HOUSE BILL 2258

AN ACT

AMENDING SECTIONS 36-1601, 36-1605 AND 36-1606, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 13, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-1609; RELATING TO FIREWORKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

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 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. "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.

1. 3. "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, and toy cannons in which explosives are used, the type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers or other fireworks of like construction, fireworks containing any explosive or combustible compound, and any tablet or other device containing an explosive substance 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, or glow worms, SNAKES, TOY SMOKE DEVICES AND SPARKLERS that contain less than twenty-five hundredths grains of explosive compound.
2.  "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.  "PERMISSIBLE CONSUMER FIREWORKS" 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:
   (a) GROUND AND HAND-HELD SPARKLING DEVICES.
   (b) CYLINDRICAL FOUNTAINS.
   (c) CONE FOUNTAINS.
   (d) ILLUMINATING TORCHES.
   (e) WHEELS.
   (f) GROUND SPINNERS.
   (g) FLITTER SPARKLERS.
   (h) TOY SMOKE DEVICES.
   (i) WIRE SPARKLERS OR DIPPED STICKS.
   (j) MULTIPLE TUBE FIREWORKS DEVICES AND PYROTECHNIC ARTICLES.

3.  "Person" includes AN individual, partnership, firm or corporation.

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

36-1605.  Permitted uses

This article shall not be construed to prohibit:

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

2.  The sale of fireworks which are to be and are shipped directly out of the state.

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

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

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

6.  THE SALE OF PERMISSIBLE CONSUMER FIREWORKS BY A RETAIL ESTABLISHMENT IF THE RETAIL ESTABLISHMENT COMPLIES WITH THE RULES ADOPTED PURSUANT TO SECTION 36-1609.

7.  THE USE OF PERMISSIBLE CONSUMER FIREWORKS BY THE GENERAL PUBLIC, UNLESS THE USE IS PROHIBITED BY A GOVERNING BODY OF AN INCORPORATED CITY OR TOWN.
Sec. 3. Section 36-1606, Arizona Revised Statutes, is amended to read:

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

THE SALE AND USE OF PERMISSIBLE CONSUMER FIREWORKS ARE OF STATEWIDE CONCERN. THE REGULATION OF PERMISSIBLE CONSUMER FIREWORKS PURSUANT TO THIS ARTICLE AND THEIR USE IS NOT SUBJECT TO FURTHER REGULATION BY A GOVERNING BODY, EXCEPT THAT AN INCORPORATED CITY OR TOWN MAY REGULATE THE USE OF PERMISSIBLE CONSUMER FIREWORKS WITHIN ITS CORPORATE LIMITS. This article shall not be construed to DOES NOT prohibit the imposition by municipal ordinance of further regulations and prohibitions upon the sale, use and possession of fireworks within an incorporated city or town OTHER THAN PERMISSIBLE CONSUMER FIREWORKS BY A GOVERNING BODY. No such city or town A GOVERNING BODY shall NOT permit or authorize the sale, use or possession of any fireworks in violation of this article.

Sec. 4. Title 36, chapter 13, article 1, Arizona Revised Statutes, is amended by adding section 36-1609, to read:

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

A. THE STATE FIRE MARSHAL SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO CARRY OUT THIS ARTICLE, INCLUDING A RULE THAT ADOPTS THE NATIONAL FIRE PROTECTION ASSOCIATION CODE FOR THE MANUFACTURE, TRANSPORTATION, STORAGE AND RETAIL SALES OF FIREWORKS AND PYROTECHNIC ARTICLES, 2006 EDITION. A PERSON WHO SELLS PERMISSIBLE CONSUMER FIREWORKS TO THE PUBLIC SHALL COMPLY WITH THOSE RULES RELATING TO THE STORAGE OF CONSUMER FIREWORKS AND RELATING TO THE RETAIL SALES OF CONSUMER FIREWORKS BEFORE SELLING PERMISSIBLE CONSUMER FIREWORKS TO THE PUBLIC.

B. A PERSON SHALL NOT SELL OR PERMIT OR AUTHORIZE THE SALE OF PERMISSIBLE CONSUMER FIREWORKS TO A PERSON WHO IS UNDER SIXTEEN YEARS OF AGE.