

**Condensed Version of the Texas Occupations
Code
Chapter 2154
and
The Fireworks Rules
For Retail Fireworks Sales and Storage**



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Notice of Information

This information is provided in accordance with the *Texas Administrative Code*, Title 28, Chapter 34 State Fire Marshal, Subchapter H, 34.815(b)(4). It is a condensed version of the Texas Occupations Code and the Fireworks Rules for the storage, sales, and licensing of retail fireworks. It does not include regulations by other local, county, state or federal authorities that may be applicable. The entire wording of the statute and rules should be consulted prior to use, evaluation or interpretation. The complete text may be obtained through the State Fire Marshal's Office web site: www.tdi.texas.gov or specifically

www.tdi.texas.gov/fire/fmlifirework.html

**These statute and rules are subject to change without
notification.**

Spring 2017

**TEXAS OCCUPATIONS CODE
TITLE 13. SPORTS, AMUSEMENT AND ENTERTAINMENT
SUBTITLE D. OTHER AMUSEMENTS AND ENTERTAINMENT
CHAPTER 2154. REGULATION OF FIREWORKS AND FIREWORKS DISPLAYS
And
28 TAC §§34.801-34.830
The Fire Works Rules**

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OCCUPATIONS CODE
TITLE 13. SPORTS, AMUSEMENT AND ENTERTAINMENT
SUBTITLE D. OTHER AMUSEMENTS AND ENTERTAINMENT
CHAPTER 2154. REGULATION OF FIREWORKS AND FIREWORKS DISPLAYS

§ 2154.001. Definitions

In this chapter:

- (3) "Distributor" means a person who:
 - (A) imports fireworks into this state; or
 - (B) sells fireworks to:
 - (i) a jobber, retailer, or other distributor for resale; or
 - (ii) a holder of a single public display permit, a multiple public display permit, or another fireworks permit.
- (5) "Fireworks" means a composition or device:
 - (A) designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation; and
 - (B) defined by 49 C.F.R. Section 173.56(j) (1996).
- (6) "Fireworks 1.3G" means a large fireworks device:
 - (A) primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and
 - (B) classified as a 1.3G explosive by the department in 49 C.F.R. Part 173 (1996).
- (7) "Fireworks 1.4G" means a small fireworks device:
 - (A) primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;
 - (B) that complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 C.F.R. Part 1507 (1996), or the most recently adopted version of that rule; and
 - (C) that is classified by the department in 49 C.F.R. Part 173 (1996).
- (8) "Illegal fireworks" means a fireworks device manufactured, distributed, or sold in violation of this chapter.
- (11) "Jobber" means a person who purchases fireworks only for resale to retailers.
- (17) "Retailer" means a person who purchases fireworks for resale only to the general public.
- (18) "Sale" means selling or offering for sale merchandise, equipment, or service, at wholesale or retail, to the public or to any person, for an agreed sum of money or other consideration.

§ 2154.002. Exemptions

This chapter does not apply to:

- (1) a toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 25 hundredths of a grain of explosive composition per cap and that is packed and shipped under 49 C.F.R. Part 173 (1996);
- (2) a model rocket or model rocket motor designed, sold, and used to propel recoverable aero models;
- (3) a propelling or expelling charge consisting of a mixture of sulfur, charcoal, and potassium nitrate;
- (4) novelties or trick noisemakers;
- (5) the sale, at wholesale, of any type of fireworks by a resident manufacturer, distributor, importer, or jobber if the fireworks are intended for shipment directly out of state under department regulations;
- (6) the sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;
- (7) the use of a fusee or a railway torpedo by a railroad;
- (8) the sale of blank cartridges for:
 - (A) use in a radio, television, film, or theater production;
 - (B) a signal or ceremonial purpose in an athletic event; or
 - (C) an industrial purpose; or
- (9) the use of a pyrotechnic device by a military organization.

§ 2154.003. Permissible Fireworks

- (a) Except as provided by Subsection (b), Fireworks 1.4G are permissible fireworks.
- (b) The following are not permissible fireworks:
 - (1) sky rockets or "bottle rockets" with:
 - (A) a total propellant charge of less than four grams;
 - (B) a casing size of less than five-eighths of an inch for the outside diameter and

less than 3 1/2 inches in length; and

(C) an overall length, including stick, of less than 15 inches; and

(2) other fireworks determined not acceptable by the United States Consumer Product Safety Commission.

(c) The term "bottle rocket" may not be used in association with the advertisement or sale of fireworks.

(d) In addition to the items described by Subsection (b), pop rockets with a propellant casing length of less than five inches, an exterior diameter of less than three-fourths of an inch, and an overall total rocket length of less than 26 inches are not permissible fireworks. *Paragraph (d) takes effect January 2, 2008.*

§ 2154.004. Effect of Chapter on Local Regulation

(a) A municipal or county ordinance, order, or rule in effect on January 2, 1986, is not invalidated by this chapter.

(b) This chapter does not limit or restrict the authority of a county, where specifically authorized by law, or municipality to enact an ordinance or order prohibiting or further regulating fireworks.

§ 2154.052. Rules

(a) The commissioner:

(1) shall administer this chapter through the state fire marshal; and

(2) may issue rules to administer this chapter in compliance with Section 2154.054.

