

CHAPTER 267

S.B. No. 199

AN ACT

relating to the regulation of certain activities concerning portable fire extinguishers and fixed fire extinguisher systems, fire detection and fire alarm devices and systems, fire protection sprinkler systems, and fireworks.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1, Article 5.43-1, Insurance Code, as amended, is amended to read as follows:

Sec. 1. PURPOSE. The purpose of this article is to regulate the leasing, renting, selling, and servicing of portable fire extinguishers and the *planning, certifying, installing, or [and] servicing* of fixed fire extinguisher systems, *and to prohibit portable fire extinguishers, fixed fire extinguisher systems, and extinguisher equipment not labeled or listed by a testing laboratory approved by the State Board of Insurance*, in the interest of safeguarding lives and property.

SECTION 2. Subsections (c), (d), and (e), Section 3, Article 5.43-1, Insurance Code, as amended, are amended to read as follows:

(c) "Portable fire extinguisher" means any device that contains *liquid [within it chemical fluids], powder, or gases for suppressing or extinguishing fires [and has a label of approval attached by a nationally recognized testing laboratory, such as, but not limited to, the Underwriters Laboratories Inc. and Factory Mutual Research Corporation]*.

(d) "Service and servicing" means servicing portable fire extinguishers or fixed fire extinguisher systems by *inspecting, charging, filling, maintaining, recharging, refilling, repairing, or testing*.

(e) "Fixed fire extinguisher systems [system]" means those *assemblies of piping, conduits, or containers that convey liquid, powder, or gases to dispersal openings or devices protecting one or more hazards by suppressing or extinguishing fires [listed or approved fire extinguisher systems installed in compliance with the manufacturer's installation manuals or the applicable National Fire Protection Association Standard and its references as follows:*

~~[(1) the National Fire Protection Association Standards Foam Extinguisher Systems, No. 11, 1978 edition;~~

~~[(2) the National Fire Protection Association Standards on Carbon Dioxide Extinguisher Systems, No. 12, 1977 edition;~~

~~[(3) the National Fire Protection Association Standards for Halogenated Fire Extinguishing Agents Systems—Halon 1301, No. 12A, 1977 edition;~~

~~[(4) the National Fire Protection Association Standards for Dry Chemical Extinguisher Systems, No. 17, 1980 edition;~~

~~[(5) the National Fire Protection Association Standards for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment, No. 96, 1978 edition; and~~

~~[(6) additional or updated National Fire Protection Association Standards as adopted by the State Board of Insurance].~~

SECTION 3. Section 4, Article 5.43-1, Insurance Code, as amended, is amended by amending Subsections (a) and (c) and by adding Subsection (c-1) to read as follows:

(a) Each firm engaged in the business of installing or servicing portable fire extinguishers or *planning, certifying*, installing or servicing fixed fire extinguisher systems must have a certificate of registration issued by the State Board of Insurance. The initial fee for the certificate of registration must be in an amount not to exceed \$450 and the renewal fee for each year thereafter must be in an amount not to exceed \$300. Each separate office location of a firm engaged in the business of installing or servicing portable fire extinguishers or *planning, certifying*, installing or servicing fixed extinguisher systems, other than the location identified on the certificate of registration, must have a branch office registration certificate issued by the board. The initial fee for a branch office registration certificate must be in an amount not to exceed \$100, and the renewal fee for each year thereafter must be in an amount not to exceed \$100. The board shall identify each branch office location as a part of a registered firm before a branch office registration certificate may be issued.

(c) Each employee, other than an apprentice, of firms engaged in the business of installing or servicing portable fire extinguishers or installing or servicing fixed fire extinguisher systems ~~[who services extinguishers or fixed systems,]~~ must have a license issued by the State Board of Insurance *before engaging in the following:*

- (1) *servicing portable fire extinguishers;*
- (2) *installing, servicing, or certifying preengineered fixed fire extinguisher systems; or*
- (3) *planning, supervising, or certifying the installation of fixed fire extinguisher systems other than preengineered systems or the servicing of such systems.*

(c-1) The initial fee for the license required by Subsection (c) of this section [including the initial examination,] must be in an amount not to exceed \$50 and the license renewal fee for each year thereafter must be in an amount not to exceed \$50. A nonrefundable fee for the initial examination must be in an amount not to exceed \$30. A nonrefundable fee in an amount not to exceed \$20 shall be charged for each reexamination.

