

## ARKANSAS

### 20-22-701. Definitions.

As used in this subchapter:

(1) "Distributor" means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or a retailer, or both;

(2) "I.C.C. Class C common fireworks" means all articles of fireworks classified as "I.C.C. Class C common fireworks" as defined in § 20-22-708 and in the regulations of the Interstate Commerce Commission for the transportation of explosives and other dangerous articles;

(3) "Importer" means any person who imports, brings in, or causes to be brought in any fireworks from outside the geographical limits of the State of Arkansas into this state;

(4) "Jobber" means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail. "Wholesaler" shall have the same meaning as "jobber";

(5) "License" means the written authority of the Director of the Department of Arkansas State Police issued under the authority of this subchapter to a distributor, jobber, wholesaler, manufacturer, importer, or retailer for a fee as provided in § 20-22-707;

(6) "Manufacturer" means any person engaged in the making or construction of fireworks in the State of Arkansas or any person engaged in the making or construction of fireworks who ships or causes to be shipped, or transports or causes to be transported, any items of fireworks into the State of Arkansas;

(7) "Permit" means the written authority of the Director of the Department of Arkansas State Police issued for a public fireworks display under the authority of this subchapter;

(8) "Person" means any corporation, association, copartnership, or one (1) or more individuals;

(9) "Retailer" means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than a distributor or jobber;

(10) "Sale" means barter, exchange, gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee;

(11) "Shooter" means any person conducting any combination of fireworks, pyrotechnics, or special effects displays within the State of Arkansas; and

(12) "Special fireworks" means all articles of fireworks that are classified as Class B explosives in the regulations of the Interstate Commerce Commission and shall include all articles other than those classified as Class C but shall not include such dangerous items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs, torpedoes, and fireworks containing more than fifty milligrams (50mg) of explosive powder.

### 20-22-704. Power of municipalities unaffected.

This subchapter shall not affect the power of any municipality to regulate or prohibit the sale or use of fireworks.

### 20-22-705. Violation of subchapter-Penalties.

Any person violating any of the provisions of this subchapter, except § 20-22-706, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200) or imprisoned for not more than ninety (90) days, or both, in the discretion of the court.

### 20-22-706. License required-Penalty.

(a) No person shall do any act for which a license or permit is required by this subchapter or by local authorities acting pursuant to this subchapter unless he or she holds the proper federal, state, and local license and, if applicable, a permit.

(b) Whoever violates subsection (a) of this section shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) and may be prohibited from applying for a license or a permit for up to five (5) years.

### 20-22-707. License-Application and issuance.

(a)(1) To engage in the sale of fireworks as a manufacturer, importer, distributor, wholesale jobber, retailer, or shooter, an applicant shall submit to the Director of the Department of Arkansas State Police an application on a form provided by the director before April 1 of each year setting forth such facts and information as the director may determine necessary and proper, considering the requirements of public health, safety, and welfare. The license for

manufacturers, importers, distributors, wholesale jobbers, and retailers shall be effective from and shall date from May 1 of the year of issuance. The license for manufacturers, importers, distributors, wholesale jobbers, and retailers shall be valid through April 30 of the following year. The license for shooters shall be valid for five (5) years from the date of issuance. Upon approval of the application by the director and before the issuance of the license therefor, the applicant shall pay to the director a license fee for each type of business conducted to the following schedule:

|                       |            |
|-----------------------|------------|
| (A) Manufacturer      | \$1,000.00 |
| (B) Importer          | \$750.00   |
| (C) Distributor       | \$500.00   |
| (D) Jobber wholesaler | \$100.00   |
| (E) Retailer          | \$25.00    |
| (F)(i) Shooter        | \$50.00    |

(ii) This fee for shooters shall be waived if the applicant verifies that the applicant is a professional or volunteer firefighter.

(2) (A) However, retailers may purchase their licenses from their vendors, which include importers, distributors, or jobber wholesalers. The retailers' licenses shall be made available by the Department of Arkansas State Police to the vendors in books of twenty (20) licenses to a book. The vendors shall record the sales of the licenses to retailers and submit their records to the director semiannually on January 31 and July 31 of each year. Each semiannual report shall cover the preceding six-month period.

(B) Vendors may secure a refund of the fees paid for retailer licenses which are not sold by the vendor.

