

COMMITTEES OF CONFERENCE SUBSTITUTE TO HB 727

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 25 of the Official Code of Georgia Annotated, relating to fire protection and
 2 safety, so as to revise requirements for the issuance of certificates of compliance for fire
 3 departments; to revise and to provide for definitions; to expand the functions and powers of
 4 the Georgia Firefighter Standards and Training Council; to revise qualifications for
 5 firefighters; to revise the standard of compliance from explosion to ignition; to provide for
 6 definitions; to provide that certain sparkling items are consumer fireworks; to revise
 7 provisions relating to the sale, use, or ignition of consumer fireworks; to revise the days,
 8 times, locations, situations, and circumstances in which consumer fireworks can be lawfully
 9 used or ignited; to revise places within this state where the use or ignition of consumer
 10 fireworks is prohibited; to create the criminal offense of using or igniting or causing to be
 11 ignited consumer fireworks while under the influence; to provide for criminal penalties; to
 12 revise the licensing standards and procedures which shall be applied by the Safety Fire
 13 Commissioner and the governing authorities of counties and municipal corporations toward
 14 distributors; to revise licensing fees and requirements; to expand enforcement and regulatory
 15 mechanisms of the Safety Fire Commissioner regarding fireworks and consumer fireworks;
 16 to provide for the forfeiture of fireworks and consumer fireworks contraband; to provide for
 17 criminal penalties; to provide for civil enforcement; to amend Chapter 60 of Title 36 of the
 18 Official Code of Georgia Annotated, relating to general provisions regarding provisions
 19 applicable to counties and municipal corporations, so as to provide for further regulations by
 20 municipal corporations; to provide for related matters; to provide for an effective date; to
 21 repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is
 25 amended by revising Code section 25-3-22, relating to notification that organization meets
 26 requirements and issuance of certificate of compliance, as follows:

27 "25-3-22.

28 In order for a fire department to be legally organized to operate in the State of Georgia, the
 29 chief administrative officer of the fire department shall notify and submit all required
 30 documentation to the executive director that demonstrates that the organization meets the
 31 minimum requirements specified in Code Section 25-3-23 and the rules and regulations of
 32 the Georgia Firefighter Standards and Training Council to function as a fire department.
 33 If the ~~council~~ executive director is satisfied that the fire department meets the minimum
 34 requirements contained in Code Section 25-3-23 and the rules and regulations of the
 35 Georgia Firefighter Standards and Training Council, he or she shall recommend to the
 36 Georgia Firefighter Standards and Training Council that a certificate of compliance be
 37 issued by the council to the fire department. If the council issues such certificate of
 38 compliance, the fire department shall be authorized to exercise the general and emergency
 39 powers set forth in Code Sections 25-3-1 and 25-3-2."

40 **SECTION 2.**

41 Said title is further amended by in Code section 25-4-2, relating to definitions, by revising
 42 paragraph (6) and adding a new paragraph as follows:

43 "(6) 'Firefighter' means a recruit or a trained individual who is a full-time employee,
 44 part-time employee, or volunteer for a municipal, county, state, or private incorporated
 45 fire department and as such has duties of responding to mitigate a variety of emergency
 46 and nonemergency situations where life, property, or the environment is at risk, which
 47 may include without limitation fire suppression; fire prevention activities; emergency
 48 medical services; hazardous materials response and preparedness; technical rescue
 49 operations; search and rescue; disaster management and preparedness; community service
 50 activities; response to civil disturbances and terrorism incidents; nonemergency functions
 51 including training, preplanning, communications, maintenance, and physical
 52 conditioning; and other related emergency and nonemergency duties as may be assigned
 53 or required; provided, however, that a firefighter's assignments may vary based on
 54 geographic, climatic, and demographic conditions or other factors including training,
 55 experience, and ability."

56 "(8.1) 'Recruit' means a prospective firefighter who has not yet been certified or
 57 registered by the council as having met the requirements of Code Section 25-4-8 and the
 58 rules and regulations to be a firefighter as provided for by the council."

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SECTION 3.

