

Senate Bill 369

By: Senators Mullis of the 53rd, Harper of the 7th, Watson of the 1st, Albers of the 56th,
Ginn of the 47th 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 revise the standard of compliance from explosion to ignition;
3 to provide for definitions; to provide that certain sparkling items are consumer fireworks; to
4 revise provisions relating to the sale, use, or ignition of consumer fireworks; to revise the
5 days, times, locations, situations, and circumstances in which consumer fireworks can be
6 lawfully used or ignited; to revise places within this state where the use or ignition of
7 consumer fireworks is prohibited; to create the criminal offense of using or igniting or
8 causing to be ignited consumer fireworks while under the influence; to provide for criminal
9 penalties; to revise the licensing standards and procedures which shall be applied by the
10 Safety Fire Commissioner and the governing authorities of counties and municipal
11 corporations toward distributors; to revise licensing fees; to expand enforcement and
12 regulatory mechanisms of the Safety Fire Commissioner regarding fireworks and consumer
13 fireworks; to provide for the forfeiture of fireworks and consumer fireworks contraband; to
14 provide for criminal penalties; to provide for civil enforcement; to amend Chapter 60 of Title
15 36 of the Official Code of Georgia Annotated, relating to general provisions regarding
16 provisions applicable to counties and municipal corporations, so as to provide for further
17 regulations by municipal corporations; to provide for related matters; to provide for an
18 effective date; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

23 "25-10-1.

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

25 (1) 'Consumer fireworks' means any small fireworks devices containing restricted
26 amounts of pyrotechnic composition, designed primarily to produce visible or audible

27 effects by combustion, that comply with the construction, chemical composition, and
 28 labeling regulations of the United States Consumer Product Safety Commission as
 29 provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the
 30 United States Department of Transportation as provided for in Part 172 of Title 49 of the
 31 Code of Federal Regulations, and the American Pyrotechnics Association as provided for
 32 in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall
 33 mean Roman candles.

34 (2) 'Consumer fireworks retail sales facility' shall have the same meaning as provided for
 35 by NFPA 1124; provided, however, that such term shall not include a tent, canopy, or
 36 membrane structure.

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

39 (4) 'Distributor' means any person, firm, corporation, association, or partnership which
 40 sells consumer fireworks.

41 (4.1) 'Electric plant' shall have the same meaning as provided for in Code Section
 42 46-3A-1.

43 (5) 'Fireworks' means any combustible or explosive composition or any substance or
 44 combination of substances or article prepared for the purpose of producing a visible or
 45 audible effect by combustion, explosion, deflagration, or detonation, including blank
 46 cartridges, firecrackers, torpedos, skyrockets, bombs, sparklers, and other combustibles
 47 and explosives of like construction, as well as articles containing any explosive or
 48 flammable compound and tablets and other devices containing an explosive substance.

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

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

54 (8) 'Proximate audience' means an audience closer to pyrotechnic devices than permitted
 55 by the National Fire Protection Association Standard 1123, *Code for Fireworks Display*,
 56 as adopted by the Safety Fire Commissioner.

57 (9) 'Pyrotechnics' means fireworks.

58 ~~(10) 'Retail chain' means a person, firm, corporation, association, or partnership with~~
 59 ~~more than one store, where all such stores are collectively known to the public by the~~
 60 ~~same name or share central management.~~

61 ~~(11)~~(10) 'Store' shall have the same meaning as provided for by NFPA 1124; provided,
 62 however, that such term shall only include such buildings wherefrom at least 75 percent
 63 of total sales or retail sales within any calendar week are of items or products which are

64 not consumer fireworks or items or products as provided for under paragraph (2) of
 65 subsection (b) of this Code section; and provided, further, that such term means a person,
 66 firm, corporation, association, or partnership with more than one mercantile location,
 67 where all such mercantile locations are collectively known to the public by the same
 68 name or share central management.

69 (11) 'Waste-water treatment plant' shall have the same meaning as provided for in Code
 70 Section 43-51-2.

71 (12) 'Water treatment plant' shall have the same meaning as provided for in Code
 72 Section 43-51-2.

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

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

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

86 SECTION 2.

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

89 "25-10-2.

