

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2642

53rd Legislature
1994 Regular Session

Passed by the House February 10, 1994
Yeas 87 Nays 7

**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1994
Yeas 44 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2642** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2642

Passed Legislature - 1994 Regular Session

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Heavey and Lisk; by request of Department of Community Development)

Read first time 02/04/94.

1 AN ACT Relating to strengthening state fireworks regulation;
2 amending RCW 70.77.146, 70.77.177, 70.77.255, 70.77.265, 70.77.270,
3 70.77.280, 70.77.325, 70.77.355, 70.77.370, 70.77.435, 70.77.440,
4 70.77.450, and 70.77.535; adding new sections to chapter 70.77 RCW;
5 adding a new section to chapter 9.41 RCW; prescribing penalties; and
6 declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 70.77.146 and 1984 c 249 s 4 are each amended to read
9 as follows:

10 "Special effects" means any combination of chemical elements or
11 chemical compounds capable of burning independently of the oxygen of
12 the atmosphere, and designed and intended to produce an audible,
13 visual, mechanical, or thermal effect as (~~a necessary~~) an integral
14 part of a motion picture, radio or television production,
15 (~~theatrical,~~) or (~~opera~~) live entertainment.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.77 RCW
17 to read as follows:

18 "City" means any city or town.

1 **Sec. 3.** RCW 70.77.177 and 1984 c 249 s 6 are each amended to read
2 as follows:

3 "Local fire official" means the chief of a local fire department or
4 (~~fire protection district,~~) a chief fire protection officer or such
5 other person as may be designated by the governing body of a city(~~(~~)
6 or county(~~(~~~~or district)~~) to act as a local fire official under this
7 chapter.

8 **Sec. 4.** RCW 70.77.255 and 1984 c 249 s 10 are each amended to read
9 as follows:

10 (1) Except as otherwise provided in this chapter, no person,
11 without an appropriate state license or permit may:

12 (a) Manufacture, import, possess, or sell any fireworks at
13 wholesale or retail for any use;

14 (b) Make a public display of fireworks; or

15 (c) Transport fireworks, except as a public carrier delivering to
16 a licensee.

17 (2) Except as authorized by a license and permit under subsection
18 (1)(b) of this section, no person may discharge special fireworks at
19 any place.

20 (3) No person less than eighteen years of age may apply for or
21 receive a license or permit under this chapter.

22 (4) No license or permit is required for the possession or use of
23 common fireworks lawfully purchased at retail.

24 **Sec. 5.** RCW 70.77.265 and 1984 c 249 s 12 are each amended to read
25 as follows:

26 The local fire official receiving an application for a permit under
27 RCW 70.77.260(1) shall investigate the application and submit a report
28 of findings and a recommendation for or against the issuance of the
29 permit, together with reasons, to the governing body of the city(~~(~~)
30 or county(~~(~~~~or fire protection district)~~)).

31 **Sec. 6.** RCW 70.77.270 and 1984 c 249 s 13 are each amended to read
32 as follows:

33 The governing body of a city(~~(~~) or county(~~(~~~~or fire protection~~
34 ~~district)~~) may grant or deny an application for a permit under RCW
35 70.77.260(1). The governing body may place reasonable conditions on
36 any permit it issues.

1 **Sec. 7.** RCW 70.77.280 and 1984 c 249 s 14 are each amended to read
2 as follows:

3 The local fire official receiving an application for a permit under
4 RCW 70.77.260(2) for a public display of fireworks shall investigate
5 whether the character and location of the display as proposed would be
6 hazardous to property or dangerous to any person. Based on the
7 investigation, the official shall submit a report of findings and a
8 recommendation for or against the issuance of the permit, together with
9 reasons, to the governing body of the city((~~7~~)) or county((~~7~~, ~~or~~ ~~fire~~
10 ~~protection~~ ~~district~~)). The governing body may grant or deny the
11 application and may place reasonable conditions on any permit it
12 issues.

