

The Senate Committee on Public Safety offers the following substitute to HB 110/CSFA:

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 the use or explosion of consumer fireworks during certain times  
4 and dates and for exceptions; to provide for licensing; to revise penalties; to provide for  
5 enforcement of said chapter; to render certain devices unlawful that require a flame for  
6 propulsion or lighting; to amend Chapter 60 of Title 36 of the Official Code of Georgia  
7 Annotated, relating to provisions applicable to counties and municipal corporations, so as to  
8 clarify local governments' role in regulating or prohibiting the sale and use of consumer  
9 fireworks; to amend Chapter 13 of Title 48 of the Official Code of Georgia Annotated,  
10 relating to specific, business, and occupation taxes, so as to provide for an excise tax on the  
11 sale of consumer fireworks; to provide for criminal penalties; to provide for related matters;  
12 to provide for an effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

14 Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of  
15 fireworks, is amended by revising Code Section 25-10-1, relating to definitions, as follows:

16 "25-10-1.

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

18 (1) 'Consumer fireworks' means any small fireworks devices containing restricted  
19 amounts of pyrotechnic composition, designed primarily to produce visible or audible  
20 effects by combustion, that comply with the construction, chemical composition, and  
21 labeling regulations of the United States Consumer Product Safety Commission as  
22 provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the  
23 United States Department of Transportation as provided for in Part 172 of Title 49 of the  
24 Code of Federal Regulations, and the American Pyrotechnics Association as provided for  
25 in the 2001 American Pyrotechnics Association Standard 87-1.  
26

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

29 (3) 'Consumer fireworks retail sales stand' shall have the same meaning as provided for  
 30 by NFPA 1124.

31 (4) 'Distributor' means any person, firm, corporation, association, or partnership which  
 32 sells at retail or wholesale any consumer fireworks.

33 ~~(4)~~(5) 'Fireworks' means any combustible or explosive composition or any substance or  
 34 combination of substances or article prepared for the purpose of producing a visible or  
 35 audible effect by combustion, explosion, deflagration, or detonation, including blank  
 36 cartridges, balloons requiring fire underneath to propel them, firecrackers, torpedos,  
 37 skyrockets, Roman candles, bombs, sparklers, and other combustibles and explosives of  
 38 like construction, as well as articles containing any explosive or flammable compound  
 39 and tablets and other devices containing an explosive substance.

40 (6) 'NFPA 1124' means the National Fire Protection Association Standard 1124, *Code*  
 41 *for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and*  
 42 *Pyrotechnic Articles, 2006 Edition.*

43 (7) 'Nonprofit group' means any entity exempt from taxation under Section 501(c)(3) of  
 44 the Internal Revenue Code of 1986.

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

46 ~~(2)~~(9) 'Proximate audience' means an audience closer to pyrotechnic devices than  
 47 permitted by the National Fire Protection Association Standard 1123, *Code for Fireworks*  
 48 *Display*, as adopted by the Safety Fire Commissioner.

49 ~~(3)~~(10) 'Pyrotechnics' means fireworks.

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

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

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

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

**SECTION 2.**

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

"25-10-2.

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

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

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

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

(B) Except as provided for in subparagraph (D) of this paragraph and subject to paragraph (4) of this subsection, it shall be lawful for any person, firm, corporation, association, or partnership to use or explode or cause to be exploded any consumer fireworks on any day between the hours of 10:00 A.M. and 12:00 Midnight only; provided, however, that it shall be lawful for any person, firm, corporation, association, or partnership to use or explode or cause to be exploded any consumer fireworks on January 1, July 3, July 4, and December 31 of each year between the hours of 12:00 Midnight and 2:00 A.M.

