

The House Committee on Regulated Industries offers the following substitute to SB 501:

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 8 and 25 of the Official Code of Georgia Annotated, relating to buildings  
2 and housing and fire protection and safety, respectively, so as to improve government  
3 efficiency by updating provisions of the office of the Safety Fire Commissioner; to provide  
4 for procedures for rules promulgation, hearings, and appeals; to provide for the appointment  
5 of a deputy commissioner of safety fire; to provide for such position's duties and powers; to  
6 provide for the payment of expenses of certain employees; to provide for subpoena power;  
7 to establish an appeals board to review certain rulings on building permits; to provide for  
8 membership and powers of such board; to provide for review of all actions and  
9 documentation of deputized personnel; to authorize evacuation orders; to provide for  
10 petitions for a rule nisi; to provide for final authority; to provide for certain powers in  
11 suspected arson investigations; to provide for immediate reporting of fatalities caused by fire  
12 or smoke; to provide for suspension or revocation of a license; to provide for an increased  
13 fee for failing to maintain a smoke detector; to provide for an increased reinspection fee; to  
14 establish permanent consumer fireworks sales facilities; to establish temporary consumer  
15 fireworks sales facilities; to increase the number of temporary consumer retail fireworks sales  
16 facilities a distributor may operate; to revise penalties for violations; to amend Chapter 60  
17 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions  
18 applicable to counties and municipal corporations, so as to make conforming changes; to

S. B. 501 (SUB)

- 1 -

19 amend Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating  
 20 to jurisdiction, power, and duties regarding probate courts, so as to provide for probate court  
 21 jurisdiction over certain misdemeanors; to provide for definitions; to provide for an effective  
 22 date; to provide for related matters; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24

**PART I**

25

*Fire protection and safety*

26

**SECTION 1-1.**

27 Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is  
 28 amended in Chapter 2, relating to regulation of fire and other hazards to persons and property  
 29 generally, by revising Code Section 25-2-5, relating to appointment, qualifications, and  
 30 salary of state fire marshal, as follows:

31 "25-2-5.

32 The Commissioner shall appoint a state fire marshal and a deputy commissioner of safety  
 33 fire. Qualifications for appointment ~~as state fire marshal~~ of such positions shall be previous  
 34 training and experience in endeavors similar to those prescribed in this chapter. The  
 35 Commissioner shall fix the salary of ~~the state fire marshal~~ such positions."

36

**SECTION 1-2.**

37 Said title is further amended in said chapter by revising Code Section 25-2-6, relating to state  
 38 fire marshal as head of Safety Fire Division, as follows:

39 "25-2-6.

40 The Safety Fire Division of the office of the Commissioner of Insurance shall be headed  
41 by the ~~state fire marshal~~ deputy commissioner of safety fire appointed by the  
42 Commissioner."

43 **SECTION 1-3.**

44 Said title is further amended in said chapter by revising Code Section 25-2-7, relating to  
45 appointment process for deputy state fire marshal and other personnel, as follows:

46 "25-2-7.

47 The deputy commissioner of safety fire, in coordination with the state fire marshal, subject  
48 to the approval of the Commissioner, shall appoint a deputy state fire marshal and  
49 administrative fire safety specialists and shall employ such office personnel as may be  
50 required to carry out this chapter. The deputy state fire marshal and administrative fire  
51 safety specialists shall be chosen by virtue of their previous training and experience in the  
52 particular duties which shall be assigned to them. They shall take an oath to perform  
53 faithfully the duties of their office."

54 **SECTION 1-4.**

55 Said title is further amended in said chapter by revising Code Section 25-2-8, relating to  
56 payment of expenses of employees in state fire marshal's office, as follows:

57 "25-2-8.

58 All state employees connected with the ~~state fire marshal's office~~ Safety Fire Division of  
59 the office of the Commissioner of Insurance shall be allowed subsistence, lodging, and  
60 other expenses in connection with the execution of their duties when away from their  
61 headquarters. Transportation for such employees shall be paid at the mileage rate fixed by  
62 law for other state employees."