Said title is further amended by in Code section 25-4-7, relating to the functions and powers of the Georgia Firefighter Standards and Training Council, by revising paragraphs (4) and (9) as follows:

"(4) To establish uniform minimum standards for the employment and training of full-time, part-time, or volunteer firefighters, airport firefighters, fire and life safety educators, fire inspectors, ~~and~~ fire investigators, and other such firefighting service professionals as determined by the council including qualifications, certifications, recertifications, decertifications, and probations for certified individuals and suspensions for noncertified individuals, and requirements, which are consistent with this chapter;"

"(9) To establish basic firefighter training requirements for full-time, part-time, contract, and volunteer firefighters, including airport firefighters;"

SECTION 4.

Said title is further amended in Code section 25-4-8, relating to qualifications of firefighters generally, by revising subsection (a) as follows:

"(a) Except as provided in Code Section 25-4-12, any ~~person employed~~ employee, volunteer, or private contractor of a fire department operating in this state or certified as a firefighter shall, as prescribed by the council:

(1) Be at least 18 years of age;

(2) Not have been convicted of, or pleaded guilty to, a felony in any jurisdiction or of a crime which if committed in this state would constitute a felony under the laws of this state within ten years prior to employment, provided that a person who has been convicted of a felony more than five but less than ten years prior to employment may be certified and employed as a firefighter when the person has:

(A) Successfully completed a training program following the Georgia Fire Academy curriculum and sponsored by the Department of Corrections;

(B) Been recommended to a fire department by the proper authorities at the institution at which the training program was undertaken; and

(C) Met all other requirements as set forth in this chapter.

The council shall be the final authority with respect to authorizing the employment, appointment, and certification of a person who has been convicted of a felony more than five but less than ten years prior to seeking employment when the person is seeking employment as a firefighter for any municipal, county, or state fire department which employs three or more firefighters who work a minimum of 40 hours per week and has the responsibility of preventing and suppressing fires, protecting life and property, and

94 enforcing municipal, county, and state codes, as well as enforcing any law pertaining to
 95 the prevention and control of fires;

96 (3) Have a good moral character as determined by investigation under procedure
 97 approved by the council;

98 (4) Be fingerprinted and a search made of local, state, and national fingerprint files to
 99 disclose any criminal record;

100 (5) Be in good physical condition as determined by a medical examination and
 101 successfully pass the minimum physical agility requirements as established by the
 102 council; and

103 (6) Possess or achieve within 12 months after employment a high school diploma or a
 104 general education development equivalency."

105 SECTION 5.

106 Said title is further amended by revising Code Section 25-10-1, relating to definitions, as
 107 follows:

108 "25-10-1.

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

110 (1) 'Consumer fireworks' means any small fireworks devices containing restricted
 111 amounts of pyrotechnic composition, designed primarily to produce visible or audible
 112 effects by combustion, that comply with the construction, chemical composition, and
 113 labeling regulations of the United States Consumer Product Safety Commission as
 114 provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the
 115 United States Department of Transportation as provided for in Part 172 of Title 49 of the
 116 Code of Federal Regulations, and the American Pyrotechnics Association as provided for
 117 in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall
 118 mean Roman candles.

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

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

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

126 (4.1) 'Electric plant' shall have the same meaning as provided for in Code Section
 127 46-3A-1.

128 (5) 'Fireworks' means any combustible or explosive composition or any substance or
 129 combination of substances or article prepared for the purpose of producing a visible or

130 audible effect by combustion, explosion, deflagration, or detonation, including blank
 131 cartridges, firecrackers, torpedos, skyrockets, bombs, sparklers, and other combustibles
 132 and explosives of like construction, as well as articles containing any explosive or
 133 flammable compound and tablets and other devices containing an explosive substance.

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

137 (7) 'Nonprofit group' means any entity exempt from taxation under Section 501(c)(3) of
 138 the Internal Revenue Code of 1986, any entity incorporated under Chapter 3 of Title 14,
 139 the 'Georgia Nonprofit Corporation Code,' or a sponsored organization of a public or
 140 private elementary or secondary school in this state.

