

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SENATE BILL 1158

AN ACT

AMENDING SECTIONS 36-1601, 36-1605, 36-1606 AND 36-1608, ARIZONA REVISED STATUTES; RELATING TO 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. "APA 87-1" MEANS THE AMERICAN PYROTECHNICS ASSOCIATION STANDARD
7 87-1, STANDARD FOR CONSTRUCTION AND APPROVAL FOR TRANSPORTATION OF FIREWORKS,
8 NOVELTIES AND THEATRICAL PYROTECHNICS, DECEMBER 1, 2001 VERSION.

9 ~~1.~~ 2. "Consumer firework" means small firework devices that contain
10 restricted amounts of pyrotechnic composition designed primarily to produce
11 visible or audible effects by combustion and that comply with the
12 construction, chemical composition and labeling regulations prescribed in 49
13 Code of Federal Regulations ~~part~~ PARTS 172 and 173, regulations of the United
14 States consumer product safety commission as prescribed in 16 Code of Federal
15 Regulations parts 1500 and 1507 and the ~~American pyrotechnics association~~
16 ~~standard APA 87-1, standard for construction and approval for transportation~~
17 ~~of fireworks, novelties and theatrical pyrotechnics, December 1, 2001~~
18 ~~version.~~

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 APA 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.

43 (iv) PERMISSIBLE CONSUMER FIREWORKS.

44 ~~4.~~ 5. "Governing body" means the board of supervisors of a county as
45 to the area within the county but without the corporate limits of an

1 incorporated city or town and means the governing body of an incorporated
2 city or town as to the area within its corporate limits.

3 ~~5.~~ 6. "Permissible consumer fireworks":

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

8 (i) Ground and handheld sparkling devices.

9 (ii) Cylindrical fountains.

10 (iii) Cone fountains.

11 (iv) Illuminating torches.

12 (v) Wheels.

13 (vi) Ground spinners.

14 (vii) Flitter sparklers.

15 (viii) Toy smoke devices.

16 (ix) Wire sparklers or dipped sticks.

17 (x) Multiple tube ~~fireworks~~ GROUND AND HANDHELD SPARKLING devices, ~~and~~
18 ~~pyrotechnic articles~~ CYLINDRICAL FOUNTAINS, CONE FOUNTAINS AND ILLUMINATING
19 TORCHES MANUFACTURED IN ACCORDANCE WITH SECTION 3.5 OF THE APA 87-1.

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~~ DEFINED BY THE APA
23 87-1 AND known as FIRECRACKERS, bottle rockets, sky rockets, missile-type
24 rockets, helicopters, AERIAL SPINNERS, torpedoes, roman candles, ~~and jumping~~
25 ~~jacks~~ MINE DEVICES, SHELL DEVICES AND AERIAL SHELL KITS OR RELOADABLE TUBES.

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

28 Sec. 2. Section 36-1605, Arizona Revised Statutes, is amended to read:
29 36-1605. Permitted uses; violations; civil penalties

30 A. This article does not prohibit:

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

33 2. The sale of fireworks TO BONA FIDE WHOLESALERS, DEALERS OR JOBBERS
34 that are to be and are shipped directly out of the state, IF THE SELLER OF
35 FIREWORKS UNDER THIS PARAGRAPH MAINTAINS FOR A PERIOD OF FIVE YEARS AND MAKES
36 AVAILABLE ON REQUEST TO THE STATE FIRE MARSHAL OR LOCAL FIRE MARSHAL, AS
37 APPLICABLE, THE FOLLOWING INFORMATION:

38 (a) THE NAME AND ADDRESS OF EACH BONA FIDE WHOLESALER, DEALER OR
39 JOBBER FOR WHICH A SHIPMENT IS TO BE AND IS MADE DIRECTLY OUT OF THE STATE,
40 INCLUDING EACH WHOLESALER'S, DEALER'S AND JOBBER'S APPLICABLE STATE FIREWORKS
41 PERMIT.

42 (b) AN INVOICE FOR EACH SALE FOR WHICH A SHIPMENT IS TO BE AND IS MADE
43 DIRECTLY OUT OF THE STATE THAT CONTAINS A DETAILED LISTING OF THE PRODUCTS
44 SOLD FOR THE SHIPMENT THAT IS TO BE AND IS MADE DIRECTLY OUT OF THE STATE.

1 (c) A BILL OF LADING FOR EACH SHIPMENT THAT IS TO BE AND IS SHIPPED
2 DIRECTLY OUT OF THE STATE THAT CONTAINS BOTH OF THE FOLLOWING:

3 (i) THE NAME AND ADDRESS OF THE OUT-OF-STATE SHIPMENT DESTINATION.

4 (ii) THE NAME OF THE PRIVATE CARRIER MAKING THE OUT-OF-STATE DELIVERY.