(C) Subject to paragraph (4) of this subsection, it shall be lawful for any person, firm, corporation, association, or partnership to use or explode or cause to be exploded any consumer fireworks anywhere in this state except:

(i) As provided for under subparagraph (A) of this paragraph;

99 (ii) In any location where such person, firm, corporation, association, or partnership  
100 is not lawfully present or is not otherwise lawfully permitted to use or explode or  
101 cause to be exploded any consumer fireworks; or

102 (iii) Within 100 yards of a nuclear power facility or a facility engaged in the retail  
103 sale of gasoline or the production, refining, processing, or blending of gasoline for  
104 such retail purposes.

105 (D) Any person, firm, corporation, association, or partnership may use or explode or  
106 cause to be exploded any consumer fireworks on any day at a time not provided for  
107 under subparagraph (B) of this paragraph if such person, firm, corporation, association,  
108 or partnership is issued a special use permit pursuant to the law of a governing authority  
109 of a county or municipal corporation for the use or explosion of consumer fireworks in  
110 a location within such county or municipality at a time not provided for under  
111 subparagraph (B) of this paragraph. Such special use permit shall designate the time  
112 or times and location that such person, firm, corporation, association, or partnership  
113 may use or explode or cause to be exploded such consumer fireworks. A fee assessed  
114 by a county or municipal corporation for the issuance of a special use permit pursuant  
115 to this subparagraph shall not exceed \$100.00. No governing authority or official of a  
116 county, municipality, or other political subdivision shall bear liability for any decisions  
117 made pursuant to this Code section.

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

120 (B) To the extent otherwise permitted by law, it shall be lawful for any person who is  
121 16 or 17 years of age to possess or transport consumer fireworks, provided that such  
122 person is serving as an assistant to a distributor licensed under subsection (c) of Code  
123 Section 25-10-5.1 or the nonprofit group benefiting from such distributor's application  
124 pursuant to subsection (c) of Code Section 25-10-5.1 and is not transporting such  
125 consumer fireworks on a highway which constitutes a part of The Dwight D.  
126 Eisenhower System of Interstate and Defense Highways.

127 (5)(A) It shall be lawful for any person 18 years of age or older to sell or to offer for  
128 sale at retail or wholesale any consumer fireworks pursuant to the requirements of this  
129 chapter.

130 (B) It shall be lawful for any person who is 16 or 17 years of age to sell or to offer for  
131 sale at retail or wholesale any consumer fireworks, provided that such person is serving  
132 as an assistant to a distributor licensed under subsection (c) of Code Section 25-10-5.1  
133 or the nonprofit group benefiting from such distributor's application pursuant to  
134 subsection (c) of Code Section 25-10-5.1.

- 135 (6)(A) It shall be lawful to sell consumer fireworks from a permanent building or store  
 136 only if such permanent building or store is:
- 137 (i) In compliance with the requirements for such a permanent building or store in the  
 138 selling of consumer fireworks as provided for in NFPA 1124; and
- 139 (ii) Selling consumer fireworks of a distributor licensed pursuant to subsection (b)  
 140 or paragraph (1) of (d) of Code Section 25-10-5.1.
- 141 (B) It shall be lawful to sell consumer fireworks from a temporary consumer fireworks  
 142 retail sales stand only if such temporary consumer fireworks retail sales stand is:
- 143 (i) In compliance with the requirements for such a temporary consumer fireworks  
 144 retail sales stand in the selling of consumer fireworks as provided for in NFPA 1124;  
 145 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political  
 146 subdivision, unless the chief administrative officer of the fire department of a county,  
 147 municipality, or other political subdivision or chartered fire department legally  
 148 organized to operate in this state pursuant to Chapter 3 of this title and having  
 149 operational authority over such location of the temporary consumer fireworks retail  
 150 sales stand provides in writing that such temporary consumer fireworks retail sales  
 151 stand may operate in excess of 1,000 feet from such fire hydrant; and
- 152 (iii) Selling consumer fireworks of a distributor licensed pursuant to subsection (c)  
 153 of Code Section 25-10-5.1.
- 154 (C) It shall be unlawful to sell consumer fireworks from any motor vehicle or from a  
 155 trailer towed by a motor vehicle."