63 **SECTION 1-5.**

64 Said title is further amended in said chapter by revising subsection (c) of Code  
 65 Section 25-2-9, relating to authority of state fire marshal and employees to investigate and  
 66 arrest, as follows:

67 "(c) Personnel employed and authorized by the state fire marshal shall have the power to  
 68 make arrests for criminal violations established as a result of investigations. Such  
 69 personnel shall hold certification as a peace officer from the Georgia Peace Officer  
 70 Standards and Training Council and shall have the power to execute arrest warrants and  
 71 search warrants for criminal violations, to serve subpoenas issued for examination,  
 72 investigation, and trial of all offenses determined by their investigations, and to arrest, upon  
 73 probable cause and without warrant, any person found violating any of the provisions of  
 74 applicable criminal laws. Authorized personnel empowered to make arrests pursuant to  
 75 this Code section shall be empowered to carry firearms as authorized by the state fire  
 76 marshal in the performance of their duties. It shall be unlawful for any person to resist an  
 77 arrest authorized by this Code section or to interfere in any manner, including abetting or  
 78 assisting such resistance or interference, with personnel employed by the state fire marshal  
 79 in the duties imposed upon such personnel by law."

80 **SECTION 1-6.**

81 Said title is further amended in said chapter by revising Code Section 25-2-10, relating to  
 82 appeal process and requirement for surety bond, as follows:

83 "25-2-10.

84 (a) Should any person, firm, corporation, or public entity be dissatisfied with any ruling  
 85 or decision of the state fire marshal, the right is granted to appeal within ten days to the  
 86 Commissioner.

87 (b) ~~If the any person, firm, corporation, or public entity is dissatisfied with the decision of~~  
 88 ~~the Commissioner, appeal is authorized to the superior court within 30 days~~ aggrieved or

89 adversely affected by a final order of the Commissioner, the form of proceeding for judicial  
90 review shall be by petition for review in the superior court in the manner provided under  
91 Chapter 13 of Title 50.

92 (c) In the event of such ~~appeal~~ petition for review as provided in subsection (b) of this  
93 Code section, the person, firm, corporation, or public entity shall give a surety bond which  
94 will be conditioned upon compliance with the order and direction of ~~the state fire marshal~~  
95 ~~or~~ the Commissioner ~~or both~~. The amount of bond shall be fixed by the Commissioner in  
96 such amount as will reasonably cover the order issued by the Commissioner ~~or the state fire~~  
97 ~~marshal or both~~."

98 **SECTION 1-7.**

99 Said title is further amended in said chapter by revising Code Section 25-2-11, which is  
100 designated as reserved, as follows:

101 "25-2-11.

102 (a) The purpose of this Code section is to provide a mechanism for any party aggrieved  
103 or adversely affected by a final ruling of a local governing authority on a building permit  
104 based on an interpretation or variance of the state minimum fire safety standards to appeal  
105 such ruling to an appeals board. Such party shall be authorized to submit an appeal to the  
106 Commissioner, and such appeal shall go before an appeals board within five business days  
107 of submission; provided, however, that the appeals board shall be authorized to delay such  
108 hearing for good cause.

109 (b) There is established an appeals board consisting of the state fire marshal, who shall  
110 serve as chairperson of such board, and six members appointed by the Commissioner as  
111 follows:

112 (1) One member from a county or municipal governing authority as described in  
113 paragraph (1) of subsection (a) of Code Section 25-2-12;

