

House Bill 312

By: Representatives Hugley of the 141st and Buckner of the 137th

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 provide for certain days and times for the lawful use or
3 ignition of consumer fireworks regardless of any county or municipal ordinance or
4 resolution; to provide for a definition; to provide for conforming changes; to amend Code
5 Section 36-60-24 of the Official Code of Georgia Annotated, relating to sale or use or
6 ignition of consumer fireworks products, so as to vest regulation of the dates and times for
7 the lawful use or ignition of consumer fireworks with counties and municipal corporations;
8 to amend Code Section 48-13-131 of the Official Code of Georgia Annotated, relating to
9 excise tax imposed upon fireworks, rate of taxation, and establishment of Fireworks Trust
10 Fund, so as to correct a cross-reference; to provide for related matters; to repeal conflicting
11 laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of
15 fireworks, is amended in Code Section 25-10-1, relating to definitions, by adding a new
16 paragraph to subsection (a) and by revising subsection (b) as follows:

H. B. 312

17 "(9.1) 'Sparkler' means wire or wood sparklers of 100 grams or less of mixture per item;
 18 other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less
 19 of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake
 20 and glow worms; smoke devices; or trick noise makers which include paper streamers,
 21 party poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or
 22 less of explosive mixture."

23 "(b) As used in this chapter, the term 'consumer fireworks' or 'fireworks' shall not include:
 24 (1) ~~Model model rockets and model rocket engines designed, sold, and used for the~~
 25 ~~purpose of propelling recoverable aero models, sparklers, toy pistol paper caps in which~~
 26 ~~the explosive content averages 0.25 grains or less of explosive mixture per paper cap or~~
 27 ~~toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor~~
 28 ~~shall the term 'consumer fireworks' or 'fireworks' include ammunition consumed by~~
 29 ~~weapons used for sporting and hunting purposes; and~~
 30 (2) ~~Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling~~
 31 ~~items which are nonexplosive and nonaerial and contain 75 grams or less of chemical~~
 32 ~~compound per tube or a total of 500 grams or less for multiple tubes; snake and glow~~
 33 ~~worms; smoke devices; or trick noise makers which include paper streamers, party~~
 34 ~~poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or less~~
 35 ~~of explosive mixture."~~

36 SECTION 2.

37 Said chapter is further amended by revising Code Section 25-10-2, relating to prohibited
 38 fireworks activities and application of noise ordinances, as follows:

39 "25-10-2.

40 (a) It shall be unlawful for any ~~person~~ individual, firm, corporation, association, or
 41 partnership to offer for sale at retail or wholesale, to use or ignite or cause to be ignited, or

42 to possess, manufacture, transport, or store any consumer fireworks or fireworks, except
 43 as otherwise provided in this chapter.

44 (b)(1) Notwithstanding any provision of this chapter to the contrary, it shall be unlawful
 45 for any ~~person~~ individual, firm, corporation, association, or partnership to sell consumer
 46 fireworks or any ~~items defined in paragraph (2) of subsection (b) of Code Section 25-10-1~~
 47 sparklers to any ~~person~~ individual under 18 years of age: and

48 ~~(2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)~~
 49 ~~of subsection (b) of Code Section 25-10-1 to any person by any means other than an~~
 50 ~~in-person, face-to-face sale. Such person~~ individual shall provide proper identification
 51 to the seller at the time of such purchase. For purposes of this paragraph, the term 'proper
 52 identification' means any document issued by a governmental agency containing a
 53 description of the ~~person~~ individual or such ~~person's~~ individual's photograph, or both, and
 54 giving such ~~person's~~ individual's date of birth and includes without being limited to a
 55 passport, military identification card, driver's license, or identification card authorized
 56 under ~~Code Sections 40-5-100 through 40-5-104~~ Chapter 5 of Title 40.