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

144 (9) 'Pyrotechnics' means fireworks.

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

148 ~~(10)~~ (10) 'Store' shall have the same meaning as provided for by NFPA 1124; provided,
 149 however, that such term shall only include such buildings with at least 4,000 square feet
 150 of retail display space and wherefrom:

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

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

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

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

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

164 (1) Model rockets and model rocket engines designed, sold, and used for the purpose of
 165 propelling recoverable aero models, toy pistol paper caps in which the explosive content
 166 averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy

167 cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term
 168 'consumer fireworks' or 'fireworks' include ammunition consumed by weapons used for
 169 sporting and hunting purposes; and

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

176 **SECTION 6.**

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

179 "25-10-2.

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

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

188 (2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)
 189 of subsection (b) of Code Section 25-10-1 to any person by any means other than an
 190 in-person, face-to-face sale. Such person shall provide proper identification to the seller
 191 at the time of such purchase. For purposes of this paragraph, the term 'proper
 192 identification' means any document issued by a governmental agency containing a
 193 description of the person or such person's photograph, or both, and giving such person's
 194 date of birth and includes without being limited to a passport, military identification card,
 195 driver's license, or identification card authorized under Code Sections 40-5-100 through
 196 40-5-104.

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

200 (B) Except as provided for in subparagraph (D) or (E) of this paragraph and subject to
 201 paragraph (4) of this subsection and Code Section 25-10-2.1, it shall be lawful for any

202 person, firm, corporation, association, or partnership to use or ~~explode~~ ignite or cause
 203 to be ~~exploded~~ ignited any consumer fireworks ~~on~~;

204 (i) On any day between beginning at the hours time of 10:00 A.M. and 12:00
 205 Midnight only; provided, however, that it shall be lawful for any person, firm,
 206 corporation, association, or partnership to use or explode or cause to be exploded any
 207 consumer fireworks on January 1, July 3, July 4, and December 31 of each year
 208 between the hours of 12:00 Midnight and 2:00 A.M. up to and including the ending
 209 time of 9:00 P.M.;

210 (ii) On any day after the time of 9:00 P.M. and up to and including the time of 11:59
 211 P.M. if such use or ignition is lawful pursuant to any noise ordinance of the county
 212 or municipal corporation of the location in which such use or ignition occurs, except
 213 as otherwise provided for under this subparagraph; provided, however, that a county
 214 or municipal corporation may additionally require the issuance of a special use permit
 215 pursuant to subparagraph (D) of this paragraph for use or ignition;

216 (iii) On January 1, July 3, July 4, and December 31 of each year after the time of 9:00
 217 P.M. and up to and including the time of 11:59 P.M.; and

218 (iv) On January 1 of each year beginning at the time of 12:00 Midnight and up to and
 219 including the ending time of 1:00 A.M.

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

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

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

228 (iii) Within 100 yards of ~~a nuclear power facility or an electric plant; water treatment~~
 229 plant; waste-water treatment plant; a facility engaged in the retail sale of gasoline or
 230 other flammable or combustible liquids or gases where the volume stored is in excess
 231 of 500 gallons for the purpose of retail sale; a facility engaged in the production,
 232 refining, processing, or blending of gasoline any flammable or combustible liquids
 233 or gases for such retail purposes; any public or private electric substation; or a jail or
 234 prison;

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

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

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

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

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

256 (D) Any person, firm, corporation, association, or partnership may use or ~~explode~~
 257 ~~ignite~~ or cause to be ~~exploded~~ ignited any consumer fireworks ~~on any day at a time not~~
 258 ~~as provided for under subparagraph (B) of this paragraph divisions (3)(B)(ii) and~~
 259 ~~(3)(C)(v) of this subsection~~ if such person, firm, corporation, association, or partnership
 260 is issued a special use permit pursuant to the law of a governing authority of a county
 261 or municipal corporation for the use or ~~explosion~~ ignition of consumer fireworks in a
 262 location within such county or municipality ~~at a time not as provided for under~~
 263 ~~subparagraph (B) of this paragraph divisions (3)(B)(ii) and (3)(C)(v) of this subsection,~~
 264 provided that such special use permit is required for such use or ignition. Such special
 265 use permit shall designate the time or times and location that such person, firm,
 266 corporation, association, or partnership may use or ~~explode~~ ignite or cause to be
 267 ~~exploded~~ ignited such consumer fireworks. A fee assessed by a county or municipal
 268 corporation for the issuance of a special use permit pursuant to this subparagraph shall
 269 not exceed \$100.00. No governing authority or official of a county, municipality, or
 270 other political subdivision shall bear liability for any decisions made pursuant to this
 271 Code section.