- 114 (2) One member from a municipal governing authority as described in subsection (b) of  
115 Code Section 25-2-12;
- 116 (3) One residential contractor licensed under Chapter 41 of Title 43;
- 117 (4) One licensed commercial general contractor licensed under Chapter 41 of Title 43;  
118 and
- 119 (5) Two additional appointees to be determined by the Commissioner.
- 120 (c) The term of each appointed member of the appeals board shall be for one year. Each  
121 member shall serve until a successor is appointed and qualified. Members of the appeals  
122 board shall serve as such without compensation but shall receive the same expense  
123 allowance as that received by members of the General Assembly and the same mileage  
124 allowance for the use of a personal car or a travel allowance of actual transportation cost  
125 if traveling by public carrier as that received by all other state officials and employees.
- 126 (d) The Safety Fire Division of the office of the Commissioner of Insurance shall provide  
127 reasonable administrative support to the appeals board.
- 128 (e) The appeals board shall be authorized to uphold, modify, and reverse in whole or in  
129 part a local authority's final ruling. The appeals board shall be authorized to overrule a  
130 local authority's order to cease and desist, stop work, or similar order when such orders are  
131 found not to have presented an imminent danger to life and safety of the occupants of the  
132 building or structure in question.
- 133 (f) The Commissioner shall promulgate rules and regulations necessary to implement the  
134 provisions of this Code section. Reserved."

135 **SECTION 1-8.**

136 Said title is further amended in said chapter by revising subsection (e) of Code  
137 Section 25-2-12.1, relating to deputizing of local fire marshals, deputy local fire marshals,  
138 and state inspectors as state officers, as follows:

139 "(e) All deputized local fire marshals, deputy local fire marshals, and state inspectors shall  
140 submit monthly reports of their activities to the state fire marshal and shall comply with the  
141 administrative and operational procedures of the ~~state fire marshal's office~~ Safety Fire  
142 Division of the office of the Commissioner of Insurance. The state fire marshal or the  
143 Commissioner's designee shall be authorized to review all actions and documentation of  
144 deputized personnel at any time to assure compliance with administrative and operational  
145 procedures. The state fire marshal or the Commissioner's designee shall be authorized to  
146 reverse, change, mitigate, or assume direction of any action of deputized personnel. Any  
147 deputized local fire marshal, deputy local fire marshal, or state inspector who is found by  
148 the state fire marshal to be negligent in performing his or her appointed duties or in  
149 fulfilling his or her responsibilities shall be removed from his or her position as a state  
150 officer."

151 **SECTION 1-9.**

152 Said title is further amended in said chapter by adding a new subsection to Code Section  
153 25-2-14.2, relating to authority of state fire marshal to deny permit or request for certificate  
154 or to issue stop-work order, to read as follows:

155 "(c) The Commissioner or his or her designee shall be authorized to issue an immediate  
156 evacuation order of all persons from any building or structure, whether or not building  
157 construction is complete or such building or structure has been issued a certificate of  
158 occupancy, when such building or structure or any condition or cause presents an imminent  
159 life safety hazard of any type. Such order shall remain in effect until the Commissioner or  
160 his or her designee is satisfied such hazard is fully mitigated."

161 **SECTION 1-10.**

162 Said title is further amended in said chapter by revising Code Section 25-2-23, relating to  
163 issuance of notice to correct unsafe conditions, as follows:

164 "25-2-23.

165 (a) When any of the officers listed in Code Section 25-2-22 finds any building or ~~other~~  
166 structure which, for want of repair or by reason of age or dilapidated condition or any other  
167 cause is especially liable to fire hazard or which is so situated as to endanger other property  
168 or the safety of the public, or when, in or around any building or structure, such officer  
169 finds combustible or explosive matter, inflammables, or other conditions dangerous to the  
170 safety of the building or structure, notice may be given to the owner or agent and occupant  
171 of the building or structure to correct such unsafe conditions as may be found.

172 (b) The Commissioner or his or her designee shall be authorized to issue an immediate  
173 evacuation order of all persons from any building or structure, whether or not such building  
174 or structure has been issued a certificate of occupancy, when such building or structure or  
175 any condition or cause presents an imminent life safety hazard of any type. Such order shall  
176 remain in effect until the Commissioner or his or her designee is satisfied such hazard is  
177 fully mitigated."

178 **SECTION 1-11.**

179 Said title is further amended in said chapter by revising Code Section 25-2-24, relating to  
180 filing of petition for court order compelling compliance with notice, as follows:

181 "25-2-24.