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

60 ~~(B) Except as provided for in subparagraph (D) or (E) of this paragraph and subject to~~
 61 ~~paragraph (4) of this subsection and Code Section 25-10-2.1~~

62 (d) Subject to the standards set forth in this chapter and notwithstanding any county or
 63 municipal ordinance or resolution to the contrary, it shall be lawful for any ~~person~~, firm,
 64 corporation, association, or partnership or any individual 18 years of age or older to use or
 65 ignite or cause to be ignited any consumer fireworks:

66 ~~(i) On any day beginning at the time of 10:00 A.M. and up to and including the~~
 67 ~~ending time of 11:59 P.M., unless during such times the noise from such use or~~
 68 ~~ignition is not in compliance with a noise ordinance of a county or municipal~~

69 corporation as provided for in subsection (c) of this Code section, except as otherwise
 70 provided for under this subparagraph; provided, however, that a county or municipal
 71 corporation may additionally require the issuance of a special use permit pursuant to
 72 subparagraph (D) of this paragraph for use or ignition;

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

76 ~~(iii)(2)~~ (2) On January 1 of each year beginning at the time of 12:00 Midnight and up to and
 77 including the ending time of 1:00 A.M.; ~~and~~

78 ~~(C)~~ Subject to subparagraph (D) of this paragraph, ~~paragraph (4) of this subsection, and~~
 79 ~~Code Section 25-10-2.1, it shall be lawful for any person, firm, corporation, association,~~
 80 ~~or partnership to use or ignite or cause to be ignited any consumer fireworks anywhere~~

81 (3) Anywhere in this state except:

82 ~~(i)(A)~~ (i)(A) As provided for under ~~subparagraph (A) of this paragraph~~ subsection (c) of this
 83 Code section;

84 ~~(ii)(B)~~ (ii)(B) Upon the property of another without permission to use or ignite consumer
 85 fireworks ~~In any location where such person, firm, corporation, association, or~~
 86 ~~partnership is not lawfully present or is not otherwise lawfully permitted to use or ignite~~
 87 ~~or cause to be ignited any consumer fireworks;~~

88 ~~(iii)(C)~~ (iii)(C) Within 100 yards of an electric plant; water treatment plant; waste-water
 89 treatment plant; a facility engaged in the retail sale of gasoline or other flammable or
 90 combustible liquids or gases where the volume stored is in excess of 500 gallons for the
 91 purpose of retail sale; a facility engaged in the production, refining, processing, or
 92 blending of any flammable or combustible liquids or gases for retail purposes; any
 93 public or private electric substation; or a jail or prison;

94 ~~(iv)(D)~~ Within 100 yards of the boundaries of any public use air facility provided for
95 under Title 6 or any public use landing area or platform marked and designed for
96 landing use by helicopters;

97 ~~(v)~~ Within any park, historic site, recreational area, or other property which is owned
98 by or operated by, for, or under the custody and control of a governing authority of
99 a county or municipal corporation, except pursuant to a special use permit as provided
100 for in subparagraph ~~(D)~~ of this paragraph;

101 ~~(vi)(E)~~ Within any park, historic site, recreational area, or other property which is
102 owned by or operated by, for, or under the custody and control of the State of Georgia,
103 except pursuant to any rules and regulations of the agency or department having control
104 of such property which may allow for such use or ignition of consumer fireworks; or

105 ~~(vii)(F)~~ Within 100 yards of a hospital, nursing home, or other health care facility
106 regulated under Chapter 7 of Title 31; provided, however, that an owner or operator of
107 such facility may use or ignite or cause to be ignited consumer fireworks on the
108 property of such facility or may grant written permission to any person, firm,
109 corporation, association, or partnership to use or ignite or cause to be ignited consumer
110 fireworks on the property of such facility; ~~or~~

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

114 ~~(D)~~ Any person, firm, corporation, association, or partnership may use or ignite or
115 cause to be ignited any consumer fireworks as provided for under divisions ~~(3)(B)(i)~~
116 and ~~(3)(C)(v)~~ of this subsection if such person, firm, corporation, association, or
117 partnership is issued a special use permit pursuant to the law of a governing authority
118 of a county or municipal corporation for the use or ignition of consumer fireworks in
119 a location within such county or municipality as provided for under divisions ~~(3)(B)(i)~~
120 and ~~(3)(C)(v)~~ of this subsection, provided that such special use permit is required for

121 ~~such use or ignition. Such special use permit shall designate the time or times and~~
 122 ~~location that such person, firm, corporation, association, or partnership may use or~~
 123 ~~ignite or cause to be ignited such consumer fireworks. A fee assessed by a county or~~
 124 ~~municipal corporation for the issuance of a special use permit pursuant to this~~
 125 ~~subparagraph shall not exceed \$100.00. No governing authority or official of a county,~~
 126 ~~municipality, or other political subdivision shall bear liability for any decisions made~~
 127 ~~pursuant to this Code section.~~