SECTION 4. Article 5.43-1, Insurance Code, as amended, is amended by adding Section 4A to read as follows:

Sec. 4A. REQUIRED INSURANCE. (a) The board may not issue a certificate of registration under this article unless the applicant files with the board proof of a policy of public liability insurance conditioned to pay on behalf of the insured those sums that the insured becomes legally obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of any business registered or licensed under this article.

(b) The limits of insurance coverage required by Subsection (a) of this section may not be less than \$100,000 for bodily injury and property damage for each occurrence and not less than \$300,000 aggregate for all occurrences, unless the board increases or decreases the limits under Section 8 of this article.

(c) *The evidence of insurance required by this section must be in the form of a certificate of insurance executed by an insurer authorized to do business in this state and countersigned by a local recording agent licensed in this state, or if the board authorizes acceptance of surplus lines coverage under Section 8 of this article, a certificate of insurance for surplus lines coverage procured in compliance with Article 1.14-2 of this code through a licensed Texas surplus lines agent resident in this state. Insurance certificates executed and filed with the board under this section remain in force until the insurer has terminated future liability by the notice required by the board.*

(d) *Failure to maintain the liability insurance required under this section constitutes grounds for the denial, suspension, or revocation of a certificate of registration issued under this article after notice and opportunity for hearing.*

SECTION 5. Subsection (a), Section 5, Article 5.43-1, Insurance Code, as amended, is amended to read as follows:

(a) No portable fire extinguisher, ~~or~~ fixed fire extinguisher system, or extinguisher equipment may be leased, sold, rented, or installed in this state unless it carries a label of approval or listing of a ~~nationally recognized~~ testing laboratory ~~or a testing laboratory~~ approved by the State Board of Insurance.

SECTION 6. Section 6, Article 5.43-1, Insurance Code, as amended, is amended to read as follows:

Sec. 6. EXCEPTIONS. The *licensing* provisions of this article do not apply to the following:

(a) the filling or charging of a portable fire extinguisher by the manufacturer prior to its initial sale;

(b) the servicing by a firm of its own portable fire extinguishers and/or fixed systems by its own personnel specially trained for such servicing;

(c) the installation or servicing of water sprinkler systems installed in compliance with the National Fire Protection Association's Standards for the Installation of Sprinkler Systems~~[, No. 13]~~;

(d) firms engaged in the retailing or wholesaling of portable fire extinguishers *that carry a label of approval or listing of a testing laboratory approved by the State Board of Insurance* ~~as defined in Section 3~~, but not engaged in the installation or servicing ~~recharging~~ of them;

(e) fire departments *servicing* ~~recharging~~ portable fire extinguishers as a public service where no charge is made, provided, however, that the members of the fire department are trained in the proper *servicing* ~~filling and recharging~~ of the fire extinguishers;

(f) *a firm that is party to a contract that provides that the installation of a fixed fire extinguisher system will be performed under the direct supervision of and certified by a person licensed to install and certify fixed systems and that the licensee assumes full responsibility for the installation; or*

(g) *a Texas registered professional engineer acting solely in his professional capacity.*

SECTION 7. Subsection (g), Section 7, Article 5.43-1, Insurance Code, as amended, is amended to read as follows:

(g) Not later than the 30th day after the day on which a licensing examination is administered under this *article* ~~Act~~, the State Fire Marshal shall send notice to each examinee of the results of the examination. If an examination is *conducted*, graded, or reviewed by a ~~national~~ testing service, the State Fire Marshal shall send notice to the examinees of the results of the examination within two weeks after the date on which the State Fire Marshal receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the State Fire Marshal shall send notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing

examination administered under this *article* [~~Act~~], the State Fire Marshal shall send to the person an analysis of the person's performance on the examination.

