

SECOND REGULAR SESSION

HOUSE BILL NO. 2257

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BRUNS.

5274L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 320.106, 320.111, 320.131, and 320.136, RSMo, and to enact in lieu thereof four new sections relating to fireworks, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 320.106, 320.111, 320.131, and 320.136, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 320.106, 320.111, 320.131,
3 and 320.136, to read as follows:

320.106. As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the
2 following terms mean:

3 (1) "American Pyrotechnics Association (APA), Standard 87-1", or subsequent standard
4 which may amend or supersede this standard for manufacturers, importers and distributors of
5 fireworks;

6 (2) "Chemical composition", all pyrotechnic and explosive composition contained in
7 fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;

8 (3) "Consumer fireworks", explosive devices designed primarily to produce visible or
9 audible effects by combustion and includes aerial devices and ground devices, all of which are
10 classified as fireworks, UNO336, [1.4G] by [regulation of] the United States Department of
11 Transportation[, as amended from time to time, and which were formerly classified as class C
12 common fireworks by regulation of the United States Department of Transportation] **at 49 CFR**
13 **172.101;**

14 (4) "Discharge site", the area immediately surrounding the fireworks mortars used for
15 an outdoor fireworks display;

16 (5) "Dispenser", a device designed for the measurement and delivery of liquids as fuel;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (6) "Display fireworks", explosive devices designed primarily to produce visible or
18 audible effects by combustion, deflagration or detonation. This term includes devices containing
19 more than two grains (130 mg) of explosive composition intended for public display. These
20 devices are classified as fireworks[.]; **UN0333, UN0334 or UN0335**[, 1.3G by regulation of the
21 United States Department of Transportation, as amended from time to time, and which were
22 formerly classified as class B display fireworks by regulation of the United States Department
23 of Transportation] **by the United States Department of Transportation at 49 CFR 172.101;**

24 (7) "Display site", the immediate area where a fireworks display is conducted, including
25 the discharge site, the fallout area, and the required separation distance from mortars to spectator
26 viewing areas, but not spectator viewing areas or vehicle parking areas;

27 (8) "Distributor", any person engaged in the business of selling fireworks to wholesalers,
28 jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary
29 permits as specified in sections 320.106 to 320.161, including any person that imports any
30 fireworks of any kind in any manner into the state of Missouri;

31 (9) "Fireworks", any composition or device for producing a visible, audible, or both
32 visible and audible effect by combustion, deflagration, or detonation and that meets the definition
33 of consumer, proximate, or display fireworks as set forth by 49 CFR part 171 to end, United
34 States Department of Transportation hazardous materials regulations[, and American
35 Pyrotechnics Association 87-1 standards];

36
37 containing more than two grains (130 mg) of explosive

38 (10) "Fireworks season", the period beginning on the twentieth day of June and
39 continuing through the tenth day of July of the same year and the period beginning on the
40 twentieth day of December and continuing through the second day of January of the next year,
41 which shall be the only periods of time that seasonal retailers may be permitted to sell consumer
42 fireworks;

43 (11) "Jobber", any person engaged in the business of making sales of consumer fireworks
44 at wholesale or retail within the state of Missouri to nonlicensed buyers for use and distribution
45 outside the state of Missouri during a calendar year from the first day of January through the
46 thirty-first day of December;

47 (12) "Licensed operator", any person who supervises, manages, or directs the discharge
48 of outdoor display fireworks, either by manual or electrical means; who has met additional
49 requirements established by promulgated rule and has successfully completed a display fireworks
50 training course recognized and approved by the state fire marshal;

51 (13) "Manufacturer", any person engaged in the making, manufacture, assembly or
52 construction of fireworks of any kind within the state of Missouri;

53 (14) "NFPA", National Fire Protection Association, an international codes and standards
54 organization;

55 (15) "Permanent structure", buildings and structures with permanent foundations other
56 than tents, mobile homes, and trailers;

57 (16) "Permit", the written authority of the state fire marshal issued pursuant to sections
58 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

59 (17) "Person", any corporation, association, partnership or individual or group thereof;

60 (18) "Proximate fireworks", a chemical mixture used in the entertainment industry to
61 produce visible or audible effects by combustion, deflagration, or detonation, as defined [by the
62 most current edition of the American Pyrotechnics Association (APA), Standard 87-1, section
63 3.8, specific requirements for theatrical pyrotechnics] **by the United States Department of**
64 **Transportation at 49 CFR 172.101 as UN0431 or UN0432;**

65 (19) "Pyrotechnic operator" or "special effects operator", an individual who has
66 responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special
67 effects for proximate fireworks and who has met additional requirements established by
68 promulgated rules and has successfully completed a proximate fireworks training course
69 recognized and approved by the state fire marshal;

70 (20) "Sale", an exchange of articles of fireworks for money, including barter, exchange,
71 gift or offer thereof, and each such transaction made by any person, whether as a principal
72 proprietor, salesman, agent, association, copartnership or one or more individuals;

73 (21) "Seasonal retailer", any person within the state of Missouri engaged in the business
74 of making sales of consumer fireworks in Missouri only during a fireworks season as defined by
75 subdivision (10) of this section;

76 (22) "Wholesaler", any person engaged in the business of making sales of consumer
77 fireworks to any other person engaged in the business of making sales of consumer fireworks at
78 retail within the state of Missouri.