128 ~~(E)~~(e) Whenever the Keetch-Byram Drought Index reaches a level of 700 or above for any
 129 geographical area within a county, the Governor may, in consultation with the State
 130 Forestry Commission and the Department of Natural Resources and for purposes of this
 131 Code section, issue a declaration of drought for such county and enact further regulations
 132 and restrictions prohibiting any person, firm, corporation, association, or partnership to
 133 ignite or cause to be ignited consumer fireworks within the boundaries of such county for
 134 the duration of such declaration; provided, however, that upon expiration or conclusion of
 135 such declaration or the level on the Keetch-Byram Drought Index receding below 700,
 136 whichever occurs first, such further regulations or restrictions shall be rescinded by law.

137 ~~(4)(A)(f)(1)~~ It shall be lawful for any person individual 18 years of age or older ~~to use~~
 138 ~~or ignite or cause to be ignited~~ or to possess, manufacture, transport, or store consumer
 139 fireworks.

140 ~~(B)(2)~~ To the extent otherwise permitted by law, it shall be lawful for any person
 141 individual who is 16 or 17 years of age to possess or transport consumer fireworks,
 142 provided that such person is serving as an assistant to a distributor licensed to sell
 143 fireworks from a temporary consumer fireworks retail sales stand under ~~subsection (c)~~
 144 of Code Section 25-10-5.1 or the nonprofit group benefiting from such distributor's
 145 application pursuant to ~~subsection (c) of Code Section 25-10-5.1~~ such Code section and
 146 is not transporting such consumer fireworks on a highway which constitutes a part of The
 147 Dwight D. Eisenhower System of Interstate and Defense Highways.

148 ~~(5)(A)(g)(1)~~ It shall be lawful for any ~~person~~ individual 18 years of age or older to sell
 149 or to offer for sale at retail or wholesale any consumer fireworks pursuant to the
 150 requirements of this chapter.

151 ~~(B)(2)~~ It shall be lawful for any ~~person~~ individual who is 16 or 17 years of age to sell or
 152 to offer for sale at retail or wholesale any consumer fireworks, provided that such person
 153 is serving as an assistant to a distributor licensed to sell fireworks from a temporary
 154 consumer fireworks retail sales stand under ~~subsection (c) of Code Section 25-10-5.1 or~~
 155 the nonprofit group benefiting from such distributor's application pursuant to
 156 ~~subsection (c) of Code Section 25-10-5.1~~ such Code section.

157 ~~(6)(A)(h)(1)~~ It shall be lawful to sell consumer fireworks from a permanent consumer
 158 fireworks retail sales facility or store only if such permanent consumer fireworks retail
 159 sales facility or store is:

160 ~~(i)(A)~~ In compliance with the requirements for such a permanent consumer fireworks
 161 retail sales facility or store in the selling of consumer fireworks as provided for in
 162 NFPA 1124; and

163 ~~(i)(B)~~ Selling consumer fireworks of a distributor licensed pursuant to subsection (b)
 164 or (d) of Code Section 25-10-5.1.

165 ~~(B)(2)~~ It shall be lawful to sell consumer fireworks from a temporary consumer
 166 fireworks retail sales stand only if such temporary consumer fireworks retail sales stand
 167 is:

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

170 ~~(i)(B)~~ Within 1,000 feet of a fire hydrant of a county, municipality, or other political
 171 subdivision or a fire department connection of a building affiliated with such consumer
 172 fireworks retail sales stand, unless the chief administrative officer of the fire department
 173 of a county, municipality, or other political subdivision or chartered fire department
 174 legally organized to operate in this state pursuant to Chapter 3 of this title and having

175 operational authority over such location of the temporary consumer fireworks retail
 176 sales stand provides in writing that such temporary consumer fireworks retail sales
 177 stand may operate in excess of 1,000 feet from such fire hydrant or fire department
 178 connection; and

179 ~~(iii)~~(C) Selling consumer fireworks of a distributor licensed pursuant to subsection (c)
 180 of Code Section 25-10-5.1.