(b) The commissioner shall adopt and the state fire marshal shall administer rules the commissioner considers necessary for the protection, safety, and preservation of life and property, including rules regulating:

(1) the issuance of licenses and permits to persons engaged in manufacturing, selling, storing, possessing, or transporting fireworks in this state;

(2) the conduct of public fireworks displays; and

(3) the safe storage of Fireworks 1.3G and Fireworks 1.4G.

(c) The commissioner shall adopt rules for applications for licenses and permits.

(d) In adopting a rule, the commissioner may use standards recognized by federal law or regulation and standards published by a nationally recognized standards-making organization.

(e) A rule may not be adopted under this chapter that is more restrictive than a rule in effect on September 1, 1998, without specific statutory authority.

§ 2154.055. Fireworks Safety and Education Program

(a) The commissioner shall establish a fireworks safety and education program.

(b) The program:

(1) shall provide information relating to the proper and safe use of fireworks and the dangers of the improper use of fireworks; and

(2) may include any method of communicating the need for safe use of fireworks and the dangers of improper use.

(c) The program shall be administered by the advisory council established under Section 2154.054. The commissioner must approve a program that the advisory council proposes to present.

(d) To fund the program, in addition to any other license or permit fees:

(1) the holder of a retail permit issued under Section 2154.202 shall pay, on issuance or renewal of the permit, a fee in the amount of \$10; and

(2) the holder of a manufacturer's, distributor's, or jobber's license issued under Section 2154.151, 2154.152, or 2154.153 shall pay, on issuance or renewal of the license, a fee in the amount of \$250.

(e) Money collected under Subsection (d) may be used only by the commissioner for the purposes of this section.

§ 2154.101. General Requirements

(a) A person must obtain an appropriate license to:

(1) engage in the business of manufacturing, distributing, jobbing, or importing fireworks to be sold or used in this state; or

(2) supervise or conduct public fireworks displays.

(b) A person who is younger than 21 years of age may not be issued a pyrotechnic operator's license. The minimum age of a person issued another license under Subchapter D is 18 years of age.

(c) A person may not:

(1) transfer a license; or

(2) obtain or attempt to obtain a license by fraudulent representation.

(d) A person may not alter or deface a license. An altered or defaced license is void.

§ 2154.201. General Requirements

- (a) A person who is younger than 21 years of age may not be issued a public fireworks display permit. A person who is younger than 18 years of age may not be issued another permit under this subchapter.
- (b) A person may not:
 - (1) transfer a permit issued under this subchapter; or
 - (2) obtain or attempt to obtain a permit under this subchapter by fraudulent representation.
- (c) A person may not alter or deface a permit. An altered or defaced permit is void.

§ 2154.202. Retail Fireworks Permit

- (a) A person selling fireworks directly to the public must annually obtain a nonrenewable retail fireworks permit for each retail location.
- (b) The commissioner shall set and collect a retail fireworks permit fee in an amount not to exceed \$20.
- (c) A retail fireworks permit may be purchased from a licensed manufacturer, distributor, or jobber or from the state fire marshal's office.
- (d) A licensed manufacturer, distributor, or jobber may obtain retail fireworks permits from the commissioner at any time. The commissioner shall provide permits in books containing 20 permits each. Each permit must be clearly printed with the year, date, and permit number. The manufacturer, distributor, or jobber shall keep a record of all permits issued and shall submit the record to the commissioner through the state fire marshal in the manner required by the commissioner.
- (e) A retail fireworks permit expires on January 31 each year and is not renewable.
- (f) An outdated permit may be exchanged for a current permit only in the year following the permit's expiration.
- (g) Except as provided by Subsection (h), a retail fireworks permit holder may sell fireworks only to the public, and only during periods:
 - (1) beginning June 24 and ending at midnight on July 4;
 - (2) beginning December 20 and ending at midnight on January 1 of the following year; and
 - (3) beginning May 1 and ending at midnight on May 5 if the fireworks are sold at a location that is not more than 100 miles from the Texas-Mexico border and that is in a county in which the commissioner's court of the county has approved the sale of fireworks during the period.
- (h) In addition to the periods during which the sale of fireworks is authorized under Subsection (g), the commissioner's court of a county by order may allow a retail fireworks permit holder to sell fireworks in that county only to the public and only during one or more of the following periods:
 - (1) beginning February 25 and ending at midnight on March 2;
 - (2) beginning April 16 and ending at midnight on April 21; and
 - (3) beginning the Wednesday before the last Monday in May and ending at midnight on the last Monday in May.

§ 2154.251. Prohibited Use of Fireworks

- (a) A person may not:
 - (1) explode or ignite fireworks within 600 feet of any church, a hospital other than a veterinary hospital, an asylum, a licensed child care center, or a public or private primary or secondary school or institution of higher education unless the person receives authorization in writing from that organization;
 - (2) sell at retail, explode or ignite fireworks within 100 feet of a place where flammable liquids or flammable compressed gasses are stored and dispensed;
 - (3) explode or ignite fireworks within 100 feet of a place where fireworks are stored or sold;
 - (4) ignite or discharge fireworks in or from a motor vehicle;
 - (5) place ignited fireworks in, or throw ignited fireworks at, a motor vehicle;
 - (6) conduct a public fireworks display that includes Fireworks 1.3G unless the person is a licensed pyrotechnic operator;
 - (7) conduct a proximate display of fireworks that includes Fireworks 1.3G or Fireworks 1.4G as defined in NFPA 1126 Standards for the Use of Pyrotechnics Before a Proximate Audience unless the person is a licensed pyrotechnic special effects operator and has the approval of the local fire prevention officer; or
 - (8) sell, store, manufacture, distribute, or display fireworks except as provided by this chapter or rules adopted by the commissioner under this chapter.
- (b) A person may not manufacture, distribute, sell, or use fireworks in a public fireworks display or for agricultural, industrial, or wildlife control purposes without an appropriate license or permit. Fireworks manufactured, distributed, sold, or used without an appropriate license or permit are illegal fireworks.

