

House Bill 3435

Sponsored by Representatives CLEM, GORSEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes additional permissible periods for permits to sell consumer fireworks at retail.
Increases civil penalty for most violations of fireworks laws to be minimum of \$500 and maximum of \$5,000.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to fireworks; creating new provisions; amending ORS 480.127, 480.130 and 480.165; and
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 480.127 is amended to read:

6 480.127. (1) Any person who desires to sell consumer fireworks at retail to individual members
7 of the general public for personal use shall apply in writing to the State Fire Marshal for a permit
8 at least 15 days in advance of the proposed sale. The State Fire Marshal shall issue the permit only
9 if the State Fire Marshal finds that the applicant is qualified to conduct the proposed sale and that
10 the proposed sale will conform to the provisions of ORS 480.111 to 480.165 and any rules adopted
11 under ORS 480.111 to 480.165. A fee may be charged for the permit. Subject to prior approval by
12 the Oregon Department of Administrative Services and a report to the Emergency Board prior to
13 adopting the fee, the amount of the fee shall be set by rule and shall be adjusted subsequently by
14 the State Fire Marshal to finance the administrative expenses incurred under this section and shall
15 be within the budget authorized by the Legislative Assembly as that budget may be modified by the
16 Emergency Board.

17 (2)(a) A retail sales permit issued under this section authorizes the sale of consumer fireworks
18 only [*in the year for which the permit is issued during the period that begins on June 23 and ends on*
19 *July 6 of the year for which the permit is issued.*] **during the period described in paragraph (b)**
20 **of this subsection for which the permit is issued.**

21 **(b) A retail sales permit authorizes the retail sale of consumer fireworks during one of**
22 **the following periods as set forth in the permit:**

23 **(A) The date of Chinese New Year and the five days immediately preceding that date.**

24 **(B) June 23 through July 6.**

25 **(C) The first day of the festival known as Diwali and the five days immediately preceding**
26 **that day.**

27 **(D) December 15 through December 31.**

28 (3) A retail sales permit holder shall store consumer fireworks in accordance with any fire codes
29 that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks. The matters
30 that the State Fire Marshal considers when adopting storage rules for fireworks may include, but

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 are not limited to, any United States Department of Transportation requirements relating to haz-
 2 arduous materials storage.

3 **SECTION 2.** ORS 480.130 is amended to read:

4 480.130. (1) All persons, municipalities, associations or organizations or groups of individuals
 5 desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell con-
 6 sumer fireworks to persons who possess the permit referred to in ORS 480.127, shall apply in writing
 7 to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale or date of
 8 the display. The State Fire Marshal, upon receipt of such application, shall determine if the proposed
 9 sale or display will conform to law and any rules promulgated thereunder. If the State Fire Marshal
 10 finds that the applicant is qualified to conduct such sale or display and that the proposed sale or
 11 display is in accordance with the law and all rules, the State Fire Marshal shall issue a permit;
 12 otherwise the State Fire Marshal shall refuse to issue it.

13 (2) The fee for a permit for the public display of fireworks and each permit for the sale of any
 14 fireworks shall be established by rule by the State Fire Marshal, subject to prior approval by the
 15 Oregon Department of Administrative Services and a report to the Emergency Board prior to
 16 adopting the fee, and subsequently shall be adjusted to finance the administrative expenses incurred
 17 under this section and shall be within the budget authorized by the Legislative Assembly as that
 18 budget may be modified by the Emergency Board. All fees collected shall be deposited to the credit
 19 of the State Fire Marshal Fund.

20 (3) **A permit for retail sales of fireworks under ORS 480.127 is valid for the specific period**
 21 **under ORS 480.127 (2)(b) that is set forth in the permit.** *[Sales]* Permits for **all other sales of**
 22 fireworks are not valid for more than one year from date of issue. A public display permit is not
 23 valid for more than 10 days from date of issuance and may authorize only one fireworks display
 24 during that period.

25 **SECTION 3.** ORS 480.165 is amended to read:

26 480.165. (1) **Except as provided in this subsection,** in addition to any other penalty provided
 27 by law, any person who violates any provision of ORS 480.111 to 480.165, or any rule adopted by the
 28 State Fire Marshal *[pursuant thereto]* **under ORS 480.111 to 480.165,** is subject to a civil penalty
 29 imposed by the State Fire Marshal *[in an amount not to exceed \$500 per violation]*. *[However,]* An
 30 individual member of the general public who possesses fireworks of a retail value less than \$50 is
 31 not subject to a civil penalty.

32 (2) **A civil penalty imposed under this section:**

33 (a) **For a violation of ORS 480.123 or 480.124, or of a rule for the administration or**
 34 **enforcement of ORS 480.123 or 480.124, may not exceed \$500 per violation.**

35 (b) **Except as provided in paragraph (a) of this subsection, may not be less than \$500 or**
 36 **more than \$5,000 per violation.**

37 (3) **For purposes of subsection (2) of this section,** each day a violation continues shall be
 38 considered a separate offense.

39 *[(2)]* (4) All moneys recovered pursuant to this section shall be paid into the State Fire Marshal
 40 Fund.

41 *[(3)]* (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

42 **SECTION 4. The amendments to ORS 480.165 by section 3 of this 2019 Act apply to vio-**
 43 **lations of ORS 480.111 to 480.165, or of State Fire Marshal rules adopted under ORS 480.111**
 44 **to 480.165, that occur on or after the effective date of this 2019 Act.**

45 **SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019**

1 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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