SECTION 8. Section 8, Article 5.43-1, Insurance Code, as amended, is amended to read as follows:

Sec. 8. POWERS AND DUTIES OF STATE BOARD OF INSURANCE. The State Board of Insurance shall:

(a) formulate and administer such rules [~~and regulations~~] as may be determined essentially necessary for the protection and preservation of life and property, in controlling:

(1) the registration of firms engaging in the business of servicing portable fire extinguishers or *planning, certifying, installing, or servicing* [~~and maintaining~~] fixed fire extinguisher systems;

(2) the registration of firms engaged in the business of hydrostatic testing of [~~portable~~] fire *extinguisher cylinders* [~~extinguishers~~];

(3) the examination of persons applying for a license [~~to service portable fire extinguishers~~];

(4) the licensing of persons to service portable fire extinguishers and *to plan, certify, install, or service* fixed fire extinguisher systems; and

(5) the requirements for the servicing of portable fire extinguishers and the *planning, certifying, installing, or servicing* [~~maintenance~~] of fixed fire extinguisher systems;

(b) evaluate the qualifications of firms or individuals for a certificate of registration to engage in the business of servicing portable fire extinguishers or *planning, certifying, installing, or servicing* fixed fire extinguisher systems;

(c) conduct examinations to ascertain the qualifications and fitness of applicants for a license to service portable fire extinguishers or *to plan, certify, install, or service* fixed fire extinguisher systems;

(d) issue certificates of registration for those firms that qualify under the rules [~~and regulations~~] to engage in the business of servicing portable fire extinguishers or *planning, certifying, installing, or* [~~and~~] servicing fixed fire extinguisher systems, and issue licenses, apprentice permits, and authorizations to perform hydrostatic testing to the firms or individuals who qualify; [~~and~~]

(e) evaluate the qualifications of firms seeking approval as testing laboratories; and

(f) *have authority, after notice and opportunity for hearing, to increase or decrease the limits of insurance coverage and authorize acceptance of surplus lines coverage if the board determines that due to loss experience, market conditions, or other good reason the liability insurance coverage required by Section 4A of this article is unavailable to applicants for or holders of certificates of registration* [~~for portable fire extinguishers~~].

SECTION 9. Section 10, Article 5.43-1, Insurance Code, as amended, is amended to read as follows:

Sec. 10. CERTAIN ACTS PROHIBITED. No person or firm may do any of the following:

(1) engage in the business of servicing portable fire extinguishers without a *valid* [~~current~~] certificate of registration;

(2) engage in the business of *planning, certifying, installing, or servicing* fixed fire extinguisher systems without a *valid* [~~current~~] certificate of registration;

(3) service portable fire extinguishers or *plan, certify, service, or install* fixed fire extinguisher systems without a *valid* [~~current~~] license;

(4) perform hydrostatic testing of [~~portable~~] fire *extinguisher cylinders* [~~extinguishers~~] manufactured in accordance with the specifications and requirements of the United States Department of Transportation without a *valid* [~~current~~] hydrostatic testing certificate of registration;

(5) obtain or attempt to obtain a certificate of registration or license by fraudulent representation;

(6) service portable fire extinguishers or *plan, certify, service, or install* fixed fire extinguisher systems contrary to the provisions of this article or the rules ~~[and regulations]~~ formulated and administered under the authority of this article;

(7) service or hydrostatic test a fire extinguisher that does not have the proper identifying labels;

(8) sell, service, or recharge a carbon tetrachloride fire extinguisher; or

(9) ~~violate [sell, rent, or lease a portable fire extinguisher that has not been approved as provided by]~~ Subsection (a) of Section 5 of this article.

