

RÉSUMÉ DIGEST

ACT 211 (HB 532)

2018 Regular Session

Mack

Relative to the regulation of fireworks, existing law provides certain definitions.

Prior law defined "public display". New law modifies the prior law definition.

Prior law defined "resident". New law deletes the prior law definition.

New law adds and defines the following terms: "1.3G Fireworks", "1.4G Fireworks", "air luminary", "articles pyrotechnic", "Class C Public Display", "consumer fireworks", "display fireworks", "fire prevention officer", "firework", "pyrotechnic", "firm", "illegal fireworks", "IMS system", "proximate display", "license", "licensee", "novelty", "office", "person", "public entity", and "pyrotechnic operator".

New law prohibits persons in this state from selling, offering for sale, distributing, possessing, igniting, or otherwise using aerial luminaries, commonly known as sky lanterns, Hawaii lanterns, Knogming Lanterns, Chinese lanterns, sky candles, fire balloons, or flying luminaries.

New law provides that illegal fireworks or aerial luminaries shall be subject to seizure by the state fire marshal, his deputies, or any authorized law enforcement officer as contraband and further subject to the forfeiture procedure for property seized in connection with criminal proceedings (R.S. 15:41).

Existing law provides certain penalties for violations of existing law.

New law adds to existing law that each violation of existing law and new law constitutes a separate offense.

Prior law provided that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices that do not contain certain amounts of explosive compounds.

New law deletes prior law.

New law prohibits a person or firm from making a public display without obtaining a pyrotechnic operator's license issued by the office of state fire marshal. Provides the pyrotechnic operator is responsible for safely storing, setting up, and removing pyrotechnic materials and devices after a display and in accordance with manufacturer standards.

New law prohibits a person or firm from making a proximate display without obtaining a pyrotechnic special effects operator's license from the office of state fire marshal.

New law requires applicants for a pyrotechnic operator's license or pyrotechnic special effects operator's license to make application to the office of state fire marshal. Requires the taking and passage of a written examination. Requires a passing grade of at least 70%.

New law provides that persons holding a valid blaster's license, as defined in existing law, on or before Sept. 30, 2003, may forego the written examination by demonstration of practical tests or documentation deemed necessary by the fire marshal to determine the applicant's knowledge and ability.

New law requires the content, type, frequency, and location of examinations to be set by the fire marshal. Provides the following with respect to those seeking licensure:

- (1) Applicants who fail may reapply and take a reexamination.
- (2) Requires a licensee whose license has been expired for two years or more and who makes application for a new license to retake and pass the written examination to receive a renewed license.

New law provides a license will not be issued to any person if any of the following apply:

- (1) The applicant is a convicted felon.
- (2) The applicant fails to meet the requirements of new law.
- (3) The applicant for pyrotechnic operator licensure has not assisted in conducting at least five permitted public displays and has not served as lead operator on at least one permitted public display in the state of La. under the direct supervision of and verified in writing by a pyrotechnic operator licensed in this state.
- (4) The applicant for pyrotechnic special effects operator licensure has not assisted in conducting at least five permitted proximate displays and has not served as lead operator on at least one permitted proximate display in the state of La. under the direct supervision of and verified in writing by a pyrotechnic special effects operator in this state.
- (5) The applicant is less than 21 years old.

New law provides that a conviction or a plea of guilty or nolo contendere does not constitute an automatic disqualification if more than 10 years have elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication, or period of probation or parole, or Code of Criminal Procedure or other judicial dismissal.

New law provides the pocket license document issued along with the regular license document is for identification purposes only. Requires the licensee to carry it when engaged in the business.

New law provides that a license is valid for a period of one year from the date of issue.

New law provides the cost of a new license is \$50 and \$25 for renewals.

New law prohibits a person or firm from making a Class C public display without obtaining a Class C pyrotechnic operator's license from the office of state fire marshal. Requires applicants for a Class C pyrotechnic operator license to receive training and certification from the office of state fire marshal.

New law requires a licensee whose license has been expired for three years or more and who makes application for a new license to receive training and recertification by the office of state fire marshal.

New law provides a license will not be issued to any person if any of the following apply:

- (1) The applicant fails to meet the requirements of new law.
- (2) The applicant is less than 21 years old.

New law provides the cost of a new license is \$25 and \$15 for renewals.

New law prohibits a person or firm from making or performing a public display, proximate display, or Class C public display without first obtaining a permit from the office of state fire marshal. Authorizes a person or firm desiring a permit to either apply to the office of state fire marshal or to a certified local authority. Requires the application to be received by either the fire marshal or the certified local authority at least five days prior to the event.

New law requires the application to contain the following information:

- (1) The date, time, and place of the public display or proximate display including the length of time of the display.
- (2) All fire prevention plans and provisions that will be in force and all fire prevention personnel and equipment available to assure safety of the public attending the display.
- (3) A copy of the permit issued by the office of state fire marshal to the distributor who will be supplying or conducting the public display or proximate display to assure the

state fire marshal or his certified local authority that the fireworks, actual presentation, and conduct of the public display or proximate display will not endanger the public safety.

New law provides for a public entity desiring a permit for a Class C public display to apply to the office of state fire marshal. Requires the application to be received by the state fire marshal at least five days prior to the event. Provides for the application to contain all of the following information:

- (1) The date, time, and place of the Class C public display including the length of time of the display.
- (2) All plans and provisions that will be in force to assure safety of the public attending the public display.
- (3) A copy of the training certification issued by the office of state fire marshal to the person or firm who will be conducting the Class C public display to assure certain information relative to the public safety.

New law provides an application fee for a permit for a public display or proximate display. Provides the fee is \$100. Requires the fee to be used to offset the cost of processing the permit request and the expense of onsite inspections.

New law provides the application fee for a permit for a Class C public display is \$25. Requires the fee to be used to offset the cost of processing the permit request and any necessary onsite inspections.

New law prohibits a person or firm supplying fireworks for public display or proximate display from shipping, selling, possessing, or using fireworks designed for public display or proximate display unless the supplier has obtained a distributor's permit.

New law prohibits a person or firm holding a permit for a public or proximate display from obtaining fireworks for use in any public or proximate display from any person or firm that has not obtained a distributor's permit.

New law authorizes the state fire marshal to adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act to ensure that the supplier of the fireworks and the holder of a public display, proximate display, or Class C public display permit will adequately protect the public safety.

New law requires fireworks to be used for public or proximate display only to at all times be kept in the possession of those responsible and be appropriately stored in accordance with certain law of the National Fire Protection Association.

New law provides regulations regarding the purchase, storage, and transportation of fireworks used for public display or proximate display are governed by certain provisions in existing law. Requires fireworks to be used for public or proximate display to be appropriately stored and displayed in accordance with certain law of the National Fire Protection Association.

New law authorizes applicants for the sale of fireworks to apply electronically through the IMS system as defined in new law.

Prior law provided certain dates for the sale of fireworks. New law modifies such dates for when fireworks may be sold.

Existing law authorizes a retailer permit. Prior law provided a fee of \$100 for residents and \$800 for nonresidents.

New law deletes the resident and nonresident designations and fees in prior law.

New law provides the permit fee is \$100 for all applicants.

Effective upon signature of governor (May 15, 2018).

(Amends R.S. 51:650(intro. para.), (10), and (13), 651.1(D), 652(A) and (B), 655, and 656(A)-(C)(1), (f), and (E); Adds R.S. 51:650(14)-(31) and 651.1(E)-(F))