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

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

98 (2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)
 99 of subsection (b) of Code Section 25-10-1 to any person by any means other than an

100 in-person, face-to-face sale. Such person shall provide proper identification to the seller
 101 at the time of such purchase. For purposes of this paragraph, the term 'proper
 102 identification' means any document issued by a governmental agency containing a
 103 description of the person or such person's photograph, or both, and giving such person's
 104 date of birth and includes without being limited to a passport, military identification card,
 105 driver's license, or identification card authorized under Code Sections 40-5-100 through
 106 40-5-104.

107 (3)(A) It shall be unlawful to use fireworks, consumer fireworks, or any items defined
 108 in paragraph (2) of subsection (b) of Code Section 25-10-1 indoors or within the right
 109 of way of a public road, street, highway, or railroad of this state.

110 (B) Except as provided for in subparagraph (D) or (E) of this paragraph and subject to
 111 paragraph (4) of this subsection and Code Section 25-10-2.1, it shall be lawful for any
 112 person, firm, corporation, association, or partnership to use or ~~explode~~ ignite or cause
 113 to be ~~exploded~~ ignited any consumer fireworks ~~on~~:

114 (i) On any day between the hours time of 10:00 A.M. and 12:00 Midnight only;
 115 provided, however, that it shall be lawful for any person, firm, corporation,
 116 association, or partnership to use or explode or cause to be exploded any consumer
 117 fireworks on January 1, July 3, July 4, and December 31 of each year between the
 118 hours of 12:00 Midnight and 2:00 A.M. 10:00 P.M.;

119 (ii) On any day between the time of 10:01 P.M. and 12:00 Midnight if such use or
 120 ignition is lawful pursuant to any noise ordinance of the county or municipal
 121 corporation of the location in which such use or ignition occurs, except as otherwise
 122 provided for under this subparagraph; provided, however, that a county or municipal
 123 corporation may additionally require the issuance of a special use permit pursuant to
 124 subparagraph (D) of this paragraph for use or ignition;

125 (iii) On January 1, July 3, July 4, and December 31 of each year between the time of
 126 10:01 P.M. and 11:59 P.M.; and

127 (iv) On January 1 of each year between the time of 12:00 Midnight and 1:00 A.M.

128 (C) Subject to subparagraph (D) of this paragraph, paragraph (4) of this subsection, and
 129 Code Section 25-10-2.1, it shall be lawful for any person, firm, corporation, association,
 130 or partnership to use or ~~explode~~ ignite or cause to be ~~exploded~~ ignited any consumer
 131 fireworks anywhere in this state except:

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

133 (ii) In any location where such person, firm, corporation, association, or partnership
 134 is not lawfully present or is not otherwise lawfully permitted to use or ~~explode~~ ignite
 135 or cause to be ~~exploded~~ ignited any consumer fireworks; ~~or~~

136 (iii) ~~Within 100 yards of a nuclear power facility or an electric plant; water treatment~~
 137 ~~plant; waste-water treatment plant; a facility engaged in the retail sale of gasoline or~~
 138 ~~other flammable or combustible liquids or gases where the volume stored is in excess~~
 139 ~~of 500 gallons for the purpose of retail sale; a facility engaged in the production,~~
 140 ~~refining, processing, or blending of gasoline~~ any flammable or combustible liquids
 141 or gases for such retail purposes; any public or private electric substation; or a jail or
 142 prison;

143 (iv) Within 100 yards of the boundaries of any public use air facility provided for
 144 under Title 6 or any public use landing area or platform marked and designed for
 145 landing use by helicopters;

146 (v) Within any park, historic site, recreational area, or other property which is owned
 147 by or operated by, for, or under the custody and control of a governing authority of
 148 a county or municipal corporation, except pursuant to a special use permit as provided
 149 for in subparagraph (D) of this paragraph;

150 (vi) Within any park, historic site, recreational area, or other property which is owned
 151 by or operated by, for, or under the custody and control of the State of Georgia,
 152 except pursuant to any rules and regulations of the agency or department having
 153 control of such property which may allow for such use or ignition of consumer
 154 fireworks;

155 (vii) Within 100 yards of a hospital, nursing home, or other health care facility
 156 regulated under Chapter 7 of Title 31; provided, however, that an owner or operator
 157 of such facility may use or ignite or cause to be ignited consumer fireworks on the
 158 property of such facility or may grant written permission to any person, firm,
 159 corporation, association, or partnership to use or ignite or cause to be ignited
 160 consumer fireworks on the property of such facility; or

161 (viii) While under the influence of alcohol or any drug or any combination of alcohol
 162 and any drug to the extent that it is less safe or unlawful for such person to use or
 163 ignite or cause to be ignited consumer fireworks as provided for in Code Section
 164 25-10-2.1.