SECTION 10. Subsection (c), Section 12, Article 5.43-1, Insurance Code, as amended, is amended to read as follows:

(c) An offense under Subsection (b) of this section is a Class B misdemeanor. Venue for the offense is in Travis County *or the county in which the offense is committed.*

SECTION 11. Section 1, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

Sec. 1. PURPOSE. The purpose of this article is to regulate the *planning, certifying, leasing, selling [sales], servicing, installing, and maintaining [installation, and maintenance]* of fire detection and fire alarm devices and systems *and to prohibit fire detection and fire alarm devices and equipment not labeled or listed by a testing laboratory approved by the State Board of Insurance,* in the interest of safeguarding lives and property.

SECTION 12. Section 2, Article 5.43-2, Insurance Code, as amended, is amended by amending Subdivisions (7), (9), and (12) and by adding Subdivision (13) to read as follows:

(7) "Approval, approved" means that equipment which has been tested or listed by a ~~nationally recognized~~ testing laboratory *approved by the State Board of Insurance [such as but not limited to Underwriters' Laboratories, Incorporated, or Factory Mutual Research Corporation, or has gained specific written approval for the use intended by the state marshal].*

(9) "Service, servicing" means *inspecting [any charging, recharging], maintaining, repairing, or testing[, or installing].*

(12) "Fire alarm *technician [installation superintendent]*" means an individual or individuals who shall be designated, by each company that *plans, certifies, leases, sells, services, installs, or maintains [a] fire alarm or detection devices or systems, [system] to:*

(A) inspect and certify that each fire alarm or detection system as installed meets the standards as provided for by law; *or*

(B) *perform or supervise directly servicing or maintaining a previously installed fire alarm device or system and to certify such service or maintenance.*

(13) "Fire alarm *planning superintendent*" means an individual or individuals who are designated, by an organization that *plans, certifies, leases, sells, services, installs, or maintains a fire alarm or detection system, to plan a fire alarm or detection system conforming to applicable adopted National Fire Protection Association standards or other adopted standards and certify that each fire alarm or detection system as planned meets the standards as provided by law. A superintendent can function as a fire alarm technician.*

SECTION 13. Subsection (b), Section 3, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

(b) *The licensing provisions of this [This] article shall not apply to:*

(1) ~~[the sale, offer for sale, or installation of fire detection devices or fire alarm devices that are not specifically required by Chapters 8 through 30, Life Safety Code, National Fire Protection Association Standard, No. 101, 1981 edition or the corresponding provisions of the updated edition of that standard most recently adopted by the State Board of Insurance;~~

~~[(2)]~~ a person or organization in the business of building construction that installs electrical wiring and devices that may include in part the installation of a fire alarm or detection system if:

(A) the person or organization is a party to a contract that provides that the installation will be performed under the direct supervision of and inspected and certified by a person or organization licensed to install and certify such an alarm or detection device and that the licensee assumes full responsibility for the installation of the alarm or detection device; and

(B) the person or organization does not *plan, certify, lease, sell, service, or maintain* fire alarms or detection devices or systems;

~~(2)~~ ~~[(3)]~~ a person or organization that owns and installs fire detection or fire alarm devices on the person's or organization's own property or, if the person or organization does not charge for the device or its installation, installs it for the protection of the person's or organization's personal property located on another's property and does not install the devices as a normal business practice on the property of another;

~~(3)~~ ~~[(4)]~~ a person who holds a license or other form of permission issued by an incorporated city or town to practice as an electrician and who installs fire or smoke detection and alarm devices in no building other than a single family or multifamily residence if:

(A) the devices installed are single station detectors; and

(B) all installations comply with provisions of the adopted editions of Life Safety Code, National Fire Protection Association Standard No. 101 and Household Fire Warning Equipment, National Fire Protection Association Standard No. 74,[-]

~~(4)~~ ~~[(5)]~~ a person or organization that sells fire detection or fire alarm devices if the sales are exclusively over-the-counter or by mail order and if the person or organization does not *plan, certify, install, service, or maintain* this equipment; ~~[or]~~

~~(5)~~ ~~[(6)]~~ response to a fire alarm or detection device by a law enforcement agency or fire department or by a law enforcement officer or fireman acting in an official capacity; or

~~(6)~~ a Texas registered professional engineer acting solely in his professional capacity.