§ 2154.252. Certain Sales of Fireworks Prohibited

(a) Unless the fireworks conform to the standards of the United States Consumer Product Safety Commission and the department, a person in this state may not:

- (1) sell the fireworks at retail;
- (2) offer the fireworks for retail sale;
- (3) possess the fireworks for retail sale in this state; or
- (4) transport, use, or explode the fireworks in this state.

(b) A person may offer for sale to the general public Fireworks 1.4G only at authorized retail locations. All mail order sales of Fireworks 1.4G are prohibited.

(c) Fireworks may not be sold or offered for sale to children under 16 years of age or to an intoxicated or incompetent person. A person selling fireworks at retail shall make a reasonable effort to determine that potential purchasers of fireworks are of the minimum age required by this subsection.

(d) A licensed manufacturer, distributor, jobber, or importer may not sell fireworks to a person who does not hold a license or permit.

§ 2154.254. Employment of Minors

(a) Except as provided by Subsection (c), a person may not employ or allow a person younger than 16 years of age to manufacture, distribute, sell, or purchase fireworks in the course of the person's business.

(b) Except as provided by Subsection (c), a person may not employ a person 16 years of age or older but younger than 18 years of age to sell fireworks at a retail sales location unless the person selling fireworks at that location is accompanied by another person who is at least 18 years of age.

(c) An owner of a retail sales location may employ a person who is otherwise prohibited from engaging in that activity by Subsection (a) or (b) to sell fireworks at the owner's retail sales location if the person employed is:

- (1) a member of the owner's immediate family;
- (2) 12 years of age or older; and

(3) accompanied by another person who is at least 18 years of age while the person is engaged in selling fireworks at that location.

§ 2154.301. Disciplinary Powers of Commissioner

(a) The commissioner may, through the state fire marshal, suspend, revoke, or refuse to issue or renew a license or permit if the commissioner finds that any provision of this chapter, or any rule adopted under this chapter, has been violated.

(b) A person who has a license or permit revoked may not reapply for the license or permit earlier than one year from the date of revocation. A person reapplying under this subsection must request a public hearing on the reissuance of the license or permit and has the burden of proving that a license or permit should be granted.

§ 2154.303. Penalties

(a) A person commits an offense if the person violates Section 2154.101(b), (c)(2), or (d), 2154.151(e), or 2154.201(a), (b)(2), or (c) or Subchapter F.

(b) Except as provided by Subsection (c), an offense under this section is a Class B misdemeanor.

(c) A violation of Section 2154.251(a)(1), (2), (3), (4), (5), or (8) that results in property damage in an amount of less than \$200 and does not result in bodily injury or death, or a violation of Section 2154.254(a) or (b), is a Class C misdemeanor.

(d) Each day a violation occurs or continues constitutes a separate offense.

(e) Venue under this section is in the county in which the offense is committed or in Travis County.

(f) If the commissioner determines that a violation of this chapter creates a threat to the public safety, the commissioner may bring suit in the district court of the county in which the person who committed the offense resides or has an office to enjoin the person from engaging in the prohibited activity. The commissioner is not required to give bond as a condition to the issuance of injunctive relief.

§ 2154.304. Seizure of Illegal Fireworks

(a) The state fire marshal, a fire chief, a fire marshal, their deputies, or a peace officer may seize illegal fireworks. Fireworks seized in the enforcement of this chapter shall be kept in the custody of the seizing agent or the sheriff of the county in which the fireworks were seized.

(b) The owner of the seized fireworks may file an action contesting the seizure in a district court in the county in which the fireworks were seized.

(c) Not later than the 30th day after the hearing on the seizure, the court may authorize the return of part or all of the confiscated fireworks. The court shall order any fireworks not returned to be destroyed. If an action contesting the seizure is not filed by the 30th day after the seizure, the seizing agent or the sheriff shall destroy the fireworks.

**TEXAS ADMINISTRATIVE CODE
TITLE 28. INSURANCE**

**Part I. Texas Department of Insurance
Chapter 34. State Fire Marshal
Subchapter H. Storage and Sale of Fireworks**

§34.801. Purpose.

The purpose of the rules set forth in this subchapter is to regulate the sale, distribution, and use of certain fireworks in the interest of protecting and preserving lives and property pursuant to the Occupations Code Chapter 2154. These rules should be read in conjunction with Occupations Code Chapter 2154 for a complete understanding of the regulation of this subject matter.

§34.806. Restrictive Use.

No license or permit holder is authorized to enforce or attempt to enforce any section of the Occupations Code Chapter 2154 or this subchapter.

§34.807. Administration.

(a) The State Fire Marshal is charged with the duty to administer this subchapter, the orders of the commissioner and the enforcement of the Occupations Code Chapter 2154.

