

House Bill 952

By: Representatives Roberts of the 155th, Watson of the 166th, McCall of the 33rd, Cooke of the 18th, Nimmer of the 178th, 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 and fees; to provide for related matters; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

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

11 (1) 'Consumer fireworks' means any device, other than a novelty or theatrical
12 pyrotechnic article, intended to produce visible or audible effects, or both, by combustion,
13 deflagration, or detonation, including ground and handheld sparkling devices, fireworks
14 UN0335, fireworks UN0336, and fireworks UN0337 if examination and testing in
15 accordance with 49 C.F.R. 173.56 warrants such classification.

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

18 (3) 'Consumer fireworks retail stand or store' shall have the meaning as provided for by
19 NFPA 1124.

20 ~~(4)~~(4) 'Fireworks' means any combustible or explosive composition or any substance or
21 combination of substances or article prepared for the purpose of producing a visible or
22 audible effect by combustion, explosion, deflagration, or detonation, including blank
23 cartridges, balloons requiring fire underneath to propel them, firecrackers, torpedos,
24 skyrockets, Roman candles, bombs, sparklers, and other combustibles and explosives of
25 like construction, as well as articles containing any explosive or flammable compound
26 and tablets and other devices containing an explosive substance.

27 (5) 'Fireworks UN0335' means the classification of fireworks as defined by regulations
 28 of the United States Department of Transportation set forth in Parts 172 and 173 of
 29 Title 49 of the Code of Federal Regulations.

30 (6) 'Fireworks UN0336' means the classification of fireworks as defined by regulations
 31 of the United States Department of Transportation set forth in Parts 172 and 173 of
 32 Title 49 of the Code of Federal Regulations.

33 (7) 'Fireworks UN0337' means the classification of fireworks as defined by regulations
 34 of the United States Department of Transportation set forth in Parts 172 and 173 of
 35 Title 49 of the Code of Federal Regulations.

36 (8) 'Ground and handheld sparkling device' means ground based or handheld devices
 37 that:

38 (A) Produce a shower of white, gold, or colored sparks as their primary pyrotechnic
 39 effect including such additional effects as a colored flame, an audible crackling effect,
 40 an audible whistle effect, and smoke;

41 (B) Do not rise into the air, fire inserts or projectiles into the air, explode, or produce
 42 a report; provided, however, that a mild audible crackling type effect shall not be
 43 considered a report; and

44 (C) May produce a cloud of smoke as a sole pyrotechnic effect.

45 (9) 'NFPA 1124' means the National Fire Protection Association Standard 1124, *Code*
 46 *for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and*
 47 *Pyrotechnic Articles*, 2006 Edition.

48 ~~(2)~~(10) 'Proximate audience' means an audience closer to pyrotechnic devices than
 49 permitted by the National Fire Protection Association Standard 1123, *Code for Fireworks*
 50 *Display*, as adopted by the Safety Fire Commissioner.

51 ~~(3)~~(11) 'Pyrotechnics' means fireworks.

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

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

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

64 **SECTION 2.**

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

67 "25-10-2.

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

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

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

85 (3) It shall be unlawful to sell or to offer for sale at retail or wholesale any consumer
86 fireworks without first obtaining a license from the Safety Fire Commissioner as provided
87 for in Code Section 25-10-5.1.

88 ~~(3)(4)~~ (4) It shall be unlawful to use ~~any items defined in paragraph (2) of subsection (b) of~~
89 ~~Code Section 25-10-1~~ fireworks or consumer fireworks indoors."

90 **SECTION 3.**

91 Said chapter is further amended by revising Code Section 25-10-3, relating to permitted sales
92 and uses of fireworks, as follows:

93 "25-10-3.

94 (a) Nothing in this chapter shall be construed to prohibit the following:

95 (1) The wholesale or retail sale of fireworks or consumer fireworks for use in a public
96 exhibition or public display and the transportation of fireworks or consumer fireworks for
97 such use, provided that any person selling at wholesale or retail or transporting fireworks
98 or consumer fireworks for such use must have a duplicate copy of the permit which has
99 been issued by the judge of the probate court to a person, firm, corporation, association,

100 or partnership which has been authorized to hold a public exhibition or display, and
 101 provided, further, that the seller maintains and makes available for inspection by the
 102 Safety Fire Commissioner or the designee thereof the record of any such fireworks or
 103 consumer fireworks sale for a period of 18 months from the date of sale;

104 (2) Use by railroads or other transportation agencies of fireworks or consumer fireworks
 105 specifically designed and intended for signal purposes or illumination;

106 (3) The sale or use of blank cartridges for a show or theater or for signal or ceremonial
 107 purposes in athletic or sports events or for use by military or police organizations; or

108 (4) The manufacture of any fireworks or consumer fireworks not prohibited by Congress
 109 or any federal agency; the possession, transportation, and storage of any such fireworks
 110 or consumer fireworks by any manufacturer thereof; the storage of certain such fireworks
 111 or consumer fireworks by a nonmanufacturer in accordance with the provisions of Code
 112 Section 25-10-3.1; the possession, transportation, or distribution of any such fireworks
 113 or consumer fireworks to a distributor located outside this state; the sale of such fireworks
 114 or consumer fireworks by any such manufacturer to a distributor located outside this
 115 state; or the possession and transportation of such fireworks or consumer fireworks by
 116 any manufacturer or contractor or common carrier from the point of manufacture within
 117 this state to any point outside this state.