165 (D) Any person, firm, corporation, association, or partnership may use or ~~explode~~
 166 ~~ignite~~ or cause to be ~~exploded~~ ignited any consumer fireworks ~~on any day at a time not~~
 167 ~~as provided for under subparagraph (B) of this paragraph~~ divisions (3)(B)(ii) and
 168 (3)(C)(v) of this subsection if such person, firm, corporation, association, or partnership
 169 is issued a special use permit pursuant to the law of a governing authority of a county
 170 or municipal corporation for the use or ~~explosion~~ ignition of consumer fireworks in a
 171 location within such county or municipality ~~at a time not as provided for under~~
 172 ~~subparagraph (B) of this paragraph~~ divisions (3)(B)(ii) and (3)(C)(v) of this subsection.

173 provided that such special use permit is required for such use or ignition. Such special
174 use permit shall designate the time or times and location that such person, firm,
175 corporation, association, or partnership may use or ~~explode~~ ignite or cause to be
176 ~~exploded~~ ignited such consumer fireworks. A fee assessed by a county or municipal
177 corporation for the issuance of a special use permit pursuant to this subparagraph shall
178 not exceed \$100.00. No governing authority or official of a county, municipality, or
179 other political subdivision shall bear liability for any decisions made pursuant to this
180 Code section.

181 (E) Whenever the Governor issues a declaration of drought, the Governor may, for the
182 boundaries of the area covered by such declaration, enact further regulations and
183 restrictions concerning the use of consumer fireworks than provided for under this
184 chapter; provided, however, that no such further regulations or restrictions on the use
185 of consumer fireworks shall be effective pursuant to this subparagraph on January 1,
186 July 3, July 4, or December 31 of any year; provided, further, that such further
187 regulations or restrictions shall only apply to the exact boundaries of the area covered
188 by such declaration and shall only apply with regard to the ignition of consumer
189 fireworks; and provided, further, that upon expiration or conclusion of such declaration,
190 such further regulations or restrictions shall be rescinded by law.

191 (4)(A) It shall be lawful for any person 18 years of age or older to use or ~~explode~~ ignite
192 or cause to be ~~exploded~~ ignited or to possess, manufacture, transport, or store consumer
193 fireworks.

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

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

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

209 (6)(A) It shall be lawful to sell consumer fireworks from a permanent consumer
 210 fireworks retail sales facility or store only if such permanent consumer fireworks retail
 211 sales facility or store is:

212 (i) In compliance with the requirements for such a permanent consumer fireworks
 213 retail sales facility or store in the selling of consumer fireworks as provided for in
 214 NFPA 1124; and

215 (ii) Selling consumer fireworks of a distributor licensed pursuant to subsection (b)
 216 or (d) of Code Section 25-10-5.1.

217 (B) It shall be lawful to sell consumer fireworks from a temporary consumer fireworks
 218 retail sales stand only if such temporary consumer fireworks retail sales stand is:

219 (i) In compliance with the requirements for such a temporary consumer fireworks
 220 retail sales stand in the selling of consumer fireworks as provided for in NFPA 1124;

221 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political
 222 subdivision or a fire department connection of a building affiliated with such
 223 consumer fireworks retail sales stand, unless the chief administrative officer of the
 224 fire department of a county, municipality, or other political subdivision or chartered
 225 fire department legally organized to operate in this state pursuant to Chapter 3 of this
 226 title and having operational authority over such location of the temporary consumer
 227 fireworks retail sales stand provides in writing that such temporary consumer
 228 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant
 229 or fire department connection; and

230 (iii) Selling consumer fireworks of a distributor licensed pursuant to subsection (c)
 231 of Code Section 25-10-5.1.