182 (a) If any owner, agent, or occupant fails to comply with the notice ~~prescribed in~~ provided  
183 for under subsection (a) of Code Section 25-2-23 within the time specified in the notice,  
184 the state fire marshal or his or her delegated officials, with the approval of the  
185 Commissioner, may petition the court for a rule nisi to show cause why an order should not  
186 be issued by the court that the same be removed or remedied. Such court order shall  
187 forthwith be complied with by the owner or occupant of the premises or building within  
188 such time as may be fixed in the court order.

189 (b) Any appeal of an order issued by the Commissioner or his or her designee pursuant to  
 190 subsection (b) of Code Section 25-2-23 shall proceed as provided for under Code  
 191 Section 25-2-10."

192 **SECTION 1-12.**

193 Said title is further amended in said chapter by revising Code Section 25-2-26, relating to  
 194 enforcement of Code Sections 25-2-22 through 25-2-25 by court order, as follows:

195 "25-2-26.

196 In accordance with Code Section 25-2-3, the Commissioner shall be authorized to  
 197 implement and enforce the provisions of this title and the rules and regulations made  
 198 pursuant to this title, except as provided for in Code Section 25-2-12, subject to a petition  
 199 for judicial review to superior court as provided for in Code Section 25-2-10. Code  
 200 Sections 25-2-22 through 25-2-25 shall be construed so that the final authority for ordering  
 201 the carrying out and enforcement of such Code sections shall be by order of the court and  
 202 not by the Commissioner or his delegated authority."

203 **SECTION 1-13.**

204 Said title is further amended in said chapter by revising Code Section 25-2-32.1, relating to  
 205 reports to Safety Fire Division of serious burn injuries, as follows:

206 "25-2-32.1.

207 (a) Every case of a burn injury or wound where the victim sustained second-degree or  
 208 third-degree burns to 5 percent or more of the body or any burns to the upper respiratory  
 209 tract or laryngeal edema due to the inhalation of superheated air, and every case of a burn  
 210 injury or wound which is likely to or may result in death, shall be reported at once to the  
 211 Safety Fire Division of the office of the Commissioner of Insurance. The Safety Fire  
 212 Division shall accept the report and notify the proper investigatory agency as may be  
 213 appropriate. A written report shall be provided to the Safety Fire Division within 72 hours.

214 The report shall be made by the physician attending or treating the case or by the manager,  
215 superintendent, or other person in charge whenever such case is treated in a hospital  
216 sanitarium, institution, or other medical facility.

217 (b) All fatalities allegedly resulting from fire or smoke shall be reported immediately to  
218 the Safety Fire Division by the coroner or medical examiner of the county where such  
219 fatalities occurred. No coroner or medical examiner shall move or cause to be moved a  
220 decedent's body until authorized by personnel employed or authorized by the state fire  
221 marshal or the Commissioner or his or her designee."

222 **SECTION 1-14.**

223 Said title is further amended in said chapter by revising Code Section 25-2-38, relating to  
224 criminal penalties for violations of chapter and rules, regulations, or orders of Commissioner,  
225 as follows:

226 "25-2-38.

227 (a) Any person, firm, or corporation violating any provision of this chapter or failing or  
228 refusing to comply with any regulation promulgated under this chapter shall be guilty of  
229 a misdemeanor and shall be punished by confinement for not more than 12 months, by a  
230 fine of not more than \$1,000.00 per violation, or both.

231 (b) A law enforcement officer shall be authorized to issue a citation, summons, or  
232 accusation or to effect a custodial arrest in addition to the issuance of a citation, summons,  
233 or accusation. The citation, summons, or accusation shall enumerate the specific charges  
234 against the person and either the date upon which the person is to appear and answer the  
235 charges or a notation that the person will be later notified of the date upon which the person  
236 is to appear and answer the charges.

237 (c) Any probate court, state court, or other court of competent jurisdiction shall be  
238 authorized to hear and adjudicate misdemeanor violations of this title."

