

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

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §34.811, concerning the requirements for a pyrotechnic operator license. The proposed amendments implement House Bill 1899, 89th Legislature, 2025, and make other nonsubstantive changes to conform the rule to current TDI style.

EXPLANATION. HB 1899 changed the age requirement for a fireworks license in Occupations Code §2154.101(b) from 21 to 18. TDI proposes to amend §34.811(g)(2) to reflect that change and proposes additional nonsubstantive changes.

Details of the section's proposed 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.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Debra Knight, state fire marshal, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state or local governments as a result of enforcing or administering them. Chief Knight made this determination because the proposed amendments do not add to or decrease state

revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Chief Knight does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Chief Knight expects that administering the proposed amendments will have the public benefit of ensuring that TDI's rules conform to Occupations Code §2154.101(b).

Chief Knight expects that the proposed amendments will not increase the cost of compliance with Occupations Code §2154.101(b) because they does not impose requirements beyond those in statute. Occupations Code §2154.101(b) addresses the age requirements for pyrotechnic operator license applicants. The enforcement or administration of the proposed amendments have no associated costs.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. Also, no additional rule amendments are required under Government Code §2001.0045 because the proposed rule is necessary to implement legislation and is necessary to

protect the health, safety, and welfare of the residents of this state. The proposed rule implements Occupations Code §2154.101(b), as added by HB 1899.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will increase the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on October 20, 2025. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of

the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on October 20, 2025. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. TDI proposes 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 will administer Occupations Code Chapter 2154 through the state fire marshal and may issue rules to administer the chapter.

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 rule necessary to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 34.811 implements Occupations Code §2154.101(b).

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 [~~Examinees~~] who fail a test may file a retest application, accompanied by the required fee.

(c) An applicant may [~~only~~] 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 [~~makes application~~] 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 [~~the following~~]:

(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 [~~be~~] at least 18 [~~21~~] 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 proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on September 8, 2025.

Signed by:
Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance