be displayed in public view at the location listed
38 on the permit.

39 SECTION 4. That Section 39-2605, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 39-2605. PERMIT REQUIRED FOR PUBLIC DISPLAY OR OTHER EVENT USING FIRE-
42 WORKS. (1) The authority having jurisdiction may, at its discretion, issue a
43 permit for public display or other events in the following circumstances:

44 (a) After determining that the public display will be supervised by a
45 qualified person and will not constitute an unreasonable hazard to per-
46 sons or property. Appropriate national fire protection association or

1 international fire code provisions may be used as guidance for this de-
2 termination.

3 (b) After determining that sales and use of fireworks outside the
4 normal sales period provided in section 39-2606, Idaho Code, or propos-
5 ing the use of fireworks in addition to aerial and nonaerial common
6 fireworks will not constitute an unreasonable hazard to persons or
7 property.

8 (2) An application for a permit for public display or other event shall
9 be on a form approved by, and contain the information reasonably requested
10 by, the authority having jurisdiction.

11 (3) The permit shall be nontransferable, shall list the specific date
12 or dates upon which the display or event shall occur and the types of fire-
13 works and uses that will be allowed.

14 (4) A bond or valid certificate of public liability and property-casu-
15 alty insurance providing coverage of up to one million dollars (\$1,000,000)
16 for personal injury and property damage may be required at the time of appli-
17 cation for public display of special fireworks.

18 (5) The authority having jurisdiction may assess a fee for issuing a
19 permit for public display under this section which shall not exceed one hun-
20 dred twenty-five dollars (\$125). There shall be no fee for the issuance of a
21 permit for any event other than a public display event.

22 (6) Alteration of fireworks may be performed by a person in possession
23 of a valid public display permit.

24 SECTION 5. That Section 39-2606, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 39-2606. AUTHORIZED DATES FOR THE SALE AND USE OF FIREWORKS. (1)
27 ~~Nonaerial~~ Aerial and nonaerial common fireworks may be sold at retail and
28 used beginning at midnight June 23, and ending at midnight July 5 and begin-
29 ning at midnight December 26 and ending at midnight January 1. The authority
30 having jurisdiction may at its discretion extend each period of sales by not
31 more than five (5) days.

32 (2) Fireworks may be sold and used at any time in compliance with per-
33 mits issued under the provisions of section 39-2605, Idaho Code.

34 SECTION 6. That Section 39-2607, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 39-2607. TEMPORARY FIREWORKS STANDS. Retail sales of aerial and non-
37 aerial common fireworks shall be allowed only from within a temporary fire-
38 works stand unless the authority having jurisdiction finds appropriate cir-
39 cumstances justifying reasonable variance from strict compliance with this
40 section. An existing permanent building which was used for the retail sale
41 of fireworks in 1996 may continue to be used for that purpose if the building
42 meets or exceeds the standards for temporary buildings established by this
43 section and is operated, insofar as it is applicable, as provided by this
44 section. Temporary fireworks stands shall be subject to the following pro-
45 visions:

1 (1) A stand shall not be located within twenty-five (25) feet of any
2 building or within one hundred (100) feet of the nearest fuel dispensing de-
3 vice.

4 (2) A stand shall meet the minimum structural stability requirements
5 for temporary buildings as required by applicable local building codes. If
6 no local building codes have been adopted, applicable state codes may be
7 used.

8 (3) A stand shall meet the minimum requirements for temporary buildings
9 for all lighting circuits or other electrical equipment used in conjunction
10 with the operation of the stand as required by applicable local building
11 codes or, if no local building codes have been adopted, by applicable state
12 codes.

13 (4) A stand shall have two (2) exits, each a minimum of thirty (30)
14 inches wide at each end of the stand or as near the ends as is practical
15 in a mobile home conversion. One (1) additional door is required for each
16 thirty-two (32) feet of rear wall in excess of thirty-two (32) feet. All
17 doors shall open outward from the stand and shall be kept unlocked and un-
18 latched during the hours of operation and free and clear of supplies and
19 materials at all times.

20 (5) A stand shall have at least two (2) fire extinguishers with a 2A min-
21 imum rating, in good working order, with a current inspection tag in place,
22 placed near the exits in a visible and readily accessible manner.

23 (6) "No smoking within 25 feet" signs shall be prominently displayed on
24 all four (4) sides of the stand. Smoking shall not be permitted inside the
25 stand.

26 (7) A stand shall not be erected before May 5 nor remain up after July
27 20 for the first sales period; nor shall it be erected before December 7 or
28 remain up after January 16 for the second sales period. The premises on which
29 the stand is erected shall be cleared of all structures and debris no later
30 than July 20 or January 16, respectively.

31 (8) The fireworks stand operator shall not permit the discharge of
32 fireworks within twenty-five (25) feet of the stand.

33 (9) The stand operator shall not allow any rubbish to accumulate in or
34 around the stand causing a fire nuisance.

35 (10) Only noncombustible waste containers shall be permitted within the
36 stand.

37 (11) Fireworks shall not be left in the stand when it is not open for
38 business unless the stand is locked or secured. If fireworks are not stored
39 in the stand they shall be stored in compliance with section 39-2608, Idaho
40 Code.

41 (12) Notice as provided by the authority having jurisdiction caution-
42 ing each person purchasing fireworks of the prohibitions, liabilities and
43 penalties incorporated in this chapter shall be posted at all retail loca-
44 tions.

45 (13) The authority having jurisdiction may charge a one (1) time inspec-
46 tion fee of twenty-five dollars (\$25.00) for inspection of a temporary fire-
47 works stand.

48 SECTION 7. That Section 39-2608, Idaho Code, be, and the same is hereby
49 amended to read as follows:

1 39-2608. SHORT-TERM STORAGE. (1) A short-term storage facility may be
2 used for the storage of aerial and nonaerial common fireworks for a period of
3 sixty (60) days prior to, and fifteen (15) days after, any authorized retail
4 sales date. The authority having jurisdiction shall be notified of the ad-
5 dress or location of all short-term storage facilities when fireworks will
6 not be stored in a temporary fireworks stand. If the short-term storage fa-
7 cility is not within the boundaries of the jurisdiction having issued the re-
8 tail sales permit the permittee shall notify the authority having jurisdic-
9 tion where the storage is to take place.

10 (2) Short-term storage is allowed in any of the following, provided
11 it is locked or otherwise secured: a temporary fireworks stand, truck,
12 trailer, or other vehicle. A truck, trailer or other vehicle used for
13 short-term storage must remain at least twenty-five (25) feet from the stand
14 during any time the stand is open for business, but may abut the stand when it
15 is closed. A truck, trailer or vehicle used for short-term storage must be at
16 least twenty-five (25) feet from any other inhabited building. Short-term
17 storage may occur in a locked or secured shed, garage, barn or other building
18 or storage container which is detached from an inhabited building and con-
19 tains no open flames, including heating and lighting sources. The authority
20 having jurisdiction may, in its discretion, allow short-term storage to oc-
21 cur in an attached garage with a one (1) hour fire wall separating the garage
22 from any inhabited area.

23 SECTION 8. An emergency existing therefor, which emergency is hereby
24 declared to exist, this act shall be in full force and effect on and after its
25 passage and approval.