

The House Committee on Regulated Industries offers the following substitute to HB 1095:

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 establish permanent consumer fireworks sales facilities; to  
3 establish temporary consumer fireworks sales facilities; to increase the number of temporary  
4 consumer retail fireworks sales facilities a distributor may operate; to provide for definitions;  
5 to revise penalties for violations of such chapter; to amend Chapter 60 of Title 36 of the  
6 Official Code of Georgia Annotated, relating to general provisions applicable to counties and  
7 municipal corporations, so as to make conforming changes; to provide for related matters;  
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of  
12 fireworks, is amended by revising subsection (a) of Code Section 25-10-1, relating to  
13 definitions, as follows:

14 "25-10-1.

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

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

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

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

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

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

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

39 (7) 'Fireworks or pyrotechnics exhibition or display before a proximate audience' means  
40 any exhibition or display of fireworks, or any use of pyrotechnic special effects, that  
41 occurs within a building or structure or before an audience closer to the pyrotechnic  
42 devices than permitted by National Fire Protection Association Standard 1123, *Code for*

43 *Fireworks Display*, as adopted by the Safety Fire Commissioner; provided, however, that  
44 such term shall not include the use of pyrotechnic special effects in television and motion  
45 picture production when no audience is present.

46 (8) 'Flame effect' means the combustion of solids, liquids, or gases utilizing atmospheric  
47 oxygen to produce thermal, physical, visual, or audible phenomena before an audience  
48 or for use in motion picture and television production.

49 (9) 'NFPA 1124' means the National Fire Protection Association Standard 1124, *Code*  
50 *for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and*  
51 *Pyrotechnic Articles*, 2006 Edition.

52 (10) ~~'Nonprofit group' means any entity exempt from taxation under Section 501(c)(3)~~  
53 ~~of the Internal Revenue Code of 1986, any entity incorporated under Chapter 3 of~~  
54 ~~Title 14, the 'Georgia Nonprofit Corporation Code,' or a sponsored organization of a~~  
55 ~~public or private elementary or secondary school in this state. 'Permanent consumer~~  
56 ~~fireworks retail sales facility' shall have the same meaning as provided for by NFPA~~  
57 ~~1124; provided, however, that such term shall not include a tent, canopy, or membrane~~  
58 ~~structure.~~

59 (11) 'Personal and private use' means the use of consumer fireworks for any activity  
60 other than any activity of a professional or commercial nature or for profit or commercial  
61 gain and intended, in particular, for household entertainment or enjoyment for private  
62 gatherings.

63 (12) 'Public exhibition or display of fireworks' means the use of pyrotechnics, display  
64 fireworks, consumer fireworks, or any combination thereof for any purpose relating to  
65 the amusement or entertainment of the public that does not occur within a building or  
66 structure or before a proximate audience; provided, however, that such term shall not  
67 include the private and personal use of consumer fireworks by the public.

68 (13) 'Pyrotechnics' means fireworks not intended for use by the general public.

69 (14) 'Special effect' means an audible or visual effect created for motion picture and  
70 television production through the use of flammable or combustible liquids, flammable  
71 solids, explosives, fireworks, pyrotechnics, flame effects, and any similar materials and  
72 devices.

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

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

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

84 (16) 'Temporary consumer fireworks retail sales facility' shall have the same meaning  
85 as provided for by NFPA 1124.

86 ~~(16)~~(17) 'Waste-water treatment plant' shall have the same meaning as provided for in  
87 Code Section 43-51-2.

88 ~~(17)~~(18) 'Water treatment plant' shall have the same meaning as provided for in Code  
89 Section 43-51-2."

90 **SECTION 2.**

91 Said chapter is further amended in Code Section 25-10-2, relating to prohibited fireworks  
92 activities and application of noise ordinance, by revising paragraph (6) of subsection (b) as  
93 follows:

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

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

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

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

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

106       (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political  
107 subdivision or a fire department connection of a building affiliated with such  
108 consumer fireworks retail sales stand, unless the chief administrative officer of the  
109 fire department of a county, municipality, or other political subdivision or chartered  
110 fire department legally organized to operate in this state pursuant to Chapter 3 of this  
111 title and having operational authority over such location of the ~~temporary~~ consumer  
112 fireworks retail sales stand provides in writing that such ~~temporary~~ consumer  
113 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant  
114 or fire department connection; and