320.111. 1. It is unlawful for any person to manufacture, sell, offer for sale, ship or
2 cause to be shipped into or within the state of Missouri except as herein provided any item of
3 fireworks, without first having secured the required applicable permit as a manufacturer,
4 distributor, wholesaler, jobber or seasonal retailer from the state fire marshal and applicable
5 federal permit or license. Possession of said permit is a condition precedent to manufacturing,
6 selling or offering for sale, shipping or causing to be shipped any fireworks into the state of
7 Missouri, except as herein provided. This provision applies to nonresidents as well as residents
8 of the state of Missouri.

9 2. The state fire marshal has the authority and is authorized and directed to issue permits
10 [for the sale of fireworks] **to carry out the provisions of this section.** No permit shall be issued

11 to a person under the age of eighteen years; **or to any person failing to provide the division**
12 **with proof of liability insurance in an amount set by rule; or to any person who has been**
13 **convicted of, pled guilty to or been found guilty of:**

14 (1) **Any class A felony; or**

15 (2) **Any class B felony; or**

16 (3) **Any class C or D felony within ten years prior to the application for a permit.**

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18 All permits except for seasonal retailers shall be for the calendar year or any fraction thereof and
19 shall expire on the thirty-first day of December of each year.

20 3. Permits issued must be displayed in the permit holder's place of business. No permit
21 provided for herein shall be transferable nor shall a person operate under a permit issued to
22 another person or under a permit issued for another location. Manufacturer, wholesaler, jobber,
23 and distributor permit holders operating out of multiple locations shall obtain a permit for each
24 location.

25 4. Failure to make application for a permit by May thirty-first of the calendar year may
26 result in the fire marshal's refusal to issue a license to the licensee or applicant for such calendar
27 year.

28 5. Any false statement or declaration made on a permit application may result in the state
29 fire marshal's refusal to issue such permit to the requesting person for a period of time not to
30 exceed three years.

31 6. The state fire marshal is authorized and directed to charge the following fees for
32 permits:

33 (1) Manufacturer, a fee of seven hundred seventy-five dollars per calendar year;

34 (2) Distributor, a fee of seven hundred seventy-five dollars per calendar year;

35 (3) Wholesaler, a fee of two hundred seventy-five dollars per calendar year;

36 (4) Jobber, a fee of five hundred twenty-five dollars per calendar year per sales location;

37 (5) Seasonal retailer, a fee of fifty dollars per calendar year per sales location;

38 (6) Display fireworks, a fee of one hundred dollars per calendar year per location;

39 (7) Proximate fireworks display permit, a fee of one hundred dollars per calendar year
40 per location;

41 (8) Licensed operator, a fee of one hundred dollars for a three-year license;

42 (9) Pyrotechnic operator, a fee of one hundred dollars for a three-year license.

43 7. A holder of a manufacturer's permit shall not be required to have any additional
44 permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell
45 display, or proximate fireworks.

46 8. A holder of a distributor's permit shall not be required to have any additional permits
47 in order to sell to wholesalers, jobbers, seasonal retailers or to sell display, or proximate
48 fireworks.

49 9. A holder of a jobber's permit shall not be required to have any additional permit in
50 order to sell consumer fireworks at retail during the fireworks season from such jobber's
51 permanent structure.

52 10. All fees collected for permits issued pursuant to this section shall be deposited to the
53 credit of the fire education fund created pursuant to section 320.094. Any person engaged in
54 more than one permit classification shall pay one permit fee based upon the permit classification
55 yielding the highest amount of revenue.

56 11. The state fire marshal is charged with the enforcement of the provisions of sections
57 320.106 to 320.161 and may call upon any state, county or city peace officer for assistance in the
58 enforcement of the provisions of sections 320.106 to 320.161. The state fire marshal may
59 promulgate rules pursuant to the requirements of this section and chapter 536, RSMo, necessary
60 to carry out his or her responsibilities under this act including rules requiring training,
61 examination, and licensing of licensed operators and pyrotechnic operators engaging in or
62 responsible for the handling and use of display and proximate fireworks. The test shall
63 incorporate the rules of the state fire marshal, which shall be based upon nationally recognized
64 standards.

