

SENATE SUBSTITUTE TO HB 419:

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to
 2 regulation of fireworks, so as to subject the use or ignition of consumer fireworks to general
 3 noise ordinances of counties and municipal corporations in certain circumstances; to provide
 4 for conditions; to provide for meeting notice requirements; to revise procedures and
 5 requirements concerning consumer fireworks for a drought declaration; to require certain
 6 signs in the retail display area for consumer fireworks; to provide for related matters; to
 7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of
 11 fireworks, is amended by revising Code Section 25-10-2, relating to prohibited fireworks
 12 activities, as follows:

13 "25-10-2.

14 (a) It shall be unlawful for any person, firm, corporation, association, or partnership to
 15 offer for sale at retail or wholesale, to use or ignite or cause to be ignited, or to possess,
 16 manufacture, transport, or store any consumer fireworks or fireworks, except as otherwise
 17 provided in this chapter.

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

22 (2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)
 23 of subsection (b) of Code Section 25-10-1 to any person by any means other than an
 24 in-person, face-to-face sale. Such person shall provide proper identification to the seller
 25 at the time of such purchase. For purposes of this paragraph, the term 'proper
 26 identification' means any document issued by a governmental agency containing a
 27 description of the person or such person's photograph, or both, and giving such person's

28 date of birth and includes without being limited to a passport, military identification card,
 29 driver's license, or identification card authorized under Code Sections 40-5-100 through
 30 40-5-104.

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

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

38 (i) On any day beginning at the time of 10:00 A.M. and up to and including the
 39 ending time of ~~9:00 P.M.~~;

40 ~~(ii) On any day after the time of 9:00 P.M. and up to and including the time of 11:59~~
 41 ~~P.M. if such use or ignition is lawful pursuant to any noise ordinance of the county~~
 42 ~~or municipal corporation of the location in which such use or ignition occurs, unless~~
 43 ~~during such times the noise from such use or ignition is not in compliance with a~~
 44 ~~noise ordinance of a county or municipal corporation as provided for in subsection (c)~~
 45 ~~of this Code section, except as otherwise provided for under this subparagraph;~~
 46 ~~provided, however, that a county or municipal corporation may additionally require~~
 47 ~~the issuance of a special use permit pursuant to subparagraph (D) of this paragraph~~
 48 ~~for use or ignition;~~

49 ~~(iii)~~(ii) On January 1, the last Saturday and Sunday in May, July 3, July 4, the first
 50 Monday in September, and December 31 of each year after the time of ~~9:00 P.M.~~
 51 10:00 A.M. and up to and including the time of 11:59 P.M.; and

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

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

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

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

62 (iii) Within 100 yards of an electric plant; water treatment plant; waste-water
 63 treatment plant; a facility engaged in the retail sale of gasoline or other flammable or
 64 combustible liquids or gases where the volume stored is in excess of 500 gallons for

65 the purpose of retail sale; a facility engaged in the production, refining, processing,
 66 or blending of any flammable or combustible liquids or gases for retail purposes; any
 67 public or private electric substation; or a jail or prison;

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

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

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

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

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

89 (D) Any person, firm, corporation, association, or partnership may use or ignite or
 90 cause to be ignited any consumer fireworks as provided for under divisions ~~(3)(B)(ii)~~
 91 (3)(B)(i) and (3)(C)(v) of this subsection if such person, firm, corporation, association,
 92 or partnership is issued a special use permit pursuant to the law of a governing authority
 93 of a county or municipal corporation for the use or ignition of consumer fireworks in
 94 a location within such county or municipality as provided for under divisions ~~(3)(B)(ii)~~
 95 (3)(B)(i) and (3)(C)(v) of this subsection, provided that such special use permit is
 96 required for such use or ignition. Such special use permit shall designate the time or
 97 times and location that such person, firm, corporation, association, or partnership may
 98 use or ignite or cause to be ignited such consumer fireworks. A fee assessed by a
 99 county or municipal corporation for the issuance of a special use permit pursuant to this
 100 subparagraph shall not exceed \$100.00. No governing authority or official of a county,

101 municipality, or other political subdivision shall bear liability for any decisions made
 102 pursuant to this Code section.

103 ~~(E) Whenever the Governor issues a declaration of drought, the Governor may, for the~~
 104 ~~boundaries of the area covered by such declaration, enact further regulations and~~
 105 ~~restrictions concerning the use of consumer fireworks than provided for under this~~
 106 ~~chapter; provided, however, that no such further regulations or restrictions on the use~~
 107 ~~of consumer fireworks shall be effective pursuant to this subparagraph on January 1,~~
 108 ~~July 3, July 4, or December 31 of any year; provided, further, that such further~~
 109 ~~regulations or restrictions shall only apply to the exact boundaries of the area covered~~
 110 ~~by such declaration and shall only apply with regard to the ignition of consumer~~
 111 ~~fireworks; and provided, further, that upon expiration or conclusion of such declaration,~~
 112 ~~such further regulations or restrictions shall be rescinded by law. Whenever the~~
 113 ~~Keetch-Byram Drought Index reaches a level of 700 or above for any geographical area~~
 114 ~~within a county, the Governor may, in consultation with the State Forestry Commission~~
 115 ~~and the Department of Natural Resources and for purposes of this Code section, issue~~
 116 ~~a declaration of drought for such county and enact further regulations and restrictions~~
 117 ~~prohibiting any person, firm, corporation, association, or partnership to ignite or cause~~
 118 ~~to be ignited consumer fireworks within the boundaries of such county for the duration~~
 119 ~~of such declaration; provided, however, that upon expiration or conclusion of such~~
 120 ~~declaration or the level on the Keetch-Byram Drought Index receding below 700,~~
 121 ~~whichever occurs first, such further regulations or restrictions shall be rescinded by law.~~