(b) Violations of these sections alone do not subject legally possessed fireworks to seizure or confiscation.

§34.808. Definitions.

The following words and terms, when used in this subchapter, must have the following meanings, unless the context clearly indicates otherwise.

(3) Bare wiring--Any electrical cable or cord any part of which has the insulating cover broken or removed, exposing bare wire.

(10) Business--The manufacturing, importing, distributing, jobbing, or retailing of permissible fireworks; acting as a pyrotechnic operator; conducting multiple public fireworks displays; or using fireworks for agricultural, wildlife, or industrial purposes.

(11) Buyer--Any person or group of persons offering an agreed upon sum of money or other considerations to a seller of fireworks.

(13) Commissioner--The Commissioner of Insurance.

(20) Generator--Any device driven by an engine and powered by gasoline or other fuels to generate electricity for use in a retail fireworks stand.

(21) Highway--The paved surface or, where unpaved, the edge of a graded or maintained public street, public alley, or public road.

(22) Indoor retail fireworks site--A retail fireworks site other than a retail stand that sells Fireworks 1.4G from a building or structure.

(23) Immediate family member—The spouse, child, sibling, parent, grandparent, or grandchild of an individual. The term includes a stepparent, stepchild, and stepsibling and a relationship established by adoption.

(28) Master electric switch--Manually operated device designed to interrupt the flow of electricity.

(36) Retail fireworks site--The structure from which Fireworks 1.4G are sold and in which Fireworks 1.4G are held pending retail sale, and other structures, vehicles, or surrounding areas subject to the care and control of the retailer, owner, supervisor, or operator of the retail location.

(37) Retail stand--A retail site that sells Fireworks 1.4G over the counter to the general public who always remain outside the structure.

(40) Selling opening--An open area including the counter, through which fireworks are viewed and sold at retail.

(41) Storage facility--Any building, structure, or facility in which finished Fireworks 1.4G are stored, but in which no manufacturing is performed.

(42) Supervisor--A person who is 18 years or older and who is responsible for the retail fireworks site during operating hours.

(43) Walk door--An opening through which retail stand attendants can freely move but which can be secured to keep the public from the interior of the stand.

§34.809. General Requirements, Licenses and Permits.

(a) Each firm or person engaged in the manufacture, transportation, storage, wholesale or retail sales of fireworks, public displays utilizing Fireworks 1.3G, pyrotechnic special effects operators, flame effects operators, and pyrotechnic operators shall have an applicable license or permit issued by the state fire marshal.

(2) Permits by type:

(A) retailer;

(c) All required licenses and permits shall be made available for inspection at the facility for which it was issued. The original permit shall be posted at all retail locations for which such permit was issued.

(d) License and permit holders shall take every reasonable precaution to protect their license or permit documents from loss, theft, defacement, destruction, or unauthorized duplication or use. Unauthorized use or duplication shall be reported immediately to the state fire marshal.

(e) All holders of licenses or permits who bulk store fireworks shall have storage and other facilities which conform to these sections.

(f) Each licensee or permittee shall notify the state fire marshal of every location where storage or manufacturing facilities are maintained in Texas.

(g) A specific business location shall be maintained by each licensee or permittee which shall be indicated on the license or permit document.

(i) Licensees and permittees shall have adequate storage facilities which comply with appropriate provisions of §34.822 and §34.823 of this title (relating to Storage of Black Powder and Fireworks 1.3G at Other Than Display Sites; Bulk Storage of Fireworks 1.4G).

(j) Licensees and permittees shall comply with the applicable transportation requirements of §34.825 of this title (relating to Distribution and Transportation).

§34.812. Expiration, License, and Permit.

(b) Permits expire depending on permit type.

(1) Retail permits expire on January 31 each year.

§34.814. Fees.

(a) Fees payable to the department and required by the Occupations Code Chapter 2154 and this subchapter, shall be paid by cash, money order, or check. Money orders and checks shall be made payable to the Texas Department of Insurance. Except for overpayments resulting from mistakes of law or fact, or credits for unused retail fireworks permits, all fees are nonrefundable and non-transferable.

(b) Fees payable to the department shall be paid at the Office of the State Fire Marshal in Austin, or mailed to an address specified by the state fire marshal. Retail permits may also be obtained through participating licensed firms. See §34.815 of this title (relating to Retail Permits).

(d) Fees shall be as follows:

(7) retail permit \$20;

§34.815. Retail Permits.

(a) A retail permit is required for each retail stand or other retail sales location.

(b) Retail permits may be obtained at any time from any participating manufacturer, distributor, or jobber holding a valid license to do business in Texas or from the state fire marshal, and must be signed by the applicant prior to the permit becoming effective.

(1) A retail permittee must purchase Fireworks 1.4G only from a distributor or jobber licensed in this state.

(2) Bulk storage of Fireworks 1.4G by a retail permittee must be in compliance with §34.823 of this title (relating to Bulk Storage of Fireworks 1.4G).

(3) Fireworks 1.4G must be sold to the general public only at legally permitted retail fireworks sites and during the legal selling periods defined in the Occupations Code §2154.202.

(4) A copy of Occupations Code Chapter 2154 and the fireworks rules, or a condensed version thereof, must be provided to the purchaser of a retail permit by the participating licensee at the time the permit is issued. Copies of Occupations Code Chapter 2154 and the fireworks rules will be made available through the State Fire Marshal's Office.