239 **SECTION 1-15.**

240 Said title is further amended in said chapter by revising paragraph (2) of subsection (f) of  
241 Code Section 25-2-40, relating to smoke detectors required in new dwellings and dwelling  
242 units and exceptions, as follows:

243 "(2) Any occupant who fails to maintain a smoke detector in a dwelling, dwelling unit,  
244 or other facility, other than a nursing home, listed in subsection (a) of this Code section  
245 in good working order as required in this Code section shall be subject to a maximum fine  
246 of ~~\$25.00~~ \$100.00 per detector, provided that a warning shall be issued for a first  
247 violation."

248 **SECTION 1-16.**

249 Said title is further amended in Chapter 10, relating to regulation of fireworks, by revising  
250 subsection (a) of Code Section 25-10-1, relating to definitions, as follows:

251 "25-10-1.

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

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

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

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

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

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

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

276 (7) 'Fireworks or pyrotechnics exhibition or display before a proximate audience' means  
277 any exhibition or display of fireworks, or any use of pyrotechnic special effects, that  
278 occurs within a building or structure or before an audience closer to the pyrotechnic  
279 devices than permitted by National Fire Protection Association Standard 1123, *Code for*  
280 *Fireworks Display*, as adopted by the Safety Fire Commissioner; provided, however, that  
281 such term shall not include the use of pyrotechnic special effects in television and motion  
282 picture production when no audience is present.

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

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

289 ~~(10) 'Nonprofit group' means any entity exempt from taxation under Section 501(c)(3)~~  
290 ~~of the Internal Revenue Code of 1986, any entity incorporated under Chapter 3 of~~  
291 ~~Title 14, the 'Georgia Nonprofit Corporation Code,' or a sponsored organization of a~~

292 ~~public or private elementary or secondary school in this state.~~ 'Permanent consumer  
293 fireworks retail sales facility' shall have the same meaning as provided for by NFPA  
294 1124; provided, however, that such term shall not include a tent, canopy, or membrane  
295 structure.

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

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

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

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

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

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

316 (B) Other items or products which are not consumer fireworks or items or products as  
317 provided for under paragraph (2) of subsection (b) of this Code section are sold;

318 and provided, further, that such term means a person, firm, corporation, association, or  
 319 partnership with more than one mercantile location, where all such mercantile locations  
 320 are collectively known to the public by the same name or share central management.

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

323 ~~(16)~~(17) 'Waste-water treatment plant' shall have the same meaning as provided for in  
 324 Code Section 43-51-2.

325 ~~(17)~~(18) 'Water treatment plant' shall have the same meaning as provided for in Code  
 326 Section 43-51-2."

327 **SECTION 1-17.**

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

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

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

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

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

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

343 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political  
344 subdivision or a fire department connection of a building affiliated with such  
345 consumer fireworks retail sales stand, unless the chief administrative officer of the  
346 fire department of a county, municipality, or other political subdivision or chartered  
347 fire department legally organized to operate in this state pursuant to Chapter 3 of this  
348 title and having operational authority over such location of the temporary consumer  
349 fireworks retail sales stand provides in writing that such temporary consumer  
350 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant  
351 or fire department connection; and

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

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

356 (i) In compliance with the requirements for such a temporary consumer fireworks  
357 retail sales facility in the selling of consumer fireworks as provided for in NFPA  
358 1124;

359 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political  
360 subdivision or a fire department connection of a building affiliated with such  
361 consumer fireworks retail sales facility, unless the chief administrative officer of the  
362 fire department of a county, municipality, or other political subdivision or chartered  
363 fire department legally organized to operate in this state pursuant to Chapter 3 of this  
364 title and having operational authority over such location of the temporary consumer  
365 fireworks retail sales facility provides in writing that such temporary consumer  
366 fireworks retail sales facility may operate in excess of 1,000 feet from such fire  
367 hydrant or fire department connection;

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

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

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

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

382 (i) A Georgia based distributor shall own and operate at least two locations licensed  
383 pursuant to subsection (b) of Code Section 25-10-5.1 that have been operating and  
384 open to the public pursuant to subsection (b) of Code Section 25-10-5.1 no less than  
385 30 days prior to July 4 or December 31 in the year of an application for a license  
386 under subsection (f) of Code Section 25-10-5.1 that is filed within 30 days of July 4  
387 or December 31; or

