
HOUSE BILL 2642

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Heavey and Lisk; by request of Department of
Community Development

Read first time 01/19/94. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to strengthening state fireworks regulation;
2 amending RCW 70.77.146, 70.77.270, 70.77.255, 70.77.325, 70.77.370,
3 70.77.435, 70.77.440, and 70.77.535; adding new sections to chapter
4 70.77 RCW; prescribing penalties; and providing an effective date.

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

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

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

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

16 "City" means any city or town.

1 **Sec. 3.** RCW 70.77.270 and 1984 c 249 s 13 are each amended to read
2 as follows:

3 The governing body of a city, county, or fire protection district
4 may grant or deny an application for a permit under RCW 70.77.260(1).
5 The governing body may place reasonable conditions on any permit it
6 issues. A permit issued by a city shall be valid in that city. A
7 permit issued by a county shall be valid in all unincorporated areas of
8 that county.

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

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

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

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

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

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

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

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

25 **Sec. 5.** RCW 70.77.325 and 1991 c 135 s 4 are each amended to read
26 as follows:

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

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

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

7 **Sec. 6.** RCW 70.77.370 and 1989 c 175 s 129 are each amended to
8 read as follows:

9 Any applicant who has been denied a license for reasons other than
10 making application after the date set forth in RCW 70.77.325 is
11 entitled to a hearing in accordance with the provisions of chapter
12 34.05 RCW, the Administrative Procedure Act.

13 **Sec. 7.** RCW 70.77.435 and 1986 c 266 s 111 are each amended to
14 read as follows:

15 Any fireworks which are illegally sold, offered for sale, used,
16 discharged, possessed or transported in violation of the provisions of
17 this chapter or the rules or regulations of the director of community,
18 trade, and economic development, through the director of fire
19 protection, shall be subject to seizure by the director of community,
20 trade, and economic development, through the director of fire
21 protection, or his or her deputy, or by state agencies or local
22 governments having general law enforcement authority. Any fireworks
23 seized under this section may be disposed of by the director of
24 community, trade, and economic development, through the director of
25 fire protection or the agency conducting the seizure, by summary
26 destruction at any time subsequent to thirty days from such seizure or
27 ten days from the final termination of proceedings under the provisions
28 of RCW 70.77.440, whichever is later.

29 **Sec. 8.** RCW 70.77.440 and 1986 c 266 s 112 are each amended to
30 read as follows:

31 (1) Any person whose fireworks are seized under the provisions of
32 RCW 70.77.435 may within ten days after such seizure petition (~~the~~
33 ~~director of community development, through the director of fire~~
34 ~~protection,~~) the agency conducting the seizure to return the fireworks
35 seized upon the ground that such fireworks were illegally or
36 erroneously seized. Any petition filed hereunder shall be considered

1 by the (~~director of community development, through the director of~~
2 ~~fire protection,~~) authority conducting the seizure within fifteen days
3 after filing and an oral hearing granted the petitioner, if requested.
4 Hearings shall be conducted in accordance with state law or chapter
5 34.05 RCW. Notice of the decision of the (~~director of community~~
6 ~~development, through the director of fire protection,~~) authority
7 conducting the hearing shall be served upon the petitioner. The
8 (~~director of community development, through the director of fire~~
9 ~~protection,~~) authority conducting the hearing may order the fireworks
10 seized under this chapter disposed of or returned to the petitioner if
11 illegally or erroneously seized. The determination of the (~~director~~
12 ~~of community development, through the director of fire protection,~~)
13 authority conducting the hearing is final unless within sixty days an
14 action is commenced in a court of competent jurisdiction in the state
15 of Washington for the recovery of the fireworks seized (~~by the~~
16 ~~director of community development, through the director of fire~~
17 ~~protection)~~ under this chapter.

18 (2) If the fireworks are not returned to the petitioner or
19 destroyed pursuant to RCW 70.77.435, the director of community, trade,
20 and economic development, through the director of fire protection or by
21 the agency conducting the seizure, may sell confiscated common
22 fireworks and special fireworks that are legal for use and possession
23 under this chapter to wholesalers licensed by the director of
24 community, trade, and economic development, through the director of
25 fire protection. Sale shall be by public auction after publishing a
26 notice of the date, place, and time of the auction in a newspaper of
27 general circulation in the county in which the auction is to be held,
28 at least three days before the date of the auction. The proceeds of
29 the sale of the seized fireworks under this section shall be deposited
30 in the general fund. Fireworks that are not legal for use and
31 possession in this state shall be destroyed by the director of
32 community, trade, and economic development, through the director of
33 fire protection or by the agency conducting the seizure.

34 **Sec. 9.** RCW 70.77.535 and 1984 c 249 s 35 are each amended to read
35 as follows:

36 This chapter does not prohibit the assembling, compounding, use,
37 and display of special effects (~~of whatever nature~~) by any person
38 engaged in the production of motion pictures, radio or television

1 productions, (~~(theatricals, or operas)~~) or live entertainment when such
2 use and display is (~~(a necessary)~~) an integral part of the production
3 and such person possesses a valid permit from the local fire official.

4 NEW SECTION. Sec. 10. This act shall take effect August 1, 1994.

5 NEW SECTION. Sec. 11. A new section is added to chapter 70.77 RCW
6 to read as follows:

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

--- END ---