

The Senate Committee on Public Safety offered the following substitute to HB 419:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of fireworks, so as to subject the use or ignition of consumer fireworks to general noise ordinances of counties and municipal corporations in certain circumstances; to provide for conditions; to provide for meeting notice requirements; to require distributors to post certain signs in the sale of consumer fireworks; to provide for rules and regulations by the state fire marshal for the design of such cards; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of fireworks, is amended by revising Code Section 25-10-2, relating to prohibited fireworks activities, as follows:

"25-10-2.

(a) It shall be unlawful for any person, firm, corporation, association, or partnership to offer for sale at retail or wholesale, to use or ignite or cause to be ignited, or to possess, manufacture, transport, or store any consumer fireworks or fireworks, except as otherwise provided in this chapter.

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

(2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2) of subsection (b) of Code Section 25-10-1 to any person by any means other than an in-person, face-to-face sale. Such person shall provide proper identification to the seller at the time of such purchase. For purposes of this paragraph, the term 'proper identification' means any document issued by a governmental agency containing a

description of the person or such person's photograph, or both, and giving such person's date of birth and includes without being limited to a passport, military identification card, driver's license, or identification card authorized under Code Sections 40-5-100 through 40-5-104.

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

(B) Except as provided for in subparagraph (D) or (E) of this paragraph and subject to paragraph (4) of this subsection and Code Section 25-10-2.1, it shall be lawful for any person, firm, corporation, association, or partnership to use or ignite or cause to be ignited any consumer fireworks:

(i) On any day beginning at the time of 10:00 A.M. and up to and including the ending time of ~~9:00 P.M.~~;

~~(ii) On any day after the time of 9:00 P.M. and up to and including the time of 11:59 P.M. if such use or ignition is lawful pursuant to any noise ordinance of the county or municipal corporation of the location in which such use or ignition occurs, unless during such times the noise from such use or ignition is not in compliance with a noise ordinance of a county or municipal corporation as provided for in subsection (c) of this Code section, except as otherwise provided for under this subparagraph; provided, however, that a county or municipal corporation may additionally require the issuance of a special use permit pursuant to subparagraph (D) of this paragraph for use or ignition;~~

~~(iii)~~(ii) On January 1, the last Monday in May, July 3, July 4, the first Monday in September, and December 31 of each year after the time of ~~9:00 P.M.~~ 10:00 A.M. and up to and including the time of 11:59 P.M.; and

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

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

(i) As provided for under subparagraph (A) of this paragraph;

(ii) In any location where such person, firm, corporation, association, or partnership is not lawfully present or is not otherwise lawfully permitted to use or ignite or cause to be ignited any consumer fireworks;

(iii) Within 100 yards of an electric plant; water treatment plant; waste-water treatment plant; a facility engaged in the retail sale of gasoline or other flammable or

combustible liquids or gases where the volume stored is in excess of 500 gallons for the purpose of retail sale; a facility engaged in the production, refining, processing, or blending of any flammable or combustible liquids or gases for retail purposes; any public or private electric substation; or a jail or prison;

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

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

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

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

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

(D) Any person, firm, corporation, association, or partnership may use or ignite or cause to be ignited any consumer fireworks as provided for under divisions ~~(3)(B)(ii)~~ (3)(B)(i) and (3)(C)(v) of this subsection if such person, firm, corporation, association, or partnership is issued a special use permit pursuant to the law of a governing authority of a county or municipal corporation for the use or ignition of consumer fireworks in a location within such county or municipality as provided for under divisions ~~(3)(B)(ii)~~ (3)(B)(i) and (3)(C)(v) of this subsection, provided that such special use permit is required for such use or ignition. Such special use permit shall designate the time or times and location that such person, firm, corporation, association, or partnership may use or ignite or cause to be ignited such consumer fireworks. A fee assessed by a county or municipal corporation for the issuance of a special use permit pursuant to this subparagraph shall not exceed \$100.00. No governing authority or official of a county,

municipality, or other political subdivision shall bear liability for any decisions made pursuant to this Code section.

(E) ~~Whenever the Governor issues a declaration of drought~~ Department of Natural Resources declares a drought response of Level 1 or higher, or its equivalent, for an area, the Governor may, for the boundaries of the area covered by such drought declaration, enact further regulations and restrictions ~~concerning the use of consumer fireworks than provided for under this chapter; provided, however, that no such further regulations or restrictions on the use of consumer fireworks shall be effective pursuant to this subparagraph on January 1, July 3, July 4, or December 31 of any year; provided, further, that such further regulations or restrictions shall only apply to the exact prohibiting any person, firm, corporation, association, or partnership to ignite or cause to be ignited consumer fireworks in the~~ boundaries of the area covered by such declaration ~~and shall only apply with regard to the ignition of consumer fireworks; and provided, further~~ for the duration of such declaration; provided, however, that upon expiration or conclusion of such declaration, such further regulations or restrictions shall be rescinded by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Not have been enacted or reenacted unless notice of the meeting in which such noise ordinance was enacted or reenacted was published one time at least 15 days in advance

of such meeting in the legal organ of such county or municipal corporation and was posted for at least 72 hours at least 15 days in advance of such meeting on the homepage of the official website of such county or municipal corporation. Such notice shall state the date, time, and place of such meeting and that such noise ordinance which will affect the use of consumer fireworks will be acted upon."

SECTION 2.

Said chapter is further amended in Code Section 25-10-5.1, relating to requirements for issuance of license to distribute consumer fireworks, by adding a new subsection to read as follows:

"(e)(1) Every licensed distributor selling consumer fireworks pursuant to this Code section shall have within the retail display area for consumer fireworks at least two signs if selling from a permanent consumer fireworks retail sales facility and at least one sign if selling from a temporary consumer fireworks retail sales stand or store providing the following information:

(A) The permissible days and times for the use or ignition of consumer fireworks; provided, however, that days and times provided for under division (b)(3)(B)(i) shall not be required for inclusion; and

(B) Best practices concerning safety in the use or ignition of consumer fireworks.

(2) Such signs shall be at least 22 inches by 28 inches in size, be printed in at least 40 point boldface type in a color contrasting from such sign's background color, and kept free from obstruction and in plain sight of customers."

SECTION 3.

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