

SECOND REGULAR SESSION

HOUSE BILL NO. 1672

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOUGHTON (Sponsor) AND FRANKLIN (Co-sponsor).

4842H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 320.106 and 320.111, RSMo, and to enact in lieu thereof two new sections relating to hobby firework manufacturing, with an existing penalty provision.

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

Section A. Sections 320.106 and 320.111, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 320.106 and 320.111, to read as follows:

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

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

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

(3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UNO336, within 49 CFR Part 172;

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

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

(6) "Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0333 or UN0334 or UNO335, within 49 CFR Part 172;

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.

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

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

25 (9) "Fireworks", any composition or device for producing a visible, audible, or both
26 visible and audible effect by combustion, deflagration, or detonation and that meets the definition
27 of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United
28 States Department of Transportation hazardous materials regulations;

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

34 (11) **"Hobby manufacturer", any person engaged in the making, manufacture,**
35 **assembly, or construction of fireworks of any kind for the sole purpose of personal use;**

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

40 [(12)] (13) "Licensed operator", any person who supervises, manages, or directs the
41 discharge of outdoor display fireworks, either by manual or electrical means; who has met
42 additional requirements established by promulgated rule and has successfully completed a
43 display fireworks training course recognized and approved by the state fire marshal;

44 [(13)] (14) "Manufacturer", any person engaged in the making, manufacture, assembly
45 or construction of fireworks of any kind within the state of Missouri **for the purposes of sale**
46 **or distribution;**

47 [(14)] (15) "NFPA", National Fire Protection Association, an international codes and
48 standards organization;

49 [(15)] (16) "Permanent structure", buildings and structures with permanent foundations
50 other than tents, mobile homes, and trailers;

51 [(16)] (17) "Permit", the written authority of the state fire marshal issued pursuant to
52 sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

53 [(17)] (18) "Person", any corporation, association, partnership or individual or group
54 thereof;

55 [(18)] (19) "Proximate fireworks", a chemical mixture used in the entertainment industry
56 to produce visible or audible effects by combustion, deflagration, or detonation, as classified
57 within 49 CFR Part 172 as UN0431 or UN0432;

58 [(19)] (20) "Pyrotechnic operator" or "special effects operator", an individual who has
59 responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special
60 effects for proximate fireworks and who has met additional requirements established by
61 promulgated rules and has successfully completed a proximate fireworks training course
62 recognized and approved by the state fire marshal;

63 [(20)] (21) "Sale", an exchange of articles of fireworks for money, including barter,
64 exchange, gift or offer thereof, and each such transaction made by any person, whether as a
65 principal proprietor, salesman, agent, association, copartnership or one or more individuals;

66 [(21)] (22) "Seasonal retailer", any person within the state of Missouri engaged in the
67 business of making sales of consumer fireworks in Missouri only during a fireworks season as
68 defined by subdivision (10) of this section;

69 [(22)] (23) "Wholesaler", any person engaged in the business of making sales of
70 consumer fireworks to any other person engaged in the business of making sales of consumer
71 fireworks at 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, **hobby**
4 **manufacturer**, distributor, wholesaler, jobber or seasonal retailer from the state fire marshal and
5 applicable federal permit or license. Possession of said permit is a condition precedent to
6 manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into
7 the state of Missouri, except as herein provided. This provision applies to nonresidents as well
8 as residents 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 **and manufacture** of fireworks. No permit shall be issued to a person under the age
11 of eighteen years. All permits except for seasonal retailers shall be for the calendar year or any
12 fraction thereof and shall expire on the thirty-first day of December of each year.

13 3. Permits issued must be displayed in the permit holder's place of business **or for hobby**
14 **manufacturers, the permit shall be readily accessible at the manufacturing site**. No permit
15 provided for herein shall be transferable nor shall a person operate under a permit issued to
16 another person or under a permit issued for another location. Manufacturer, wholesaler, jobber,

17 and distributor permit holders operating out of multiple locations shall obtain a permit for each
18 location.

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

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

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

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

28 (2) **Hobby manufacturer, a fee of one hundred dollars per calendar year;**

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

30 [(3)] (4) Wholesaler, a fee of two hundred seventy-five dollars per calendar year;

31 [(4)] (5) Jobber, a fee of five hundred twenty-five dollars per calendar year per sales
32 location;

33 [(5)] (6) Seasonal retailer, a fee of fifty dollars per calendar year per sales location;

34 [(6)] (7) Display fireworks, a fee of one hundred dollars per calendar year per location;

35 [(7)] (8) Proximate fireworks display permit, a fee of one hundred dollars per calendar
36 year per location;

37 [(8)] (9) Licensed operator, a fee of one hundred dollars for a three-year license;

38 [(9)] (10) Pyrotechnic operator, a fee of one hundred dollars for a three-year license.

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

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

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

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

52 11. The state fire marshal is charged with the enforcement of the provisions of sections
53 320.106 to 320.161 and may call upon any state, county or city peace officer for assistance in the
54 enforcement of the provisions of sections 320.106 to 320.161. The state fire marshal may
55 promulgate rules pursuant to the requirements of this section and chapter 536 necessary to carry
56 out his or her responsibilities under this act including rules requiring training, examination, and
57 licensing of licensed operators and pyrotechnic operators engaging in or responsible for the
58 handling and use of display and proximate fireworks. The test shall incorporate the rules of the
59 state fire marshal, which shall be based upon nationally recognized standards. No rule or portion
60 of a rule promulgated pursuant to this chapter shall become effective unless it has been
61 promulgated pursuant to the provisions of chapter 536.

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

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

72 14. It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell
73 consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the
74 state fire marshal for the current permit period. A seasonal retailer shall acquire and present the
75 appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler
76 or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided that such
77 seasonal retailer is purchasing the consumer fireworks for resale in this state.

78 15. **It is unlawful for a hobby manufacturer to sell or distribute any type of**
79 **fireworks to another person.**

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

85 [16.] 17. In addition to any other penalty, any person who manufactures, sells, offers for
86 sale, ships or causes to be shipped into or caused to be shipped into the state of Missouri, for use
87 in Missouri, any items of fireworks without first having the required applicable permit shall be

88 assessed a civil penalty of up to a one thousand dollar fine for each day of operation up to a
89 maximum of ten thousand dollars.

✓