156 **SECTION 3.**

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

158 "25-10-5.1.

- 159 (a)(1) A license pursuant to this Code section shall only be issued to a distributor that:
- 160 (A) Complies with all the requirements of this chapter; and
- 161 (B) Maintains at all times public liability and product liability insurance with minimum  
 162 coverage limits of \$2 million to cover the losses, damages, or injuries that might ensue  
 163 to persons or property as a result of selling such distributor's consumer fireworks or  
 164 items defined in paragraph (2) of subsection (b) of Code Section 25-10-1.
- 165 (2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
 166 statement of representation in an application executed pursuant to this Code section shall  
 167 be guilty of a violation of Code Section 16-10-20.
- 168 (b)(1) The initial license fee for a distributor having consumer fireworks offered for sale  
 169 from a permanent consumer fireworks retail sales facility shall be \$5,000.00 per year and  
 170 location, payable to the Safety Fire Commissioner. Upon finding that a distributor has

171 met the requirements of paragraph (1) of subsection (a) of this Code section and upon  
172 payment of such license fee, such initial license shall be issued by the Safety Fire  
173 Commissioner and shall identify the permanent consumer fireworks retail sales facility  
174 applicable to such license. Such initial license shall expire on January 31 of the year after  
175 such initial license was issued. After such initial license, such distributor may annually  
176 renew such initial license for \$1,000.00 per year, payable to the Safety Fire  
177 Commissioner. Upon finding that a distributor has met the requirements of paragraph (1)  
178 of subsection (a) of this Code section and upon payment of such license fee, such annual  
179 license shall be issued by the Safety Fire Commissioner and shall identify the permanent  
180 consumer fireworks retail sales facility applicable to such license. Such annual license  
181 shall expire on January 31 of each year; provided, however, that a distributor shall not  
182 apply for an annual license earlier than 30 days prior to the expiration of an initial license  
183 or annual license.

184 (2) The determination by the Safety Fire Commissioner of whether a distributor has met  
185 requirements for the issuance of a license required by this subsection shall be made  
186 within 15 days of the submission of an application for any such license. Such application  
187 shall be in writing and, if the Safety Fire Commissioner provides for a written form for  
188 the application for a license pursuant to this Code section, upon such form as may be  
189 provided by the Safety Fire Commissioner. If a determination has not been made within  
190 the time provided for by this paragraph, or for an appeal of a determination by the Safety  
191 Fire Commissioner, a distributor may seek review from the judge of the probate court of  
192 the county of the location or proposed location of the permanent consumer fireworks  
193 retail sales facility. Such judge may provide for the issuance or nonissuance of a license  
194 and for the payment of license fees in such manner as is consistent with the provisions  
195 of this subsection.

196 (c)(1) The license fee for a distributor having consumer fireworks offered for sale from  
197 a temporary consumer fireworks retail sales stand shall be \$1,000.00 per location,  
198 payable to the governing authority of the county, municipality, or other political  
199 subdivision of this state in whose boundaries such temporary consumer fireworks retail  
200 sales stand shall be located or is proposed to be located. Upon finding that a distributor  
201 has met the requirements of paragraph (1) of subsection (a) of this Code section, has no  
202 more than the permitted number of licenses under this subsection, that the sales of  
203 consumer fireworks from such temporary consumer fireworks retail sales stand shall  
204 accrue to the benefit of a nonprofit group, and upon payment of such license fee, such  
205 license shall be issued by the fire department of the county, municipality, or other  
206 political subdivision or the chartered fire department legally organized to operate in this  
207 state pursuant to Chapter 3 of this title and having operational authority of the area in

208 which such temporary consumer fireworks retail sales stand shall be located or is  
209 proposed to be located; provided, however, that no such license shall be issued prior to  
210 January 1, 2016. Such license shall identify the temporary consumer fireworks retail  
211 sales stand applicable to such license and shall expire 90 days after the issuance of such  
212 license.