SECTION 14. Subsections (a), (b), (c), (e), (f), and (g), Section 5, Article 5.43-2, Insurance Code, as amended, are amended to read as follows:

(a) Each *person or organization* engaged in the business of *planning, certifying, leasing, selling, servicing, installing, or maintaining* fire alarm or fire detection devices or systems shall have a certificate of registration issued by the board. The initial fee for the certificate of registration must be in an amount not to exceed \$500 and the renewal fee for each year thereafter must be in an amount not to exceed \$500. A registered person or organization shall retain at least one fire alarm technician or planning superintendent as an employee.

(b) Each separate office location of an organization engaged in the act of *planning, certifying, selling, leasing, servicing, maintaining, or installing* fire detection or fire alarm devices or systems, other than the location identified on the certificate of registration, shall have a branch office registration certificate~~[,]~~ issued by the board. The initial fee for this branch office registration certificate must be in an amount not to exceed \$150 and the renewal fee for each year thereafter must be in an amount not to exceed \$150. The board shall identify each branch office location as a part of a registered organization before a branch office registration certificate may be issued.

(c) Each fire alarm *technician or planning* ~~[installation]~~ superintendent must obtain a license issued by the board. The initial fee for the license ~~[including the initial examination fee]~~ must be in an amount not to exceed \$100 and the renewal fee for each year thereafter must be in an amount not to exceed \$100. A nonrefundable fee for the initial examination must not exceed \$30. A nonrefundable ~~[\$10]~~ fee not to exceed \$20 shall be charged for each reexamination.

(e) No person may inspect with the intention of certifying any fire alarm or fire detection system or device unless he is the holder of a valid ~~[and current]~~ license issued pursuant to this article.

(f) A person licensed pursuant to this article to inspect and certify a fire alarm or fire detection system or device shall be an employee or agent of an organization that holds a valid ~~[and current]~~ certificate of registration issued pursuant to this article.

(g) A person who *plans, certifies, leases, sells, services, installs, or maintains* fire alarm systems or fire detection devices shall be an employee or agent of an organization that holds a valid certificate of registration issued pursuant to this article.

SECTION 15. Section 5A, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

Sec. 5A. EXPIRATION DATES OF LICENSES. ~~[(a)]~~ Each renewal of a *certificate of registration or license* issued under this article is valid for a period of two years. The ~~[total license]~~ fee for both years is payable on renewal.

SECTION 16. Subsections (a), (b), (c), and (e), Section 5B, Article 5.43-2, Insurance Code, are amended to read as follows:

(a) The board may not issue a certificate of registration under this article unless the applicant files with the board:

(1) a surety bond executed by a surety company authorized to do business in this state in the sum of \$10,000 conditioned to compensate for damages caused by wrongful or illegal acts of the principal or the principal's servant, officer, agent, or employee in conducting the business registered or licensed under this article~~, or instead of the surety bond, the applicant may deposit with the state a sum of \$10,000 in cash~~; and

(2) proof of a policy of public liability insurance conditioned to pay on behalf of the ~~insured those [principal-all]~~ sums that the ~~insured [principal]~~ becomes legally obligated to pay as damages because of *bodily injury and property damage* caused by an occurrence involving the ~~insured [principal]~~ or the ~~insured's [principal's]~~ servant, officer, agent, or employee in the conduct of any business registered or licensed under this article.