(5) Prior to the issuance of a retail permit, the applicant must present evidence of a valid current sales tax permit issued by the state comptroller, and the sales tax permit number must be entered on the retail fireworks permit by the person issuing the permit.

(6) Retail permits may only be issued to individuals or groups engaged in the retail sales of fireworks.

(c) Any licensee purchasing books of permits for sale to retail operators shall properly account for all permits received.

(1) The licensee who issues retail permits shall return books containing duplicate copies of each issued permit to the State Fire Marshal's Office within a week from the time the last permit in each book has been issued. All used and unused permits shall be returned no later than March 1 of each year.

(2) The returned copies in each book are considered the official record of retail permits sold.

(3) A licensee may exchange any unissued retail permit which has not been voided or otherwise rendered unusable for a new permit at the end of each year following expiration.

§34.817. Retail Sales General Requirements.

(a) A supervisor, 18 years of age or older, shall be on duty during all phases of operation. It shall be the responsibility of the permit holder as well as the supervisor to comply with or require compliance with the fireworks rules.

(b) A building with more than 350 linear feet of fireworks counter display or containing a total of 500 or more cases of Fireworks 1.4G for sales or storage by a retailer shall comply with §34.823 of this title (relating to Bulk Storage of Fireworks 1.4G), except as provided by §34.832, of this subchapter (related to Specific Requirements for Retail Fireworks Sites Other Than Stands).

(c) Heat-sealing of packages within retail fireworks sites is prohibited.

(d) Each retail fireworks site determined to have fire danger external of the sales area shall be provided with equipment or facilities that are capable of extinguishing small exterior fires that would threaten the retail stand. Retail sales in other than a stand shall have a fire extinguisher rated not less than 2-A. An extinguisher shall be located within 75 feet walking distance from any point in the building, and each extinguisher shall cover a floor area not greater than 1000 square feet per unit of "A" rating.

(e) An unobstructed pathway to walk doors shall be maintained within the retail fireworks site during selling operation.

(f) The display, offer for sale, or sales of fireworks from tents and motor vehicles is prohibited. Fireworks may not be sold or stored for future sale at any inhabited dwelling, house, apartment, or other structure used in whole or in part as a home or place of abode by any person or persons.

(g) Smoking shall not be permitted in the retail fireworks site. The presence of lighted cigars, cigarettes, or pipes within 10 feet of any site where fireworks are sold or stored is prohibited. "Fireworks" and "No Smoking" signs in letters not less than four inches high shall be conspicuously posted on the inside and outside of each entrance door and at several locations inside the building.

(h) The consumption or possession of alcoholic beverages in any retail fireworks site is prohibited. No retail sales personnel inside the facility or any supervisor shall be under the influence of or consume alcoholic beverages while on duty.

(i) A retail fireworks site may only sell fireworks, fireworks promotional items and accessories and those items listed in the Occupations Code §2154.002(4). The display and offer for sale, or sales of fireworks within any structure or building where any other business or any other merchandise is sold is prohibited.

(j) A retail permit shall be required for each retail fireworks site offering fireworks for sale during selling season and shall be posted in the sales area.

(k) The display or offer for sale or sales of fireworks from single or multifamily residential structures is prohibited.

(l) All retail fireworks sites must furnish parking off the highway.

(m) An area of at least 10 feet in width on all sides of a retail fireworks site shall be kept free of high grass, empty cardboard boxes and trash.

(n) Fireworks shall not be displayed or stored behind glass through which direct sunlight will shine on the fireworks.

(o) Fireworks offered for sale to the general public in this state shall conform to the labeling requirements of the United States Consumer Product Safety Commission and the United States Department of Transportation. Only labeling specifications or requirements mandated by either of these agencies shall be required for the labeling of items offered for sale in Texas.

(p) Internal combustion engines shall not be operated inside a retail fireworks sales site.

§34.818. Specific Requirements for Retail Fireworks Stands.

A retail fireworks stand must comply with the following requirements:

(1) The fireworks stand in which Fireworks 1.4G are held for retail sale must be constructed of wood, metal, masonry, or concrete, or combinations thereof.

(2) Each stand of less than 16 feet in length must have at least one walk door that opens outward. Stands measuring 16 feet or longer must have at least two walk doors, one in each end, that open outward.

(3) A minimum of combustible material such as posters, signs, and decorations may be used on interior walls.

(4) A minimum distance of six feet must be maintained from the front of the customer counter to the back side of the stand. Fireworks must not be displayed on the customer counter or in any manner that allows the customer to handle fireworks without an attendant directly assisting the customer.

(5) Electrical service to the stand must be installed at least eight feet above ground or buried underground according to standards acceptable to the local authority having jurisdiction (AHJ).

(6) Each stand that uses electricity must have a point of power interruption, either inside or outside the stand, (switch or switches) located near a walk door that interrupts all electric supply to devices and equipment located inside and on the stand.

(7) All electrical wiring, equipment, and devices, both inside and outside the stand, must be UL approved, be securely mounted to the structure, and be installed and maintained to prevent electrical hazards. Splices in electrical wiring servicing equipment and devices inside the stand must be enclosed in junction boxes. Light fixtures and wiring used for illumination inside and outside of the stand must be installed and maintained to prevent accidental contact by the general public and employees.