232 ~~No A distributor licensed pursuant to subsection (c) of Code Section 25-10-5.1 shall at~~
 233 ~~any one time operate more than two temporary consumer fireworks retail sales stands~~
 234 ~~for each license issued to such distributor under subsection (b) or (d) of Code Section~~
 235 ~~25-10-5.1, except that a distributor which is a retail chain and which is licensed~~
 236 ~~pursuant to subsection (d) of Code Section 25-10-5.1 shall not at any one time operate~~
 237 ~~more than two temporary consumer fireworks retail sales stands for each store of such~~
 238 ~~retail chain. Such temporary consumer fireworks retail sales stands shall be located~~
 239 ~~within the same county as the location of such permanent consumer fireworks retail~~
 240 ~~sales facility or store provided for under subsection (b) or (d) of Code Section~~
 241 ~~25-10-5.1; provided, however, that if a county does not have a distributor licensed~~
 242 ~~pursuant to subsection (b) or (d) of Code Section 25-10-5.1 offering consumer~~
 243 ~~fireworks for sale from a permanent consumer fireworks retail sales facility or store~~
 244 ~~within its boundaries, then a distributor licensed pursuant to subsection (b) or (d) of~~
 245 ~~Code Section 25-10-5.1 offering consumer fireworks for sale from a permanent~~

246 ~~consumer fireworks retail sales facility or store within 75 miles of the perimeter of the~~
 247 ~~boundaries of such county may locate one of the two temporary consumer fireworks~~
 248 ~~retail sales stands in the unserved county~~ may operate no more than three temporary
 249 consumer fireworks retail sales stands in this state per location licensed pursuant to
 250 subsection (b) or (d) of Code Section 25-10-5.1; provided, however, that such
 251 distributor has been operating and open to the public pursuant to subsection (b) or (d)
 252 of Code Section 25-10-5.1 no less than 45 days prior to July 4 or December 31 in the
 253 year of an application for a license under subsection (c) of Code Section 25-10-5.1 that
 254 is filed within 45 days of July 4 or December 31.

255 (C) It shall be unlawful to sell consumer fireworks from any motor vehicle, ~~or~~ from a
 256 trailer towed by a motor vehicle, or from a tent, canopy, or membrane structure."

257 SECTION 3.

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

259 "25-10-2.1

260 (a) It shall be unlawful for any person to use or ignite or cause to be ignited consumer
 261 fireworks or fireworks while:

262 (1) Under the influence of alcohol or any drug or any combination of alcohol and any
 263 drug to the extent that it is unsafe for such person to use or ignite or cause to be ignited
 264 consumer fireworks or fireworks;

265 (2) Such person's alcohol concentration is 0.08 grams or more at any time while using
 266 or igniting or causing to be ignited consumer fireworks or fireworks or within three hours
 267 after such use or ignition from alcohol consumed before such use or ignition ended; or

268 (3) Subject to the provisions of subsection (b) of this Code section, there is any amount
 269 of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in
 270 such person's blood or urine, or both, including the metabolites and derivatives of each
 271 or both, without regard to whether or not any alcohol is present in such person's breath
 272 or blood.

273 (b) The fact that any person charged with violating this Code section is or has been legally
 274 entitled to use a drug shall not constitute a defense against any charge of violating this
 275 Code section; provided, however, that such person shall not be in violation of this Code
 276 section unless such person is rendered incapable of using or igniting or causing to be
 277 ignited consumer fireworks or fireworks safely as a result of using a drug other than
 278 alcohol which such person is legally entitled to use.

279 (c) Any person convicted of violating subsection (a) of this Code section shall be guilty
 280 of a misdemeanor of a high and aggravated nature."

281 **SECTION 4.**

282 Said chapter is further amended by revising subsection (a) of Code Section 25-10-3.2,
 283 relating to license required for pyrotechnics exhibits, as follows:

284 "(a) No person, firm, corporation, association, or partnership shall cause the combustion,
 285 explosion, deflagration, ~~or detonation,~~ or ignition of pyrotechnics for the purpose of a
 286 public exhibition or display before a proximate audience unless such person, firm,
 287 corporation, association, or partnership holds a valid license issued by the Safety Fire
 288 Commissioner in accordance with the provisions of this Code section. Any application for
 289 such a license shall be made to the Safety Fire Commissioner in the form prescribed by the
 290 Safety Fire Commissioner."

291 **SECTION 5.**

292 Said chapter is further amended by revising Code Section 25-10-5.1, relating to requirements
 293 for issuance of license to distribute consumer fireworks, as follows:

294 "25-10-5.1.