13 **Sec. 8.** RCW 70.77.325 and 1991 c 135 s 4 are each amended to read
14 as follows:

15 (1) An application for a license shall be made annually by every
16 person holding an existing license who wishes to continue the activity
17 requiring the license during an additional calendar year. The
18 application shall be accompanied by the annual license fees as
19 prescribed in RCW 70.77.343 and 70.77.340.

20 (2) A person applying for an annual license as a retailer under
21 this chapter shall file an application by June 10 of the current year.
22 The director of community, trade, and economic development, through the
23 director of fire protection, shall grant or deny the license within
24 fifteen days of receipt of the application.

25 (3) A person applying for an annual license as a manufacturer,
26 importer, or wholesaler under this chapter shall file an application by
27 January 31 of the current year. The director of community, trade, and
28 economic development, through the director of fire protection, shall
29 grant or deny the license within ninety days of receipt of the
30 application.

31 **Sec. 9.** RCW 70.77.355 and 1986 c 266 s 105 are each amended to
32 read as follows:

33 (1) Any adult person may secure a general license from the director
34 of community, trade, and economic development, through the director of
35 fire protection, for the public display of fireworks within the state
36 of Washington. A general license is subject to the provisions of this
37 chapter relative to the securing of local permits for the public

1 display of fireworks in any city((~~7~~)) or county((~~7~~, ~~or~~ ~~fire~~ ~~protection~~
2 ~~district~~)), except that in lieu of filing the bond or certificate of
3 public liability insurance with the appropriate local official under
4 RCW 70.77.260 as required in RCW 70.77.285, the same bond or
5 certificate shall be filed with the director of community, trade, and
6 economic development, through the director of fire protection. The
7 bond or certificate of insurance for a general license in addition
8 shall provide that: (a) The insurer will not cancel the insured's
9 coverage without fifteen days prior written notice to the director of
10 community, trade, and economic development, through the director of
11 fire protection; (b) the duly licensed pyrotechnic operator required by
12 law to supervise and discharge the public display, acting either as an
13 employee of the insured or as an independent contractor and the state
14 of Washington, its officers, agents, employees, and servants are
15 included as additional insureds, but only insofar as any operations
16 under contract are concerned; and (c) the state is not responsible for
17 any premium or assessments on the policy.

18 (2) The director of community, trade, and economic development,
19 through the director of fire protection, may issue such general
20 licenses. The holder of a general license shall file a certificate
21 from the director of community, trade, and economic development,
22 through the director of fire protection, evidencing the license with
23 any application for a local permit for the public display of fireworks
24 under RCW 70.77.260.

25 **Sec. 10.** RCW 70.77.370 and 1989 c 175 s 129 are each amended to
26 read as follows:

27 Any applicant who has been denied a license for reasons other than
28 making application after the date set forth in RCW 70.77.325 is
29 entitled to a hearing in accordance with the provisions of chapter
30 34.05 RCW, the Administrative Procedure Act.

31 **Sec. 11.** RCW 70.77.435 and 1986 c 266 s 111 are each amended to
32 read as follows:

33 Any fireworks which are illegally sold, offered for sale, used,
34 discharged, possessed or transported in violation of the provisions of
35 this chapter or the rules or regulations of the director of community,
36 trade, and economic development, through the director of fire
37 protection, shall be subject to seizure by the director of community,

1 trade, and economic development, through the director of fire
2 protection, or his or her deputy, or by state agencies or local
3 governments having general law enforcement authority. Any fireworks
4 seized under this section may be disposed of by the director of
5 community, trade, and economic development, through the director of
6 fire protection, or the agency conducting the seizure, by summary
7 destruction at any time subsequent to thirty days from such seizure or
8 ten days from the final termination of proceedings under the provisions
9 of RCW 70.77.440, whichever is later.