5 (d) A STATEMENT FROM EACH BONA FIDE WHOLESALER, DEALER OR JOBBER
6 PURCHASING FIREWORKS THAT ARE TO BE AND ARE SHIPPED DIRECTLY OUT OF THE STATE
7 THAT CONTAINS BOTH OF THE FOLLOWING:

8 (i) THE PURPOSE FOR WHICH THE FIREWORKS THAT ARE TO BE AND ARE SHIPPED
9 DIRECTLY OUT OF THE STATE ARE TO BE USED, INCLUDING THE LOCATION WHERE THE
10 FIREWORKS WILL BE USED.

11 (ii) THAT THE FIREWORKS THAT ARE NOT PERMISSIBLE FIREWORKS IN THIS
12 STATE ARE FOR SALE OR USE ONLY OUTSIDE OF THIS STATE.

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

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

17 5. The use of fireworks or explosives, or both, by farmers, ranchers
18 and their employees WHO ARE REGULATED UNDER TITLE 3, and by state and federal
19 employees who manage wildlife resources, to rally, drive or otherwise
20 disperse concentrations of wildlife for the purpose of protecting property or
21 wildlife, IF THE SELLER OF FIREWORKS FOR USE UNDER THIS PARAGRAPH MAINTAINS
22 FOR A PERIOD OF FIVE YEARS AND MAKES AVAILABLE ON REQUEST TO THE STATE FIRE
23 MARSHAL OR LOCAL FIRE MARSHAL, AS APPLICABLE, ALL OF THE FOLLOWING
24 INFORMATION:

25 (a) THE NAME AND ADDRESS OF EACH PERSON OR BUSINESS PURCHASING
26 FIREWORKS FOR USE PURSUANT TO THIS PARAGRAPH.

27 (b) A COPY OF ONE OF THE FOLLOWING TYPES OR CATEGORIES OF CURRENT
28 LICENSES ISSUED BY THE ARIZONA DEPARTMENT OF AGRICULTURE FOR EACH PERSON OR
29 BUSINESS PURCHASING FIREWORKS FOR USE PURSUANT TO THIS PARAGRAPH:

30 (i) DAIRY AND MILK LICENSE.

31 (ii) EGG AND EGG PRODUCTS LICENSE.

32 (iii) FEEDLOT LICENSE.

33 (iv) CITRUS, FRUIT AND VEGETABLE LICENSE.

34 (v) BRAND LICENSE.

35 (vi) PESTICIDE USE LICENSE.

36 (c) A STATEMENT FROM EACH PERSON OR BUSINESS PURCHASING FIREWORKS FOR
37 USE PURSUANT TO THIS PARAGRAPH THAT CONTAINS THE PURPOSE FOR WHICH THE
38 FIREWORKS ARE TO BE USED, INCLUDING THE LOCATION WHERE THE FIREWORKS WILL BE
39 USED.

40 6. The sale of permissible consumer fireworks by a retail
41 establishment if the retail establishment complies with the rules adopted
42 pursuant to section 36-1609.

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

1 B. A PERSON WHO FAILS TO MAINTAIN OR TO MAKE AVAILABLE ON REQUEST
2 RECORDS AS REQUIRED BY SUBSECTION A, PARAGRAPH 2 OF THIS SECTION IS SUBJECT
3 TO A CIVIL PENALTY OF FIVE HUNDRED DOLLARS PER VIOLATION. A PERSON WHO
4 ATTEMPTS TO PURCHASE FIREWORKS THAT ARE TO BE AND ARE SHIPPED DIRECTLY OUT OF
5 THE STATE PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SUBSECTION, OTHER
6 THAN PERMISSIBLE FIREWORKS, FOR USE IN THIS STATE IS SUBJECT TO A CIVIL
7 PENALTY OF ONE HUNDRED FIFTY DOLLARS PER VIOLATION. A SELLER OF FIREWORKS
8 WHO ATTEMPTS EITHER TO SELL FIREWORKS PURSUANT TO SUBSECTION A, PARAGRAPH 2
9 OF THIS SECTION, OTHER THAN PERMISSIBLE FIREWORKS, FOR USE IN THIS STATE OR
10 TO AID A PURCHASER IN PURCHASING FIREWORKS PURSUANT TO SUBSECTION A,
11 PARAGRAPH 2 OF THIS SECTION, OTHER THAN PERMISSIBLE FIREWORKS, FOR USE IN
12 THIS STATE IS SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER
13 VIOLATION AND THE STATE FIRE MARSHAL OR LOCAL FIRE MARSHAL, AS APPLICABLE,
14 MAY PROHIBIT THE SELLER FROM SELLING PERMISSIBLE FIREWORKS IN THIS STATE OR
15 THE APPLICABLE JURISDICTION.