213 (2) A determination by a fire department as provided for under paragraph (1) of this  
214 subsection of whether a distributor has met requirements for the issuance of a license  
215 pursuant to this subsection shall be made within 15 days of the submission of an  
216 application for any such license. Such application shall be in writing and, if such fire  
217 department provides for a written form for the application for a license pursuant to this  
218 Code section, upon such form as may be provided by such fire department. If a  
219 determination has not been made within the time provided for by this paragraph, or for  
220 an appeal of a determination by such fire department, a distributor may seek review from  
221 the judge of the probate court of the county of the location or proposed location of the  
222 temporary consumer fireworks retail sales stand. Such judge may provide for the  
223 issuance or nonissuance of a license and for the payment of license fees in such manner  
224 as is consistent with the provisions of this subsection.

225 (3) At any one time and within each county, a distributor may have up to two licenses  
226 issued pursuant to this subsection for locations within such county; provided, however,  
227 that if a distributor has at least one license issued under subsection (b) or (d) of this Code  
228 section for a location in a county, then for such county a distributor may have up to two  
229 licenses under this subsection for each license that such distributor has under subsection  
230 (b) or (d) of this Code section for locations in such county.

231 (4) A nonprofit group benefiting from the sale of consumer fireworks pursuant to this  
232 Code section shall directly participate in operating the temporary consumer fireworks  
233 retail sales stand. It shall be unlawful for a nonprofit group or any agent or bona fide  
234 representative of a nonprofit group to knowingly lend the name of the nonprofit group or  
235 allow the identity of the nonprofit group to be used for the license under this subsection  
236 if such nonprofit group is not directly participating in operating such temporary consumer  
237 fireworks retail sales stand.

238 (5) The governing authority of a county, municipality, or other political subdivision  
239 receiving fees pursuant to this Code section shall expend such fees for public safety  
240 purposes.

241 (6) A distributor licensed pursuant to this subsection shall submit a list of the names and  
242 addresses, including the counties, of each temporary consumer fireworks retail sales stand  
243 at which such distributor has consumer fireworks offered for sale pursuant to this Code  
244 section to the Safety Fire Commissioner. Such list shall be submitted by January 31 of

245 each year and such distributor shall amend such list, or file an initial list if such  
 246 distributor first becomes licensed after January 31 of a particular year, within 45 days of  
 247 having such distributor's consumer fireworks offered for sale at a location not previously  
 248 included on such list. The Safety Fire Commissioner shall make such list publicly  
 249 available for inspection. In making determinations as provided for under this subsection,  
 250 fire departments shall reference the list provided for by this paragraph.

251 (d)(1) The initial license fee for a distributor having consumer fireworks offered for sale  
 252 from a store shall be \$5,000.00 per year and location, payable to the Safety Fire  
 253 Commissioner. Upon finding that a distributor has met the requirements of subsection (a)  
 254 of this Code section, such initial license shall be issued by the Safety Fire Commissioner  
 255 and shall identify the store applicable to such license. Such initial license shall expire on  
 256 January 31 of the year after such initial license was issued. After such initial license,  
 257 such distributor may annually renew such initial license for \$1,000.00 per year, payable  
 258 to the Safety Fire Commissioner. Upon finding that a distributor has met the  
 259 requirements of subsection (a) of this Code section, such annual license shall be issued  
 260 by the Safety Fire Commissioner and shall identify the store applicable to such license.  
 261 Such annual license shall expire on January 31 of each year; provided, however, that a  
 262 distributor shall not apply for an annual license earlier than 30 days prior to the expiration  
 263 of an initial license or annual license.