(b) The limits of insurance coverage required by ~~[Subdivision (3) of]~~ Subsection (a) of this section may not be less than *\$100,000 for bodily injury and property damage for each occurrence and not less than \$300,000 aggregate for all occurrences, unless the board increases or decreases those limits under Section 6 of this article*:

~~[(1) \$50,000 for bodily injury;~~

~~[(2) \$25,000 for property damage; and~~

~~[(3) \$50,000 for personal injury].~~

(c) The ~~evidence [policies]~~ of public liability insurance required by this section must be in the form of a certificate of insurance executed by an insurer authorized to do business in ~~this [the]~~ state and countersigned by a local recording agent licensed in ~~this [the]~~ state. *If the board authorizes acceptance of surplus lines coverage under Section 6 of this article, a certificate of insurance for surplus lines coverage procured in compliance with Article 1.14-2 of this code through a licensed Texas surplus lines agent resident in this state may be filed with the board as required by this section.* Insurance certificates executed and filed with the board under this section remain in force until the insurer has terminated future liability by ~~the [a 10-day] notice required by [to]~~ the board.

(e) *Failure to maintain the surety bond or the liability insurance required under this section constitutes grounds for the denial, suspension, or revocation of a certificate of registration issued under this article after notice and opportunity for hearing* ~~[Each holder of a certificate of registration shall at all times maintain in force and on file with the board the surety bond and certificates of insurance required by this section. If the holder of a certificate of registration fails to do so, the board shall immediately suspend the certificate of registration and may not reinstate it until an application in the form prescribed by the board is filed with a proper bond and proper insurance certificates. The board may deny such an application if:~~

~~[(1) the board finds a reason that justifies;~~

~~[(A) refusal to issue a certificate of registration; or
 (B) suspension or revocation of a certificate of registration; or
 (2) while under suspension for failure to keep the bond or insurance certificate in force, the applicant performs a practice for which a certificate of registration under this article is required].~~

SECTION 17. Section 5D, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

Sec. 5D. EXAMINATION. Not later than the 30th day after the day on which an examination is administered under this article, the State Fire Marshal shall send notice to each examinee of the results of the examination. If an examination is *conducted, graded, or reviewed* by a ~~[national]~~ testing service, the State Fire Marshal shall send notice to the examinees of the results of the examination within two weeks after the date on which the State Fire Marshal receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the State Fire Marshal shall send notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the examination administered under this article, the State Fire Marshal shall send to the person an analysis of the person's performance on the examination.

SECTION 18. Section 6, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

Sec. 6. POWERS AND DUTIES OF THE STATE BOARD OF INSURANCE. (a) The board shall delegate authority to exercise all or part of its functions, powers, and duties under this article, including the issuance of certificates and licenses, to the state fire marshal, and the state fire marshal along with assistance of a nonbinding advisory council to be appointed by the board shall implement such rules ~~[and regulations]~~ as may be determined by the board to be essentially necessary for the protection and preservation of life and property in controlling:

(1) the registration of *persons and organizations* engaging in the business of *planning, certifying, leasing, selling, servicing, installing, or maintaining* fire alarm or fire detection devices or ~~[and]~~ systems; and

(2) the requirements for the *planning, certifying, leasing, selling, servicing, installing, or maintaining* ~~[sale, service, installation, or maintenance]~~ of fire alarm or fire detection devices or systems by:

(A) conducting examinations and evaluating the qualifications of applicants for a certificate of registration to engage in the business of *planning, certifying, leasing, selling, servicing, installing, or maintaining* fire alarm or fire detection devices or ~~[and]~~ systems;

(B) conducting examinations and evaluating the qualifications of applicants for fire alarm *technician or fire alarm planning* ~~[installation]~~ superintendent licenses ~~[to engage in certifying fire alarm or fire detection devices or systems];~~

(C) evaluating and determining which organizations shall be approved as testing laboratories for *the purpose of this article* ~~[fire alarm and fire detection devices and systems];~~ and

(D) evaluating and approving ~~[a]~~ required training *programs* ~~[program]~~ for all persons who engage in the business of *planning, certifying, leasing, selling, servicing, installing, or maintaining* fire alarm or fire detection devices or ~~[and]~~ systems.

