

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1379

AN ACT

AMENDING SECTIONS 36-1601, 36-1605, 36-1606, 36-1609 AND 36-1610, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 16, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-2163.01 AND 41-2163.02; RELATING TO CONSUMER FIREWORKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-1601, Arizona Revised Statutes, is amended to
3 read:

4 36-1601. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Consumer firework" means small firework devices that contain
7 restricted amounts of pyrotechnic composition designed primarily to produce
8 visible or audible effects by combustion and that comply with the
9 construction, chemical composition and labeling regulations prescribed in 49
10 Code of Federal Regulations ~~part~~ PARTS 172 and 173, regulations of the United
11 States consumer product safety commission as prescribed in 16 Code of Federal
12 Regulations parts 1500 and 1507 and the American pyrotechnics association
13 standard 87-1, standard for construction and approval for transportation of
14 fireworks, novelties and theatrical pyrotechnics, December 1, 2001 version.

15 2. "CONSUMER FIREWORKS RETAIL SALES FACILITY" MEANS A PERMANENT OR
16 TEMPORARY BUILDING OR STRUCTURE, CFRS STAND, TENT, CANOPY OR MEMBRANE
17 STRUCTURE THAT IS USED PRIMARILY FOR THE DISPLAY OR SALE OF CONSUMER
18 FIREWORKS TO THE PUBLIC.

19 ~~2-~~ 3. "Display firework" means large firework devices that are
20 explosive materials intended for use in fireworks displays and designed to
21 produce visible or audible effects by combustion, deflagration or detonation
22 as prescribed by 49 Code of Federal Regulations part 172, regulations of the
23 United States consumer product safety commission as prescribed in 16 Code of
24 Federal Regulations parts 1500 and 1507 and the American pyrotechnics
25 association standard 87-1, standard for construction and approval for
26 transportation of fireworks, novelties and theatrical pyrotechnics, December
27 1, 2001 version.

28 ~~3-~~ 4. "Fireworks":

29 (a) Means any combustible or explosive composition, substance or
30 combination of substances, or any article prepared for the purpose of
31 producing a visible or audible effect by combustion, explosion, deflagration
32 or detonation, that is a consumer firework or display firework.

33 (b) Does not include:

34 (i) Toy pistols, toy canes, toy guns or other devices in which paper
35 caps containing not more than twenty-five hundredths grains of explosive
36 compound are used if constructed so that the hand cannot come in contact with
37 the cap when in place for the explosion.

38 (ii) Toy pistol paper caps that contain less than twenty-hundredths
39 grains of explosive mixture, or fixed ammunition or primers therefor.

40 (iii) Federally deregulated novelty items that are known as snappers,
41 snap caps, party poppers, glow worms, snakes, toy smoke devices and
42 sparklers.

1 ~~4.~~ 5. "Governing body" means the board of supervisors of a county as
2 to the area within the county but without the corporate limits of an
3 incorporated city or town and means the governing body of an incorporated
4 city or town as to the area within its corporate limits.

5 ~~5.~~ 6. "Permissible consumer fireworks":

6 (a) Means the following types of consumer fireworks as defined by the
7 American pyrotechnics association standard 87-1, standard for construction
8 and approval for transportation of fireworks, novelties and theatrical
9 pyrotechnics, December 1, 2001 version:

10 (i) Ground and handheld sparkling devices.

11 (ii) Cylindrical fountains.

12 (iii) Cone fountains.

13 (iv) Illuminating torches.

14 (v) Wheels.

15 (vi) Ground spinners.

16 (vii) Flitter sparklers.

17 (viii) Toy smoke devices.

18 (ix) Wire sparklers or dipped sticks.

19 (x) Multiple tube fireworks devices and pyrotechnic articles.

20 (b) Does not include anything that is designed or intended to rise
21 into the air and explode or to detonate in the air or to fly above the
22 ground, including, for example, firework items commonly known as bottle
23 rockets, sky rockets, missile-type rockets, helicopters, torpedoes, roman
24 candles and jumping jacks.

25 ~~6.~~ 7. "Person" includes an individual, partnership, firm or
26 corporation.