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

117       (C) It shall be lawful to sell consumer fireworks from a temporary consumer fireworks  
118 retail sales facility only if such temporary consumer fireworks retail sales facility is:

119 (i) In compliance with the requirements for such a temporary consumer fireworks  
120 retail sales facility in the selling of consumer fireworks as provided for in NFPA  
121 1124;

122 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political  
123 subdivision or a fire department connection of a building affiliated with such  
124 consumer fireworks retail sales facility, unless the chief administrative officer of the  
125 fire department of a county, municipality, or other political subdivision or chartered  
126 fire department legally organized to operate in this state pursuant to Chapter 3 of this  
127 title and having operational authority over such location of the temporary consumer  
128 fireworks retail sales facility provides in writing that such temporary consumer  
129 fireworks retail sales facility may operate in excess of 1,000 feet from such fire  
130 hydrant or fire department connection;

131 (iii) Selling consumer fireworks of a distributor licensed pursuant to subsection (e)  
132 of Code Section 25-10-5.1; and

133 (iv) Not located within one mile of a permanent consumer retail sales facility that is  
134 used primarily for the retail display and sale of consumer fireworks to the public.

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

142 (E) A distributor licensed pursuant to subsection (e) of Code Section 25-10-5.1 may  
143 operate up to three tents that meet the requirements of a temporary consumer fireworks  
144 retail sales facility under the NFPA 1124, provided that:

145 (1) A Georgia based distributor shall operate at least two locations licensed pursuant to  
 146 subsection (b) of Code Section 25-10-5.1 and has been operating and open to the public  
 147 pursuant to subsection (b) or (d) of Code Section 25-10-5.1 no less than 30 days prior to  
 148 July 4 or December 31 in the year of an application for a license under subsection (e) of  
 149 Code Section 25-10-5.1 that is filed within 30 days of July 4 or December 31; or  
 150 (2) A non-Georgia based distributor shall be operating at least ten locations licensed  
 151 pursuant to subsection (b) of Code Section 25-10-5.1 which have been operating and  
 152 open to the public pursuant to subsection (b) or (d) of Code Section 25-10-5.1 no less  
 153 than 30 days prior to July 4 or December 31 in the year of an application for a license  
 154 under subsection (e) of Code Section 25-10-5.1 that is filed within 30 days of July 4 or  
 155 December 31.

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

### 158 SECTION 3.

159 Said chapter is further amended in Code Section 25-10-5.1, relating to requirements for  
 160 issuance of license to distribute consumer fireworks and required signage, by revising  
 161 subsection (c) and adding a new subsection to read as follows:

162 "(c)(1) The license fee for a distributor selling consumer fireworks from a temporary  
 163 consumer fireworks retail sales stand shall be \$500.00 per location, payable to the  
 164 governing authority of the county, municipality, or other political subdivision of this state  
 165 in whose boundaries such temporary consumer fireworks retail sales stand shall be  
 166 located or is proposed to be located. Upon finding that a distributor has met the  
 167 requirements of subsection (a) of this Code section, has a license pursuant to subsection  
 168 (b) or (d) of this Code section, has no more than the allowable temporary consumer  
 169 fireworks retail sales stands pursuant to subparagraph (b)(6)(B) of Code Section 25-10-2,  
 170 that the sales of consumer fireworks from such temporary consumer fireworks retail sales

171 ~~stand shall accrue to the benefit of a nonprofit group~~, and upon payment of such license  
172 fee, such license shall be issued by the fire department of the county, municipality, or  
173 other political subdivision or the chartered fire department legally organized to operate  
174 in this state pursuant to Chapter 3 of this title and having operational authority of the area  
175 in which such ~~temporary~~ consumer fireworks retail sales stand shall be located or is  
176 proposed to be located. Such license shall identify the ~~temporary~~ consumer fireworks  
177 retail sales stand applicable to such license and shall expire on the next January 31 after  
178 the issuance of such license.