388 (ii) A non-Georgia based distributor shall own and operate at least ten locations  
389 licensed pursuant to subsection (b) of Code Section 25-10-5.1 that have been  
390 operating and open to the public pursuant to subsection (b) or (d) of Code Section  
391 25-10-5.1 no less than 30 days prior to July 4 or December 31 in the year of an  
392 application for a license under subsection (f) of Code Section 25-10-5.1 that is filed  
393 within 30 days of July 4 or December 31.

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

**SECTION 1-18.**

396

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

400 "(c)(1) The license fee for a distributor selling consumer fireworks from a temporary  
401 consumer fireworks retail sales stand shall be \$500.00 per location, payable to the  
402 governing authority of the county, municipality, or other political subdivision of this state  
403 in whose boundaries such temporary consumer fireworks retail sales stand shall be located  
404 or is proposed to be located. Upon finding that a distributor has met the requirements of  
405 subsection (a) of this Code section, has a license pursuant to subsection (b) or (d) of this  
406 Code section, has no more than the allowable temporary consumer fireworks retail sales  
407 stands pursuant to subparagraph (b)(6)(B) of Code Section 25-10-2, ~~that the sales of~~  
408 ~~consumer fireworks from such temporary consumer fireworks retail sales stand shall accrue~~  
409 ~~to the benefit of a nonprofit group~~, and upon payment of such license fee, such license shall  
410 be issued by the fire department of the county, municipality, or other political subdivision  
411 or the chartered fire department legally organized to operate in this state pursuant to  
412 Chapter 3 of this title and having operational authority of the area in which such temporary  
413 consumer fireworks retail sales stand shall be located or is proposed to be located. Such  
414 license shall identify the temporary consumer fireworks retail sales stand applicable to such  
415 license and shall expire on the next January 31 after the issuance of such license.

416 (2) A determination by a fire department as provided for under paragraph (1) of this  
417 subsection of whether a distributor has met requirements for the issuance of a license  
418 pursuant to this subsection shall be made within 30 days of the submission of an  
419 application for any such license. Such application shall be in writing and, if such fire  
420 department provides for a written form for the application for a license pursuant to this  
421 Code section, upon such form as may be provided by such fire department. If a  
422 determination has not been made within the time provided for by this paragraph, or for

423 an appeal of a determination by such fire department, a distributor may seek review from  
424 the judge of the probate court of the county of the location or proposed location of the  
425 temporary consumer fireworks retail sales stand. Such judge may provide for the  
426 issuance or nonissuance of a license and for the payment of license fees in such manner  
427 as is consistent with the provisions of this subsection.

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

437 ~~(4)~~(3) The governing authority of a county, municipality, or other political subdivision  
438 receiving fees pursuant to this Code section shall expend such fees for public safety  
439 purposes.

440 ~~(5)~~(4) A distributor licensed pursuant to this subsection shall submit a list of the names  
441 and addresses, including the counties, of each temporary consumer fireworks retail sales  
442 stand at which such distributor has consumer fireworks offered for sale pursuant to this  
443 Code section to the Safety Fire Commissioner. Such list shall be submitted not less than  
444 30 days prior to first having a temporary consumer fireworks retail sales stand facility at  
445 which such distributor has consumer fireworks offered for sale and not less than 30 days  
446 prior to having such distributor's consumer fireworks offered for sale at a location not  
447 previously included on such list. The Safety Fire Commissioner shall make such list  
448 publicly available for inspection. In making determinations as provided for under this  
449 subsection, fire departments shall reference the list provided for by this paragraph.

450 ~~(6)(5)~~ A revocation or suspension of a license provided for under subsection (b) or (d)  
451 of this Code section shall operate as a revocation or suspension of a distributor's license  
452 under this subsection for the term of such revocation or suspension."

