

**Subchapter H. Storage and Sale of Fireworks
28 TAC §34.811**

INTRODUCTION. The commissioner of insurance adopts amendments to 28 TAC §34.811, concerning the requirements for a pyrotechnic operator license. The amendments are adopted without changes to the proposed text published in the September 19, 2025, issue of the *Texas Register* (50 TexReg 38).

REASONED JUSTIFICATION. House Bill 1899, 89th Legislature, 2025 changed the age requirement for a fireworks license in Occupations Code §2154.101(b) from 21 to 18. The Texas Department of Insurance (TDI) adopts the amendments in §34.811(g)(2) to reflect that change and also adopts additional nonsubstantive changes. Details of the section's adopted amendments follow.

Amendments in subsection (b) replace "examinees" with "applicants" for term consistency and add "a test" after "fail" for clarity. An amendment in subsection (c) moves the word "only" to the grammatically correct place in the sentence. An amendment in subsection (f) replaces "makes application" with "applies" for plain language preferences. Amendments in subsection (g) add "who" and remove "the following," add "has not" and "is not," and remove "be" for grammatical correctness; and another amendment in the subsection replaces "18" with "21" to implement HB 1899. Amendments in subsection (h) add "intended" and "full" for clarity and consistency with the language used on the website referenced by the subsection.

The amended sections are necessary to implement HB 1899 and to make other nonsubstantive changes to conform the rule to fit current TDI style.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on October 20, 2025. TDI received one comment against the proposal. There were no commenters in support of the proposal.

Commenter: An individual commented against the proposal.

Comment on §34.811

Comment. The commentor against the proposal does not believe 18-year-olds are responsible enough to be shooting pyrotechnic fireworks. The commenter believes the age should remain 21.

Agency Response. TDI declines to make the change. HB 1899 lowered the age for pyrotechnic operators from 21 to 18. TDI is bound by statute to amend the rule to lower the age.

STATUTORY AUTHORITY. The commissioner adopts the amendments to §34.811 under Occupations Code §2154.052(a) and (b) and Insurance Code §36.001.

Occupations Code §2154.052(a) provides that the commissioner administer Occupations Code Chapter 2154 through the state fire marshal. Occupations Code §2154.052(b) provides that the commissioner adopt and the state fire marshal administer rules necessary for the protection, safety, and preservation of life and property, including rules pertaining to the issuance of licenses pertaining to fireworks in the state.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.

§34.811. Requirements, Pyrotechnic Operator License, Pyrotechnic Special Effects Operator License, and Flame Effects Operator License.

(a) Applicants for a pyrotechnic operator license, pyrotechnic special effects operator license, or flame effects operator license must take a written test and obtain at least a passing grade of 70%. Written tests may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability. The content, frequency, and location of the tests must be designated by the state fire marshal.

(b) Applicants who fail a test may file a retest application, accompanied by the required fee.

(c) An applicant may schedule each type of test only three times within a 12-month period.

(d) An applicant for a license must complete and submit all application requirements within one year of the successful completion of any test required for a license; otherwise, the test is voided and the individual will have to pass the test again.

(e) The state fire marshal may waive a test requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

(f) A licensee whose license has been expired for two years or longer and applies for a new license must pass another test.

(g) A pyrotechnic operator license will not be issued to any person who fails to meet the requirements of subsection (a) of this section and who:

(1) has not assisted in conducting at least five permitted or licensed public displays in Texas under the direct supervision of and verified in writing by a pyrotechnic operator licensed in Texas; and

(2) is not at least 18 years of age.

(h) The application must be accompanied by a criminal history report from the Texas Department of Public Safety. For a natural person to be eligible for a pyrotechnic operator license, pyrotechnic special effects operator license, or flame effects operator license, the natural person must start the application process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at www.tdi.texas.gov/fire/fingerprinting-process.html. The requesting natural person must submit information necessary to complete the fingerprint service code request, including the natural person's full name, natural person's state of residence, natural person's email address, and intended license type the natural person is applying for.

(i) A licensee must be able to show proof of licensure while engaged in the activities of the business.

CERTIFICATION. The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

2025-9614

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 34. State Fire Marshal

Adopted Section
Page 5 of 5

Issued at Austin, Texas, on November 21, 2025.

Signed by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel
Texas Department of Insurance

The amendments to 28 TAC §34.811 are adopted.

Signed by:

FC5D7EDDFFB4F8... _____
Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2025-9614