272 (E) Whenever the Governor issues a declaration of drought, the Governor may, for the
 273 boundaries of the area covered by such declaration, enact further regulations and
 274 restrictions concerning the use of consumer fireworks than provided for under this

275 chapter; provided, however, that no such further regulations or restrictions on the use
 276 of consumer fireworks shall be effective pursuant to this subparagraph on January 1,
 277 July 3, July 4, or December 31 of any year; provided, further, that such further
 278 regulations or restrictions shall only apply to the exact boundaries of the area covered
 279 by such declaration and shall only apply with regard to the ignition of consumer
 280 fireworks; and provided, further, that upon expiration or conclusion of such declaration,
 281 such further regulations or restrictions shall be rescinded by law.

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

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

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

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

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

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

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

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

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

312 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political
 313 subdivision or a fire department connection of a building affiliated with such
 314 consumer fireworks retail sales stand, unless the chief administrative officer of the
 315 fire department of a county, municipality, or other political subdivision or chartered
 316 fire department legally organized to operate in this state pursuant to Chapter 3 of this
 317 title and having operational authority over such location of the temporary consumer
 318 fireworks retail sales stand provides in writing that such temporary consumer
 319 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant
 320 or fire department connection; and

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

323 ~~No A distributor licensed pursuant to subsection (c) of Code Section 25-10-5.1 shall at~~
 324 ~~any one time operate more than two temporary consumer fireworks retail sales stands~~
 325 ~~for each license issued to such distributor under subsection (b) or (d) of Code Section~~
 326 ~~25-10-5.1, except that a distributor which is a retail chain and which is licensed~~
 327 ~~pursuant to subsection (d) of Code Section 25-10-5.1 shall not at any one time operate~~
 328 ~~more than two temporary consumer fireworks retail sales stands for each store of such~~
 329 ~~retail chain. Such temporary consumer fireworks retail sales stands shall be located~~
 330 ~~within the same county as the location of such permanent consumer fireworks retail~~
 331 ~~sales facility or store provided for under subsection (b) or (d) of Code Section~~
 332 ~~25-10-5.1; provided, however, that if a county does not have a distributor licensed~~
 333 ~~pursuant to subsection (b) or (d) of Code Section 25-10-5.1 offering consumer~~
 334 ~~fireworks for sale from a permanent consumer fireworks retail sales facility or store~~
 335 ~~within its boundaries, then a distributor licensed pursuant to subsection (b) or (d) of~~
 336 ~~Code Section 25-10-5.1 offering consumer fireworks for sale from a permanent~~
 337 ~~consumer fireworks retail sales facility or store within 75 miles of the perimeter of the~~
 338 ~~boundaries of such county may locate one of the two temporary consumer fireworks~~
 339 ~~retail sales stands in the unserved county may operate no more than two temporary~~
 340 ~~consumer fireworks retail sales stands in this state per location licensed pursuant to~~
 341 ~~subsection (b) or (d) of Code Section 25-10-5.1; provided, however, that such~~
 342 ~~distributor has been operating and open to the public pursuant to subsection (b) or (d)~~
 343 ~~of Code Section 25-10-5.1 no less than 30 days prior to July 4 or December 31 in the~~
 344 ~~year of an application for a license under subsection (c) of Code Section 25-10-5.1 that~~
 345 ~~is filed within 30 days of July 4 or December 31.~~

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

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SECTION 7.

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

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"25-10-2.1.

