

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2361
(Reference to printed bill)

Strike everything after the enacting clause and insert:

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

36-1601. Definitions

In this article, unless the context otherwise requires:

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

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

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

~~3.~~ 4. "Fireworks":

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

(b) Does not include:

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

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

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

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

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

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

(i) Ground and handheld sparkling devices.

(ii) Cylindrical fountains.

(iii) Cone fountains.

(iv) Illuminating torches.

(v) Wheels.

(vi) Ground spinners.

(vii) Flitter sparklers.

(viii) Toy smoke devices.

(ix) Wire sparklers or dipped sticks.

(x) Multiple tube fireworks devices and pyrotechnic articles.

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

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

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

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

12 36-1605. Permitted uses

13 This article does not prohibit:

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

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

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

20 4. The sale or use of explosives for blasting or other legitimate
21 industrial purposes.

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

26 6. The sale of permissible consumer fireworks OR FEDERALLY DEREGULATED
27 NOVELTY ITEMS by a ~~retail establishment~~ RETAILER IN A CONSUMER FIREWORKS
28 RETAIL SALES FACILITY OR A STORE if the ~~retail establishment~~ RETAILER
29 complies with the rules adopted pursuant to section 36-1609.

30 7. The use of permissible consumer fireworks by the general public,
31 unless the use is prohibited by a governing body of an incorporated city or
32 town.

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

2 36-1606. Consumer fireworks regulation; state preemption;
3 further regulation of fireworks by local
4 jurisdiction

5 A. The STORAGE, TRANSPORTATION, sale, POSSESSION, DISPLAY FOR RETAIL
6 SALE and use of permissible consumer fireworks AND FEDERALLY DEREGULATED
7 NOVELTY ITEMS are of statewide concern. The regulation of permissible
8 consumer fireworks pursuant to this article and their use is not subject to
9 further regulation by a governing body, except that an incorporated city or
10 town may regulate the use of permissible consumer fireworks within its
11 corporate limits and ~~a county may regulate the use of permissible consumer~~
12 ~~fireworks within the unincorporated areas of the county during times when~~
13 ~~there is a reasonable risk of wildfires in the immediate county~~ THE SALE AND
14 USE OF PERMISSIBLE CONSUMER FIREWORKS IS PROHIBITED IN A COUNTY THAT INCLUDES
15 AT LEAST TWO MILLION FIVE THOUSAND ACRES OF FEDERAL LAND BUT NOT MORE THAN
16 FIVE MILLION ACRES OF FEDERAL LAND AND THAT HAS A POPULATION OF LESS THAN
17 FIVE HUNDRED THOUSAND PERSONS. THE GOVERNING BODY OF A COUNTY MAY BAN THE
18 USE OF PERMISSIBLE CONSUMER FIREWORKS IN AN UNINCORPORATED AREA WHERE THE
19 RATING IS DEEMED TO BE HIGH, VERY HIGH OR EXTREME, AS DETERMINED BY THE
20 NATIONAL FIRE DANGER RATING SYSTEM.

21 B. This article does not prohibit the imposition by ordinance of
22 further regulations and prohibitions on the sale, use and possession of
23 fireworks other than permissible consumer fireworks AND FEDERALLY DEREGULATED
24 NOVELTY ITEMS by a governing body. A governing body shall not permit or
25 authorize the sale, use or possession of any fireworks in violation of this
26 article.

27 C. AN INCORPORATED CITY OR TOWN, OR A COUNTY IN THE UNINCORPORATED
28 AREAS OF THE COUNTY, SHALL NOT ADOPT AN ORDINANCE THAT PROVIDES FOR A PENALTY
29 GREATER THAN A PETTY OFFENSE FOR A PERSON USING PERMISSIBLE CONSUMER
30 FIREWORKS.

31 D. THE SALE OF PERMISSIBLE CONSUMER FIREWORKS IN A CONSUMER FIREWORKS
32 RETAIL SALES FACILITY IS NOT ALLOWED IN AN AREA THAT IS ZONED FOR RESIDENTIAL
33 USE.

1 Sec. 4. Title 36, chapter 13, article 1, Arizona Revised Statutes, is
2 amended by adding section 36-1611, to read:

3 36-1611. Signage requirements; fireworks sales; local
4 requirements; restriction

5 A. A SIGN THAT MEETS THE FOLLOWING REQUIREMENTS MUST BE POSTED IN THE
6 IMMEDIATE DISPLAY AREA AND ANY PUBLICLY ACCESSIBLE ENTRANCE WHERE PERMISSIBLE
7 CONSUMER FIREWORKS ARE SOLD IN A STORE AND AT ANY POINT OF SALE IN A CONSUMER
8 FIREWORKS RETAIL SALES FACILITY:

9 1. DOES NOT EXCEED NINETY-THREE AND ONE-HALF SQUARE INCHES.

10 2. IS PRINTED ON WHITE PAPER THAT WEIGHS TWENTY POUNDS PER BASIS REAM
11 OF FIVE HUNDRED SHEETS.

12 3. IS LAMINATED.

13 4. CONTAINS THE FOLLOWING LANGUAGE: "THE USE OF PERMISSIBLE CONSUMER
14 FIREWORKS MAY BE RESTRICTED IN THIS JURISDICTION. CONTACT YOUR LOCAL
15 AUTHORITIES FOR MORE INFORMATION. PERMISSIBLE CONSUMER FIREWORKS AUTHORIZED
16 FOR SALE UNDER STATE LAW MAY NOT BE SOLD TO PERSONS WHO ARE UNDER 16 YEARS OF
17 AGE. THE SALE AND USE OF FEDERALLY DEREGULATED NOVELTY ITEMS KNOWN AS
18 SNAPPERS, PARTY POPPERS, GLOW WORMS, SNAKES, TOY SMOKE DEVICES AND SPARKLERS
19 ARE PERMITTED AT ALL TIMES."

20 B. INCORPORATED CITIES AND TOWNS, AND COUNTIES IN THEIR UNINCORPORATED
21 AREAS, SHALL NOT IMPOSE SIGNAGE REQUIREMENTS THAT ARE NOT PRESCRIBED BY THIS
22 SECTION OR BY RULES ADOPTED PURSUANT TO SECTION 36-1609.

23 Sec. 5. Emergency

24 This act is an emergency measure that is necessary to preserve the
25 public peace, health or safety and is operative immediately as provided by
26 law."

27 Amend title to conform

DAVID GOWAN

2361dg.doc
02/09/2012
4:53 PM
C: jcs