10 **Sec. 12.** RCW 70.77.440 and 1986 c 266 s 112 are each amended to
11 read as follows:

12 (1) Any person whose fireworks are seized under the provisions of
13 RCW 70.77.435 may within ten days after such seizure petition (~~the~~
14 ~~director of community development, through the director of fire~~
15 ~~protection,~~) the agency conducting the seizure to return the fireworks
16 seized upon the ground that such fireworks were illegally or
17 erroneously seized. Any petition filed hereunder shall be considered
18 by the (~~director of community development, through the director of~~
19 ~~fire protection,~~) authority conducting the seizure within fifteen days
20 after filing and an oral hearing granted the petitioner, if requested.
21 Hearings shall be conducted in accordance with state law or chapter
22 34.05 RCW. Notice of the decision of the (~~director of community~~
23 ~~development, through the director of fire protection,~~) authority
24 conducting the hearing shall be served upon the petitioner. The
25 (~~director of community development, through the director of fire~~
26 ~~protection,~~) authority conducting the hearing may order the fireworks
27 seized under this chapter disposed of or returned to the petitioner if
28 illegally or erroneously seized. The determination of the (~~director~~
29 ~~of community development, through the director of fire protection,~~)
30 authority conducting the hearing is final unless within sixty days an
31 action is commenced in a court of competent jurisdiction in the state
32 of Washington for the recovery of the fireworks seized (~~by the~~
33 ~~director of community development, through the director of fire~~
34 ~~protection)~~ under this chapter.

35 (2) If the fireworks are not returned to the petitioner or
36 destroyed pursuant to RCW 70.77.435, the director of community, trade,
37 and economic development, through the director of fire protection, or
38 the agency conducting the seizure may sell confiscated common fireworks

1 ((and)), special fireworks, and chemicals used to make fireworks, that
2 are legal for use and possession under this chapter, to wholesalers
3 ((licensed)) or manufacturers, authorized to possess and use such
4 fireworks or chemicals under a license issued by the director of
5 community, trade, and economic development, through the director of
6 fire protection. Sale shall be by public auction after publishing a
7 notice of the date, place, and time of the auction in a newspaper of
8 general circulation in the county in which the auction is to be held,
9 at least three days before the date of the auction. The proceeds of
10 the sale of the seized fireworks under this section shall be deposited
11 in the general fund. Fireworks that are not legal for use and
12 possession in this state shall be destroyed by the director of
13 community, trade, and economic development, through the director of
14 fire protection, or by the agency conducting the seizure.

15 **Sec. 13.** RCW 70.77.450 and 1986 c 266 s 113 are each amended to
16 read as follows:

17 The director of community, trade, and economic development, through
18 the director of fire protection, may make an examination of the books
19 and records of any licensee, or other person relative to fireworks, and
20 may visit and inspect the premises of any licensee he may deem at any
21 time necessary for the purpose of enforcing the provisions of this
22 chapter. The licensee, owner, lessee, manager, or operator of any such
23 building or premises shall permit the director of community, trade, and
24 economic development, through the director of fire protection, his or
25 her deputies (~~(, his or her)~~) or salaried assistants (~~((and the chief of~~
26 ~~any city or county fire department or fire protection district))~~), the
27 local fire official, and their authorized representatives to enter and
28 inspect the premises at the time and for the purpose stated in this
29 section.

30 **Sec. 14.** RCW 70.77.535 and 1984 c 249 s 35 are each amended to
31 read as follows:

32 This chapter does not prohibit the assembling, compounding, use,
33 and display of special effects (~~((of whatever nature))~~) by any person
34 engaged in the production of motion pictures, radio or television
35 productions, (~~((theatricals, or operas))~~) or live entertainment when such
36 use and display is (~~((a necessary))~~) an integral part of the production
37 and such person possesses a valid permit from the local fire official.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.77 RCW
2 to read as follows:

3 The inclusion in this chapter of criminal penalties does not
4 preclude enforcement of this chapter through civil means.

5 NEW SECTION. **Sec. 16.** A new section is added to chapter 9.41 RCW
6 to read as follows:

7 Nothing in this chapter shall prohibit the possession, sale, or use
8 of fireworks when possessed, sold, or used in compliance with chapter
9 70.77 RCW.

10 NEW SECTION. **Sec. 17.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect immediately.

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