

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 693  
By: Gallegos  
State Affairs  
3/19/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Current Texas law contains no uniform standards for the use of flame effects or pyrotechnics. C.S.S.B. 693 adopts standards set forth by the National Fire Protection Association and incorporates them into the Occupations Code in order to create statewide standards and procedures to be applied to the use of flame effects and pyrotechnics in Texas. Specifically, C.S.S.B. 693 prohibits the use of such effects unless they comply with NFPA Standards 1126 and 160 and additional requirements, including the presence of certain safeguards, licensed operators, and a permit from the proper local authority. In addition, C.S.S.B. 693 sets forth the requirements for obtaining a flame effects or pyrotechnics operator's license, and requires applicants for such licenses to be covered by certain kinds of liability and worker's compensation insurance.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 2154F, Occupations Code, by adding Section 2154.253, as follows:

Sec. 2154.253. USE OF FLAME EFFECTS OR PYROTECHNICS. (a) Defines "authority having jurisdiction," "flame effects," "NFPA Standard 1126," "NFPA Standard 160," and "pyrotechnics."

(b) Requires the use of flame effects or pyrotechnics before an assembly of 50 people or more to comply with NFPA Standards 160 and 1126 and certain additional standards and requirements. Provides an exception.

(c) Exempts traditional, nontheatrical public displays from the requirements provided by Subsection (b), including certain displays.

(d) Authorizes the authority having jurisdiction to adopt regulations governing the issuance of permits for the use of flame effects or pyrotechnics, and to charge a fee to recover administrative costs.

(e) Provides that a person commits a Class A misdemeanor if the person violates this section, and that each day a violation occurs or continues to occur constitutes a separate offense. Provides that venue under this section is in the county in which the offense is committed or in Travis County.

(f) Provides that this chapter does not invalidate a municipal or county ordinance, order, or rule in effect on September 1, 2003.

(g) Provides that this chapter does not limit or restrict the authority of a county, where

authorized by law, or a municipality to enact an ordinance or order prohibiting or further regulating flame effects or pyrotechnics.

SECTION 2. Amends Chapter 2154D, Occupations Code, by adding Section 2154.156, as follows:

Sec. 2154.156. FLAME EFFECTS OPERATOR'S LICENSE. (a) Requires a person to be a licensed flame effects operator if the person assembles, conducts, or supervises flame effects under Section 2154.253.

(b) Requires the commissioner of insurance (commissioner) to set and collect an annual flame effects operator's license fee of \$100 or less.

(c) Requires a person to take and pass an examination and comply with any other requirements set by the commissioner through the state fire marshal's office in order to qualify for a flame effects operators license.

(d) Requires a person to be charged a nonrefundable initial examination fee of \$30 or less. Requires a person to be charged a nonrefundable fee of \$20 or less for each reexamination.

SECTION 3. Amends Chapter 2154E, Occupations Code, by adding Section 2154.207, as follows:

Sec. 2154.207. INSURANCE REQUIREMENT. (a) Requires an applicant for a permit under Section 2154.253 to submit to the authority having jurisdiction evidence of worker's compensation insurance and a general liability insurance policy in a certain amount, in addition to any other requirements. Prohibits the permit from being issued without evidence of insurance as required by this section.

(b) Requires the general liability insurance policy required under this section to be conditioned to pay the amount of money the insured becomes obligated to pay as damages due to injury or property damage caused by an occurrence involving the insured or certain persons affiliated with the insured in the conduct of a display of pyrotechnics and flame effects.

(c) Requires evidence of the general liability insurance policy required by this section to be in the form of a certificate of insurance meeting certain requirements.

(d) Authorizes a certificate of insurance for certain surplus lines of coverage to be filed with the commissioner as evidence of coverage required by this section.

(e) Prohibits an insurer from cancelling a certificate of insurance issued under this section without first notifying the authority having jurisdiction of intent to cancel.

(f) Authorizes a city, county, or other political subdivision to satisfy this section by presenting proof of its participation in a self-insurance fund or other fund under Chapter 791, Government Code, covering the liability requirements under this chapter.

SECTION 4. Effective date: September 1, 2003.

#### **SUMMARY OF COMMITTEE CHANGES**

Adds the words "providing a penalty" at the end of the relating clause.

In SECTION 1: Differs from the original by deleting definitions for "approved," "approving authority," "assembly," and "standby fire watch" and amending definitions for "flame effect" and "pyrotechnics."

Adds definitions for “authority having jurisdiction,” “flame effects,” “NFPA Standard 1126,” “NFPA Standard 160.” In Subsection (b), changes the requirements for flame effects or pyrotechnics used before an audience of 50 people or more. Changes Subsection (c) to provide exceptions to Subsection (b). Removes certain requirements previously set forth in Subsection (d), and adds that the authority having jurisdiction may charge a fee for issuing permits for flame effects or pyrotechnics.

In SECTION 2: Differs from the original by adding Section 2154.156 to Chapter 2154D, Occupations Code, to require a person who assembles, conducts, or supervises flame effects under Section 2154.253 to be a licensed flame effects operator.

In SECTION 3: Differs from the original by adding Section 2154.207 to Chapter 2154E, Occupations Code to require a person seeking a flame effects operator’s license to provide proof of certain insurance coverage.

In SECTION 4: Differs from the original by redesignating SECTION 2 as SECTION4.