

The Senate Committee on Public Safety offered the following substitute to SB 369:

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:

SECTION 1.

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

22 "25-10-1.

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

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

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, any entity incorporated under Chapter 3 of Title 14,
54 the 'Georgia Nonprofit Corporation Code,' or a sponsored organization of a public or
55 private elementary or secondary school in this state.

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

59 (9) 'Pyrotechnics' means fireworks.

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

63 ~~(11)~~(10) 'Store' shall have the same meaning as provided for by NFPA 1124; provided,
 64 however, that such term shall only include such buildings with at least 4,000 square feet
 65 of retail display space and wherefrom:

66 (A) No more than 25 percent of such retail display space is used for consumer
 67 fireworks and items or products as provided for under paragraph (2) of subsection (b)
 68 of this Code section; and

69 (B) Other items or products which are not consumer fireworks or items or products as
 70 provided for under paragraph (2) of subsection (b) of this Code section are sold;

71 and provided, further, that such term means a person, firm, corporation, association, or
 72 partnership with more than one mercantile location, where all such mercantile locations
 73 are collectively known to the public by the same name or share central management.

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

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

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

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

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

91 SECTION 2.

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

94 "25-10-2.

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

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

103 (2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)
 104 of subsection (b) of Code Section 25-10-1 to any person by any means other than an
 105 in-person, face-to-face sale. Such person shall provide proper identification to the seller
 106 at the time of such purchase. For purposes of this paragraph, the term 'proper
 107 identification' means any document issued by a governmental agency containing a
 108 description of the person or such person's photograph, or both, and giving such person's
 109 date of birth and includes without being limited to a passport, military identification card,
 110 driver's license, or identification card authorized under Code Sections 40-5-100 through
 111 40-5-104.

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

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

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

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

130 (iii) On January 1, July 3, July 4, and December 31 of each year between the time of
 131 10:01 P.M. and 11:59 P.M.; and

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

133 (C) Subject to subparagraph (D) of this paragraph, paragraph (4) of this subsection, and
 134 Code Section 25-10-2.1, it shall be lawful for any person, firm, corporation, association,

135 or partnership to use or ~~explode~~ ignite or cause to be ~~exploded~~ ignited any consumer
136 fireworks anywhere in this state except:

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

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

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

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

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

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

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

166 (viii) While under the influence of alcohol or any drug or any combination of alcohol
167 and any drug to the extent that it is less safe or unlawful for such person to ignite
168 consumer fireworks as provided for in Code Section 25-10-2.1.

169 (D) Any person, firm, corporation, association, or partnership may use or ~~explode~~
170 ignite or cause to be ~~exploded~~ ignited any consumer fireworks ~~on any day at a time not~~
171 as provided for under subparagraph (B) of this paragraph divisions (3)(B)(ii) and

172 (3)(C)(v) of this subsection if such person, firm, corporation, association, or partnership
 173 is issued a special use permit pursuant to the law of a governing authority of a county
 174 or municipal corporation for the use or ~~explosion~~ ignition of consumer fireworks in a
 175 location within such county or municipality ~~at a time not as~~ provided for under
 176 ~~subparagraph (B) of this paragraph~~ divisions (3)(B)(ii) and (3)(C)(v) of this subsection,
 177 provided that such special use permit is required for such use or ignition. Such special
 178 use permit shall designate the time or times and location that such person, firm,
 179 corporation, association, or partnership may use or ~~explode~~ ignite or cause to be
 180 ~~exploded~~ ignited such consumer fireworks. A fee assessed by a county or municipal
 181 corporation for the issuance of a special use permit pursuant to this subparagraph shall
 182 not exceed \$100.00. No governing authority or official of a county, municipality, or
 183 other political subdivision shall bear liability for any decisions made pursuant to this
 184 Code section.