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

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(1) Under the influence of alcohol or any drug or any combination of alcohol and any

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drug to the extent that it is unsafe for such person to ignite consumer fireworks or

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fireworks; or

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(2) Subject to the provisions of subsection (b) of this Code section, there is any amount

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of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in

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such person's blood or urine, or both, including the metabolites and derivatives of each

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or both, without regard to whether or not any alcohol is present in such person's breath

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or blood.

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(b) The fact that any person charged with violating this Code section is or has been legally

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entitled to use a drug shall not constitute a defense against any charge of violating this

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Code section; provided, however, that such person shall not be in violation of this Code

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section unless such person is rendered incapable of igniting consumer fireworks or

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fireworks safely as a result of using a drug other than alcohol which such person is legally

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entitled to use.

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(c) Any person convicted of violating subsection (a) of this Code section shall be guilty

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of a misdemeanor."

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SECTION 8.

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Said title is further amended by revising subsection (a) of Code Section 25-10-3.2, relating

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to license required for pyrotechnics exhibits, as follows:

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"(a) No person, firm, corporation, association, or partnership shall cause the combustion,

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explosion, deflagration, ~~or~~ detonation, or ignition of pyrotechnics for the purpose of a

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public exhibition or display before a proximate audience unless such person, firm,

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corporation, association, or partnership holds a valid license issued by the Safety Fire

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Commissioner in accordance with the provisions of this Code section. Any application for

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such a license shall be made to the Safety Fire Commissioner in the form prescribed by the

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Safety Fire Commissioner."

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SECTION 9.

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Said title is further amended by revising Code Section 25-10-5.1, relating to requirements

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for issuance of license to distribute consumer fireworks, as follows:

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"25-10-5.1.

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

383 (A) Complies with all the requirements of this chapter; and
 384 (B) Maintains at all times public liability and product liability insurance with minimum
 385 coverage limits of \$2 million to cover the losses, damages, or injuries that might ensue
 386 to persons or property as a result of selling consumer fireworks.

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

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

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

399 (b)(1) The initial license fee for a distributor selling consumer fireworks from a
 400 permanent consumer fireworks retail sales facility shall be ~~\$5,000.00~~ \$1,500.00 per
 401 location, payable to the Safety Fire Commissioner; provided, however, that the initial
 402 license fee shall be \$5,000.00 for a distributor that is not licensed pursuant to this
 403 subsection prior to July 1, 2016. Upon a finding that a distributor has met the
 404 requirements of ~~paragraph (1)~~ of subsection (a) of this Code section and upon payment
 405 of such license fee, such initial license shall be issued by the Safety Fire Commissioner
 406 and shall identify the permanent consumer fireworks retail sales facility applicable to
 407 such license. Such initial license shall expire on January 31 of the year after such initial
 408 license was issued or as otherwise provided for under this subsection. After such initial
 409 license, such distributor may annually renew such initial license, which shall then become
 410 an annual license, for \$1,000.00 per year, payable to the Safety Fire Commissioner.
 411 Upon finding that a distributor has met the requirements of ~~paragraph (1)~~ of
 412 subsection (a) of this Code section and upon payment of such license fee, such annual
 413 license shall be issued by the Safety Fire Commissioner and shall identify the permanent
 414 consumer fireworks retail sales facility applicable to such license. Such annual license
 415 shall expire on January 31 of each year or as otherwise provided for under this
 416 subsection; provided, however, that a distributor shall ~~not~~ apply for an annual license
 417 ~~earlier than 30 days prior to the expiration of an initial license~~ or renewal of an annual
 418 license by December 1 in the year preceding the expiration date of such initial or annual
 419 license; and provided, further, that if an initial license is issued to a distributor on or after