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

191 ~~(3) For at least one of the temporary consumer fireworks retail sales stands provided for~~  
192 ~~under subparagraph (b)(6)(B) of Code Section 25-10-2, a nonprofit group benefiting from~~  
193 ~~the sale of consumer fireworks from such temporary consumer fireworks retail sales stand~~  
194 ~~shall directly participate in operating such temporary consumer fireworks retail sales~~  
195 ~~stand. It shall be unlawful for a nonprofit group or any agent or bona fide representative~~  
196 ~~of a nonprofit group to knowingly lend the name of the nonprofit group or allow the~~  
197 ~~identity of the nonprofit group to be used for the license under this subsection if such~~

198 ~~nonprofit group is not directly participating in operating, or benefiting from the operation~~  
 199 ~~of, such temporary consumer fireworks retail sales stand.~~

200 ~~(4)(3)~~ The governing authority of a county, municipality, or other political subdivision  
 201 receiving fees pursuant to this Code section shall expend such fees for public safety  
 202 purposes.

203 ~~(5)(4)~~ A distributor licensed pursuant to this subsection shall submit a list of the names  
 204 and addresses, including the counties, of each ~~temporary~~ consumer fireworks retail sales  
 205 stand at which such distributor has consumer fireworks offered for sale pursuant to this  
 206 Code section to the Safety Fire Commissioner. Such list shall be submitted not less than  
 207 30 days prior to first having a temporary consumer fireworks retail sales ~~stand~~ facility at  
 208 which such distributor has consumer fireworks offered for sale and not less than 30 days  
 209 prior to having such distributor's consumer fireworks offered for sale at a location not  
 210 previously included on such list. The Safety Fire Commissioner shall make such list  
 211 publicly available for inspection. In making determinations as provided for under this  
 212 subsection, fire departments shall reference the list provided for by this paragraph.

213 ~~(6)(5)~~ A revocation or suspension of a license provided for under subsection (b) or (d)  
 214 of this Code section shall operate as a revocation or suspension of a distributor's license  
 215 under this subsection for the term of such revocation or suspension."

216 "(f)(1) The license fee for a distributor selling consumer fireworks from a temporary  
 217 consumer fireworks retail sales facility shall be \$500.00 per location, payable to the  
 218 governing authority of the county, municipality, or other political subdivision of this state  
 219 in whose boundaries such temporary consumer fireworks retail sales facility shall be  
 220 located or is proposed to be located. Upon finding that a distributor has:

221 (A) Met the requirements of subsection (a) of this Code section;

222 (B) A license pursuant to subsection (b) or (d) of this Code section;

223 (C) No more than the allowable temporary consumer fireworks retail sales facilities  
 224 pursuant to subparagraph (b)(6)(B) of Code Section 25-10-2; and

225 (D) Paid such license fee, such license shall be issued by the fire department of the  
226 county, municipality, or other political subdivision or the chartered fire department  
227 legally organized to operate in this state pursuant to Chapter 3 of this title and having  
228 operational authority of the area in which such temporary consumer fireworks retail  
229 sales facility shall be located or is proposed to be located. Such license shall identify  
230 the temporary consumer fireworks retail sales facility applicable to such license and  
231 shall expire on the next January 31 after the issuance of such license.

232 (2) A determination by a fire department as provided for under paragraph (1) of this  
233 subsection regarding whether a distributor has met requirements for the issuance of a  
234 license pursuant to this subsection shall be made within 30 days of the submission of an  
235 application for any such license. Such application shall be in writing and, if such fire  
236 department provides for a written form for the application for a license pursuant to this  
237 Code section, upon such form as may be provided by such fire department. If a  
238 determination on an application for licensure pursuant to this subsection or on an appeal  
239 of a determination previously made by such fire department has not been made within the  
240 time provided for by this paragraph, a distributor may seek review from the judge of the  
241 probate court of the county of the location or proposed location of the temporary  
242 consumer fireworks retail sales facility. Such judge may provide for the issuance or  
243 nonissuance of a license and for the payment of license fees in such manner as is  
244 consistent with the provisions of this subsection."

245 **SECTION 4.**

246 Said chapter is further amended in Code Section 25-10-9, relating to monetary penalties for  
247 violation of chapter, as follows:

248 "25-10-9.

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

259

#### SECTION 5.

260 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general  
261 provisions applicable to counties and municipal corporations, is amended by revising  
262 subsection (e) of Code Section 36-60-24, relating to sale or use or ignition of consumer  
263 fireworks products, as follows:

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

266

#### SECTION 6.

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