27 8. "STORE" MEANS A BUILDING THAT IS CLASSIFIED AS A MERCANTILE
28 OCCUPANCY THAT CONTAINS A VARIETY OF MERCHANDISE AND THAT IS NOT USED
29 PRIMARILY FOR THE RETAIL SALES OF CONSUMER FIREWORKS.

30 Sec. 2. Section 36-1605, Arizona Revised Statutes, is amended to read:

31 36-1605. Permitted uses

32 This article does not prohibit:

33 1. The sale at wholesale by a resident wholesaler, dealer or jobber of
34 fireworks that are not prohibited by this article.

35 2. The sale of fireworks that are to be and are shipped directly out
36 of the state.

37 3. The use of fireworks by railroads or other transportation agencies
38 for signal purposes or illumination.

39 4. The sale or use of explosives for blasting or other legitimate
40 industrial purposes.

41 5. The use of fireworks or explosives, or both, by farmers, ranchers
42 and their employees, and by state and federal employees who manage wildlife
43 resources, to rally, drive or otherwise disperse concentrations of wildlife
44 for the purpose of protecting property or wildlife.

1 6. The sale of permissible consumer fireworks by a ~~retail~~
2 ~~establishment~~ RETAILER IN A CONSUMER FIREWORKS RETAIL SALES FACILITY OR STORE
3 if the ~~retail establishment~~ RETAILER complies with the rules adopted pursuant
4 to section 36-1609.

5 7. The use of permissible consumer fireworks by the general public,
6 ~~unless the use is prohibited by a governing body of an incorporated city or~~
7 ~~town~~ EXCEPT ON A STATE OR LOCALLY OWNED PROPERTY.

8 Sec. 3. Section 36-1606, Arizona Revised Statutes, is amended to read:

9 36-1606. Consumer fireworks regulation; state preemption;
10 further regulation of fireworks by local
11 jurisdiction

12 A. The STORAGE, TRANSPORTATION, sale, POSSESSION, DISPLAY FOR RETAIL
13 SALE and use of permissible consumer fireworks AND FEDERALLY DEREGULATED
14 NOVELTY ITEMS are of statewide concern. The regulation of permissible
15 consumer fireworks pursuant to this article and their use BETWEEN JUNE 15
16 THROUGH JULY 5 AND DECEMBER 12 THROUGH DECEMBER 31 AND JANUARY 1 THROUGH
17 JANUARY 2 is not subject to further regulation by a governing body, except
18 that ~~an incorporated city or town may regulate the use of permissible~~
19 ~~consumer fireworks within its corporate limits and a~~ THE SALE AND USE OF
20 PERMISSIBLE CONSUMER FIREWORKS IS PROHIBITED IN A COUNTY THAT INCLUDES AT
21 LEAST TWO MILLION FIVE HUNDRED THOUSAND BUT NOT MORE THAN FIVE MILLION ACRES
22 OF FEDERAL LAND AND THAT HAS A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND
23 PERSONS AND ANY county may regulate the use of permissible consumer fireworks
24 within the unincorporated areas of the county during times when there is a
25 reasonable risk of wildfires in the immediate county. This article does not
26 prohibit the imposition by ordinance of further regulations and prohibitions
27 on the sale, use and possession of fireworks other than permissible consumer
28 fireworks AND FEDERALLY DEREGULATED NOVELTY ITEMS by a governing body. A
29 governing body shall not permit or authorize the sale, use or possession of
30 any fireworks in violation of this article.

31 B. AN INCORPORATED CITY OR TOWN OR A COUNTY WITHIN THE UNINCORPORATED
32 AREAS OF THE COUNTY MAY PROVIDE BY ORDINANCE FOR AN ANNUAL FEE FOR EACH
33 CONSUMER FIREWORKS RETAIL SALES FACILITY IN AN AMOUNT SUFFICIENT TO COVER ALL
34 LEGITIMATE COSTS FOR ALL NEEDED PERMITS, LICENSES AND AUTHORIZATIONS FROM
35 APPLICATION TO AND THROUGH PROCESSING, ISSUANCE AND INSPECTION, BUT IN NO
36 CASE TO EXCEED A TOTAL OF TWO HUNDRED DOLLARS.

