

1 HB376  
2 190261-1  
3 By Representatives Drummond, Lee, Forte, Clarke, Holmes (M),  
4 Brown, Wingo, Fincher, McCampbell, Sessions, Beech, Knight,  
5 Hollis, Sells, Whorton (I), Wood, Pettus, Whorton (R), Ellis,  
6 Faust and Shiver  
7 RFD: Public Safety and Homeland Security  
8 First Read: 06-FEB-18

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8 SYNOPSIS: Under existing law, the State Fire Marshal  
9 is responsible for regulating and issuing permits  
10 to persons who manufacture, sell, offer for sale,  
11 or ship fireworks or pyrotechnics in the state.

12 This bill would authorize the State Fire  
13 Marshal to also regulate and issue pyrotechnic  
14 display operator licenses and pyrotechnic special  
15 effects operator licenses to persons who provide  
16 fireworks displays, pyrotechnics, and related  
17 special effects for an audience.

18 This bill would provide for the  
19 qualifications of applicants for licensure, license  
20 renewal, and licensure by reciprocity, and for the  
21 licensure of certain persons who have previously  
22 been certified as lead technicians by the State  
23 Fire Marshal.

24 This bill would provide for the deposit of  
25 fees into the State Fire Marshal's Fund.

1                   This bill would also provide that any  
2 violation of the act constitutes a Class A  
3 misdemeanor.

4                   Amendment 621 of the Constitution of Alabama  
5 of 1901, now appearing as Section 111.05 of the  
6 Official Recompilation of the Constitution of  
7 Alabama of 1901, as amended, prohibits a general  
8 law whose purpose or effect would be to require a  
9 new or increased expenditure of local funds from  
10 becoming effective with regard to a local  
11 governmental entity without enactment by a 2/3 vote  
12 unless: it comes within one of a number of  
13 specified exceptions; it is approved by the  
14 affected entity; or the Legislature appropriates  
15 funds, or provides a local source of revenue, to  
16 the entity for the purpose.

17                   The purpose or effect of this bill would be  
18 to require a new or increased expenditure of local  
19 funds within the meaning of the amendment. However,  
20 the bill does not require approval of a local  
21 governmental entity or enactment by a 2/3 vote to  
22 become effective because it comes within one of the  
23 specified exceptions contained in the amendment.

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25                   A BILL  
26                   TO BE ENTITLED  
27                   AN ACT

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2           Relating to pyrotechnic displays; to authorize the  
3 State Fire Marshal to regulate and issue pyrotechnic display  
4 operator licenses and pyrotechnic special effects operator  
5 licenses to persons who provide fireworks displays,  
6 pyrotechnics, and related special effects for an audience; to  
7 provide for the qualifications of applicants for licensure,  
8 license renewal, and licensure by reciprocity; to provide for  
9 the licensure of certain persons who have previously been  
10 certified as lead technicians by the State Fire Marshal; to  
11 provide for the deposit of fees into the State Fire Marshal's  
12 Fund; to provide that any violation of the act constitutes a  
13 Class A misdemeanor; and in connection therewith would have as  
14 its purpose or effect the requirement of a new or increased  
15 expenditure of local funds within the meaning of Amendment 621  
16 of the Constitution of Alabama of 1901, now appearing as  
17 Section 111.05 of the Official Recompilation of the  
18 Constitution of Alabama of 1901, as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20           Section 1. For the purposes of this act, the  
21 following terms shall have the following meanings:

22           (1) AMERICAN PYROTECHNICS ASSOCIATION. An  
23 association of the fireworks industry promoting safety and  
24 regulatory compliance in the design and use of legal  
25 fireworks.

1           (2) ASSISTANT. A person who works under the  
2 supervision of a pyrotechnic operator in accordance with NFPA  
3 1123, NFPA 1126, and NFPA 160.

4           (3) CO-LEAD. A person who works under the  
5 supervision of a pyrotechnic operator in accordance with NFPA  
6 1123, NFPA 1126, and NFPA 160 and is in training to become a  
7 pyrotechnic display operator or pyrotechnic special effects  
8 operator, or both.

9           (4) CONSUMER FIREWORKS. Small fireworks devices  
10 containing restricted amounts of pyrotechnic composition  
11 designed primarily to produce visible or audible effects by  
12 combustion that comply with the construction, chemical  
13 composition, and labeling regulations of the United States  
14 Consumer Product Safety Commission that are not being modified  
15 or used in any way other than as originally intended.