295 (a)(1) A license pursuant to this Code section shall only be issued to a distributor that:

296 (A) Complies with all the requirements of this chapter; and

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

300 (2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
 301 statement of representation in an application executed pursuant to this Code section shall
 302 be guilty of a violation of Code Section 16-10-20.

303 (3) Applications to the Safety Fire Commissioner pursuant to this Code section shall be
 304 upon forms prescribed and promulgated by the Safety Fire Commissioner.

305 (4) Any person, firm, corporation, association, or partnership seeking a license pursuant
 306 to subsection (b) or (d) of this Code section shall have property from which the applicant
 307 intends to sell consumer fireworks under such person's, firm's, corporation's,
 308 association's, or partnership's ownership or legal control through a lease, rental
 309 agreement, licensing agreement, or other contractual instrument at the time of filing the
 310 application for such license, and such property shall be in a condition ready for
 311 inspection.

312 (b)(1) The initial license fee for a distributor selling consumer fireworks from a
 313 permanent consumer fireworks retail sales facility shall be \$5,000.00 per location,
 314 payable to the Safety Fire Commissioner. Upon a finding that a distributor has met the
 315 requirements of ~~paragraph (1)~~ of subsection (a) of this Code section and upon payment
 316 of such license fee, such initial license shall be issued by the Safety Fire Commissioner

317 and shall identify the permanent consumer fireworks retail sales facility applicable to
 318 such license. Such initial license shall expire on January 31 of the year after such initial
 319 license was issued or as otherwise provided for under this subsection. After such initial
 320 license, such distributor may annually renew such initial license, which shall then become
 321 an annual license, for \$1,000.00 per year, payable to the Safety Fire Commissioner.
 322 Upon finding that a distributor has met the requirements of ~~paragraph (1) of~~
 323 subsection (a) of this Code section and upon payment of such license fee, such annual
 324 license shall be issued by the Safety Fire Commissioner and shall identify the permanent
 325 consumer fireworks retail sales facility applicable to such license. Such annual license
 326 shall expire on January 31 of each year or as otherwise provided for under this
 327 subsection; provided, however, that a distributor shall ~~not~~ apply for an annual license
 328 ~~earlier than 30 days prior to the expiration of an initial license~~ or renewal of an annual
 329 license by December 1 in the year preceding the expiration date of such initial or annual
 330 license; and provided, further, that if an initial license is issued to a distributor on or after
 331 December 1, then such distributor shall apply for an annual license by the first business
 332 day of the next year.

333 (2) The determination by the Safety Fire Commissioner of whether a distributor has met
 334 requirements for the issuance of a license required by this subsection shall be made
 335 within ~~15~~ 45 days of the submission of an application for any ~~such~~ initial or annual
 336 license; provided, however, that if a license will expire prior to the expiration of such 45
 337 days and no such determination has been made by the Safety Fire Commissioner, then
 338 the expiration date for such license shall be extended until the date of such determination
 339 by the Safety Fire Commissioner but for no more than 45 days. ~~Such application shall~~
 340 ~~be in writing and, if the Safety Fire Commissioner provides for a written form for the~~
 341 ~~application for a license pursuant to this Code section, upon such form as may be~~
 342 ~~provided by the Safety Fire Commissioner~~. If a determination has not been made within
 343 the time provided for by this paragraph, or for an appeal of a determination by the Safety
 344 Fire Commissioner, a distributor may seek review from the judge of the probate court of
 345 the county of the location or proposed location of the permanent consumer fireworks
 346 retail sales facility. Such judge may provide for the issuance or nonissuance of a license
 347 and for the payment of license fees in such manner as is consistent with the provisions
 348 of this subsection.