(8) Drop cords with lights, extension cords, or bare wiring must not be used in any manner inside a retail stand.

(9) In stands where generator-created power is used, the generator must be located in an area free from grass, trash, and other flammable materials and at least 10 feet from the stand. Reserve fuel for the generator must be stored in an approved safety container and a portable fire extinguisher rated to at least 6 BC must be provided.

(10) Fireworks stands must not be illuminated or heated by any device that requires open flame or exposed heating elements. Electric heaters must be equipped with a switching device to stop the flow of current should the heater be tipped over.

(11) If the fireworks stand is used for the overnight storage of Fireworks 1.4G, it must be equipped with suitable locking devices to prevent unauthorized entry.

§34.819. Records and Reports.

(d) Licensees and permittees shall report in writing any unauthorized incident of explosion or fire involving fireworks to the state fire marshal within 10 days after the occurrence. Incidents resulting in injury or death shall be reported immediately. Reports shall include:

- (1) a brief account of the cause of injury to any person and such person's name and address; and
- (2) a brief account of the fire or explosion.

§34.823. Bulk Storage of Fireworks 1.4G.

(a) General provisions.

(1) These provisions apply to licensees and retail storage of more than 500 cases of Fireworks 1.4G.

(2) Storage facilities containing Fireworks 1.4G must be of solid construction using sound engineering principles.

(3) Electrical installation, if used, must be in compliance with the National Electric Code, 1984. An outside electrical master switch must be provided at each storage facility location when electrical power is installed.

(4) Storage facilities containing Fireworks 1.4G must comply with the following.

(A) Storage facilities must be separated from inhabited buildings, passenger railways, and from the pavement or main travelled surface of any highway by a minimum distance of 50 feet and be in compliance with Table 1 in §34.824 of this title (relating to Distance Tables). Storage facilities in existence prior to January 1, 1986, and then conforming to existing warehouse distance separation rules for jobbers and distributors are exempt from compliance with Table 1, provided such facilities are not enlarged or expanded beyond their January 1, 1986, capacities. An office used for the operation of a storage facility or a retail/wholesale site established in conjunction with a storage facility is exempt from the distance requirements after notifying the state fire marshal. Subsequent construction by adjacent property owners or public authorities must not subject licensee to a distance regulation violation under this section, provided existing storage facilities are not enlarged or expanded after the subsequent construction.

(B) Storage facilities must not contain windows, and any other openings must be situated so that the rays of the sun do not come in contact with or shine through glass directly on fireworks stored in the facility. Skylights that diffuse sun rays are permitted.

(C) No stoves, exposed flames, or electric heaters may be used in any part of storage facility except in a boiler room, machine shop, office building, pump house, or lavatory. Heating of storage facilities must be by means of steam, indirect hot air radiation, or hot water.

(D) Exit doors other than overhead or sliding doors must open outward, must be unlocked during operating hours, and must be clearly marked. Aisles and exit doors must be kept free of any obstruction.

(E) At least one approved Class A fire extinguisher must be provided for each 1,000 square feet of floor space in a storage facility.

(F) The land surrounding storage facilities must be kept clear of brush, dried grass, leaves, and similar combustibles for a distance of at least 10 feet.

(G) Smoking must not be permitted in storage facilities. There must be signs conspicuously posted with the words "Fireworks--No Smoking" in letters not less than four inches high.

(H) The facility must have a fire sprinkler system if it has greater than 12,000 square feet of floor space in a sales or storage facility, or if other additional or more restrictive fire protection requirements are adopted by a local AHJ.

(5) Storage buildings must have fencing in compliance with §34.821(a)(1) of this title (relating to Manufacturing Operations) or one of the following:

- (A) personnel on the premises 24 hours per day and the premises remains lighted at night; or
- (B) a security alarm system.

(6) Bulk storage of Class I flammable liquids (such as gasoline) and flammable compressed gases must comply with provisions of §34.821(a)(7) of this title (relating to Manufacturing Operations).

(b) Operation of storage facilities.

(1) Storage facilities must at all time during operating hours be in the charge of a competent person who is at least 18 years of age and is responsible for the enforcement of all safety precautions.

(2) Doors must be kept locked, except during hours of operation.

§34.824. Distance Table.

The following distance table shall be applicable to this subchapter except to the extent that the distances are different from less restrictive federal regulations.

Table 1

Minimum Separation Distances of Fireworks 1.4G, Processing Buildings, and Fireworks Storage Buildings from Inhabited Buildings, Passenger Railways, and Public Highways

NET WEIGHT OF FIREWORKS ¹	DISTANCE FROM PASSENGER RAILWAYS AND PUBLIC HIGHWAYS	DISTANCE FROM INHABITED BUILDINGS
<u>Pounds</u>	<u>Feet</u>	<u>Feet</u>
100	50	50
200	50	60
400	50	70
600	50	80
800	50	90
1,000	50	100
2,000	58	115
3,000	62	124
4,000	65	130
5,000	68	135
6,000	70	139
8,000	73	140
10,000	75	150

Note 1: Net weight in Table 1 is the weight of all pyrotechnic and explosive composition and fuse only.

§34.825. Distribution and Transportation.

(a) With regard to Fireworks, Title 49 C.F.R., governing the transportation of hazardous materials, is adopted by reference as rules governing the safe distribution and transportation of fireworks as hazardous materials in Texas. These rules are subject to the following explanations and exceptions.