16           (5) DISPLAY FIREWORKS. Large fireworks devices that  
17 are explosive materials intended for use in fireworks displays  
18 and designed to produce visible or audible effects by  
19 combustion, deflagration, or detonation as well as consumer  
20 fireworks devices that are being modified and used in a way  
21 other than as originally intended.

22           (6) FIREWORKS. Any composition or device for the  
23 purpose of producing a visible or an audible effect for  
24 entertainment purposes by deflagration or detonation, that  
25 meets the definition of consumer fireworks or display  
26 fireworks as provided in NFPA 1123 or NFPA 1126.

1 (7) FIREWORKS DISPLAY. A presentation of fireworks  
2 for a public or private gathering.

3 (8) FLAME EFFECT. The combustion of solids, liquids,  
4 or gases utilizing atmospheric oxygen to produce thermal,  
5 physical, visual, or audible phenomena before an audience as  
6 defined by NFPA 160.

7 (9) LICENSE HOLDER. An individual employed by a  
8 company or organization, or self-employed, who holds a  
9 distributor permit in the state and whose employee is licensed  
10 as a pyrotechnic display operator or pyrotechnic special  
11 effects operator under this act and who is holding the license  
12 for a company or individual who is not licensed to conduct a  
13 fireworks display, proximate audience display, flame effect,  
14 or any other special effects.

15 (10) NATIONAL FIRE PROTECTION ASSOCIATION (NFPA). A  
16 United States trade association that creates and maintains  
17 private, copyrighted standards and codes for usage and  
18 adoption by local governments.

19 (11) NFPA 160. The National Fire Protection  
20 Association publication relating to standards for flame  
21 effects before an audience, as adopted by the State Fire  
22 Marshal.

23 (12) NFPA 1123. The National Fire Protection  
24 Association publication relating to a code for fireworks  
25 display, as adopted by the State Fire Marshal.

26 (13) NFPA 1126. The National Fire Protection  
27 Association publication relating to standards for the use of

1 pyrotechnics before a proximate audience, as adopted by the  
2 State Fire Marshal.

3 (14) PROXIMATE AUDIENCE DISPLAY. A display in which  
4 the audience is closer to pyrotechnic devices than permitted  
5 by NFPA 1123.

6 (15) PYROTECHNIC DISPLAY OPERATOR. A person with  
7 overall responsibility for the operation and safety of a  
8 fireworks display in accordance with NFPA 1123 who is licensed  
9 under this act.

10 (16) PYROTECHNIC SPECIAL EFFECTS OPERATOR. A person  
11 who is responsible for pyrotechnic and special effects safety  
12 in accordance with NFPA 1126 and NFPA 160, who controls,  
13 initiates, or otherwise creates pyrotechnics and special  
14 effects, and is responsible for storing, setting up, and  
15 removing special effects, pyrotechnic materials, and devices  
16 after a performance.

17 (17) SUPERVISION. The direction and management of  
18 the activities of personnel in the safety, setup, handling,  
19 and display of an outdoor pyrotechnic display, a proximate  
20 audience display, a flame effect display, or any other use of  
21 pyrotechnics.

22 Section 2. (a) The State Fire Marshal shall regulate  
23 pyrotechnic displays and shall issue pyrotechnic display  
24 operator and pyrotechnic special effects operator licenses as  
25 provided in this act.

26 (b) A person may not provide a fireworks display  
27 without a pyrotechnic display operator license. An applicant

1 for a pyrotechnic display operator license shall submit all of  
2 the following to the State Fire Marshal:

3 (1) Proof that the applicant is 21 years of age at  
4 the time of application.

5 (2) Proof of successful completion, with a passing  
6 score of 75 percent or greater, of an eight-hour training  
7 program approved by the State Fire Marshal for pyrotechnic  
8 display operators. The training program test shall be given  
9 under the supervision of a person appointed by the State Fire  
10 Marshal.

11 (3) Verifiable evidence of safe performances in  
12 active participation as a co-lead for at least six fireworks  
13 displays under the direct supervision of a competent licensed  
14 pyrotechnic display operator.

15 (4) Proof of a current Employer Possessor Letter of  
16 Clearance issued to the individual by the Bureau of Alcohol,  
17 Tobacco and Firearms.

18 (5) An application fee of one hundred twenty dollars  
19 (\$120).

20 (c) Each pyrotechnic display operator licensee  
21 requesting renewal of his or her license, shall submit proof  
22 of all of the following to the State Fire Marshal:

23 (1) Completion of an eight-hour continuing education  
24 training program approved by the State Fire Marshal for  
25 pyrotechnic display operators within the two-year license  
26 period. The training program shall be taught by an



1 organization, display company, or individual approved by the  
2 State Fire Marshal.