420 December 1, then such distributor shall apply for an annual license by the first business
 421 day of the next year.

422 (2) The determination by the Safety Fire Commissioner of whether a distributor has met
 423 requirements for the issuance of a license required by this subsection shall be made
 424 within ~~15~~ 30 days of the submission of an application for any ~~such~~ initial or annual
 425 license; provided, however, that if a license will expire prior to the expiration of such 30
 426 days and no such determination has been made by the Safety Fire Commissioner, then
 427 the expiration date for such license shall be extended until the date of such determination
 428 by the Safety Fire Commissioner but for no more than 30 days. Such application shall
 429 be in writing and, if the Safety Fire Commissioner provides for a written form for the
 430 application for a license pursuant to this Code section, upon such form as may be
 431 provided by the Safety Fire Commissioner. If a determination has not been made within
 432 the time provided for by this paragraph, or for an appeal of a determination by the Safety
 433 Fire Commissioner, a distributor may seek review from the judge of the probate court of
 434 the county of the location or proposed location of the permanent consumer fireworks
 435 retail sales facility. Such judge may provide for the issuance or nonissuance of a license
 436 and for the payment of license fees in such manner as is consistent with the provisions
 437 of this subsection.

438 (c)(1) The license fee for a distributor selling consumer fireworks from a temporary
 439 consumer fireworks retail sales stand shall be \$500.00 per location, payable to the
 440 governing authority of the county, municipality, or other political subdivision of this state
 441 in whose boundaries such temporary consumer fireworks retail sales stand shall be
 442 located or is proposed to be located. Upon finding that a distributor has met the
 443 requirements of ~~paragraph (1) of~~ subsection (a) of this Code section, has a license
 444 pursuant to subsection (b) or (d) of this Code section ~~for a location applicable to the~~
 445 ~~location of such temporary consumer fireworks retail sales stand as provided for in~~
 446 ~~subparagraph (b)(6)(B) of Code Section 25-10-2,~~ has no more than the allowable
 447 temporary consumer fireworks retail sales stands pursuant to subparagraph (b)(6)(B) of
 448 Code Section 25-10-2, that the sales of consumer fireworks from such temporary
 449 consumer fireworks retail sales stand shall accrue to the benefit of a nonprofit group, and
 450 upon payment of such license fee, such license shall be issued by the fire department of
 451 the county, municipality, or other political subdivision or the chartered fire department
 452 legally organized to operate in this state pursuant to Chapter 3 of this title and having
 453 operational authority of the area in which such temporary consumer fireworks retail sales
 454 stand shall be located or is proposed to be located; ~~provided, however, that no such~~
 455 ~~license shall be issued prior to January 1, 2016.~~ Such license shall identify the temporary

456 consumer fireworks retail sales stand applicable to such license and shall expire ~~90 days~~
 457 on the next January 31 after the issuance of such license.

458 (2) A determination by a fire department as provided for under paragraph (1) of this
 459 subsection of whether a distributor has met requirements for the issuance of a license
 460 pursuant to this subsection shall be made within ~~15~~ 30 days of the submission of an
 461 application for any such license. Such application shall be in writing and, if such fire
 462 department provides for a written form for the application for a license pursuant to this
 463 Code section, upon such form as may be provided by such fire department. If a
 464 determination has not been made within the time provided for by this paragraph, or for
 465 an appeal of a determination by such fire department, a distributor may seek review from
 466 the judge of the probate court of the county of the location or proposed location of the
 467 temporary consumer fireworks retail sales stand. Such judge may provide for the
 468 issuance or nonissuance of a license and for the payment of license fees in such manner
 469 as is consistent with the provisions of this subsection.

470 (3) For at least one of the temporary consumer fireworks retail sales stands provided for
 471 under subparagraph (b)(6)(B) of Code Section 25-10-2, a ~~A~~ nonprofit group benefiting
 472 from the sale of consumer fireworks ~~pursuant to this Code section~~ from such temporary
 473 consumer fireworks retail sales stand shall directly participate in operating ~~the such~~
 474 temporary consumer fireworks retail sales stand. It shall be unlawful for a nonprofit
 475 group or any agent or bona fide representative of a nonprofit group to knowingly lend the
 476 name of the nonprofit group or allow the identity of the nonprofit group to be used for the
 477 license under this subsection if such nonprofit group is not directly participating in
 478 operating, or benefiting from the operation of, such temporary consumer fireworks retail
 479 sales stand.