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

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

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

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

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

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

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

219 (ii) Selling consumer fireworks of a distributor licensed pursuant to subsection (b)
 220 or (d) of Code Section 25-10-5.1;

221 provided, however, that such permanent consumer fireworks retail sales facility or store
 222 shall not be considered an H-3 or hazardous occupancy.

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

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

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

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

238 ~~No A distributor licensed pursuant to subsection (c) of Code Section 25-10-5.1 shall at~~
 239 ~~any one time operate more than two temporary consumer fireworks retail sales stands~~
 240 ~~for each license issued to such distributor under subsection (b) or (d) of Code Section~~
 241 ~~25-10-5.1, except that a distributor which is a retail chain and which is licensed~~
 242 ~~pursuant to subsection (d) of Code Section 25-10-5.1 shall not at any one time operate~~
 243 ~~more than two temporary consumer fireworks retail sales stands for each store of such~~
 244 ~~retail chain. Such temporary consumer fireworks retail sales stands shall be located~~

245 ~~within the same county as the location of such permanent consumer fireworks retail~~
 246 ~~sales facility or store provided for under subsection (b) or (d) of Code Section~~
 247 ~~25-10-5.1; provided, however, that if a county does not have a distributor licensed~~
 248 ~~pursuant to subsection (b) or (d) of Code Section 25-10-5.1 offering consumer~~
 249 ~~fireworks for sale from a permanent consumer fireworks retail sales facility or store~~
 250 ~~within its boundaries, then a distributor licensed pursuant to subsection (b) or (d) of~~
 251 ~~Code Section 25-10-5.1 offering consumer fireworks for sale from a permanent~~
 252 ~~consumer fireworks retail sales facility or store within 75 miles of the perimeter of the~~
 253 ~~boundaries of such county may locate one of the two temporary consumer fireworks~~
 254 ~~retail sales stands in the unserved county may operate no more than three temporary~~
 255 ~~consumer fireworks retail sales stands in this state per location licensed pursuant to~~
 256 ~~subsection (b) or (d) of Code Section 25-10-5.1; provided, however, that such~~
 257 ~~distributor has been operating and open to the public pursuant to subsection (b) or (d)~~
 258 ~~of Code Section 25-10-5.1 no less than 45 days prior to July 4 or December 31 in the~~
 259 ~~year of an application for a license under subsection (c) of Code Section 25-10-5.1 that~~
 260 ~~is filed within 45 days of July 4 or December 31.~~

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

263 SECTION 3.

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

265 "25-10-2.1

266 (a) It shall be unlawful for any person to ignite consumer fireworks or fireworks while:

267 (1) Under the influence of alcohol or any drug or any combination of alcohol and any
 268 drug to the extent that it is unsafe for such person to ignite consumer fireworks or
 269 fireworks;

270 (2) Such person's alcohol concentration is 0.08 grams or more at any time while igniting
 271 consumer fireworks or fireworks or within three hours after such ignition from alcohol
 272 consumed before such ignition ended; or

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

278 (b) The fact that any person charged with violating this Code section is or has been legally
 279 entitled to use a drug shall not constitute a defense against any charge of violating this
 280 Code section; provided, however, that such person shall not be in violation of this Code

281 section unless such person is rendered incapable of igniting consumer fireworks or
 282 fireworks safely as a result of using a drug other than alcohol which such person is legally
 283 entitled to use.

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

286 **SECTION 4.**

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

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

296 **SECTION 5.**

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

299 "25-10-5.1.

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

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

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

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

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

310 (4) Any person, firm, corporation, association, or partnership seeking a license pursuant
 311 to subsection (b) or (d) of this Code section shall have property from which the applicant
 312 intends to sell consumer fireworks under such person's, firm's, corporation's,
 313 association's, or partnership's ownership or legal control through a lease, rental
 314 agreement, licensing agreement, or other contractual instrument at the time of filing the

315 application for such license, and such property shall be in a condition ready for
 316 inspection.

