

## ALABAMA

### Section 8-17-210

As used in this article, the following terms shall have the meaning ascribed to them in this section, unless clearly indicated otherwise:

(1) Distributor. Any person engaged in the business of making sales of fireworks for resale to all holders of the required Alabama permits who in turn shall resell to any permit holder: or any person who receives, brings, or imports any fireworks of any kind into the state of Alabama, except to a holder of an Alabama manufacturer's or distributor's permit.

(2) D.O.T. Class C Common Fireworks. All articles of fireworks as are now or hereafter classified as D.O.T. Class C Common Fireworks in the regulations of the U.S. Department of Transportation for the transportation of explosive and other dangerous articles.

(3) Manufacturer. Any person engaged in the making, manufacture, or construction of fireworks of any kind within the state of Alabama.

(4) Permit. The written authority of the State Fire Marshal issued under the authority of this article.

(5) Person. Includes any corporation, association, copartnership, or one or more individuals.

(6) Retailer. Any person engaged in the business of making sales of fireworks to consumers within the state of Alabama during a calendar year from January 1 through December 31.

(7) Sale. An exchange of articles or fireworks for money, including barter, exchange, gift, or offer thereof, and each such transaction made by any person, whether as principal proprietor, salesman, agent, association, copartnership, or one or more individuals.

(8) Fireworks Seasons. The dates of June 20 through July 10 and December 15 through January 2 of each year shall be the only period when seasonal retailers may sell fireworks.

(9) Seasonal Retailer. Any person engaged in the business of making sales of fireworks to consumers within the state of Alabama during the fireworks season(s) only, from permanent buildings or temporary or moveable stands.

(10) Special Fireworks. All articles of fireworks that are classified as Class B explosives in the regulations of the U.S. Department of Transportation, including all articles classified as fireworks other than those classified as Class C.

(11) Wholesaler. Any person engaged in the business of making sales of fireworks to any other person engaged in the business of making sales at seasonal retail.

### Section 8-17-211

(a) It shall be unlawful for any person to manufacture, sell, offer for sale or ship or cause to be shipped into or within the state of Alabama, except as herein provided, any item of fireworks or pyrotechnics for use before a proximate audience, without first having secured the required applicable permit, as a manufacturer, distributor, wholesaler, retailer, or seasonal retailer, from the State Fire Marshal. Possession of a permit is a condition prerequisite to manufacturing, selling or offering for sale, or shipping or causing to be shipped any fireworks or pyrotechnics for use before a proximate audience into or within the state of Alabama, except as herein provided. This provision applies to non-residents as well as residents of the state of Alabama. Mail orders where consumers purchase any fireworks or pyrotechnics for use before a proximate audience through the mail or receive any fireworks or pyrotechnics for use before a proximate audience in Alabama by mail, parcel service, or other carrier are prohibited. A sales clerk must be on duty to serve consumers at the time of purchase or delivery. All fireworks or pyrotechnics for use before a proximate audience sold and delivered to consumers within the state of Alabama must take place within the state of Alabama and be sold and delivered only by an individual, firm, partnership, or corporation holding the proper Alabama permit and all fireworks or pyrotechnics for use before a proximate audience coming into the state, manufactured, sold, or stored within the state shall be under the supervision of the State Fire Marshal as provided for in this article.

(b) Prior to engaging in the manufacture or sale within the state of Alabama, or shipment into the state of Alabama, of any fireworks or pyrotechnics for use before a proximate audience, each person making shipment or delivery or receiving any fireworks or pyrotechnics for use before a proximate audience into or within the state of Alabama, must make application on forms secured from the State Fire Marshal for a permit or permits required

under this article for each location at which fireworks or pyrotechnics for use before a proximate audience are to be offered for sale.

(c) A manufacturer's permit issued under this article shall be subject to rules and regulations promulgated by the State Fire Marshal to govern the manufacture of fireworks or pyrotechnics for use before a proximate audience as in the judgment of the State Fire Marshal the public welfare may require.

(d) The decision of the State Fire Marshal as to what type of permit or permits shall be required of each person shall be final. The State Fire Marshal may deny a permit to an applicant or revoke a permit if the State Fire Marshal has knowledge or reason to believe the safety standards and conditions of this article are not or cannot be met by the applicant. No permit shall be issued to a person under the age of 18 years. All permits shall be for the calendar year or any fraction thereof and shall expire on December 31 of each year; two days of grace shall be allowed holders of permits after expiration thereof. Only one seasonal retailer permit shall be required for a full calendar year and it shall be valid for both fireworks seasons, provided that the building is not removed from the location where it was originally permitted and no substantial structural or environmental changes have occurred. A seasonal retailer permit may be issued after July 10 for the remaining fireworks season of that calendar year. All permits issued must be displayed in their place of business. No permit provided for herein shall be transferable nor shall a person be permitted to operate under a permit issued to any other person or under a permit issued for another location, unless transfer shall have been approved by the State Fire Marshal.