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

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

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

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

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

469 (2) A determination by a fire department as provided for under paragraph (1) of this  
470 subsection regarding whether a distributor has met requirements for the issuance of a  
471 license pursuant to this subsection shall be made within 30 days of the submission of an  
472 application for any such license. Such application shall be in writing and, if such fire  
473 department provides for a written form for the application for a license pursuant to this  
474 Code section, upon such form as may be provided by such fire department. If a  
475 determination on an application for licensure pursuant to this subsection or on an appeal  
476 of a determination previously made by such fire department has not been made within the

477 time provided for by this paragraph, a distributor may seek review from the judge of the  
478 probate court of the county of the location or proposed location of the temporary  
479 consumer fireworks retail sales facility. Such judge may provide for the issuance or  
480 nonissuance of a license and for the payment of license fees in such manner as is  
481 consistent with the provisions of this subsection."

482 **SECTION 1-19.**

483 Said title is further amended in said chapter by revising Code Section 25-10-9, relating to  
484 monetary penalties for violation of chapter, as follows:

485 "25-10-9.

486 Notwithstanding any provision of this chapter to the contrary, the Safety Fire  
487 Commissioner shall have the authority to subject any person, firm, corporation, association,  
488 or partnership that violates this chapter to a monetary penalty of up to \$2,500.00 for each  
489 ~~and every~~ act in violation of this chapter; ~~provided, however, that the Safety Fire~~  
490 ~~Commissioner shall have the authority to subject any person, firm, corporation, association,~~  
491 ~~or partnership that knowingly sells consumer fireworks from a tent, canopy, or membrane~~  
492 ~~structure to a monetary penalty of up to \$5,000.00 and, if any such person, firm,~~  
493 ~~corporation, association, or partnership is a distributor, then a license revocation for not~~  
494 ~~more than two years.~~ Each sales transaction in violation of this chapter shall be a separate  
495 offense."

496 **SECTION 1-20.**

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

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

503 **SECTION 1-21.**

504 Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to  
505 jurisdiction, power, and duties regarding probate courts, is amended by adding a new Code  
506 section to read as follows:

507 "15-9-30.10.

508 (a) Subject to the provisions of subsection (b) of this Code section, in addition to any other  
509 jurisdiction vested in the probate courts, such courts shall have the right and power to  
510 conduct trials, receive pleas of guilty, and impose sentences upon defendants for violating  
511 any law specified in Title 25 which is punishable as a misdemeanor. Such jurisdiction shall  
512 be concurrent with other courts having jurisdiction over such violations.

513 (b) A probate court shall not have the power to dispose of misdemeanor cases as provided  
514 in subsection (a) of this Code section unless the defendant waives in writing a trial by jury.  
515 If the defendant does not waive a trial by jury, the defendant shall notify the court and, if  
516 reasonable cause exists, the defendant shall be immediately bound over to a court in the  
517 county having jurisdiction to try the offense wherein a jury may be impaneled."

518 **PART II**

519 *Buildings and housing*

520 **SECTION 2-1.**

521 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is  
522 amended by revising subsection (a) of Code Section 8-2-135.1, relating to manufacturing and  
523 monitoring inspection fees, as follows:

524 "(a) During such time as the Commissioner's office is acting as the primary inspection  
525 agency pursuant to Section 623 of the National Manufactured Housing Construction and  
526 Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., or the regulations issued  
527 thereunder, every manufacturer who manufactures manufactured homes in Georgia shall  
528 pay to the Commissioner a manufacturing inspection fee for each manufactured home  
529 manufactured in Georgia, irrespective of whether the manufactured home is offered for sale  
530 in this state. This manufacturing inspection fee shall be \$30.00 for each certification label,  
531 as defined in Section 623 of the National Manufactured Housing Construction and Safety  
532 Standards Act of 1974, 42 U.S.C. Section 5401, et seq. For any reinspection, a ~~\$15.00~~  
533 \$150.00 additional fee shall be charged."

534

**PART III**

535

*Effective date and repealer*

536

**SECTION 3-1.**

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

539

**SECTION 3-2.**

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