317 (b)(1) The initial license fee for a distributor selling consumer fireworks from a
 318 permanent consumer fireworks retail sales facility shall be ~~\$5,000.00~~ \$2,500.00 per
 319 location, payable to the Safety Fire Commissioner. Upon a finding that a distributor has
 320 met the requirements of ~~paragraph (1)~~ of subsection (a) of this Code section and upon
 321 payment of such license fee, such initial license shall be issued by the Safety Fire
 322 Commissioner and shall identify the permanent consumer fireworks retail sales facility
 323 applicable to such license. Such initial license shall expire on January 31 of the year after
 324 such initial license was issued or as otherwise provided for under this subsection. After
 325 such initial license, such distributor may annually renew such initial license, which shall
 326 then become an annual license, for \$1,000.00 per year, payable to the Safety Fire
 327 Commissioner. Upon finding that a distributor has met the requirements of ~~paragraph (1)~~
 328 ~~of~~ subsection (a) of this Code section and upon payment of such license fee, such annual
 329 license shall be issued by the Safety Fire Commissioner and shall identify the permanent
 330 consumer fireworks retail sales facility applicable to such license. Such annual license
 331 shall expire on January 31 of each year or as otherwise provided for under this
 332 subsection; provided, however, that a distributor shall ~~not~~ apply for an annual license
 333 ~~earlier than 30 days prior to the expiration of an initial license or renewal of an~~ annual
 334 license by December 1 in the year preceding the expiration date of such initial or annual
 335 license; and provided, further, that if an initial license is issued to a distributor on or after
 336 December 1, then such distributor shall apply for an annual license by the first business
 337 day of the next year.

338 (2) The determination by the Safety Fire Commissioner of whether a distributor has met
 339 requirements for the issuance of a license required by this subsection shall be made
 340 within ~~15~~ 30 days of the submission of an application for any ~~such~~ initial or annual
 341 license; provided, however, that if a license will expire prior to the expiration of such 30
 342 days and no such determination has been made by the Safety Fire Commissioner, then
 343 the expiration date for such license shall be extended until the date of such determination
 344 by the Safety Fire Commissioner but for no more than 30 days. ~~Such application shall~~
 345 ~~be in writing and, if the Safety Fire Commissioner provides for a written form for the~~
 346 ~~application for a license pursuant to this Code section, upon such form as may be~~
 347 ~~provided by the Safety Fire Commissioner.~~ If a determination has not been made within
 348 the time provided for by this paragraph, or for an appeal of a determination by the Safety
 349 Fire Commissioner, a distributor may seek review from the judge of the probate court of
 350 the county of the location or proposed location of the permanent consumer fireworks
 351 retail sales facility. Such judge may provide for the issuance or nonissuance of a license

352 and for the payment of license fees in such manner as is consistent with the provisions
353 of this subsection.

354 (c)(1) The license fee for a distributor selling consumer fireworks from a temporary
355 consumer fireworks retail sales stand shall be \$500.00 per location, payable to the
356 governing authority of the county, municipality, or other political subdivision of this state
357 in whose boundaries such temporary consumer fireworks retail sales stand shall be
358 located or is proposed to be located. Upon finding that a distributor has met the
359 requirements of ~~paragraph (1) of subsection (a) of this Code section, has a license~~
360 ~~pursuant to subsection (b) or (d) of this Code section for a location applicable to the~~
361 ~~location of such temporary consumer fireworks retail sales stand as provided for in~~
362 ~~subparagraph (b)(6)(B) of Code Section 25-10-2, has no more than the allowable~~
363 temporary consumer fireworks retail sales stands pursuant to subparagraph (b)(6)(B) of
364 Code Section 25-10-2, that the sales of consumer fireworks from such temporary
365 consumer fireworks retail sales stand shall accrue to the benefit of a nonprofit group, and
366 upon payment of such license fee, such license shall be issued by the fire department of
367 the county, municipality, or other political subdivision or the chartered fire department
368 legally organized to operate in this state pursuant to Chapter 3 of this title and having
369 operational authority of the area in which such temporary consumer fireworks retail sales
370 stand shall be located or is proposed to be located; ~~provided, however, that no such~~
371 ~~license shall be issued prior to January 1, 2016.~~ Such license shall identify the temporary
372 consumer fireworks retail sales stand applicable to such license and shall expire ~~90 days~~
373 on the next January 31 after the issuance of such license.