37 C. AN INCORPORATED CITY OR TOWN OR A COUNTY WITHIN THE UNINCORPORATED
38 AREAS OF THE COUNTY MAY PROVIDE BY ORDINANCE FOR AN ANNUAL FEE FOR EACH STORE
39 CARRYING CONSUMER FIREWORKS IN AN AMOUNT SUFFICIENT TO COVER ALL LEGITIMATE
40 COSTS FOR ALL NEEDED PERMITS, LICENSES AND AUTHORIZATIONS FROM APPLICATION TO
41 AND THROUGH PROCESSING, ISSUANCE AND INSPECTION, BUT IN NO CASE TO EXCEED A
42 TOTAL OF FIFTY DOLLARS.

1 D. IN AREAS WHERE FIRE SERVICES ARE PROVIDED BY A FIRE DISTRICT, THE
2 RESPECTIVE FIRE DISTRICT SHALL RECEIVE FIFTY PER CENT OF FEES PERMITTED IN
3 THIS SECTION.

4 E. AN INCORPORATED CITY OR TOWN OR A COUNTY WITHIN THE UNINCORPORATED
5 AREAS OF THE COUNTY SHALL NOT:

6 1. IMPOSE ANY FEE OR CHARGE, OTHER THAN THE FEES AUTHORIZED BY THIS
7 SECTION, ON THE RETAIL SALE OF PERMISSIBLE CONSUMER FIREWORKS.

8 2. PROHIBIT OR RESTRICT THE DISPLAY FOR RETAIL SALE OF PERMISSIBLE
9 FIREWORKS IN CONSUMER FIREWORKS RETAIL SALES FACILITIES OR STORES THAT COMPLY
10 WITH THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD CODE 1124 FOR THE
11 MANUFACTURE, TRANSPORTATION, STORAGE AND RETAIL SALES OF FIREWORKS AND
12 PYROTECHNIC ARTICLES, 2006 EDITION AS ADOPTED BY THE STATE FIRE MARSHAL
13 PURSUANT TO SECTION 36-1609 BETWEEN JUNE 15 THROUGH JULY 5 AND DECEMBER 12
14 THROUGH DECEMBER 31 AND JANUARY 1 THROUGH JANUARY 2.

15 3. IMPOSE ON A RETAIL SELLER ANY FINANCIAL GUARANTEE REQUIREMENTS,
16 INCLUDING BONDING OR INSURANCE PROVISIONS, CONTAINING RESTRICTIONS OR ANY
17 OTHER CONDITIONS NOT IMPOSED ON THE SAME BASIS ON ALL OTHER BUSINESS
18 LICENSEES.

19 4. IMPOSE SIGNAGE REQUIREMENTS ON A RETAIL SELLER BEYOND THOSE
20 REQUIRED BY THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD CODE 1124 FOR
21 THE MANUFACTURE, TRANSPORTATION, STORAGE AND RETAIL SALES OF FIREWORKS AND
22 PYROTECHNIC ARTICLES, 2006 EDITION.

23 Sec. 4. Section 36-1609, Arizona Revised Statutes, is amended to read:

24 36-1609. State fire marshal; adoption of code; sale of
25 permissible consumer fireworks

26 A. The state fire marshal shall adopt rules pursuant to title 41,
27 chapter 6 to carry out this article, including a rule that adopts the
28 national fire protection association code for the manufacture,
29 transportation, storage and retail sales of fireworks and pyrotechnic
30 articles, 2006 edition. A person who sells permissible consumer fireworks to
31 the public shall comply with those rules relating to the storage of consumer
32 fireworks and relating to the retail sales of consumer fireworks before
33 selling permissible consumer fireworks to the public.

34 B. A person shall not sell or ~~permit~~ ALLOW or authorize the sale of
35 permissible consumer fireworks to a person who is under ~~sixteen~~ EIGHTEEN
36 years of age.

37 Sec. 5. Section 36-1610, Arizona Revised Statutes, is amended to read:

38 36-1610. Prohibited use of fireworks on state land; civil
39 penalty

40 ~~A. The state fire marshal may impose a civil penalty of one thousand~~
41 ~~dollars for~~ Each incident of prohibited use of fireworks on state land in
42 violation of this article IS SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND
43 DOLLARS.

