House Bill 727 (AS PASSED HOUSE AND SENATE)
By: Representatives Battles of the 15th, Turner of the 21st, Parsons of the 44th, LaRiccia of the 169th, and Kaiser of the 59th

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

SECTION 2.

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

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

"(8.1) 'Recruit' means a prospective firefighter who has not yet been certified or registered by the council as having met the requirements of Code Section 25-4-8 and the rules and regulations to be a firefighter as provided for by the council."
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
enforcing municipal, county, and state codes, as well as enforcing any law pertaining to the prevention and control of fires;

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

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

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

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

SECTION 5.

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

"25-10-1.

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

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

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

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

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

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

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


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

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

(9) 'Pyrotechnics' means fireworks.

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

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

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

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

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

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

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

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

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

SECTION 6.

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

25-10-2. (a) It shall be unlawful for any person, firm, corporation, association, or partnership to offer for sale at retail or wholesale, to use or explode or cause to be exploded, or to possess, manufacture, transport, or store any consumer fireworks or fireworks, except as otherwise provided in this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Within 100 yards of the boundaries of any public use air facility provided for under Title 6 or any public use landing area or platform marked and designed for landing use by helicopters:
(v) Within any park, historic site, recreational area, or other property which is owned by or operated by, for, or under the custody and control of a governing authority of a county or municipal corporation, except pursuant to a special use permit as provided for in subparagraph (D) of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) In compliance with the requirements for such a temporary consumer fireworks retail sales stand in the selling of consumer fireworks as provided for in NFPA 1124;
(ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political subdivision or a fire department connection of a building affiliated with such consumer fireworks retail sales stand, unless the chief administrative officer of the fire department of a county, municipality, or other political subdivision or chartered fire department legally organized to operate in this state pursuant to Chapter 3 of this title and having operational authority over such location of the temporary consumer fireworks retail sales stand provides in writing that such temporary consumer fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant or fire department connection; and

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

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

(C) It shall be unlawful to sell consumer fireworks from any motor vehicle, or from a trailer towed by a motor vehicle, or from a tent, canopy, or membrane structure.
SECTION 7.

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

"25-10-2.1.

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

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

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

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

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

SECTION 8.

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

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

SECTION 9.

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

“25-10-5.1.

(a)(1) A license pursuant to this Code section shall only be issued to a distributor that:
(A) Complies with all the requirements of this chapter; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d)(1) The initial license fee for a distributor selling consumer fireworks from a store
shall be $5,000.00 $1,500.00 in addition to $250.00 per store location, payable to the
Safety Fire Commissioner; provided that, if a store is a retail chain, one payment of
$5,000.00 shall satisfy such license fee for each store of the retail chain. Upon finding
that a distributor has met the requirements of paragraph (1) of subsection (a) of this Code
section, such initial license shall be issued by the Safety Fire Commissioner and, if issued
to a store which is a retail chain, shall be a license for each current or future store of the
retail chain; provided, however, that such distributor has been operating and open to the
public no less than 30 days prior to July 4 or December 31 in the year of an application
for an initial license that is filed within 30 days of July 4 or December 31; and provided,
further, that a distributor holding an initial license may add additional store locations to
such license prior to the expiration of such license upon payment of $250.00 per added
store location. Such initial license shall expire on January 31 of the year after such initial
license was issued or as otherwise provided for under this subsection. After such initial
license, such distributor may annually renew such initial license, which shall then become
an annual license, for $1,000.00 in addition to $100.00 per year store location, payable
to the Safety Fire Commissioner; provided that, if a store is a retail chain, one payment
of $1,000.00 shall satisfy such license fee for each store of the retail chain; provided,
however, that a distributor holding an annual license may add additional store locations
to such license prior to the expiration of such license upon payment of $250.00 per added
store location. Upon finding that a distributor has met the requirements of paragraph (1)
of subsection (a) of this Code section, such annual license shall be issued by the Safety
Fire Commissioner and, if issued to a store which is a retail chain, shall be a license for
each current or future store of the retail chain. Such annual license shall expire on
January 31 of each year or as otherwise provided for under this subsection; provided,
however, that a distributor shall not apply for an annual license earlier than 30 days prior
to the expiration of an initial license or renewal of an annual license by December 1 in
the year preceding the expiration date of such initial or annual license; and provided,
further, that if an initial license is issued to a distributor on or after December 1, then such
distributor shall apply for an annual license by the first business day of the next year.

(2) An application submitted under this subsection shall identify each store location to
which an initial or annual license is applicable; there shall not be a requirement for a
The determination by the Safety Fire Commissioner of whether a distributor has met requirements for the issuance of a license required by this subsection shall be made within 30 days of the submission of an application for any such initial or annual license; provided, however, that if a license will expire prior to the expiration of such 30 days and no such determination has been made by the Safety Fire Commissioner, then the expiration date for such license shall be extended until the date of such determination by the Safety Fire Commissioner but for no more than 30 days. Such application shall be in writing and, if the Safety Fire Commissioner provides for a written form for the application for a license pursuant to this Code section, upon such form as may be provided by the Safety Fire Commissioner. If a determination has not been made within the time provided for by this paragraph, or for an appeal of a determination by the Safety Fire Commissioner, a distributor may seek review from the judge of the probate court of the county of the location or proposed location of the store from which consumer fireworks will be sold. Such judge may provide for the issuance or nonissuance of a license and for the payment of license fees in such manner as is consistent with the provisions of this subsection."

SECTION 10.

Said title 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:

"25-10-6.

(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."
SECTION 11.

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

"25-10-9.

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 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."

SECTION 12.

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

"25-10-11.

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

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

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

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

25-10-12.

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

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

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

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

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

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

SECTION 13.

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

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

(b) If the sale of a product or service is regulated by Chapter 10 of Title 25, the governing authority of a county or municipal corporation shall not enact additional regulation of the sale or use or explosion ignition of such product or service, unless such additional regulation is expressly authorized by general law.”
(d) Notwithstanding subsections (a) and (b) of this Code section, the governing authority of a county or municipal corporation may further regulate the sale of consumer fireworks from temporary consumer fireworks retail sales stands until January 31, 2018.

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

SECTION 14.
This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 15.
All laws and parts of laws in conflict with this Act are repealed.