(e) The State Fire Marshal shall charge for permits issued as follows:

- (1) Manufacturer, two thousand dollars (\$2,000.00).
- (2) Distributor, two thousand dollars (\$2,000.00).
- (3) Wholesaler, seven hundred dollars (\$700.00).
- (4) Retailer, two hundred dollars (\$200.00).
- (5) Seasonal Retailer, two hundred dollars (\$200.00).
- (6) Seasonal Retailer after July 10, one hundred dollars (\$100.00).
- (7) Display, fifty dollars (\$50.00).

(f) Only holders of a retailer or seasonal retailer permit may engage in the retail sale of permitted items as defined in section 8-17-217, in any quantity, to consumers.

(g) A holder of a manufacturer's permit is not required to have any additional permit or permits in order to sell to distributors, wholesalers, retailers, or seasonal retailers.

(h) A record of all sales by manufacturers, distributors or wholesalers must be kept showing the names and address of purchasers. All fees collected for the permits shall be paid into the fire marshal revolving fund for the enforcement of this article. The State Fire Marshal may designate a deputy fire marshal as the fireworks enforcement officer who shall have the responsibility of directing enforcement of the state fireworks laws.

(i) The State Fire Marshal is charged with the enforcement of this article and may call upon any state or county or city peace officer for assistance in the enforcement of this article. The fire marshal is not authorized to promulgate rules or regulations in conflict with or that go beyond the scope or intent of this article.

#### Section 8-17-212

The State Fire Marshal shall assign a number to each permit issued and each holder of a permit of any of the classes hereinabove provided shall imprint or affix the same to all purchase orders, delivery receipts, and invoices issued or used by each manufacturer, distributor or wholesaler.

#### Section 8-18-213

No person shall deliver, sell or ship fireworks into or within the State of Alabama unless consignee produces the required permit or evidence that the consignee holds said permit. No person shall purchase fireworks from another person without first requiring proof that the proper permit required for the seller herein has been obtained and is current and valid. Each holder of a permit under the provisions of this article shall keep an accurate record of each shipment received. Each holder of a permit as distributor or wholesaler shall keep a record of each sale, delivery, or out shipment of fireworks. Such records shall be clear, legible, and accurate, showing the name and address of the seller or purchaser, item and quantity received or sold. Such records are to be kept at each place of business and shall be subject to examination by the State Fire Marshal or his deputies, who shall have the authority at any reasonable time to require any manufacturer, distributor, wholesaler, or retailer to produce records of the current year and the immediately preceding full calendar year.

#### Section 8-17-214

(a) The State Fire Marshal may revoke any permit issued under the provisions of this article upon evidence that the holder has purchased, received, sold, used, shipped, or caused to be shipped any illegal fireworks in violation of this article. Notice must be given in writing to the holder of a permit stating cause of revocation; if the permit revoked is for a business located within Alabama, a copy of said notice of revocation must be supplied to the judge of probate of the county in which such permit holder's business is located.

(b) The State Fire Marshal, in his discretion, may refuse to issue another permit to the holder of a permit which has been cancelled or revoked for the possession or sale of illegal fireworks for a period not to exceed three years.

#### Section 8-17-215

The issuance of the permit herein required does not replace or relieve any person of state, county or municipal privilege licenses as now or hereafter provided by law. Before the issuance of any state and county licenses, the judge of probate shall require each applicant for a fireworks license to exhibit a permit or furnish other definite and satisfactory evidence that a proper permit has been issued to applicant by the State Fire Marshal and that said permit is current and valid. No permit shall be issued to any applicant who does not show proof of a current and valid sales tax number.

#### Section 8-17-216

(a) Nothing in this article shall be construed as applying to the shipping, sale, possession, and use of special fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations governing this type of fireworks by the alcohol, tobacco, and firearms division of the United States Treasury Department, and their requirements met and any permit or license required by them secured before application for a state display permit is made.

(b) Application for a state permit for public display of special fireworks must be made in writing to the State Fire Marshal at least 10 days before the display date. The State Fire Marshal may accept an application for a state permit for public display of special fireworks less than 10 days before the display date if accompanied by a fee of double the amount otherwise required. The application shall show that the proposed display is to be so located and supervised that it shall not be hazardous to property and that it shall not endanger human lives. If the display is to be performed within the limits of a municipality, the application shall so state and shall bear the signed approval of the chief supervisory officials of the fire and police departments of such municipality. Permits issued shall be limited to the time specified therein and shall not be transferable.

(c) Possession and sale of special fireworks shall be limited to a holder of a federal license issued for display fireworks. Possession of special fireworks for resale to holders of a permit for public display shall be confined to holders of a distributor's permit only. Provided, however, a distributor's permit shall not be required where the special fireworks are for public display to be performed solely for The Alabama June Jam, Inc.; and provided further that the application for the state permit for public display shall show that the proposed display is to be performed solely for The Alabama June Jam, Inc.

(d) Nothing in this article shall apply to Class C firework displays.

#### Section 8-17-217

(a) It shall be unlawful for an individual, firm, partnership or corporation to possess, sell or use within the state of Alabama, or ship into the state of Alabama, except as provided in section 8-17-216, any pyrotechnics commonly known as 'fireworks' other than items now or hereafter classified as Class C common fireworks by the United States Department of Transportation and/or those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under their regulations.