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

483 (5) A distributor licensed pursuant to this subsection shall submit a list of the names and
 484 addresses, including the counties, of each temporary consumer fireworks retail sales stand
 485 at which such distributor has consumer fireworks offered for sale pursuant to this Code
 486 section to the Safety Fire Commissioner. Such list shall be submitted ~~by January 31 of~~
 487 ~~each year and such distributor shall amend such list, or file an initial list if such~~
 488 ~~distributor first becomes licensed after January 31 of a particular year, within 45 days of~~
 489 not less than 30 days prior to first having a temporary consumer fireworks retail sales
 490 stand at which such distributor has consumer fireworks offered for sale and not less than
 491 30 days prior to having such distributor's consumer fireworks offered for sale at a location
 492 not previously included on such list. The Safety Fire Commissioner shall make such list

493 publicly available for inspection. In making determinations as provided for under this
 494 subsection, fire departments shall reference the list provided for by this paragraph.

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

498 (d)(1) The initial license fee for a distributor selling consumer fireworks from a store
 499 shall be ~~\$5,000.00~~ \$1,500.00 in addition to \$250.00 per store location, payable to the
 500 Safety Fire Commissioner, ~~provided that, if a store is a retail chain, one payment of~~
 501 ~~\$5,000.00 shall satisfy such license fee for each store of the retail chain.~~ Upon finding
 502 that a distributor has met the requirements of ~~paragraph (1) of~~ subsection (a) of this Code
 503 section, such initial license shall be issued by the Safety Fire Commissioner ~~and, if issued~~
 504 ~~to a store which is a retail chain, shall be a license for each current or future store of the~~
 505 ~~retail chain; provided, however, that such distributor has been operating and open to the~~
 506 ~~public no less than 30 days prior to July 4 or December 31 in the year of an application~~
 507 ~~for an initial license that is filed within 30 days of July 4 or December 31; and provided,~~
 508 ~~further, that a distributor holding an initial license may add additional store locations to~~
 509 ~~such license prior to the expiration of such license upon payment of \$250.00 per added~~
 510 ~~store location.~~ Such initial license shall expire on January 31 of the year after such initial
 511 license was issued or as otherwise provided for under this subsection. After such initial
 512 license, such distributor may annually renew such initial license, which shall then become
 513 an annual license, for \$1,000.00 in addition to \$100.00 per year store location, payable
 514 to the Safety Fire Commissioner, ~~provided that, if a store is a retail chain, one payment~~
 515 ~~of \$1,000.00 shall satisfy such license fee for each store of the retail chain; provided,~~
 516 ~~however, that a distributor holding an annual license may add additional store locations~~
 517 ~~to such license prior to the expiration of such license upon payment of \$250.00 per added~~
 518 ~~store location.~~ Upon finding that a distributor has met the requirements of ~~paragraph (1)~~
 519 ~~of~~ subsection (a) of this Code section, such annual license shall be issued by the Safety
 520 Fire Commissioner ~~and, if issued to a store which is a retail chain, shall be a license for~~
 521 ~~each current or future store of the retail chain.~~ Such annual license shall expire on
 522 January 31 of each year or as otherwise provided for under this subsection; provided,
 523 however, that a distributor shall ~~not~~ apply for an annual license ~~earlier than 30 days prior~~
 524 ~~to the expiration of an initial license~~ or renewal of an annual license by December 1 in
 525 the year preceding the expiration date of such initial or annual license; and provided,
 526 further, that if an initial license is issued to a distributor on or after December 1, then such
 527 distributor shall apply for an annual license by the first business day of the next year.