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

124 (B) To the extent otherwise permitted by law, it shall be lawful for any person who is
 125 16 or 17 years of age to possess or transport consumer fireworks, provided that such
 126 person is serving as an assistant to a distributor licensed under subsection (c) of Code
 127 Section 25-10-5.1 or the nonprofit group benefiting from such distributor's application
 128 pursuant to subsection (c) of Code Section 25-10-5.1 and is not transporting such
 129 consumer fireworks on a highway which constitutes a part of The Dwight D.
 130 Eisenhower System of Interstate and Defense Highways.

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

134 (B) It shall be lawful for any person who is 16 or 17 years of age to sell or to offer for
 135 sale at retail or wholesale any consumer fireworks, provided that such person is serving
 136 as an assistant to a distributor licensed under subsection (c) of Code Section 25-10-5.1

137 or the nonprofit group benefiting from such distributor's application pursuant to
 138 subsection (c) of Code Section 25-10-5.1.

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

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

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

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

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

151 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political
 152 subdivision or a fire department connection of a building affiliated with such
 153 consumer fireworks retail sales stand, unless the chief administrative officer of the
 154 fire department of a county, municipality, or other political subdivision or chartered
 155 fire department legally organized to operate in this state pursuant to Chapter 3 of this
 156 title and having operational authority over such location of the temporary consumer
 157 fireworks retail sales stand provides in writing that such temporary consumer
 158 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant
 159 or fire department connection; and

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

162 A distributor licensed pursuant to subsection (c) of Code Section 25-10-5.1 may operate
 163 no more than two temporary consumer fireworks retail sales stands in this state per
 164 location licensed pursuant to subsection (b) or (d) of Code Section 25-10-5.1; provided,
 165 however, that such distributor has been operating and open to the public pursuant to
 166 subsection (b) or (d) of Code Section 25-10-5.1 no less than 30 days prior to July 4 or
 167 December 31 in the year of an application for a license under subsection (c) of Code
 168 Section 25-10-5.1 that is filed within 30 days of July 4 or December 31.

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

171 (c) Any noise ordinance of a county or municipal corporation which is to have effect for
 172 purposes of subdivision (b)(3)(B)(i) shall have been enacted or reenacted on or after July 1,
 173 2018, and shall:

174 (1) Be a general noise ordinance concerning all manner of sounds or noises and such
 175 county or municipal corporation shall not have any ordinance separately pertaining to
 176 sounds or noises emanating exclusively from consumer fireworks; and
 177 (2) Not have been enacted or reenacted unless notice of the meeting in which such noise
 178 ordinance was enacted or reenacted was published one time at least 15 days in advance
 179 of such meeting in the legal organ of such county or municipal corporation and was
 180 posted for at least 72 hours at least 15 days in advance of such meeting on the homepage
 181 of the official website of such county or municipal corporation. Such notice shall state
 182 the date, time, and place of such meeting and that such noise ordinance which will affect
 183 the use of consumer fireworks will be acted upon."

184

SECTION 2.

185 Said chapter is further amended in Code Section 25-10-5.1, relating to requirements for
 186 issuance of license to distribute consumer fireworks, by adding a new subsection to read as
 187 follows:

188 "(e)(1) Every licensed distributor selling consumer fireworks pursuant to this Code
 189 section shall have within the retail display area for consumer fireworks at least one sign
 190 providing the following information:

191 (A) 'PLEASE CHECK YOUR LOCAL ORDINANCES PRIOR TO USING OR
 192 IGNITING CONSUMER FIREWORKS';

193 (B) 'PLEASE USE CONSUMER FIREWORKS IN ACCORDANCE WITH THEIR
 194 AFFIXED CAUTION AND WARNING LABELS'; and

195 (C) 'PLEASE BE A GOOD NEIGHBOR AND BE MINDFUL THAT
 196 UNANNOUNCED IGNITION NEAR SOME MILITARY VETERANS AND OTHER
 197 PERSONS AND NEAR SOME PETS CAN BE TRAUMATIC'.

198 (2) Such signs shall be at least 22 inches by 28 inches in size, be printed in at least 40
 199 point boldface type in a color contrasting from such sign's background color, and kept
 200 free from obstruction and in plain sight of customers."

201

SECTION 3.

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