118 (b) Consumer fireworks shall be stored, displayed, sold, or offered for sale at retail or
 119 wholesale from a permanent consumer fireworks retail sales facility or temporary consumer
 120 fireworks retail stand or store in full compliance with the requirements set forth in
 121 NFPA 1124, all relevant local and state building codes, zoning ordinances, and other
 122 municipal ordinances; provided, however, that no temporary consumer fireworks retail
 123 stand or store shall be established within a five mile radius of where a permanent consumer
 124 fireworks retail sales facility has first established business as reflected by ongoing retail
 125 operations or the filing of an application for a business license."

126 **SECTION 4.**

127 Said chapter is further amended by revising Code Section 25-10-4.1, relating to employment
 128 of persons under age 18 in connection with fireworks storage or public displays, as follows:
 129 "25-10-4.1.

130 No person under the age of 18 shall be employed to work at any magazine, or at any
 131 facility containing a magazine, wherein fireworks or consumer fireworks are stored or to
 132 work in any public exhibition or display of fireworks or consumer fireworks."

133 **SECTION 5.**

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

135 "25-10-5.1.
 136 (a) The Safety Fire Commissioner shall only issue a license to sell consumer fireworks to
 137 an applicant who:
 138 (1) Complies with all of the requirements of this chapter;
 139 (2) Has not been convicted of a felony;
 140 (3) Has not been convicted of a violation of a state, federal, or municipal law, rule, or
 141 regulation involving fireworks, consumer fireworks, or explosives within the five years
 142 preceding the date of his or her application; and
 143 (4) Maintains at all times public liability and product liability insurance with minimum
 144 coverage limits of \$5 million to cover the losses, damages, or injuries that might ensue
 145 to persons or property as a result of the licensee selling fireworks or consumer fireworks.
 146 (b) The annual license fee for any person, firm, corporation, association, or partnership
 147 offering consumer fireworks for sale from a permanent consumer fireworks retail sales
 148 facility shall be \$5,000.00 per year, payable to the Safety Fire Commissioner. Such license
 149 shall expire on January 5 of each year.
 150 (c) Any person, firm, corporation, association, or partnership shall offer consumer
 151 fireworks for sale from a temporary consumer fireworks retail stand or store only during
 152 the periods of June 10 through July 10 of each year and December 1 of each year through
 153 January 5 of the immediately following year. A separate license shall be required for each
 154 such period and for each such temporary consumer fireworks retail stand or store. The
 155 license fees for any such person, firm, corporation, association, or partnership shall be:
 156 (1) Two hundred and fifty dollars for the period of June 10 through July 10 of each year,
 157 payable to the Safety Fire Commissioner; such license shall expire on July 10 of each
 158 year; and
 159 (2) Two hundred and fifty dollars for the period of December 1 of each year through
 160 January 5 of the immediately following year, payable to the Safety Fire Commissioner;
 161 such license shall expire on January 5 of such immediately following year.
 162 (d) Fees collected under this Code section shall be deposited into a nonlapsing account of
 163 the office of the state fire marshal to be used for the purpose of enforcing this chapter."

164 **SECTION 6.**

165 Said chapter is further amended by revising Code Section 25-10-6, relating to fireworks
 166 manufactured, sold, or stored in violation of chapter declared contraband and the seizure and
 167 disposition thereof, as follows:

168 "25-10-6.

169 All fireworks and consumer fireworks manufactured, offered for sale, exposed for sale, or
 170 stored in violation of this chapter are declared to be contraband and may be seized, taken,

171 and removed, or caused to be removed and destroyed at the expense of the owner thereof
 172 by the state fire marshal, the Georgia State Patrol, or any sheriff or local police official."

173 **SECTION 7.**

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

176 "25-10-9.

177 Notwithstanding any provision of this chapter to the contrary, any person, firm,
 178 corporation, association, or partnership who or which knowingly violates ~~subsection (b)~~
 179 ~~of Code Section 25-10-2~~ this chapter may be punished by a fine not to exceed ~~\$100.00~~
 180 \$2,500.00. Each sales transaction in violation of ~~subsection (b) of Code Section 25-10-2~~
 181 this chapter shall be a separate offense."

182 **SECTION 8.**

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

184 "25-10-10.

185 (a) A fireworks safety fee shall be imposed on the wholesale sale of consumer fireworks
 186 to permanent consumer fireworks retail sales facilities and temporary consumer fireworks
 187 retail stands or stores. Such fee shall be measured by the gross income received by the
 188 wholesale merchant in the wholesale transaction of consumer fireworks and shall be
 189 imposed at the rate of 5 percent before any taxes are calculated. Such wholesale merchant,
 190 whether located inside or outside the borders of this state, shall remit the fee as provided
 191 for in this Code section to the Safety Fire Commissioner on forms and in the manner
 192 prescribed by the Safety Fire Commissioner and be personally liable for the payment of the
 193 fee to the Safety Fire Commissioner.

194 (b) Any permanent consumer fireworks retail sales facility or temporary consumer
 195 fireworks retail stand or store that acquires consumer fireworks as provided for in this
 196 chapter shall be liable for the fireworks safety fee on that transaction and shall pay such fee
 197 to the wholesale merchant as a separate, added amount to the consideration in the
 198 transaction.

199 (c) A wholesale merchant, permanent consumer fireworks retail sales facility, or a
 200 temporary consumer fireworks retail stand or store that knowingly violates the
 201 requirements of this Code section and fails to collect or remit the fee as provided for by this
 202 Code section shall be guilty of a misdemeanor, be punished by a fine of \$10,000.00 in
 203 addition to the amount of the total receipts of such fees due to the Safety Fire
 204 Commissioner, and be ineligible to obtain a consumer fireworks license for a period of two
 205 years from the date of conviction."

206

SECTION 9.

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