(C) Failure to obtain the permit shall be deemed a violation of this subchapter.

(b)(1) Renewal of outstanding licenses to engage in the sale of fireworks as a manufacturer, importer, distributor, jobber, retailer, or shooter shall be made effective by payment of the fee, as set forth in subsection (a) of this section, to the director on or before May 1 of each year.

(2) License renewal applications postmarked after May 1 of each year shall be assessed a late penalty in an amount equal to two (2) times the renewal fee, as set forth in subsection (a) of this section.

(3) An initial application postmarked after April 1 shall be assessed a late penalty in an amount equal to two (2) times the license fee, as set forth in this section.

(c) All funds collected under this subchapter by the director, including license fees and penalties, shall be deposited into the State Treasury to the credit of the Department of Arkansas State Police Fund.

(d) The director shall assign a license number to each license issued. This number shall be affixed by the person to whom such a license is issued to all invoices issued or used by each manufacturer, importer, distributor, or jobber.

(e)(1) It shall be unlawful for a jobber licensed under this subchapter or for an Arkansas-domiciled retailer to purchase fireworks from a distributor, importer, or manufacturer domiciled outside the State of Arkansas unless the distributor, manufacturer, or importer can show proof that the distributor, manufacturer, or importer holds a valid license under this subchapter to perform functions of the distributor, importer, or manufacturer, or all of them, as the case may be.

(2) In the event of a violation of this section, if the distributor, importer, or manufacturer cannot show valid proof of being properly and currently licensed under this subchapter and if purchase of fireworks is consummated by a wholesale jobber licensed under this subchapter or by an Arkansas retailer from the distributor, importer, or manufacturer, then the jobber or retailer shall become liable, as a civil penalty, for the full amount of the license fee required by this subchapter from the distributor, importer, or manufacturer. The amount of the license fee is payable immediately, or in the event of failure to pay the penalty within thirty (30) days of the violation, the distributor, importer, or manufacturer shall be subject to the criminal penalties provided by this subchapter.

(3) Furthermore, unless the out-of-state distributor, importer, or manufacturer pays the license fee required under the provisions of this subchapter within a period of thirty (30) days after being so notified by registered mail, the person shall thereafter be prohibited from engaging in the business defined in this subchapter in the State of Arkansas.

(f)(1) No permit or license provided for in this subchapter shall be transferable, nor shall a person be permitted to operate under a permit or license issued to any other person.

(2) No permit or license shall be issued to a person under twenty-one (21) years of age.

(3) (A) Each retailer and holder of a license under the provisions of this subchapter shall keep an accurate record of each shipment received.

(B) Each distributor, importer, jobber, or wholesaler shall keep a record of each shipment received and each sale, delivery, or out-shipment of fireworks.

(C) The records shall be clear, legible, and accurate, showing the name and address of the seller or purchaser, item, and quantity received or sold.

(D) The records are to be kept at each place of business and shall be subject to examination by the director or his or her agents who shall have the authority at any time to require any manufacturer, importer, distributor, wholesaler, jobber, or retailer to produce records for the current year and the immediately preceding full license year.

(E) Each shooter shall keep a record of the date, location, and type of display conducted within the State of Arkansas.

(g) Mail-order sales of fireworks to consumers through any medium of interstate or intrastate commerce are prohibited. Sales of fireworks to consumers may be made only at properly licensed retail locations within the State of Arkansas. Any person violating this subsection shall be guilty of a Class C misdemeanor.

(h) The director may revoke or deny an application for any license or permit at any time for violating any provision of this subchapter or for falsifying any information provided to the department as part of an application for a license or permit.

(i) The director may promulgate rules necessary to enforce this subchapter.

#### 20-22-708. Possession, sale, and use unlawful-Exceptions.

(a) It shall be unlawful for any person to possess, sell, or use, within the State of Arkansas, or ship into the State of Arkansas, except as provided in § 20-22-711, any pyrotechnics, commonly known as fireworks, other than the permissible items enumerated in this section, except as provided in this subchapter. The permissible fireworks consist of those defined in Interstate Commerce Commission regulations described as Class C fireworks only and shall include the following:

(1) Roman candles, with no handle or spike affixed thereto, not exceeding ten (10) balls spaced uniformly in the tube, total pyrotechnic composition not to exceed twenty grams (20 g) each in weight. The inside tube diameter shall not exceed three-eighths inch (3/8");