(1) When the term "interstate" or "foreign commerce" is used in the federal regulations, it will, for the purpose of such adoption, include all modes of transportation in Texas.

(2) When the term "department" is used in the text of the federal regulations as being the Department of Transportation, it shall, for the purpose of such adoption, mean the Texas Department of Insurance.

(b) A copy of Title 49 CFR shall be kept available for inspection in the Office of the State Fire Marshal.

§34.832. Specific Requirements for Retail Fireworks Sites Other Than Stands.

Indoor retail fireworks sites must comply with the following requirements:

(1) The retail fireworks sales building must be a free standing durable structure with only one story of space accessible to the public. It must not be a tent, boat, or mobile vehicle. The fireworks sales area must not be part of a multi-use or multi-tenant building.

(2) The following distance requirements apply to an indoor retail fireworks site owned or leased by a fireworks licensee, which had a fireworks retail permit or a building permit in effect or was under construction on or before November 18, 2002, and stores or displays over 500 cases of Fireworks 1.4G in the building.

(A) The fireworks sales building must be a minimum distance of 60 feet from any inhabited building;

(B) The fireworks sales building must be a minimum distance of 30 feet from the property line.

(C) The fireworks sales building must meet the distance requirements of §34.824 Table 1 of this title (relating to Distance Tables), or have a minimum one-hour fire rated exterior wall with minimum three-fourths-hour fire rated protected openings.

(D) An office area used for the operation of the site, separated by a one hour fire rated wall from the fireworks sales or storage area, may be exempt from the distance requirements after it is reported to and reviewed by the state fire marshal.

(3) The following distance requirements must apply to an indoor retail fireworks site owned or leased by a fireworks licensee which did not have a fireworks retail permit or a building permit in effect or was not under construction on or before November 18, 2002, and which stores or displays over 500 cases of Fireworks 1.4G in the building.

(A) The fireworks sales building must be a minimum distance of 60 feet from any inhabited building.

(B) The fireworks sales building must be a minimum distance of 30 feet from the property line.

(C) The fireworks sales building must meet the distance requirements of §34.824 Table 1 of this title, or have a complete automatic fire sprinkler system installed in accordance with NFPA 13 Standard for the Installation of Sprinkler Systems.

(4) Subsequent construction by adjacent property owners or public authorities will not subject licensee or permittee to a distance regulation violation under this section, provided existing facilities are not enlarged or expanded after the subsequent construction.

(5) Fireworks sales display areas must be sufficiently designed to prevent customers from handling fireworks, unless an attendant is directly assisting the customer.

(6) Fireworks in the sales area must be limited to the displayed merchandise unless stored in closed cardboard boxes not accessible to the public.

(7) Access to fireworks when stored in a separate and distinct area away from general fireworks sales must be restricted to employees only and "No Smoking" signs must be posted inside.

(8) The local fire department and the county fire marshal, if one is appointed or elected in that county, must be notified in writing annually, before beginning sales operations, of the business location, placement of fireworks in building or structure, maximum amount of fireworks in the building, and time period that fireworks will be stored or sold.

(9) Trash, rubbish, and unused boxes, except for small quantities stored in an orderly manner for reuse, must be removed from the sales, storage and adjacent areas daily, or as often as necessary to prevent unsafe accumulation.

(10) Fireworks must not be displayed or stored behind glass through which direct sunlight can shine on the fireworks.

(11) Extension cords may not be located where the general public could walk over them. An extension cord may be used to extend power to a single appliance or single power strip. An extension cord providing power to a power strip must be of the same or greater wire gauge. Power strips used for multiple appliances must contain an internal circuit breaker. Extension cords and power strips must be protected from accidental damage. Flexible cords and cables may not be used as a substitute for the fixed wiring of a structure. An extension cord may not be plugged into a power strip.

(12) A supervisor, 18 years of age or older, must be on duty during all phases of operation. All fireworks sales personnel must be 16 years of age or older. The permit holder and the supervisor must ensure that all sales personnel comply with this subchapter.

(13) All trash containers used by the general public must be metal or heavy plastic and be located 10 feet from any displayed or stored fireworks.

(14) An outside electrical master switch must be provided at each retail location.

(15) Portable space heaters must not be permitted in retail or storage areas.

(16) A retail sales permit, for other than a retail stand, is not valid until a plan is on file at the state fire marshal's office showing the following:

(A) the address or location of the site;

(B) the name of the person to whom the permit is issued;

(C) the outline and length of all building exterior walls;

(D) the floor area, location and dimensions used for fireworks sales;

- (E) the floor area, location and dimensions used for fireworks storage outside the sales area;
 - (F) the floor area, location and dimensions used for other than fireworks sales and storage;
 - (G) the general location, description and distances from the exterior walls to all buildings, fireworks storage magazines, highways, and equipment for storage or dispensing of flammable liquids or compressed gas;
 - (H) the location of the master electrical cut-off switch;
 - (I) the location and width of all building doors and paths of egress; and
 - (J) the maximum estimated number of cases of fireworks to be stored or displayed for sale in the site.
- (17) Cooking equipment must not be used within rooms used for fireworks sales or storage.
- (18) All fireworks retail sites with a sales area more than 2500 square feet, must have a minimum average ceiling height of 12 feet. The sales area is the total square feet of floor area used to sell or store fireworks in an indoor retail fireworks site. Each sales area may be separated from another sales area by a fire barrier having a resistance rating of not less than one hour, with all openings therein protected by a three-fourths-hour fire protection-rated self-closing fire door.
- (19) An indoor retail fireworks site must comply with the mercantile occupancy requirements of the standards adopted in §34.303 of this title (relating to Applicability of Rules). This standard, NFPA 101, Life Safety Code, is published by and is available from the National Fire Protection Association, Quincy, Massachusetts, 1-800-344-3555.
- (20) An indoor fireworks retail site must have a minimum distance of 20 feet around the perimeter of the building that is kept free of high grass, empty boxes, and trash.