(b) *The board may, after notice and opportunity for hearing, increase or decrease the limits of insurance coverage and authorize acceptance of surplus lines coverage if the board determines that due to loss experience, market conditions, or other good reason the liability insurance coverage required by Section 5B of this article is unavailable to applicants for or holders of certificates of registration.*

SECTION 19. Section 7, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

Sec. 7. CERTAIN ACTS PROHIBITED. No *person or organization* ~~[pursuant to this article]~~ may do any of the following:

(1) *plan, certify, lease, sell, service, install, or maintain fire alarm or fire detection devices or [and] systems without a valid license or [and current] certificate of registration;*

(2) *obtain or attempt to obtain a license or certificate of registration by fraudulent representation; or*

(3) *plan, certify, lease, sell, service, install, or maintain fire alarm or fire detection devices or systems contrary to the provisions of this article or the rules [and regulations] formulated by the board under the authority of this article.*

SECTION 20. Subsection (a), Section 9, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

(a) No device or alarm, *a [the sole intended] purpose of which is to detect and/or give alarm of fire, may be sold, offered for sale, leased, or installed in this state unless it carries a label of approval or listing of a [nationally recognized] testing laboratory [or a laboratory] approved by the State Board of Insurance [fire marshal].*

SECTION 21. Section 11, Article 5.43-2, Insurance Code, as amended, is amended to read as follows:

Sec. 11. PENALTIES. In addition to any other penalties, any person *or [of an] organization that [who] performs a function that requires a certificate of registration or license as described herein without first obtaining such certificate of registration or license commits a Class B misdemeanor, venue for which is in Travis County or in the county in which the offense is committed.*

SECTION 22. Subsection (c), Section 4, Article 5.43-3, Insurance Code, is amended to read as follows:

(c) Each responsible managing employee must obtain a license issued by the board and conditioned on the successful completion of the examination requirement and other requirements prescribed by the rules adopted under this article. *A nonrefundable [The] examination fee must be in an amount not to exceed \$100 per examination. The [and the] fee for the issuance of either the initial or the renewal responsible managing employee license must be in an amount not to exceed \$200.*

SECTION 23. Subsections (a), (b), and (d), Section 5, Article 5.43-3, Insurance Code, are amended to read as follows:

(a) The board may not issue a certificate of registration under this article unless the applicant files with the board:

(1) a surety bond executed by a surety company authorized to do business in this state in the sum of \$10,000 conditioned to compensate third party losses caused by the acts of the principal or the principal's servant, officer, agent, or employee in conducting the business registered or licensed under this article; and

(2) proof of a policy of public *[comprehensive general] liability insurance with coverage in an amount not less than \$100,000 [\$50,000] for bodily injury and [-\$25,000 for] property damage for each occurrence and not less than \$300,000 aggregate for all occurrences, unless the board increases or decreases the amounts under Section 7 of this article[-, and \$50,000 for personal injury], which insurance shall be conditioned to pay on behalf of the insured those [all] amounts that the insured [principal] is legally obligated to pay as damages because of bodily injury and property damage caused by the insured [principal] or the insured's [principal's] servant, officer, agent, or employee in the conduct of any business registered under this article.*

(b) The *evidence of liability insurance required by this section must be in the form of a certificate of insurance executed by an insurer authorized to do business in this state and countersigned by a local recording agent licensed in this state. If the board authorizes acceptance of surplus lines coverage under Section 7 of this article, a certificate of insurance for surplus lines coverage procured in compliance with Article 1.14-2 of this code by a licensed Texas surplus lines agent resident in this state may be filed with the board as required by this section. Insurance certificates executed and filed with the board under this section remain in force until the insurer has terminated future liability by the [30-day] notice required by [to] the board.*

(d) Failure to maintain the surety bond or the liability insurance required under this section constitutes grounds for the denial, suspension, or revocation of a certificate of registration issued under this article after notice and *opportunity for [a public] hearing [to consider same]*.

SECTION 24. Section 7, Article 5.43-3, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The board may, after notice and opportunity for hearing, increase or decrease the limits of insurance coverage and authorize acceptance of surplus lines coverage if the board determines that due to loss experience, market conditions, or other good reason the liability insurance coverage required by Section 5 of this article is unavailable to applicants for or holders of certificates of registration.