374 (2) A determination by a fire department as provided for under paragraph (1) of this
375 subsection of whether a distributor has met requirements for the issuance of a license
376 pursuant to this subsection shall be made within ~~15~~ 30 days of the submission of an
377 application for any such license. Such application shall be in writing and, if such fire
378 department provides for a written form for the application for a license pursuant to this
379 Code section, upon such form as may be provided by such fire department. If a
380 determination has not been made within the time provided for by this paragraph, or for
381 an appeal of a determination by such fire department, a distributor may seek review from
382 the judge of the probate court of the county of the location or proposed location of the
383 temporary consumer fireworks retail sales stand. Such judge may provide for the
384 issuance or nonissuance of a license and for the payment of license fees in such manner
385 as is consistent with the provisions of this subsection.

386 (3) A nonprofit group benefiting from the sale of consumer fireworks pursuant to this
387 Code section shall directly participate in operating the temporary consumer fireworks
388 retail sales stand. It shall be unlawful for a nonprofit group or any agent or bona fide

389 representative of a nonprofit group to knowingly lend the name of the nonprofit group or
 390 allow the identity of the nonprofit group to be used for the license under this subsection
 391 if such nonprofit group is not directly participating in operating such temporary consumer
 392 fireworks retail sales stand.

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

396 (5) A distributor licensed pursuant to this subsection shall submit a list of the names and
 397 addresses, including the counties, of each temporary consumer fireworks retail sales stand
 398 at which such distributor has consumer fireworks offered for sale pursuant to this Code
 399 section to the Safety Fire Commissioner. Such list shall be submitted ~~by January 31 of~~
 400 ~~each year and such distributor shall amend such list, or file an initial list if such~~
 401 ~~distributor first becomes licensed after January 31 of a particular year, within 45 days of~~
 402 not less than 30 days prior to first having a temporary consumer fireworks retail sales
 403 stand at which such distributor has consumer fireworks offered for sale and not less than
 404 30 days prior to having such distributor's consumer fireworks offered for sale at a location
 405 not previously included on such list. The Safety Fire Commissioner shall make such list
 406 publicly available for inspection. In making determinations as provided for under this
 407 subsection, fire departments shall reference the list provided for by this paragraph.

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

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

426 an annual license, for \$1,000.00 in addition to \$100.00 per year store location, payable
 427 to the Safety Fire Commissioner, provided that, if a store is a retail chain, one payment
 428 of \$1,000.00 shall satisfy such license fee for each store of the retail chain; provided,
 429 however, that a distributor holding an annual license may add additional store locations
 430 to such license prior to the expiration of such license upon payment of \$100.00 per added
 431 store location. Upon finding that a distributor has met the requirements of paragraph (1)
 432 of subsection (a) of this Code section, such annual license shall be issued by the Safety
 433 Fire Commissioner and, if issued to a store which is a retail chain, shall be a license for
 434 each current or future store of the retail chain. Such annual license shall expire on
 435 January 31 of each year or as otherwise provided for under this subsection; provided,
 436 however, that a distributor shall not apply for an annual license earlier than 30 days prior
 437 to the expiration of an initial license or renewal of an annual license by December 1 in
 438 the year preceding the expiration date of such initial or annual license; and provided,
 439 further, that if an initial license is issued to a distributor on or after December 1, then such
 440 distributor shall apply for an annual license by the first business day of the next year.
 441 (2) An application submitted under this subsection shall identify each store location to
 442 which an initial or annual license is applicable; there shall not be a requirement for a
 443 separate application for each of the several store locations. The determination by the
 444 Safety Fire Commissioner of whether a distributor has met requirements for the issuance
 445 of a license required by this subsection shall be made within 15 30 days of the submission
 446 of an application for any such initial or annual license; provided, however, that if a
 447 license will expire prior to the expiration of such 30 days and no such determination has
 448 been made by the Safety Fire Commissioner, then the expiration date for such license
 449 shall be extended until the date of such determination by the Safety Fire Commissioner
 450 but for no more than 30 days. Such application shall be in writing and, if the Safety Fire
 451 Commissioner provides for a written form for the application for a license pursuant to this
 452 Code section, upon such form as may be provided by the Safety Fire Commissioner. If
 453 a determination has not been made within the time provided for by this paragraph, or for
 454 an appeal of a determination by the Safety Fire Commissioner, a distributor may seek
 455 review from the judge of the probate court of the county of the location or proposed
 456 location of the store from which consumer fireworks will be sold. Such judge may
 457 provide for the issuance or nonissuance of a license and for the payment of license fees
 458 in such manner as is consistent with the provisions of this subsection."