349 (c)(1) The license fee for a distributor selling consumer fireworks from a temporary
 350 consumer fireworks retail sales stand shall be \$500.00 per location, payable to the
 351 governing authority of the county, municipality, or other political subdivision of this state
 352 in whose boundaries such temporary consumer fireworks retail sales stand shall be
 353 located or is proposed to be located. Upon finding that a distributor has met the

354 requirements of ~~paragraph (1) of~~ subsection (a) of this Code section, has a license
 355 pursuant to subsection (b) or (d) of this Code section ~~for a location applicable to the~~
 356 ~~location of such temporary consumer fireworks retail sales stand as provided for in~~
 357 ~~subparagraph (b)(6)(B) of Code Section 25-10-2~~, has no more than the allowable
 358 temporary consumer fireworks retail sales stands pursuant to subparagraph (b)(6)(B) of
 359 Code Section 25-10-2, that the sales of consumer fireworks from such temporary
 360 consumer fireworks retail sales stand shall accrue to the benefit of a nonprofit group, and
 361 upon payment of such license fee, such license shall be issued by the fire department of
 362 the county, municipality, or other political subdivision or the chartered fire department
 363 legally organized to operate in this state pursuant to Chapter 3 of this title and having
 364 operational authority of the area in which such temporary consumer fireworks retail sales
 365 stand shall be located or is proposed to be located; ~~provided, however, that no such~~
 366 ~~license shall be issued prior to January 1, 2016~~. Such license shall identify the temporary
 367 consumer fireworks retail sales stand applicable to such license and shall expire ~~90 days~~
 368 on the next January 31 after the issuance of such license.

369 (2) A determination by a fire department as provided for under paragraph (1) of this
 370 subsection of whether a distributor has met requirements for the issuance of a license
 371 pursuant to this subsection shall be made within ~~15~~ 45 days of the submission of an
 372 application for any such license. Such application shall be in writing and, if such fire
 373 department provides for a written form for the application for a license pursuant to this
 374 Code section, upon such form as may be provided by such fire department. If a
 375 determination has not been made within the time provided for by this paragraph, or for
 376 an appeal of a determination by such fire department, a distributor may seek review from
 377 the judge of the probate court of the county of the location or proposed location of the
 378 temporary consumer fireworks retail sales stand. Such judge may provide for the
 379 issuance or nonissuance of a license and for the payment of license fees in such manner
 380 as is consistent with the provisions of this subsection.

381 (3) A nonprofit group benefiting from the sale of consumer fireworks pursuant to this
 382 Code section shall directly participate in operating the temporary consumer fireworks
 383 retail sales stand. It shall be unlawful for a nonprofit group or any agent or bona fide
 384 representative of a nonprofit group to knowingly lend the name of the nonprofit group or
 385 allow the identity of the nonprofit group to be used for the license under this subsection
 386 if such nonprofit group is not directly participating in operating such temporary consumer
 387 fireworks retail sales stand.

388 (4) The governing authority of a county, municipality, or other political subdivision
 389 receiving fees pursuant to this Code section shall expend such fees for public safety
 390 purposes.

391 (5) A distributor licensed pursuant to this subsection shall submit a list of the names and
 392 addresses, including the counties, of each temporary consumer fireworks retail sales stand
 393 at which such distributor has consumer fireworks offered for sale pursuant to this Code
 394 section to the Safety Fire Commissioner. Such list shall be submitted by January 31 of
 395 ~~each year and such distributor shall amend such list, or file an initial list if such~~
 396 ~~distributor first becomes licensed after January 31 of a particular year, within 45 days of~~
 397 not less than 30 days prior to first having a temporary consumer fireworks retail sales
 398 stand at which such distributor has consumer fireworks offered for sale and not less than
 399 30 days prior to having such distributor's consumer fireworks offered for sale at a location
 400 not previously included on such list. The Safety Fire Commissioner shall make such list
 401 publicly available for inspection. In making determinations as provided for under this
 402 subsection, fire departments shall reference the list provided for by this paragraph.

403 (6) A revocation or suspension of a license provided for under subsection (b) of this
 404 Code section shall operate as a revocation or suspension of a distributor's license under
 405 this subsection for the term of such revocation or suspension.