(b) Permitted items designed to produce an audible effect are confined to small ground items which include firecrackers containing not over 50 milligrams of explosive composition and aerial devices containing not over 130 milligrams of explosive composition. Propelling or expelling charge consisting of a mixture of charcoal, sulfur and potassium nitrate are not considered as designed to produce an audible effect.

(c) Items permitted and for which a permit is required shall include related items not classified by the United States Department of Transportation as common fireworks, but identified under their regulations as trick noisemakers, toy novelties, toy smoke devices and sparklers and shall include toy snakes, snappers, auto burglar alarms, smoke balls, smoke novelty items, and wire sparklers containing not over 100 grams composition per item. Sparklers containing any chlorate or perchlorate salts may not exceed five grams of composition per item.

#### Section 8-17-218

All items of fireworks which exceed the 2 grain limit of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as 'illegal ground salutes' designed to produce an audible are expressly prohibited from shipment into, manufacture, possession, sale, and use within the state of Alabama for any purpose. This subsection shall not affect display fireworks authorized by this article.

#### Section 8-17-219

No permissible article of fireworks or related items defined in Section 8-17-217 shall be sold, offered for sale or possessed within the state or used within the state, except as provided in Section 8-17-216 unless it shall be properly named to conform to the nomenclature of Section 8-17-217 hereof. Items must be identified on the shipping cases and by imprinting on the article or retail sales container or unit 'D.O.T. CLASS C Common Fireworks' or other appropriate classification or identification as may be applicable or required by any federal agency having jurisdiction over fireworks on related items; such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public.

#### Section 8-17-220

Permissible items of fireworks, defined in Section 8-17-217, may be sold at retail to residents of the State of Alabama. The term 'fireworks' shall not include toy paper pistol caps which contain less than twenty five hundredths grains of explosive compounds, model rockets, emergency signal flares, matches, cone, bottle, tube, and other type serpentine pop-off novelties, trick matches and cigarette loads, the sale and use of which shall be permitted at all times without a special fireworks permit.

#### Section 8-17-221

(a) Placing, storing, locating, or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within 10 feet of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are made or sold, there must be posted signs with the words 'FIREWORKS - NO SMOKING' in letters not less than four inches high.

(b) No fireworks shall be sold at retail at any permanent location where paints, oils or varnishes are for sale or use unless kept in the original unbroken containers nor where gasoline or other flammable liquid or gas is used, stored or sold, if the use, storage, or sale creates an undue hazard to person or property. No fireworks shall be sold at retail from any temporary or moveable stand where paints, oils, or varnishes are for sale or use unless kept in the original unbroken containers, nor within 50 feet of where gasoline or other flammable liquid or gas is used, stored or sold.

(c) Any fireworks devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by a spark, cigarette ash or other ignition source. Safety type thread wrapped and coated fuses shall be exempt from this provision.

(d) No retail permit shall be issued for the sale of fireworks at retail from tents or from or in a motor vehicle or from a trailer towed by a motor vehicle. A permit may be issued for the sale of fireworks from a modular or mobile building when the structure is eight feet or more in width and thirty-two feet or more in length, from which all wheels have been removed and the structure placed on a non-mobile foundation. No permit shall be issued to an applicant for a previously unpermitted location until the premises where fireworks are to be stored or sold have been inspected by the state fire marshal or his designated representative and it shall have been determined that such building and facilities within the building and facilities for storage meet reasonable safety standards for the storage and sale of permissible fireworks. Inspection is not required for renewal of permits at the same location to be operated by the same owner unless there has occurred substantial structure or environmental changes.

#### Section 8-17-222

It shall be unlawful to offer for sale or to sell any fireworks to children under the age of 16 years unless accompanied by an adult or to any intoxicated or irresponsible person. Any person purchasing fireworks shall be required to show a valid driver's license or state approved identification card. It shall be unlawful to explode or ignite fireworks within 600 feet of any church, hospital, asylum, public school, any enclosed building, or within 200 feet where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.

Section 8-17-224

Any individual, firm, partnership or corporation that violates any provisions of this article other than section 8-17-218 shall be guilty of a Class A misdemeanor, and upon conviction shall be punished by a fine of not less than \$100.00 or more than \$1000.00 or imprisoned for not less than 30 days, or more than one year or both, in the discretion of the court. Any person convicted of manufacturing, shipping into, possessing, or selling any illegal fireworks described in section 8-17-218 shall be guilty of a Class C felony and upon conviction shall be punished by a fine or not less than \$500.00 nor more than \$5,000.00 or imprisoned not less than one year and one day or more than 10 years, or both, in the discretion of the court.

Section 8-17-225

The State Fire Marshal shall seize as contraband any fireworks other than the permitted 'Class C Common Fireworks' and related items defined in Section 8-17-217 hereof or 'special fireworks' for public displays as provided in Section 8-17-216, which are sold, displayed, used or possessed in violation of this article. The fire marshal is authorized to destroy any illegal fireworks so seized.

Section 8-17-226

This article shall in no way affect the validity of any ordinance further restricting the sale or use of Fireworks.