3 (2) Active participation as a pyrotechnic display  
4 operator in the safe performance of at least two fireworks  
5 displays within the two-year license period.

6 (3) Proof of a current Employer Possessor Letter of  
7 Clearance issued to the individual by the Bureau of Alcohol,  
8 Tobacco and Firearms.

9 (4) A signed affidavit stating that the licensee has  
10 committed no felonies within the two-year license period.

11 (5) A renewal fee of one hundred twenty dollars  
12 (\$120).

13 (d) A pyrotechnic display operator license shall  
14 expire two years after issuance, unless renewed before  
15 expiration.

16 Section 3. (a) A person may not provide pyrotechnics  
17 display, special effects, and flame effects in which the  
18 audience is closer to the devices than permitted by NFPA 1123  
19 or in compliance with NFPA 160, or both, without a pyrotechnic  
20 special effects operator license. An applicant for a  
21 pyrotechnic special effects license shall submit all of the  
22 following to the State Fire Marshal:

23 (1) Proof that the applicant is at least 21 years of  
24 age at the time of application.

25 (2) Proof of successful completion, with a passing  
26 score of 75 percent or greater, of a 16-hour proximate  
27 pyrotechnics training program approved by the State Fire

1 Marshal for pyrotechnic special effects operators. The  
2 training program test shall be given under the supervision of  
3 a person appointed by the State Fire Marshal.

4 (3) Verifiable evidence of active participation as a  
5 co-lead in the safe performance of at least six proximate  
6 audience displays or flame effects, or both, under the direct  
7 supervision of a competent licensed pyrotechnic special  
8 effects operator.

9 (4) Proof of a current Employer Possessor Letter of  
10 Clearance issued to the individual by the Bureau of Alcohol,  
11 Tobacco and Firearms.

12 (5) An application fee of one hundred twenty dollars  
13 (\$120).

14 (b) Each pyrotechnic special effects operator  
15 licensee requesting renewal of his or her license shall submit  
16 proof of all of the following to the State Fire Marshal:

17 (1) Completion of a 16-hour continuing education  
18 training program approved by the State Fire Marshal for  
19 pyrotechnic special effects operators within the two-year  
20 license period. The training program shall be taught by an  
21 organization, display company, or individual approved by the  
22 State Fire Marshal.

23 (2) Active participation as a pyrotechnic special  
24 effects operator in the safe performance of at least two  
25 proximate audience displays or flame effects, or both, within  
26 the two-year license period.

1                   (3) Proof of a current Employer Possessor Letter of  
2 Clearance issued to the individual by the Bureau of Alcohol,  
3 Tobacco and Firearms.

4                   (4) A signed affidavit stating that the licensee has  
5 committed no felonies in this state or another state within  
6 the two-year license period.

7                   (5) A renewal fee of one hundred twenty dollars  
8 (\$120).

9                   (c) A pyrotechnic special effects operator license  
10 shall expire two years after issuance, unless renewed before  
11 expiration.

12                   Section 4. (a) The State Fire Marshal may license  
13 pyrotechnic display operators and pyrotechnic special effects  
14 operators by reciprocity. An applicant for a license by  
15 reciprocity shall be 21 years of age and satisfy the  
16 requirements of subsection (b) or subsection (c).

17                   (b) For a pyrotechnic display operator license, the  
18 applicant shall submit all of the following to the State Fire  
19 Marshal:

20                   (1) Proof of a current Employer Possessor Letter of  
21 Clearance issued to the individual by the Bureau of Alcohol,  
22 Tobacco and Firearms or consent to a criminal history  
23 background check by the State Fire Marshal.

24                   (2) Proof of successful completion, with a passing  
25 score of 75 percent or greater, of an eight-hour training  
26 program approved by the State Fire Marshal for pyrotechnic  
27 display operators. The training program test shall be given

1 under the supervision of a person appointed by the State Fire  
2 Marshal.

3 (3) Verifiable evidence of safe performances as an  
4 operator for at least six fireworks displays.

5 (4) A copy of the license of the applicant issued by  
6 the other state.

7 (5) A reciprocal license fee of one hundred twenty  
8 dollars (\$120).

9 (c) For a pyrotechnic special effects operator  
10 license, the applicant shall submit all of the following to  
11 the State Fire Marshal:

12 (1) Proof of a current Employer Possessor Letter of  
13 Clearance issued to the individual by the Bureau of Alcohol,  
14 Tobacco and Firearms or consent to a criminal history  
15 background check by the State Fire Marshal.