1 B. ~~The state fire marshal shall deposit, pursuant to sections 35-146~~
2 ~~and 35-147,~~ Civil penalties collected pursuant to this section SHALL BE
3 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147 in the fire suppression
4 revolving fund established by section 37-623.02.

5 Sec. 6. Title 41, chapter 16, article 3, Arizona Revised Statutes, is
6 amended by adding sections 41-2163.01 and 41-2163.02, to read:

7 41-2163.01. Rules prescribing licensure for fireworks
8 importers-exporters; fees

9 A. THE STATE FIRE MARSHAL SHALL ADOPT RULES PRESCRIBING LICENSURE
10 REQUIREMENTS FOR FIREWORKS IMPORTERS-EXPORTERS, WHOLESALERS AND RETAIL
11 FIREWORKS LOCATIONS AND MAY COLLECT FEES.

12 B. FOR THE PURPOSES OF THIS SECTION:

13 1. "IMPORTER-EXPORTER" MEANS ANY PERSON WHO FOR ANY PURPOSE DOES ANY
14 OF THE FOLLOWING:

15 (a) BRINGS FIREWORKS INTO THIS STATE OR CAUSES FIREWORKS TO BE BROUGHT
16 INTO THIS STATE.

17 (b) PROCURES THE DELIVERY OR RECEIVES SHIPMENTS OF ANY FIREWORKS INTO
18 THIS STATE.

19 (c) BUYS OR CONTRACTS TO BUY FIREWORKS FOR SHIPMENT INTO THIS STATE.

20 (d) SELLS, CONSIGNS OR DELIVERS FIREWORKS LOCATED WITHIN THIS STATE
21 FOR DELIVERY, USE OR SALE OUT OF THIS STATE.

22 2. "RETAILER" MEANS ANY PERSON WHO, AT A CONSUMER FIREWORKS RETAIL
23 SALES FACILITY OR STORE, SELLS, TRANSFERS OR GIVES FIREWORKS TO A CONSUMER OR
24 USER.

25 3. "WHOLESALE":

26 (a) MEANS A PERSON WHO SELLS FIREWORKS TO A RETAILER OR ANY OTHER
27 PERSON FOR RESALE.

28 (b) INCLUDES ANY PERSON WHO SELLS DANGEROUS FIREWORKS TO PUBLIC
29 DISPLAY PERMITTEES.

30 (c) DOES NOT INCLUDE AN IMPORTER, EXPORTER OR MANUFACTURER THAT SELLS
31 ONLY TO WHOLESALERS.

32 41-2163.02. State fire marshal fund

33 THE STATE FIRE MARSHAL FUND IS ESTABLISHED CONSISTING OF FEES COLLECTED
34 PURSUANT TO SECTION 41-2163.01. THE OFFICE OF THE STATE FIRE MARSHAL SHALL
35 ADMINISTER THE FUND. MONIES IN THE FUND SHALL BE DISTRIBUTED AS FOLLOWS:

36 1. THE FIRST TWO HUNDRED AND FIFTY THOUSAND DOLLARS RECEIVED EACH
37 FISCAL YEAR AS A CONTINUING APPROPRIATION TO THE OFFICE OF THE STATE FIRE
38 MARSHAL FOR DATA COLLECTION, PUBLIC EDUCATION AND ENFORCEMENT. MONIES
39 APPROPRIATED PURSUANT TO THIS PARAGRAPH ARE EXEMPT FROM THE PROVISIONS OF
40 SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

41 2. ALL OTHER MONIES EACH FISCAL YEAR SHALL BE DEPOSITED IN THE STATE
42 GENERAL FUND.

1 Sec. 7. Legislative intent

2 The legislature intends by this act that the state fire marshal collect
3 fees pursuant to section 41-2163.01, Arizona Revised Statutes, as added by
4 this act, that do not exceed the following:

5 1. For a fireworks importer-exporter license, one thousand five
6 hundred dollars.

7 2. For a fireworks wholesaler license, two thousand five hundred
8 dollars.

9 3. For a retail fireworks license, fifty dollars.