406 (d)(1) The initial license fee for a distributor selling consumer fireworks from a store
 407 shall be ~~\$5,000.00~~ \$1,000.00 in addition to \$250.00 per store location, payable to the
 408 Safety Fire Commissioner, ~~provided that, if a store is a retail chain, one payment of~~
 409 ~~\$5,000.00 shall satisfy such license fee for each store of the retail chain.~~ Upon finding
 410 that a distributor has met the requirements of ~~paragraph (1)~~ of subsection (a) of this Code
 411 section, such initial license shall be issued by the Safety Fire Commissioner ~~and, if issued~~
 412 ~~to a store which is a retail chain, shall be a license for each current or future store of the~~
 413 ~~retail chain; provided, however, that such distributor has been operating and open to the~~
 414 public no less than 45 days prior to July 4 or December 31 in the year of an application
 415 for an initial license that is filed within 45 days of July 4 or December 31; and provided,
 416 further, that a distributor holding an initial license may add additional store locations to
 417 such license prior to the expiration of such license upon payment of \$250.00 per added
 418 store location. Such initial license shall expire on January 31 of the year after such initial
 419 license was issued or as otherwise provided for under this subsection. After such initial
 420 license, such distributor may annually renew such initial license, which shall then become
 421 an annual license, for \$1,000.00 in addition to \$100.00 per year store location, payable
 422 to the Safety Fire Commissioner, ~~provided that, if a store is a retail chain, one payment~~
 423 ~~of \$1,000.00 shall satisfy such license fee for each store of the retail chain; provided,~~
 424 however, that a distributor holding an annual license may add additional store locations
 425 to such license prior to the expiration of such license upon payment of \$100.00 per added
 426 store location. Upon finding that a distributor has met the requirements of ~~paragraph (1)~~
 427 of subsection (a) of this Code section, such annual license shall be issued by the Safety

428 Fire Commissioner and, if issued to a store which is a retail chain, shall be a license for
 429 each current or future store of the retail chain. Such annual license shall expire on
 430 January 31 of each year or as otherwise provided for under this subsection; provided,
 431 however, that a distributor shall not apply for an annual license earlier than 30 days prior
 432 to the expiration of an initial license or renewal of an annual license by December 1 in
 433 the year preceding the expiration date of such initial or annual license; and provided,
 434 further, that if an initial license is issued to a distributor on or after December 1, then such
 435 distributor shall apply for an annual license by the first business day of the next year.

436 (2) An application submitted under this subsection shall identify each store location to
 437 which an initial or annual license is applicable; there shall not be a requirement for a
 438 separate application for each of the several store locations. The determination by the
 439 Safety Fire Commissioner of whether a distributor has met requirements for the issuance
 440 of a license required by this subsection shall be made within ~~15~~ 45 days of the submission
 441 of an application for any such initial or annual license; provided, however, that if a
 442 license will expire prior to the expiration of such 45 days and no such determination has
 443 been made by the Safety Fire Commissioner, then the expiration date for such license
 444 shall be extended until the date of such determination by the Safety Fire Commissioner
 445 but for no more than 45 days. ~~Such application shall be in writing and, if the Safety Fire~~
 446 ~~Commissioner provides for a written form for the application for a license pursuant to this~~
 447 ~~Code section, upon such form as may be provided by the Safety Fire Commissioner.~~ If
 448 a determination has not been made within the time provided for by this paragraph, or for
 449 an appeal of a determination by the Safety Fire Commissioner, a distributor may seek
 450 review from the judge of the probate court of the county of the location or proposed
 451 location of the store from which consumer fireworks will be sold. Such judge may
 452 provide for the issuance or nonissuance of a license and for the payment of license fees
 453 in such manner as is consistent with the provisions of this subsection."

454

SECTION 6.

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

458 "25-10-6.

459 (a) The state fire marshal shall enforce the provisions of this chapter; provided, however,
 460 that, in addition, any law enforcement officer or agency of this state or political subdivision
 461 thereof may enforce provisions relating to using or igniting or causing to be ignited
 462 consumer fireworks. Applicable fire departments of a county, municipality, or other
 463 political subdivision or a chartered fire department shall refer cases for enforcement under

464 subsection (c) of Code Section 25-10-5.1 to the state fire marshal. All fireworks or
 465 consumer fireworks manufactured, offered for sale, exposed for sale, or stored in violation
 466 of this chapter are declared to be contraband and may be seized, taken, and removed, or
 467 caused to be removed and destroyed or disposed of at the expense of the owner thereof by
 468 the state fire marshal, the Georgia State Patrol, or any sheriff or local police official.

469 (b) Any property declared as contraband pursuant to this Code section shall be forfeited
 470 in accordance with the procedures set forth in Chapter 16 of Title 9."

471 **SECTION 7.**

472 Said chapter is further amended by revising Code Section 25-10-9, relating to penalties for
 473 illegal sale of fireworks, as follows:

474 "25-10-9.