16 (2) Proof of successful completion, with a passing  
17 score of 75 percent or greater, of a 16-hour proximate  
18 pyrotechnics training program approved by the State Fire  
19 Marshal for pyrotechnic special effects operators. The  
20 training program test shall be given under the supervision of  
21 a person appointed by the State Fire Marshal.

22 (3) Verifiable evidence of safe performances as an  
23 operator for at least six proximate audience displays.

24 (4) A copy of the license of the applicant issued by  
25 the other state.

26 (5) A reciprocal license fee of one hundred twenty  
27 dollars (\$120).

1 (d) A reciprocal license shall expire two years  
2 after issuance, unless renewed before expiration.

3 Section 5. An unlicensed company or individual that  
4 plans to conduct a fireworks display, proximate audience  
5 display, flame effects, or other special effects in this state  
6 using fireworks shall first hire a licensed pyrotechnic  
7 display operator or a pyrotechnic special effects operator to  
8 act as license holder and shall comply with all other state  
9 and federal laws.

10 Section 6. The use of hazardous explosive materials  
11 for entertainment purposes not directly referenced in this act  
12 is prohibited unless approved by the State Fire Marshal prior  
13 to use.

14 Section 7. (a) Any person who is certified as a lead  
15 technician by the State Fire Marshal on or before the  
16 effective date of this act may apply to the State Fire Marshal  
17 under this act for a pyrotechnic display operator license or a  
18 pyrotechnic special effects operator license. The application  
19 shall be submitted before midnight on December 31, 2019, and  
20 shall satisfy the requirements of subsection (b) or subsection  
21 (c), as applicable.

22 (b) For a pyrotechnic display operator license, the  
23 applicant shall submit all of the following to the State Fire  
24 Marshal:

25 (1) Proof of completion of an eight-hour training  
26 program approved by the State Fire Marshal for pyrotechnic  
27 display operators.

1           (2) Proof of a current Employer Possessor Letter of  
2 Clearance issued to the individual by the Bureau of Alcohol,  
3 Tobacco and Firearms or consent to a criminal history  
4 background check by the State Fire Marshal.

5           (3) A completed affidavit or other documentation  
6 confirming that the applicant has no felony convictions in  
7 this state or another state.

8           (4) A completed license application packet.

9           (5) An application fee of one hundred twenty dollars  
10 (\$120).

11           (c) For a pyrotechnic special effects operator  
12 license, the applicant shall submit all of the following to  
13 the State Fire Marshal:

14           (1) Proof of completion of 16-hour training program  
15 approved by the State Fire Marshal for pyrotechnic special  
16 effects operators.

17           (2) Proof of a current Employer Possessor Letter of  
18 Clearance issued to the individual by the Bureau of Alcohol,  
19 Tobacco and Firearms or consent to a criminal history  
20 background check by the State Fire Marshal.

21           (3) A completed affidavit or other documentation  
22 confirming that the applicant has no felony convictions.

23           (4) A completed license application packet.

24           (5) An application fee of one hundred twenty dollars  
25 (\$120).

26           Section 8. (a) A pyrotechnics display operator  
27 license or pyrotechnic special effects operator license issued

1 under this act authorizes the holder to act pursuant to that  
2 license until the license is suspended, revoked, or not  
3 renewed. Upon the suspension or revocation of a license, or  
4 the failure to renew a license, the licensee shall return the  
5 license to the State Fire Marshal. Each license is valid for  
6 two years, unless suspended or revoked.

7 (b) All fees collected pursuant to this act shall be  
8 deposited in the State Treasury to the credit of the State  
9 Fire Marshal's Fund authorized in Section 24-5-10, Code of  
10 Alabama 1975. The State Fire Marshal may expend monies from  
11 the State Fire Marshal's Fund for the administration and  
12 enforcement of this act.

13 Section 9. Any individual, firm, partnership, or  
14 corporation that violates this act shall be guilty of a Class  
15 A misdemeanor.

16 Section 10. This act shall be read in pari materia  
17 with Article 8, commencing with Section 8-17-210, of Chapter  
18 17, Title 8, Code of Alabama 1975.

19 Section 11. Although this bill would have as its  
20 purpose or effect the requirement of a new or increased  
21 expenditure of local funds, the bill is excluded from further  
22 requirements and application under Amendment 621, now  
23 appearing as Section 111.05 of the Official Recompilation of  
24 the Constitution of Alabama of 1901, as amended, because the  
25 bill defines a new crime or amends the definition of an  
26 existing crime.

1                   Section 12. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.