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

188 ~~(E)~~(3) It shall be unlawful to sell consumer fireworks from any motor vehicle, from a
 189 trailer towed by a motor vehicle, or from a tent, canopy, or membrane structure.

190 ~~(c) Any noise ordinance of a county or municipal corporation which is to have effect for~~
 191 ~~purposes of subdivision (b)(3)(B)(i) shall have been enacted or reenacted on or after July~~
 192 ~~1, 2018, and shall:~~

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

196 ~~(2) Not have been enacted or reenacted unless notice of the meeting in which such noise~~
 197 ~~ordinance was enacted or reenacted was published one time at least 15 days in advance~~
 198 ~~of such meeting in the legal organ of such county or municipal corporation and was~~
 199 ~~posted for at least 72 hours at least 15 days in advance of such meeting on the homepage~~
 200 ~~of the official website of such county or municipal corporation. Such notice shall state~~

201 ~~the date, time, and place of such meeting and that such noise ordinance which will affect~~
 202 ~~the use of consumer fireworks will be acted upon."~~

203 **SECTION 3.**

204 Said chapter is further amended in Code Section 25-10-5.1, relating to requirements for
 205 issuance of license to distribute consumer fireworks and required signage, by revising
 206 paragraphs (1) and (3) of subsection (c) as follows:

207 "(c)(1) The license fee for a distributor selling consumer fireworks from a temporary
 208 consumer fireworks retail sales stand shall be \$500.00 per location, payable to the
 209 governing authority of the county, municipality, or other political subdivision of this state
 210 in whose boundaries such temporary consumer fireworks retail sales stand shall be
 211 located or is proposed to be located. Upon finding that a distributor has met the
 212 requirements of subsection (a) of this Code section, has a license pursuant to
 213 subsection (b) or (d) of this Code section, has no more than the allowable temporary
 214 consumer fireworks retail sales stands pursuant to ~~subparagraph (b)(6)(B)~~ paragraph (2)
 215 of subsection (h) of Code Section 25-10-2, that the sales of consumer fireworks from
 216 such temporary consumer fireworks retail sales stand shall accrue to the benefit of a
 217 nonprofit group, and upon payment of such license fee, such license shall be issued by
 218 the fire department of the county, municipality, or other political subdivision or the
 219 chartered fire department legally organized to operate in this state pursuant to Chapter 3
 220 of this title and having operational authority of the area in which such temporary
 221 consumer fireworks retail sales stand shall be located or is proposed to be located. Such
 222 license shall identify the temporary consumer fireworks retail sales stand applicable to
 223 such license and shall expire on the next January 31 after the issuance of such license."

224 "(3) For at least one of the temporary consumer fireworks retail sales stands provided for
 225 under ~~subparagraph (b)(6)(B)~~ paragraph (2) of subsection (h) of Code Section 25-10-2,
 226 a nonprofit group benefiting from the sale of consumer fireworks from such temporary

227 consumer fireworks retail sales stand shall directly participate in operating such
228 temporary consumer fireworks retail sales stand. It shall be unlawful for a nonprofit
229 group or any agent or bona fide representative of a nonprofit group to knowingly lend the
230 name of the nonprofit group or allow the identity of the nonprofit group to be used for the
231 license under this subsection if such nonprofit group is not directly participating in
232 operating, or benefiting from the operation of, such temporary consumer fireworks retail
233 sales stand."

234 **SECTION 4.**

235 Code Section 36-60-24 of the Official Code of Georgia Annotated, relating to sale or use or
236 ignition of consumer fireworks products, is amended by revising subsection (a) as follows:
237 "(a) The governing authority of a county or municipal corporation shall not prohibit the
238 sale or use or ignition of consumer fireworks or other products or services which are lawful
239 under Chapter 10 of Title 25, unless such prohibition is expressly authorized by general
240 law."

241 **SECTION 5.**

242 Code Section 48-13-131 of the Official Code of Georgia Annotated, relating to excise tax
243 imposed upon fireworks, rate of taxation, and establishment of Fireworks Trust Fund, is
244 amended by revising subsection (a) as follows:
245 "(a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed
246 upon the sale of consumer fireworks and any ~~items provided for in paragraph (2) of~~
247 ~~subsection (b) of~~ sparklers as such term is defined in Code Section 25-10-1 in this state at
248 a rate of 5 percent per item sold."

249 **SECTION 6.**

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