

**Occupational Board Reform Act Report**  
**For**  
**Fireworks Distributors, Jobbers and Retailers**

**Submitted by the Judiciary Committee**

**December 2020**

**Committee Members:**

Senator Steve Lathrop, District 12, Chair

Senator Patty Pansing Brooks, District 28, Vice Chair

Senator Ernie Chambers, District 11

Senator Adam Morfeld, District 46

Senator Justin Wayne, District 13

Senator Tom Brandt, District 32

Senator Wendy DeBoer, District 10

Senator Julie Slama, District 1

**Committee Staff:**

Neal Erickson and Josh Henningsen, Legal Counsels

Laurie Vollertsen, Committee Clerk

The Occupational Board Reform Act, passed by the Legislature in 2018, requires each standing committee to review and analyze the occupational regulations within the jurisdiction of the standing committee and submit a report to the Clerk of the Legislature. The report must address several items listed within the Act (Neb. Rev. Stat. §84-948) and are provided below.

**(a) The title of the regulated occupation and the name of the occupational board responsible for enforcement of the occupational regulations**

This report addresses Fireworks Distributors, Jobbers, and Retailers, regulated occupations identified as being under the jurisdiction of the Judiciary Committee. These positions do not include fireworks displays which are addressed in other statute sections (see Neb. Rev. Stat. §28-1239.01)

Since at least 1977, the State of Nebraska has required those involved with the wholesale and retail sales of consumer fireworks to be licensed by the State Fire Marshal.

**(b) The statutory citation or other authorization for the creation of the occupational regulations and occupational board**

While there is no Occupational Board regarding fireworks sales, the licensing requirement is found in Neb. Rev. Stat. §28-1246.

**(c) The number of members of the occupational board and how the members are appointed**

Not applicable as there is no Occupational Board

**(d) The qualifications for membership on the occupational board**

Not applicable

**(e) The number of time the occupational board is required to meet during the year and the number of times it actually met**

Not applicable.

**(f) Annual Budget information for the past for the occupational board for the five most recent recently completed fiscal years**

Although there is no Occupational Board the numbers below reflect the portion of the Fire Marshal's budget devoted to the licensing of Distributors, Jobbers and Retailers.

FY 20	\$3256	FY 19	\$4947	FY 18	\$8873	FY 17	\$10,152
FY 16	\$11,320	FY 15	\$16,389,742				

**(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, occupational licenses, and registrations the occupational board has issued, revoked, denied, or assessed penalties**

**against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties;**

Number issued: 3935

Number revoked: 0

Reasons for revocation: Although no revocations, some warning letters issued.

Number denied: 232

Reasons for denial: Generally, for incomplete or inaccurate applications. Information is provided to the applicant on information needed to reapply and be approved.

Penalties: 0

Reasons for penalty: No penalties issued. Several instances where a code violation is found at the inspection and must be corrected prior to continued sales but the Agency has not had to seek criminal enforcement.

**(h) A review of the basic assumptions underlying the creation of the occupational regulations;**

Fireworks are an inherently dangerous item by their very nature. Without the licensing there could be an increase in injuries and property loss due to the danger posed by the misuse or incorrect storage of fireworks.

The three types of licenses are to ensure that fireworks are regulated in the State. Fireworks are an inherently dangerous product and it is important to have licensing to help ensure public safety through inspections and a open knowledge base of Nebraska requirements.

**(i) A statement from the occupational board on the effectiveness of the occupational regulations;**

Fireworks are a product designed to explode or catch fire; as such, they pose a significant risk for injury or property harm. The State Fire Marshal Agency (SFM) provides three levels of licenses/permits within consumer fireworks. These are the Distributor, Jobber and retail stand permit. The Distributor and Jobber permits are utilized by companies or individuals who wish to sell consumer fireworks at wholesale. The most common scenario is to sell them to retail stand permit holders, who then in turn sell the product to the public. By licensing these parties the SFM helps to ensure that public safety is maintained through a knowledge of who is bring product into the state, as well as where the product is being sold. Retail stand inspections work to ensure public safety by maintain compliance with adopted code requirements for issues such as safe exiting, proper display methods, proper building materials for the locations, and numerous other issues. The permitting of the stands provides the Agency with the physical locations for the inspections. The licensing of the Distributors and Jobbers ensures that companies and people selling these products know what is allowed in Nebraska and provides contact information if there are questions that arise in the inspection process. It is not possible to eliminate all injuries or property damage that occur with fireworks because there is no way to ensure they are always used in the intended manner. However, licensing and permitting has helped reduce the number as the SFM can help ensure allowed products are being sold and from safe locations.

**(j) A comparison of whether and how other states regulate the occupation.**

Most states that allow consumer fireworks that explode require some form of regulation of wholesale and retail sales.

**(4) Subject to subsection (5) of this section, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section [84-946](#) considering the following recommended courses of action for meeting such policies:**

As subsections (a) through (g) of this subsection do not apply to the licensing of fireworks distributors, jobbers, or retailers, these subsections are not included.

**Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.**

The committee recommends that the licensing for Fireworks Distributors, Jobbers, and Retailers be continued.