

House Bill 110

By: Representatives Roberts of the 155<sup>th</sup>, Turner of the 21<sup>st</sup>, McCall of the 33<sup>rd</sup>, Sims of the 123<sup>rd</sup>, Fleming of the 121<sup>st</sup>, and others

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 amend Chapter 13 of Title 48 of  
4 the Official Code of Georgia Annotated, relating to specific, business, and occupation taxes,  
5 so as to provide for an excise tax on the sale of consumer fireworks; to provide for criminal  
6 penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 "25-10-1.

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

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

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

23 ~~(1)~~(3) 'Fireworks' means any combustible or explosive composition or any substance or  
24 combination of substances or article prepared for the purpose of producing a visible or  
25 audible effect by combustion, explosion, deflagration, or detonation, including blank  
26 cartridges, balloons requiring fire underneath to propel them, firecrackers, torpedos,

27 skyrockets, Roman candles, bombs, sparklers, and other combustibles and explosives of  
 28 like construction, as well as articles containing any explosive or flammable compound  
 29 and tablets and other devices containing an explosive substance.

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

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

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

36 ~~(2)~~(7) 'Proximate audience' means an audience closer to pyrotechnic devices than  
 37 permitted by the National Fire Protection Association Standard 1123, Code for Fireworks  
 38 Display, as adopted by the Safety Fire Commissioner.

39 ~~(3)~~(8) 'Pyrotechnics' means fireworks.

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

41 (10) 'Temporary consumer fireworks retail sales stand' shall have the same meaning as  
 42 provided for by NFPA 1124.

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

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

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

## 56 SECTION 2.

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

59 "25-10-2.

60 (a) It shall be unlawful for any person, firm, corporation, association, or partnership to  
 61 offer for sale at retail or wholesale, to use or explode or cause to be exploded, or to possess,

62 manufacture, transport, or store any consumer fireworks or fireworks, except as otherwise  
 63 provided in this chapter.

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

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

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

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

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

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

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

94 (6) It shall be lawful to sell consumer fireworks from a permanent building, store, or  
 95 temporary consumer fireworks retail sales stand if such permanent building, store, or  
 96 temporary consumer fireworks retail sales stand is in compliance with the requirements  
 97 for such a permanent building, store, or temporary consumer fireworks retail sales stand  
 98 in the selling of consumer fireworks as provided for in NFPA 1124. It shall be unlawful

99 to sell consumer fireworks from any tents, canopies, or membrane structures or in a motor  
100 vehicle or from a trailer towed by a motor vehicle.

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

105 **SECTION 3.**

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

107 "25-10-5.1.

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

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

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

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

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

127 (c) The license fee for a person offering consumer fireworks for sale from a temporary  
128 consumer fireworks retail sales stand as an agent or bona fide representative of a nonprofit  
129 group shall be \$200.00 per location, payable to the Safety Fire Commissioner, and shall  
130 expire 180 days after the issuance of such license.

131 (d) The annual license fee for any person offering consumer fireworks for sale on behalf  
132 of himself or herself or a firm, corporation, association, or partnership from a store shall  
133 be \$100.00 per year, payable to the Safety Fire Commissioner. Such annual license shall  
134 expire on January 31 of each year.

135 (e) Any person issued a licensed under this Code section may have assistants or agents  
 136 under his or her control conducting the sale of consumer fireworks, provided that such  
 137 agents are 16 years of age or older as provided for in Code Section 25-10-2."

138 **SECTION 4.**

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

141 "25-10-9.

142 Notwithstanding any provision of this chapter to the contrary, any person, firm,  
 143 corporation, association, or partnership ~~who or which~~ that knowingly violates ~~subsection~~  
 144 ~~(b) of Code Section 25-10-2 this chapter~~ this chapter may be punished by a fine not to exceed \$100.00  
 145 \$2,500.00. Each sales transaction in violation of ~~subsection (b) of Code Section 25-10-2~~  
 146 this chapter shall be a separate offense."

147 **SECTION 5.**

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

150 "ARTICLE 7

151 48-13-130.

152 As used in this article, the term:

153 (1) 'Consumer fireworks' shall have the same meaning as provided for in Code Section  
 154 25-10-1.

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

156 48-13-131.

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

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

163 48-13-132.

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

166 48-13-133.

167 The department is authorized to adopt rules and regulations necessary for the enforcement

168 and implementation of the provisions of this Code section."

169

**SECTION 6.**

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