

The House Committee on Regulated Industries offers the following substitute to HB 110:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to
2 regulation of fireworks, so as to provide for the sale of consumer fireworks; to provide for
3 definitions; to provide for licensing; to revise penalties; to provide for enforcement of said
4 chapter; to render certain devices unlawful that require a flame for propulsion or lighting; to
5 amend Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to specific,
6 business, and occupation taxes, so as to provide for an excise tax on the sale of consumer
7 fireworks; to provide for criminal penalties; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of
12 fireworks, is amended by revising Code Section 25-10-1, relating to definitions, as follows:
13 "25-10-1.

14 (a) As used in this chapter, the term:

15 (1) 'Consumer fireworks' means any small fireworks devices containing restricted
16 amounts of pyrotechnic composition, designed primarily to produce visible or audible
17 effects by combustion, that comply with the construction, chemical composition, and
18 labeling regulations of the United States Consumer Product Safety Commission as
19 provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the
20 United States Department of Transportation as provided for in Part 172 of Title 49 of the
21 Code of Federal Regulations, and the American Pyrotechnics Association as provided for
22 in the 2001 American Pyrotechnics Association Standard 87-1.

23 (2) 'Consumer fireworks retail sales facility' shall have the same meaning as provided for
24 by NFPA 1124.

25 ~~(1)~~(3) 'Fireworks' means any combustible or explosive composition or any substance or
26 combination of substances or article prepared for the purpose of producing a visible or

27 audible effect by combustion, explosion, deflagration, or detonation, including blank
 28 cartridges, ~~balloons requiring fire underneath to propel them~~, firecrackers, torpedos,
 29 skyrockets, Roman candles, bombs, sparklers, and other combustibles and explosives of
 30 like construction, as well as articles containing any explosive or flammable compound
 31 and tablets and other devices containing an explosive substance.

32 (4) 'NFPA 1124' means the National Fire Protection Association Standard 1124, Code
 33 for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and
 34 Pyrotechnic Articles, 2006 Edition.

35 (5) 'Nonprofit group' means any entity exempt from taxation under Section 501(c)(3) of
 36 the Internal Revenue Code of 1986.

37 (6) 'Permanent building' shall have the same meaning as provided for by NFPA 1124.

38 ~~(2)~~(7) 'Proximate audience' means an audience closer to pyrotechnic devices than
 39 permitted by the National Fire Protection Association Standard 1123, Code for Fireworks
 40 Display, as adopted by the Safety Fire Commissioner.

41 ~~(3)~~(8) 'Pyrotechnics' means fireworks.

42 (9) 'Store' shall have the same meaning as provided for by NFPA 1124.

43 (10) 'Consumer fireworks retail sales stand' shall have the same meaning as provided for
 44 by NFPA 1124 and shall include a tent, canopy, or membrane structure.

45 (b) As used in this chapter, the term 'consumer fireworks' or 'fireworks' shall not include:

46 (1) Model rockets and model rocket engines designed, sold, and used for the purpose of
 47 propelling recoverable aero models, toy pistol paper caps in which the explosive content
 48 averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy
 49 cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term
 50 'consumer fireworks' or 'fireworks' include ammunition consumed by weapons used for
 51 sporting and hunting purposes; and

52 (2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling
 53 items which are nonexplosive and nonaerial and contain 75 grams or less of chemical
 54 compound per tube or a total of ~~200~~ 500 grams or less for multiple tubes; snake and glow
 55 worms; smoke devices; or trick noise makers which include paper streamers, party
 56 poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or less
 57 of explosive mixture."

58 SECTION 2.

59 Said chapter is further amended by revising Code Section 25-10-2, relating to prohibited
 60 fireworks activities, as follows:

61 "25-10-2.

62 (a) It shall be unlawful for any person, firm, corporation, association, or partnership to
63 offer for sale at retail or wholesale, to use or explode or cause to be exploded, or to possess,
64 manufacture, transport, or store any consumer fireworks or fireworks, except as otherwise
65 provided in this chapter.

66 (b)(1) Notwithstanding any provision of this chapter to the contrary, it shall be unlawful
67 for any person, firm, corporation, association, or partnership to sell ~~to any person under~~
68 ~~18 years of age~~ consumer fireworks or any items defined in paragraph (2) of subsection
69 (b) of Code Section 25-10-1 to any person under 18 years of age.

