

By: Gallegos, et al.

S.B. No. 693

A BILL TO BE ENTITLED

AN ACT

relating to the use of flame effects and pyrotechnics before an assembly; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 2154, Occupations Code, is amended by adding Section 2154.253 to read as follows:

Sec. 2154.253. USE OF FLAME EFFECTS OR PYROTECHNICS.

(a) Definitions. In this section:

(1) "Authority having jurisdiction" means the fire marshal of a political subdivision. If the political subdivision has no fire marshal, the chief executive of the local fire protection district or emergency services district shall be the authority having jurisdiction. The state fire marshal or the state fire marshal's designee shall be the authority having jurisdiction if the political subdivision has no fire marshal, local fire protection district, or emergency services district.

(2) "Flame effects" means a stationary or hand-held device of solid, liquid, or gas, designed specifically to produce an open flame when ignited to display a thermal, physical, visual, or audible phenomenon as defined in NFPA Standard 160. Such devices include paraffin wax candles, LPG candles, torches, and LPG burners.

(3) "NFPA Standard 1126" means the edition of the National Fire Protection Association, Standard 1126, "Standard for

1 the Use of Pyrotechnics before a Proximate Audience," as adopted  
2 and amended by the commissioner.

3 (4) "NFPA Standard 160" means the edition of the  
4 National Fire Protection Association, Standard 160, "Standard for  
5 Flame Effects Before an Audience," as adopted and amended by the  
6 commissioner.

7 (5) "Pyrotechnics" means an explosive composition or  
8 device designed for entertainment to produce a visible or audible  
9 effect by combustion, explosion, deflagration, or detonation as  
10 defined by NFPA Standard 1126.

11 (b) The use of flame effects or pyrotechnics for  
12 entertainment, exhibition, demonstration, or simulation before an  
13 assembly of 50 people or more, except for public safety  
14 demonstrations, must comply with NFPA Standard 160 and NFPA  
15 Standard 1126 and the following standards and requirements:

16 (1) if flame effects or pyrotechnics are used inside a  
17 building, the building must contain a complete operational  
18 fire-sprinkler system or provide personnel to implement a standby  
19 fire watch acceptable to the authority having jurisdiction;

20 (2) before flame effects or pyrotechnics are used  
21 inside a building, an announcement to the assembly must be made  
22 giving verbal instruction regarding the location and use of  
23 available exits and information about the building fire protection  
24 and fire alarm systems; a determination by the authority having  
25 jurisdiction that an exit door is locked or obstructed constitutes  
26 a violation of this section;

27 (3) the plan required by NFPA Standard 1126 or NFPA

1 Standard 160 detailing the criteria for use and display of  
2 pyrotechnics and flame effects must be provided to the local  
3 authority having jurisdiction;

4 (4) at least one Texas pyrotechnic special effects  
5 operator's licensee must be present on-site at all times where  
6 pyrotechnics are used, discharged, or ignited;

7 (5) at least one Texas flame effects operator's  
8 licensee must be present on-site at all times where flame effects  
9 are used, discharged, or ignited;

10 (6) the on-site licensee shall be responsible for  
11 complying with this section;

12 (7) the licensee or the licensee's employer must  
13 obtain a permit from the local authority having jurisdiction before  
14 the use, discharge, or ignition of a flame effect or pyrotechnics;  
15 and

16 (8) the applicant for the permit must provide with the  
17 application the evidence of insurance required by Section 2154.207.

18 (c) The requirements provided by Subsection (b) do not apply  
19 to traditional, nontheatrical public displays such as:

20 (1) use of lighted candles in restaurants or during  
21 religious services;

22 (2) fireplaces in areas open to the public;

23 (3) restaurant cooking visible to the public;

24 (4) the outdoor use of consumer fireworks by the  
25 general public; or

26 (5) an outdoor public display permitted under Section  
27 2154.204.

1       (d) The authority having jurisdiction may adopt regulations  
2 governing the issuance of permits for the use of flame effects or  
3 pyrotechnics and may charge a fee to recover its costs.

4       (e) A person commits an offense if the person violates this  
5 section. An offense under this section is a Class A misdemeanor.  
6 Each day a violation occurs or continues constitutes a separate  
7 offense. Venue under this section is in the county in which the  
8 offense is committed or in Travis County.

9       (f) A municipal or county ordinance, order, or rule in  
10 effect on September 1, 2003, is not invalidated by this chapter.

11       (g) This section does not limit or restrict the authority of  
12 a county, where specifically authorized by law, or municipality to  
13 enact an ordinance or order prohibiting or further regulating flame  
14 effects or pyrotechnics.

15       SECTION 2. Subchapter D, Chapter 2154, Occupations Code, is  
16 amended by adding Section 2154.156 to read as follows:

17       Sec. 2154.156. FLAME EFFECTS OPERATOR'S LICENSE. (a) A  
18 person must be a licensed flame effects operator if the person  
19 assembles, conducts, or supervises flame effects under Section  
20 2154.253.

21       (b) The commissioner shall set and collect an annual flame  
22 effects operator's license fee in an amount not to exceed \$100.

23       (c) To qualify for a flame effects operator's license, a  
24 person must take and pass an examination and comply with any other  
25 requirements set by the commissioner through the state fire  
26 marshal's office.

27       (d) A person shall be charged a nonrefundable initial

1 examination fee in an amount not to exceed \$30. A person shall be  
2 charged a nonrefundable fee in an amount not to exceed \$20 for each  
3 reexamination.

4 SECTION 3. Subchapter E, Chapter 2154, Occupations Code, is  
5 amended by adding Section 2154.207 to read as follows:

6 Sec. 2154.207. INSURANCE REQUIREMENT. (a) In addition to  
7 any other requirements, an applicant for a permit under Section  
8 2154.253 must submit to the authority having jurisdiction evidence  
9 of worker's compensation insurance and a general liability  
10 insurance policy in an amount of not less than \$1 million unless the  
11 commissioner decreases the amount under Section 2154.051. The  
12 permit may not be issued without evidence of insurance as required  
13 by this section.

14 (b) The general liability insurance policy required by this  
15 section shall be conditioned to pay the amount of money the insured  
16 becomes obligated to pay as damages because of bodily injury and  
17 property damage caused by an occurrence involving the insured or  
18 the insured's servant, officer, agent, or employee in the conduct  
19 of a display of pyrotechnics and flame effects.

20 (c) Evidence of the general liability insurance policy  
21 required by this section must be in the form of a certificate of  
22 insurance issued by an insurer authorized to do business in this  
23 state and countersigned by an insurance agent licensed in this  
24 state.

25 (d) A certificate of insurance for surplus lines coverage  
26 obtained under Article 1.14-2, Insurance Code, through a licensed  
27 Texas surplus lines agent resident in this state may be filed with

1 the commissioner as evidence of coverage required by this section.

2 (e) An insurer may not cancel a certificate of insurance  
3 issued under this section unless the insurer gives the authority  
4 having jurisdiction notice of intent to cancel.

5 (f) This section may be satisfied by a city, county, or  
6 other political subdivision presenting proof of its participation  
7 in a self-insurance fund or a fund created under Chapter 791,  
8 Government Code, covering the liability requirements under this  
9 chapter.

10 SECTION 4. This Act takes effect September 1, 2003.