459

SECTION 6.

460

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

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"25-10-6.

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(a) The state fire marshal shall enforce the provisions of this chapter; ~~provided, however, that, in addition, any law enforcement officer or agency of this state or political subdivision thereof may enforce provisions relating to using or igniting or causing to be ignited consumer fireworks.~~ Applicable fire departments of a county, municipality, or other political subdivision or a chartered fire department shall refer cases for enforcement under subsection (c) of Code Section 25-10-5.1 to the state fire marshal. All fireworks ~~or consumer fireworks~~ manufactured, offered for sale, exposed for sale, or stored in violation of this chapter are declared to be contraband and may be seized, taken, and removed, or caused to be removed and destroyed ~~or disposed of~~ at the expense of the owner thereof by the state fire marshal, the Georgia State Patrol, or any sheriff or local police official.

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

476

SECTION 7.

477

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

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"25-10-9.

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Notwithstanding any provision of this chapter to the contrary, the Safety Fire Commissioner shall have the authority to subject any person, firm, corporation, association, or partnership that knowingly violates this chapter may be punished by a fine not to exceed to a monetary penalty of up to \$2,500.00 for each and every act in violation of this chapter; provided, however, that the Safety Fire Commissioner shall have the authority to subject any person, firm, corporation, association, or partnership that knowingly sells consumer fireworks from a tent, canopy, or membrane structure to a monetary penalty of up to \$5,000.00 and, if any such person, firm, corporation, association, or partnership is a distributor, then a license revocation for not more than two years. Each sales transaction in violation of this chapter shall be a separate offense."

490

SECTION 8.

491

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

492 "25-10-11.

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

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

506 (c) Any order issued by the Safety Fire Commissioner under this chapter shall contain or
 507 be accompanied by a notice of opportunity for hearing which shall provide that a hearing
 508 will be held if and only if a person subject to the order requests a hearing in writing within
 509 ten days of receipt of the order and notice. The order and notice shall be served by delivery
 510 by the Safety Fire Commissioner or his or her agent or by registered or certified mail or
 511 statutory overnight delivery, return receipt requested. Any person who fails to comply with
 512 any order under this subsection is guilty of a misdemeanor and may be punished by law.

513 (d) In addition to other powers granted to the Safety Fire Commissioner under this chapter,
 514 the Safety Fire Commissioner may bring a civil action to enjoin a violation of any
 515 provision of this chapter or of any rule, regulation, or order issued by the Safety Fire
 516 Commissioner under this chapter.

517 25-10-12.

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

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

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

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

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

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

532 **SECTION 9.**

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

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

541 (b) If the sale of a product or service is regulated by Chapter 10 of Title 25, the governing
 542 authority of a county or municipal corporation shall not enact additional regulation of the
 543 sale or use or ~~explosion~~ ignition of such product or service, unless such additional
 544 regulation is expressly authorized by general law."

545 **SECTION 10.**

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

548 **SECTION 11.**

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