528 (2) An application submitted under this subsection shall identify each store location to
 529 which an initial or annual license is applicable; there shall not be a requirement for a

530 separate application for each of the several store locations. The determination by the
 531 Safety Fire Commissioner of whether a distributor has met requirements for the issuance
 532 of a license required by this subsection shall be made within ~~15~~ 30 days of the submission
 533 of an application for any ~~such~~ initial or annual license; provided, however, that if a
 534 license will expire prior to the expiration of such 30 days and no such determination has
 535 been made by the Safety Fire Commissioner, then the expiration date for such license
 536 shall be extended until the date of such determination by the Safety Fire Commissioner
 537 but for no more than 30 days. ~~Such application shall be in writing and, if the Safety Fire~~
 538 ~~Commissioner provides for a written form for the application for a license pursuant to this~~
 539 ~~Code section, upon such form as may be provided by the Safety Fire Commissioner.~~ If
 540 a determination has not been made within the time provided for by this paragraph, or for
 541 an appeal of a determination by the Safety Fire Commissioner, a distributor may seek
 542 review from the judge of the probate court of the county of the location or proposed
 543 location of the store from which consumer fireworks will be sold. Such judge may
 544 provide for the issuance or nonissuance of a license and for the payment of license fees
 545 in such manner as is consistent with the provisions of this subsection."

546 **SECTION 10.**

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

550 "25-10-6.

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

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

563

SECTION 11.

564

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

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566

"25-10-9.

567

Notwithstanding any provision of this chapter to the contrary, the Safety Fire

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Commissioner shall have the authority to subject any person, firm, corporation, association,

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or partnership that knowingly violates this chapter ~~may be punished by a fine not to exceed~~

570

to a monetary penalty of up to \$2,500.00 for each and every act in violation of this chapter;

571

provided, however, that the Safety Fire Commissioner shall have the authority to subject

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any person, firm, corporation, association, or partnership that knowingly sells consumer

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fireworks from a tent, canopy, or membrane structure to a monetary penalty of up to

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\$5,000.00 and, if any such person, firm, corporation, association, or partnership is a

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distributor, then a license revocation for not more than two years. Each sales transaction

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in violation of this chapter shall be a separate offense."

577

SECTION 12.

578

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

579

"25-10-11.

580

(a) Whenever the Safety Fire Commissioner shall have reason to believe that any person

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is or has been violating any provisions of this chapter, the Safety Fire Commissioner, his

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or her deputy, his or her assistant, or other designated persons may issue and deliver to the

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person an order to cease and desist such violation. An order issued under this Code section

584

shall be delivered in accordance with the provisions of subsection (c) of this Code section.

585

(b) Violation of any provision of this chapter or failure to comply with a cease and desist

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order is cause for revocation of any or all licenses issued by the Safety Fire Commissioner

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for a period of not less than six months and not to exceed five years. If a new license has

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been issued to the person so charged, the order of revocation shall operate effectively with

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respect to such new license held by such person. In the case of an applicant for a license,

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violation of any provision of this title or regulations promulgated thereunder may constitute

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grounds for refusal of the application. Decisions under this subsection may be appealed

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as provided by law.

593

(c) Any order issued by the Safety Fire Commissioner under this chapter shall contain or

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be accompanied by a notice of opportunity for hearing which shall provide that a hearing

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will be held if and only if a person subject to the order requests a hearing in writing within

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ten days of receipt of the order and notice. The order and notice shall be served by delivery

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by the Safety Fire Commissioner or his or her agent or by registered or certified mail or

598 statutory overnight delivery, return receipt requested. Any person who fails to comply with
 599 any order under this subsection is guilty of a misdemeanor and may be punished by law.
 600 (d) In addition to other powers granted to the Safety Fire Commissioner under this chapter,
 601 the Safety Fire Commissioner may bring a civil action to enjoin a violation of any
 602 provision of this chapter or of any rule, regulation, or order issued by the Safety Fire
 603 Commissioner under this chapter.

604 25-10-12.

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

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

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

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

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

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

619 **SECTION 13.**

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

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

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

632 "(d) Notwithstanding subsections (a) and (b) of this Code section, the governing authority
633 of a county or municipal corporation may further regulate the sale of consumer fireworks
634 from temporary consumer fireworks retail sales stands until January 31, 2018.

635 (e) The governing authority of a county or municipal corporation shall not unreasonably
636 delay or deny an application for a temporary consumer fireworks retail sales stand."

637 **SECTION 14.**

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

640 **SECTION 15.**

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