475 Notwithstanding any provision of this chapter to the contrary, the Safety Fire
 476 Commissioner shall have the authority to subject any person, firm, corporation, association,
 477 or partnership that knowingly violates this chapter may be punished by a fine not to exceed
 478 to a monetary penalty of up to \$2,500.00 for each and every act in violation of this chapter.

479 Each sales transaction in violation of this chapter shall be a separate offense."

480 **SECTION 8.**

481 Said chapter is further amended by adding new Code sections to read as follows:

482 "25-10-11.

483 (a) Whenever the Safety Fire Commissioner shall have reason to believe that any person
 484 is or has been violating any provisions of this chapter, the Safety Fire Commissioner, his
 485 or her deputy, his or her assistant, or other designated persons may issue and deliver to the
 486 person an order to cease and desist such violation. An order issued under this Code section
 487 shall be delivered in accordance with the provisions of subsection (c) of this Code section.

488 (b) Violation of any provision of this chapter or failure to comply with a cease and desist
 489 order is cause for revocation of any or all licenses issued by the Safety Fire Commissioner
 490 for a period of not less than six months and not to exceed five years. If a new license has
 491 been issued to the person so charged, the order of revocation shall operate effectively with
 492 respect to such new license held by such person. In the case of an applicant for a license,
 493 violation of any provision of this title or regulations promulgated thereunder may constitute
 494 grounds for refusal of the application. Decisions under this subsection may be appealed
 495 as provided by law.

496 (c) Any order issued by the Safety Fire Commissioner under this chapter shall contain or
 497 be accompanied by a notice of opportunity for hearing which shall provide that a hearing
 498 will be held if and only if a person subject to the order requests a hearing in writing within

499 ten days of receipt of the order and notice. The order and notice shall be served by delivery
 500 by the Safety Fire Commissioner or his or her agent or by registered or certified mail or
 501 statutory overnight delivery, return receipt requested. Any person who fails to comply with
 502 any order under this subsection is guilty of a misdemeanor and may be punished by law.
 503 (d) In addition to other powers granted to the Safety Fire Commissioner under this chapter,
 504 the Safety Fire Commissioner may bring a civil action to enjoin a violation of any
 505 provision of this chapter or of any rule, regulation, or order issued by the Safety Fire
 506 Commissioner under this chapter.

507 25-10-12.

508 (a) In addition to the grounds set forth in Code Section 25-10-11, it is cause for revocation
 509 or suspension, refusal, or nonrenewal by the Safety Fire Commissioner of any license
 510 issued under this chapter if it is determined that the licensee or applicant has:

511 (1) Failed to comply with all the requirements of this chapter or the rules and regulations
 512 promulgated pursuant thereto;

513 (2) Failed to maintain the minimum insurance coverage as set forth in this chapter;

514 (3) Made a material misstatement or misrepresentation or committed a fraud in obtaining
 515 or attempting to obtain a license; or

516 (4) Failed to notify the Safety Fire Commissioner, in writing, with 30 days after a change
 517 of residence, principal business address, or name.

518 (b) In addition to other grounds set forth in this Code section, the Safety Fire
 519 Commissioner shall not issue a new license under this chapter if the Safety Fire
 520 Commissioner finds that the circumstance or circumstances for which the license was
 521 previously suspended or revoked still exist or are likely to recur."

522 **SECTION 9.**

523 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general
 524 provisions regarding provisions applicable to counties and municipal corporations, is
 525 amended by revising subsections (a) and (b) of Code Section 36-60-24, relating to sale or use
 526 or explosion of consumer fireworks products, as follows:

527 "(a) The governing authority of a county or municipal corporation shall not prohibit the
 528 sale or use or ~~explosion ignition~~ of consumer fireworks or ~~other~~ products or services which
 529 are lawful under ~~subsection (b) of Code Section 25-10-1~~ Chapter 10 of Title 25, unless
 530 such prohibition is expressly authorized by general law.

531 (b) If the sale of a product or service is regulated by Chapter 10 of Title 25, the governing
 532 authority of a county or municipal corporation shall not enact additional regulation of the

533 sale or use or ~~explosion~~ ignition of such product or service, unless such additional
534 regulation is expressly authorized by general law."

535 **SECTION 10.**

536 This Act shall become effective upon its approval by the Governor or upon its becoming law
537 without such approval.

538 **SECTION 11.**

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