SECTION 25. Subsection (c), Section 10, Article 5.43-3, Insurance Code, is amended to read as follows:

(c) Venue for the offense is in Travis County or in the county in which the offense is committed.

SECTION 26. Subsection (f), Section 6, Article 5.43-4, Insurance Code, is amended to read as follows:

(f) A person who assembles, conducts, and supervises public fireworks displays using Class B fireworks must have a pyrotechnic operator's license. The board shall set and collect an annual license fee not to exceed \$100 for a pyrotechnic operator's license. To qualify for a pyrotechnic operator's license, a person must take and pass an examination, if any should be required, conducted by the board through the state fire marshal's office. A nonrefundable fee for the initial examination must be in an amount not to exceed \$30. A nonrefundable fee in an amount not to exceed \$20 shall be charged for each reexamination.

SECTION 27. Section 6, Article 5.43-4, Insurance Code, is amended by adding Subsection (h) to read as follows:

(h) A fee in an amount not to exceed \$20 must be charged for a duplicate license issued by the board and for any requested change to a license.

SECTION 28. Section 12, Article 5.43-4, Insurance Code, is amended to read as follows:

Sec. 12. EXAMINATIONS. The state fire marshal shall, not later than the 30th day after the date on which an examination is administered under this article, send notice to each examinee of the results of the examination. If the examination is *conducted*, graded, or reviewed by a ~~[national]~~ testing service, the state fire marshal shall send notice to the examinee of the result of the examination not later than the 14th day after the date on which the state fire marshal receives the result from the testing service. If the notice of the examination result will be delayed for more than 90 days after the examination date, the state fire marshal shall send, before the 90th day, a notice informing the examinee of the reason for the delay. The state fire marshal shall, on written request by a person who fails the licensing examination, send the person an analysis of the person's performance on the examination.

SECTION 29. Section 15, Article 5.43-4, Insurance Code, is amended to read as follows:

Sec. 15. INSURANCE. (a) An applicant for a public display license or permit must submit to the state fire marshal:

~~[(4)]~~ proof of a policy of public liability insurance in an amount of not less than \$300,000 *unless the board increases or decreases the amount under Section 16 of this article. The policy shall be conditioned to pay those sums the insured becomes obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of a public fireworks display*~~;~~ ~~or~~

~~[(2)] a surety bond in an amount of not less than \$100,000 executed by a surety company authorized to do business in the state, conditioned on the payment of all sums~~

~~that the licensee or permittee becomes legally obligated to pay as a result of injury caused by the public fireworks display.~~

(b) ~~Evidence of the [A-public] liability insurance policy required by this section must be in the form of a certificate of insurance issued by an insurer authorized to do business in this state and countersigned by a local recording agent licensed in this state. If the board authorizes acceptance of surplus lines coverage under Section 16 of this article, a certificate of insurance for surplus lines coverage procured in compliance with Article 1.14-2 of this code through a licensed Texas surplus lines agent resident in this state may be filed with the board as required by this section. An insurer may not cancel a certificate of insurance issued under this section unless the insurer gives the state fire marshal notice of intent to cancel as required by the board [not later than the 10th day before the date of cancellation]. A public display license or display permit may not be issued without proof of public liability insurance [or a bond] as required by this section.~~

SECTION 30. Section 16, Article 5.43-4, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The board may, after notice and opportunity for hearing, increase or decrease the limits of insurance coverage and authorize acceptance of surplus lines coverage if the board determines that due to loss experience, market conditions, or other good reason the liability insurance coverage required by Section 15 of this article is unavailable to applicants for and holders of public display licenses or permits.

SECTION 31. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 3, 1987, by the following vote: Yeas 29, Nays 0. Passed the House on May 26, 1987, by the following vote: Yeas 122, Nays 9, two present not voting.

Approved June 5, 1987.

Effective June 5, 1987.