16 C. A PERSON WHO FAILS TO MAINTAIN OR TO MAKE AVAILABLE ON REQUEST
17 RECORDS AS REQUIRED BY SUBSECTION A, PARAGRAPH 5 OF THIS SECTION IS SUBJECT
18 TO A CIVIL PENALTY OF FIVE HUNDRED DOLLARS PER VIOLATION. A PERSON WHO
19 ATTEMPTS TO USE FIREWORKS PURCHASED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF
20 THIS SECTION FOR A USE OTHER THAN THE USE AUTHORIZED PURSUANT TO SUBSECTION
21 A, PARAGRAPH 5 OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF ONE HUNDRED
22 FIFTY DOLLARS PER VIOLATION. A SELLER OF FIREWORKS UNDER SUBSECTION A,
23 PARAGRAPH 5 OF THIS SECTION WHO ATTEMPTS EITHER TO SELL FIREWORKS TO A
24 PURCHASER FOR USE IN THIS STATE OTHER THAN THE USE AUTHORIZED BY SUBSECTION
25 A, PARAGRAPH 5 OF THIS SECTION OR TO AID A PURCHASER IN PURCHASING FIREWORKS
26 FOR USE IN THIS STATE OTHER THAN AS AUTHORIZED BY SUBSECTION A, PARAGRAPH 5
27 OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER
28 VIOLATION AND THE STATE FIRE MARSHAL OR LOCAL FIRE MARSHAL, AS APPLICABLE,
29 MAY PROHIBIT THE SELLER FROM SELLING PERMISSIBLE FIREWORKS IN THIS STATE OR
30 THE APPLICABLE JURISDICTION.

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

32 36-1606. Consumer fireworks regulation: state preemption:
33 further regulation of fireworks by local
34 jurisdiction

35 A. The sale and use of permissible consumer fireworks are of statewide
36 concern. The regulation of permissible consumer fireworks pursuant to this
37 article and their use is not subject to further regulation by a governing
38 body, except that an incorporated city or town **IN A COUNTY WITH A POPULATION**
39 **OF LESS THAN FIVE HUNDRED THOUSAND PERSONS** may regulate the use **AND SALE** of
40 permissible consumer fireworks within its corporate limits and a county **WITH**
41 **A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS** may regulate the use
42 **AND SALE** of permissible consumer fireworks within the unincorporated areas of
43 the county ~~during times when there is a reasonable risk of wildfires in the~~
44 ~~immediate~~ **WHEN A FEDERAL OR STATE AGENCY IMPLEMENTS STAGE ONE FIRE**
45 **RESTRICTIONS IN ANY PORTION OF THE county.**

1 B. IN A COUNTY WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND
2 PERSONS, AN INCORPORATED CITY OR TOWN MAY REGULATE THE USE AND SALE OF
3 PERMISSIBLE CONSUMER FIREWORKS WITHIN ITS CORPORATE LIMITS AND THE COUNTY MAY
4 REGULATE THE USE AND SALE OF PERMISSIBLE CONSUMER FIREWORKS WITHIN THE
5 UNINCORPORATED AREAS OF THE COUNTY.

6 C. EXCEPT AS PROVIDED IN SECTION 36-1608 AND NOTWITHSTANDING
7 SUBSECTION B OF THIS SECTION:

8 1. THE SALE OF PERMISSIBLE CONSUMER FIREWORKS SHALL BE ALLOWED FROM
9 MAY 20 THROUGH JULY 6 AND DECEMBER 10 THROUGH JANUARY 3 EACH YEAR.

10 2. THE USE OF PERMISSIBLE CONSUMER FIREWORKS SHALL BE ALLOWED FROM
11 JUNE 24 THROUGH JULY 6 AND DECEMBER 24 THROUGH JANUARY 3 EACH YEAR.

12 D. This article does not prohibit the imposition by ordinance of
13 further regulations and prohibitions on the sale, use and possession of
14 fireworks other than permissible consumer fireworks by a governing body. A
15 governing body shall not permit or authorize the sale, use or possession of
16 any fireworks in violation of this article.

17 Sec. 4. Section 36-1608, Arizona Revised Statutes, is amended to read:
18 36-1608. Violation; civil penalty; classification

19 A. A person violating a provision of this article is ~~guilty of a class~~
20 ~~3-misdemeanor~~ SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS.

21 B. A PERSON WHO USES FIREWORKS OR PERMISSIBLE CONSUMER FIREWORKS ON
22 PRESERVATION LANDS OWNED BY A CITY OR TOWN THAT HAS PURCHASED MORE THAN
23 FIFTEEN THOUSAND ACRES OF LAND FOR PRESERVATION PURPOSES IS GUILTY OF A CLASS
24 1 MISDEMEANOR AND SHALL PAY A FINE OF AT LEAST ONE THOUSAND DOLLARS.

25 Sec. 5. Emergency

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