65 No rule or portion of a rule promulgated pursuant to this chapter shall become effective unless
66 it has been promulgated pursuant to the provisions of chapter 536, RSMo.

67 12. The state fire marshal, upon notification by the department of revenue, may withhold
68 permits from applicants upon evidence that all state sales taxes for the preceding year or years
69 have not been paid; except, this subsection shall not apply if an applicant is pursuing any proper
70 remedy at law challenging the amount, collection, or assessment of any sales tax.

71 13. A holder of a distributor, wholesaler, or jobber's permit shall be required to operate
72 out of a permanent structure in compliance with all applicable building and fire regulations in
73 the city or county in which said person is operating a fireworks business. Seasonal retail permit
74 locations shall be in compliance with all applicable building and fire regulations. The applicant
75 may be subject to a fire safety inspection by the state fire marshal based upon promulgated rules
76 and regulations adopted by the state fire marshal.

77 14. It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell
78 consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the
79 state fire marshal for the current permit period. A seasonal retailer shall acquire and present the
80 appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler
81 or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided that such

82 seasonal retailer is purchasing the consumer fireworks for resale in this state. **The state fire**
83 **marshal or state fire marshal's deputies may examine any records of fireworks sales to**
84 **assure compliance with this section.**

85 15. The state fire marshal and the marshal's deputies may conduct inspections of any
86 premises and all portions of buildings where fireworks are stored, manufactured, kept or being
87 offered for sale. All persons selling, offering for sale, barter, gift, exchange, or offer thereof any
88 fireworks shall cooperate fully with the state fire marshal and the marshal's deputies during any
89 such inspection. This inspection shall be performed during normal business hours.

90 16. In addition to any other penalty, any person who manufactures, sells, offers for sale,
91 ships or causes to be shipped into or caused to be shipped into the state of Missouri, for use in
92 Missouri, any items of fireworks without first having the required applicable permit shall be
93 assessed a civil penalty of up to a one thousand dollar fine for each day of operation up to a
94 maximum of ten thousand dollars.

320.131. 1. It is unlawful for any person to possess, sell or use within the state of
2 Missouri, or ship into the state of Missouri, except as provided in section 320.126, any
3 pyrotechnics commonly known as "fireworks" and defined as consumer fireworks in subdivision
4 (3) of section 320.106 other than items now or hereafter classified as fireworks UNO336, 1.4G
5 by the United States Department of Transportation that comply with the construction, chemical
6 composition, labeling and other regulations relative to consumer fireworks regulations
7 promulgated by the United States Consumer Product Safety Commission and permitted for use
8 by the general public pursuant to such commission's regulations.

9 2. No wholesaler, jobber, or seasonal retailer, or any other person shall sell, offer for
10 sale, store, display, or have in their possession any consumer fireworks that have not been
11 approved as fireworks UNO336, 1.4G by the United States Department of Transportation.

12 3. No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer
13 dealers, or any other person, in this state for the purpose of resale, or use, in this state, any
14 consumer fireworks which do not have the numbers and letter "1.4G" printed within an orange,
15 diamond-shaped label printed on or attached to the fireworks shipping carton.

16 4. This section does not prohibit a manufacturer, distributor or any other person
17 **possessing the proper permits as specified by state and federal law** from storing, selling,
18 shipping or otherwise transporting display or proximate fireworks[, defined as fireworks
19 UNO335, 1.3G/UNO431, 1.4G or UNO432, 1.4S by the United States Department of
20 Transportation, provided they possess the proper permits as specified by state and federal law].

21 5. Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which
22 paper caps containing twenty-five hundredths grains or less of explosive compound, provided
23 that they are so constructed that the hand cannot come into contact with the cap when in place

24 for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of
25 explosive mixture shall be permitted for sale and use at all times and shall not be regulated by
26 the provisions of sections 320.106 to 320.161.

320.136. Ground salutes commonly known as "cherry bombs", "M-80's", "M-100's",
2 "M-1000's", and any other tubular salutes or any items described as prohibited chemical
3 components or forbidden devices as listed in the American Pyrotechnics Association Standard
4 87-1 or which exceed the [federal] limits set for **consumer** fireworks [UNO336, 1.4G formerly
5 known as class C common fireworks, display fireworks UNO335, 1.3F, and proximate fireworks
6 UNO431, 1.4F/UNO432, 1.4S by the United States Department of Transportation] , **display**
7 **fireworks or proximate fireworks** for explosive composition are expressly prohibited from
8 shipment into, manufacture, possession, sale, or use within the state of Missouri for consumer
9 use. Possession, sale, manufacture, or transport of this type of illegal explosive shall be punished
10 as provided by the provisions of section 571.020, RSMo.

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