264 (2) The determination by the Safety Fire Commissioner of whether a distributor has met  
 265 requirements for the issuance of a license required by this subsection shall be made  
 266 within 15 days of the submission of an application for any such license. Such application  
 267 shall be in writing and, if the Safety Fire Commissioner provides for a written form for  
 268 the application for a license pursuant to this Code section, upon such form as may be  
 269 provided by the Safety Fire Commissioner. If a determination has not been made within  
 270 the time provided for by this paragraph, or for an appeal of a determination by the Safety  
 271 Fire Commissioner, a distributor may seek review from the judge of the probate court of  
 272 the county of the location or proposed location of the store from which consumer  
 273 fireworks will be sold. Such judge may provide for the issuance or nonissuance of a  
 274 license and for the payment of license fees in such manner as is consistent with the  
 275 provisions of this subsection."

276 **SECTION 4.**

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

280 "25-10-6.  
 281 The state fire marshal shall enforce the provisions of this chapter. Applicable fire  
 282 departments of a county, municipality, or other political subdivision or a chartered fire  
 283 department shall refer cases for enforcement under subsection (c) of Code Section  
 284 25-10-5.1 to the state fire marshal. All fireworks manufactured, offered for sale, exposed  
 285 for sale, or stored in violation of this chapter are declared to be contraband and may be  
 286 seized, taken, and removed, or caused to be removed and destroyed at the expense of the  
 287 owner thereof by the state fire marshal, ~~the Georgia State Patrol, or any sheriff or local~~  
 288 ~~police official."~~

289 **SECTION 5.**

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

292 "25-10-9.  
 293 Notwithstanding any provision of this chapter to the contrary, any person, firm,  
 294 corporation, association, or partnership ~~who or which~~ that knowingly violates ~~subsection~~  
 295 ~~(b) of Code Section 25-10-2 this chapter~~ may be punished by a fine not to exceed \$100.00  
 296 \$2,500.00. Each sales transaction in violation of ~~subsection (b) of Code Section 25-10-2~~  
 297 this chapter shall be a separate offense."

298 **SECTION 6.**

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

300 "25-10-10.  
 301 It shall be unlawful for any person, firm, corporation, association, or partnership to release  
 302 or cause to be released any balloon, bag, parachute, or other similar device which requires  
 303 fire underneath for propulsion or to release or cause to be released any floating water  
 304 lantern or wish lantern which uses a flame to create a lighting effect in any public  
 305 waterway, lake, pond, stream, or river."

306 **SECTION 7.**

307 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to provisions  
 308 applicable to counties and municipal corporations, is amended by revising Code Section  
 309 36-60-24, relating to the sale of products or services, as follows:

310 "36-60-24.  
 311 (a) The governing authority of a county or municipal corporation shall not prohibit the sale  
 312 or use or explosion of consumer fireworks or products or services which products or

313 ~~services~~ are lawful under subsection (b) of Code Section 25-10-1, unless such prohibition  
 314 is expressly authorized by ~~the general law of the state.~~

315 (b) If the sale of a product or service is regulated by ~~subsection (b) of Code Section~~  
 316 ~~25-10-1~~ Chapter 10 of Title 25, the governing authority of a county or municipal  
 317 corporation shall not enact additional regulation of the sale or use or explosion of such  
 318 product or service, unless such additional regulation is expressly authorized by general law.

319 (c) Notwithstanding subsections (a) and (b) of this Code section, the governing authority  
 320 of a county or municipal corporation may provide for permits or licenses for the sale or use  
 321 of consumer fireworks as provided for under subsection (c) of Code Section 25-10-5.1.

322 (d) For purposes of this subsection, the terms 'consumer fireworks' shall have the same  
 323 meanings as provided in Code Section 25-10-1.

324 ~~(c)~~(e) Any ordinance enacted before, on, or after July 1, 2006, by a county or municipal  
 325 corporation in violation of this Code section is void."

326 **SECTION 8.**

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

329 "ARTICLE 7

330 48-13-130.

331 As used in this article, the term:

332 (1) 'Consumer fireworks' shall have the same meaning as provided for in Code Section  
 333 25-10-1.

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

335 48-13-131.

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

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

342 48-13-132.

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

345 48-13-133.

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

348 **SECTION 9.**

349 This Act shall become effective on July 1, 2015.

350 **SECTION 10.**

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