70 (2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)
71 of subsection (b) of Code Section 25-10-1 to any person by any means other than an
72 in-person, face-to-face sale. Such person shall provide proper identification to the seller
73 at the time of such purchase. For purposes of this paragraph, the term 'proper
74 identification' means any document issued by a governmental agency containing a
75 description of the person; or such person's photograph, or both, and giving such person's
76 date of birth and includes without being limited to; a passport, military identification card,
77 driver's license, or an identification card authorized under Code Sections 40-5-100
78 through 40-5-104.

79 (3) It shall be unlawful to use consumer fireworks or any items defined in paragraph (2)
80 of subsection (b) of Code Section 25-10-1 indoors.

81 (4)(A) It shall be lawful for any person 18 years of age or older to use or explode or
82 cause to be exploded or to possess, manufacture, transport, or store consumer fireworks.

83 (B) It shall be lawful for any person who is 16 or 17 years of age to possess consumer
84 fireworks, provided that such person is serving as an assistant to a licensee licensed
85 under subsection (e) of Code Section 25-10-5.1 or the nonprofit group of which such
86 licensee is acting as an agent or bona fide representative.

87 (5)(A) It shall be lawful for any person 18 years of age or older to sell or to offer for
88 sale at retail or wholesale any consumer fireworks, provided that such person first
89 obtains a license from the Safety Fire Commissioner as provided for in Code Section
90 25-10-5.1.

91 (B) It shall be lawful for any person who is 16 or 17 years of age to sell or to offer for
92 sale at retail or wholesale any consumer fireworks, provided that such person is serving
93 as an assistant to a licensee licensed under subsection (e) of Code Section 25-10-5.1 or
94 the nonprofit group of which such licensee is acting as an agent or bona fide
95 representative.

96 (6) It shall be lawful to sell consumer fireworks from a permanent building, store, or
97 temporary consumer fireworks retail sales stand if such permanent building, store, or

98 temporary consumer fireworks retail sales stand is in compliance with the requirements
 99 for such a permanent building, store, or temporary consumer fireworks retail sales stand
 100 in the selling of consumer fireworks as provided for in NFPA 1124. It shall be unlawful
 101 to sell consumer fireworks from a motor vehicle or from a trailer towed by a motor
 102 vehicle.

103 (7) It shall be unlawful for any person to offer for sale any consumer fireworks from a
 104 temporary consumer fireworks retail sales stand unless such person in so doing is acting
 105 as an agent or bona fide representative of a nonprofit group or as an assistant to such
 106 agent or bona fide representative."

107 SECTION 3.

108 Said chapter is further amended by adding a new Code section to read as follows:

109 "25-10-5.1.

110 (a) The Safety Fire Commissioner shall only issue a license to sell consumer fireworks to
 111 an applicant who:

112 (1) Complies with all the requirements of this chapter;

113 (2) Has not been convicted of a violation of a felony involving consumer fireworks,
 114 fireworks, or explosives or has not been assessed a civil penalty pursuant to Code Section
 115 48-13-132 within the five years preceding the date of his or her application; and

116 (3) Maintains at all times public liability and product liability insurance with minimum
 117 coverage limits of \$2 million to cover the losses, damages, or injuries that might ensue
 118 to persons or property as a result of the licensee selling consumer fireworks.

119 (b) The initial license fee for any person offering consumer fireworks for sale on behalf
 120 of himself or herself or a firm, corporation, association, or partnership from a permanent
 121 consumer fireworks retail sales facility shall be \$5,000.00 per year and location, payable
 122 to the Safety Fire Commissioner. Such initial license shall accrue to the benefit of the
 123 person offering consumer fireworks for sale at the permanent consumer fireworks retail
 124 sales facility location provided for by the license or, if on behalf of a firm, corporation,
 125 association, or partnership, to the benefit of such firm, corporation, association, or
 126 partnership at the permanent consumer fireworks retail sales facility location provided for
 127 by the license. Such initial license shall expire on January 31 of the year after such initial
 128 license was issued. After such initial license, such person on behalf of himself or herself
 129 or the firm, corporation, association, or partnership on whose behalf the initial license was
 130 issued, or another person on behalf of such firm, corporation, association, or partnership,
 131 may annually renew such initial license for \$1,000.00 per year, payable to the Safety Fire
 132 Commissioner. Such annual license shall expire on January 31 of each year.

