

House Bill 79

By: Representatives Allen of the 40th, Wilkerson of the 38th, Anulewicz of the 42nd, and McLaurin of the 51st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 25 and Chapter 60 of Title 36 of the Official Code of Georgia
2 Annotated, relating to regulation of fireworks and general provisions regarding provisions
3 applicable to counties and municipal corporations, respectively, so as to vest regulation of
4 the dates and times for the lawful use or ignition of consumer fireworks exclusively with
5 counties and municipal corporations; to provide for related matters; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

12 "25-10-2.

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

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

21 (2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)
22 of subsection (b) of Code Section 25-10-1 to any person by any means other than an
23 in-person, face-to-face sale. Such person shall provide proper identification to the seller
24 at the time of such purchase. For purposes of this paragraph, the term 'proper
25 identification' means any document issued by a governmental agency containing a
26 description of the person or such person's photograph, or both, and giving such person's
27 date of birth and includes without being limited to a passport, military identification card,
28 driver's license, or identification card authorized under Code Sections 40-5-100 through
29 40-5-104.

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

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

38 ~~(i) On any day beginning at the time of 10:00 A.M. and up to and including the~~
39 ~~ending time of 11:59 P.M., unless during such times the noise from such use or~~
40 ~~ignition is not in compliance with a noise ordinance of a county or municipal~~
41 ~~corporation as provided for in subsection (c) of this Code section, except as otherwise~~
42 ~~provided for under this subparagraph; provided, however, that a county or municipal~~

43 ~~corporation may additionally require the issuance of a special use permit pursuant to~~
44 ~~subparagraph (D) of this paragraph for use or ignition;~~

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

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

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

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

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

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

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

67 ~~(v) Within any park, historic site, recreational area, or other property which is owned~~
68 ~~by or operated by, for, or under the custody and control of a governing authority of~~

69 a county or municipal corporation, except pursuant to a special use permit as provided
70 for in subparagraph (D) of this paragraph;

71 (vi) 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 the State of Georgia,
73 except pursuant to any rules and regulations of the agency or department having
74 control of such property which may allow for such use or ignition of consumer
75 fireworks;

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

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

85 (D) ~~Any person, firm, corporation, association, or partnership may use or ignite or~~
86 ~~cause to be ignited any consumer fireworks as provided for under divisions (3)(B)(i)~~
87 ~~and (3)(C)(v) of this subsection if such person, firm, corporation, association, or~~
88 ~~partnership is issued a special use permit pursuant to the law of a governing authority~~
89 ~~of a county or municipal corporation for the use or ignition of consumer fireworks in~~
90 ~~a location within such county or municipality as provided for under divisions (3)(B)(i)~~
91 ~~and (3)(C)(v) of this subsection, provided that such special use permit is required for~~
92 ~~such use or ignition. Such special use permit shall designate the time or times and~~
93 ~~location that such person, firm, corporation, association, or partnership may use or~~
94 ~~ignite or cause to be ignited such consumer fireworks. A fee assessed by a county or~~
95 ~~municipal corporation for the issuance of a special use permit pursuant to this~~

96 ~~subparagraph shall not exceed \$100.00. No governing authority or official of a county,~~
97 ~~municipality, or other political subdivision shall bear liability for any decisions made~~
98 ~~pursuant to this Code section.~~

99 (E) Whenever the Keetch-Byram Drought Index reaches a level of 700 or above for
100 any geographical area within a county, the Governor may, in consultation with the State
101 Forestry Commission and the Department of Natural Resources and for purposes of this
102 Code section, issue a declaration of drought for such county and enact further
103 regulations and restrictions prohibiting any person, firm, corporation, association, or
104 partnership to ignite or cause to be ignited consumer fireworks within the boundaries
105 of such county for the duration of such declaration; provided, however, that upon
106 expiration or conclusion of such declaration or the level on the Keetch-Byram Drought
107 Index receding below 700, whichever occurs first, such further regulations or
108 restrictions shall be rescinded by law.

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

111 (B) To the extent otherwise permitted by law, it shall be lawful for any person who is
112 16 or 17 years of age to possess or transport consumer fireworks, provided that such
113 person is serving as an assistant to a distributor licensed under subsection (c) of Code
114 Section 25-10-5.1 or the nonprofit group benefiting from such distributor's application
115 pursuant to subsection (c) of Code Section 25-10-5.1 and is not transporting such
116 consumer fireworks on a highway which constitutes a part of The Dwight D.
117 Eisenhower System of Interstate and Defense Highways.

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

121 (B) It shall be lawful for any person who is 16 or 17 years of age to sell or to offer for
122 sale at retail or wholesale any consumer fireworks, provided that such person is serving

123 as an assistant to a distributor licensed under subsection (c) of Code Section 25-10-5.1
124 or the nonprofit group benefiting from such distributor's application pursuant to
125 subsection (c) of Code Section 25-10-5.1.

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

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

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

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

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

138 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political
139 subdivision or a fire department connection of a building affiliated with such
140 consumer fireworks retail sales stand, unless the chief administrative officer of the
141 fire department of a county, municipality, or other political subdivision or chartered
142 fire department legally organized to operate in this state pursuant to Chapter 3 of this
143 title and having operational authority over such location of the temporary consumer
144 fireworks retail sales stand provides in writing that such temporary consumer
145 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant
146 or fire department connection; and

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

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

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

158 ~~(c) Any noise ordinance of a county or municipal corporation which is to have effect for~~
 159 ~~purposes of subdivision (b)(3)(B)(i) shall have been enacted or reenacted on or after July~~
 160 ~~1, 2018, and shall:~~

161 ~~(1) Be a general noise ordinance concerning all manner of sounds or noises and such~~
 162 ~~county or municipal corporation shall not have any ordinance separately pertaining to~~
 163 ~~sounds or noises emanating exclusively from consumer fireworks; and~~

164 ~~(2) Not have been enacted or reenacted unless notice of the meeting in which such noise~~
 165 ~~ordinance was enacted or reenacted was published one time at least 15 days in advance~~
 166 ~~of such meeting in the legal organ of such county or municipal corporation and was~~
 167 ~~posted for at least 72 hours at least 15 days in advance of such meeting on the homepage~~
 168 ~~of the official website of such county or municipal corporation. Such notice shall state~~
 169 ~~the date, time, and place of such meeting and that such noise ordinance which will affect~~
 170 ~~the use of consumer fireworks will be acted upon."~~

171 **SECTION 2.**

172 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general
 173 provisions regarding provisions applicable to counties and municipal corporations, is

174 amended by revising subsection (a) of Code Section 36-60-24, relating to sale or use or
175 ignition of consumer fireworks products, as follows:

176 "(a) The governing authority of a county or municipal corporation shall not prohibit the
177 ~~sale or use or ignition~~ of consumer fireworks or other products or services which are lawful
178 under Chapter 10 of Title 25, unless such prohibition is expressly authorized by general
179 law."

180

SECTION 3.

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