TEXAS DEPARTMENT OF INSURANCE

State Fire Marshal's Office (112-FM)

333 Guadalupe, Austin, Texas 78701 * PO Box 149221, Austin, Texas 78714-9221
(512) 676-6800 | F: (512) 490-1063 | (800) 578-4677 | TDI.texas.gov | @TXSFMO

LICENSING INVESTIGATION COMPLAINT FORM

Upon receipt, the SFMO will give this complaint a case number and assign it to an investigator. The investigator may contact you to obtain additional information. This form may be mailed, faxed or e-mailed to the State Fire Marshal's Office.

You may request a copy of the investigation report under the Open Records Act after the investigation has been completed. A written request is necessary and may be submitted by mail, fax, e-mail or in person to the attention of the "Open Records Request".

PLEASE PRINT OR TYPE

YOUR INFORMATION			
Your name	Phone number for contact	Employer (Optional)	
Address (street address, city, state, zip code)			Date

ALLEGED VIOLATOR (Optional)	
Company Name of Alleged Violator (optional)	Registration Number (if known)
Individual Involved in Alleged Violation(optional)	License Number (if known)

LOCATION OF ALLEGED VIOLATION (At least one location must be provided)
Name of property
Location address and city
Name of contact person and phone number (If known)

BRIEF BACKGROUND/DESCRIPTION OF THE COMPLAINT (Attach additional sheets if necessary)

By submission of this form to the State Fire Marshal's Office, it is implied that the information herein is true and correct to the best of my knowledge.

NOTICE ABOUT CERTAIN INFORMATION LAWS AND PRACTICES

With few exceptions, you are entitled to be informed about the information that the Texas Department of Insurance (TDI) collects about you. Under sections 552.021 and 552.023 of the Texas Government Code, you have a right to review or receive copies of information about yourself, including private information. However, TDI may withhold information for reasons other than to protect your right to privacy. Under section 559.004 of the Texas Government Code, you are entitled to request that TDI correct information that TDI has about you that is incorrect. For more information about the procedure and costs for obtaining information from TDI or about the procedure for correcting information kept by TDI, please contact the Agency Counsel Section of TDI's General Counsel Division at (512) 676-6551 or visit the Corrections Procedure section of TDI's website at www.tdi.texas.gov.



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FIREWORKS INCIDENT REPORT FORM

28TAC §34.819(d) requires licensees and permittees to report in writing any unauthorized incident of explosion or fire involving fireworks to the state fire marshal within 10 days after the occurrence. Incidents resulting in injury or death shall be reported immediately. In addition, 28TAC §34.819(c) requires the loss, theft, or unlawful removal of black powder and Fireworks 1.3G shall be reported immediately to the State Fire Marshal. This form may be mailed, faxed or e-mailed to the State Fire Marshal's Office.

PLEASE PRINT OR TYPE

LICENSEE OR PERMITTEE REPORTING THE INCIDENT		
Name (Last, First)	Representing: (Firm name or Self)	Phone number
Mailing address (street or PO Box)	City & State & Zip Code	Permit/License #
INCIDENT INFORMATION		
Date and time of incident	Name of location	
Location address (street & city)		
Type of incident <input type="checkbox"/> Theft <input type="checkbox"/> Fire <input type="checkbox"/> Explosion <input type="checkbox"/> Other _____		
Name(s) and address of any injured person(s):		
This occurred at or during: <input type="checkbox"/> Fireworks 1.3 Public Display <input type="checkbox"/> Flame Effects show <input type="checkbox"/> Pyrotechnics before a proximate audience <input type="checkbox"/> Fireworks sales location <input type="checkbox"/> A fireworks storage facility <input type="checkbox"/> Other _____		
BRIEF DESCRIPTION OF THE INCIDENT (Attach additional sheets if necessary)		

By submission of this form to the State Fire Marshal's Office, it is implied that the information herein is true and correct to the best of my knowledge.

Signature of licensee or permittee: _____ Date: _____

NOTICE ABOUT CERTAIN INFORMATION LAWS AND PRACTICES

With few exceptions, you are entitled to be informed about the information that the Texas Department of Insurance (TDI) collects about you. Under sections 552.021 and 552.023 of the Texas Government Code, you have a right to review or receive copies of information about yourself, including private information. However, TDI may withhold information for reasons other than to protect your right to privacy. Under section 559.004 of the Texas Government Code, you are entitled to request that TDI correct information that TDI has about you that is incorrect. For more information about the procedure and costs for obtaining information from TDI or about the procedure for correcting information kept by TDI, please contact the Agency Counsel Section of TDI's General Counsel Division at (512) 676-6551 or visit the Corrections Procedure section of TDI's website at www.tdi.texas.gov.