133 (c) The license fee for a person offering consumer fireworks for sale from a temporary
 134 consumer fireworks retail sales stand as an agent or bona fide representative of a nonprofit
 135 group shall be \$200.00 per location, payable to the Safety Fire Commissioner, and shall
 136 expire 90 days after the issuance of such license. Such license shall accrue to the benefit
 137 of such nonprofit group offering consumer fireworks for sale at the temporary consumer
 138 fireworks retail sales stand location provided for by the license.

139 (d) The annual license fee for any person offering consumer fireworks for sale on behalf
 140 of himself or herself or a firm, corporation, association, or partnership from a store shall
 141 be \$100.00 per year and location, payable to the Safety Fire Commissioner. Such annual
 142 license shall accrue to the benefit of the person offering consumer fireworks for sale at the
 143 store location provided for by the license or, if on behalf of a firm, corporation, association,
 144 or partnership, to the benefit of such firm, corporation, association, or partnership at the
 145 store location provided for by the license. Such annual license shall expire on January 31
 146 of each year.

147 (e) Any person issued a license under this Code section, whether on behalf of himself or
 148 herself or a firm, corporation, association, or partnership, may have assistants under his or
 149 her control conducting the sale of consumer fireworks, provided that such assistants are 16
 150 years of age or older as provided for in Code Section 25-10-2."

151 **SECTION 4.**

152 Said chapter is further amended by revising Code Section 25-10-6, relating to fireworks
 153 manufactured, sold, or stored in violation of this chapter declared contraband and seizure and
 154 disposition, as follows:

155 "25-10-6.

156 The state fire marshal shall enforce the provisions of this chapter. All fireworks
 157 manufactured, offered for sale, exposed for sale, or stored in violation of this chapter are
 158 declared to be contraband and may be seized, taken, and removed, or caused to be removed
 159 and destroyed at the expense of the owner thereof by the state fire marshal, the Georgia
 160 State Patrol, or any sheriff or local police official."

161 **SECTION 5.**

162 Said chapter is further amended by revising Code Section 25-10-9, relating to penalty for
 163 illegal sale of sparklers or other devices, as follows:

164 "25-10-9.

165 Notwithstanding any provision of this chapter to the contrary, any person, firm,
 166 corporation, association, or partnership ~~who or which~~ that knowingly violates ~~subsection~~
 167 ~~(b) of Code Section 25-10-2 this chapter~~ this chapter may be punished by a fine not to exceed \$100.00

168 \$2,500.00. Each sales transaction in violation of ~~subsection (b) of Code Section 25-10-2~~
 169 this chapter shall be a separate offense."

170 **SECTION 6.**

171 Said chapter is further amended by adding a new Code section to read as follows:

172 "25-10-10.

173 It shall be unlawful for any person, firm, corporation, association, or partnership to release
 174 or cause to be released any balloon, bag, parachute, or other similar device which requires
 175 fire underneath for propulsion or to release or cause to be released any floating water
 176 lantern or wish lantern which uses a flame to create a lighting effect in any public
 177 waterway, lake, pond, stream, or river."

178 **SECTION 7.**

179 Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to specific,
 180 business, and occupation taxes, is amended by adding a new article to read as follows:

181 "ARTICLE 7

182 48-13-130.

183 As used in this article, the term:

184 (1) 'Consumer fireworks' shall have the same meaning as provided for in Code Section
 185 25-10-1.

186 (2) 'Seller' means the person who is issued a license pursuant to Code Section 25-10-5.1.

187 48-13-131.

188 (a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed
 189 upon the sale of consumer fireworks and any items provided for in paragraph (2) of
 190 subsection (b) of Code Section 25-10-1 in this state at a rate of 5 percent per item sold.

191 (b) The excise tax imposed by this article shall be paid by the seller and due and payable
 192 in the same manner as would be otherwise required under Article 1 of Chapter 8 of this
 193 title.

194 48-13-132.

195 A seller who knowingly and willfully violates the requirements of this article shall be
 196 assessed a civil penalty of not more than \$10,000.00 in addition to the amount of tax due.

197 48-13-133.

198 The department is authorized to adopt rules and regulations necessary for the enforcement
199 and implementation of the provisions of this Code section."

200

SECTION 8.

201 All laws and parts of laws in conflict with this Act are repealed.