(2) Sky rockets, with sticks, total pyrotechnic composition not to exceed twenty grams (20 g) each in weight. The inside tube diameter shall not exceed one-half inch (1/2"). The rocket sticks shall be securely fastened to the tubes;

(3) Helicopter-type rockets, total pyrotechnic composition not to exceed twenty grams (20 g) each in weight. The inside tube diameter shall not exceed one-half inch (1/2");

(4) Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams (75 g) each in weight. The inside tube diameter shall not exceed three-fourths inch (3/4");

(5) Cone fountains, total pyrotechnic composition not to exceed fifty grams (50 g) each in weight;

(6) Wheels, total pyrotechnic composition not to exceed sixty grams (60 g) for each driver unit or two hundred forty grams (240 g) for each complete wheel. The inside tube diameter of driver units shall not exceed one-half inch (1/2");

(7) Illuminating torches and colored fire in any form, except items included in subdivision (a)(12) of this section, total pyrotechnic composition not to exceed one hundred grams (100 g) in weight;

(8) Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred grams (100 g) each in weight. Pyrotechnic composition containing any chlorate or perchlorate shall not exceed five grams (5 g);

(9) Mines and shells of which the mortar is an integral part, total pyrotechnic composition not to exceed forty grams (40 g) each in weight;

(10) Firecrackers and salutes with casings, the external dimensions of which do not exceed one and one-half inches (1 1/2") in length or one-quarter inch (1/4") in diameter, and other items designed to produce an audible effect, total pyrotechnic composition not to exceed two grams (2 g) each in weight;

(11) Novelties consisting of two (2) or more devices enumerated in this subsection, trick matches, and cigarette plugs, when approved by the Federal Bureau of Explosives;

(12) Railway fuses, truck flares, hand ship distress signals, smoke signals, and smoke pots.

(b) No component of any device listed in this section which is designed to produce an audible effect shall contain pyrotechnic composition in excess of two grams (2 g) in weight excluding propelling or expelling charges.

#### 20-22-709. Labeling.

(a) No permissible articles of common fireworks defined in § 20-22-708 shall be sold, offered for sale, or possessed within the state, or used in the State of Arkansas, except as provided in § 20-22-702, unless it shall be properly named to conform to the nomenclature of § 20-22-708 and unless it shall be certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container "I.C.C. Class C Common

Fireworks". The imprint shall be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and by the general public.

(b) Railway fuses are specifically excepted from this marking requirement.

20-22-710. Location, display, sale, etc.

(a) The placing, storing, locating, or displaying of fireworks in any window where the sun may shine through glass on to the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is declared unlawful and prohibited.

(b) At all places where fireworks are stored or sold, there shall be posted signs with the words "FIREWORKS -- NO SMOKING" in letters not less than four inches (4") high at each entrance to the retail sales area.

(c)(1) No fireworks are to be sold at retail at any location where paints, oils, or varnishes are kept for use or sale, unless the paints, oils, and varnishes are kept in the original unbroken containers, nor where resin, turpentine, gasoline, or other inflammable substance that may generate inflammable vapors is used, stored, or sold.

(2) Consumer fireworks retail sales facilities and stores shall not be located within fifty feet (50') of the following:

- (A) Motor vehicle fuel dispensing station dispensers;
- (B) Retail propane dispensing station dispensers;
- (C) Above-ground storage tanks for flammable or combustible liquids;
- (D) Flammable gases or flammable liquefied gases; or
- (E) Compressed natural gas dispensing facilities.

(d) All firework devices that are readily accessible to handling by a consumer or purchaser shall have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash, or other ignition source. Safety type thread wrapped and coated fuses are exempt from this section.

(e) All licensees under this subchapter shall have a fire extinguisher of a type approved by the Director of the Department of Arkansas State Police in an area readily accessible to any point of storage or sale of fireworks. In lieu of such an extinguisher, retailers may maintain a common type of water hose, charged and connected to a water system, which is readily available to any area where fireworks are stored or sold.

20-22-711. Times of permissible sales.

(a) Permissible items of fireworks, defined in § 20-22-708, may be sold at retail to residents of the State of Arkansas and used within the State of Arkansas from June 20 through July 10 and December 10 through January 5 of each year only.

(b) As used in this section, "fireworks" shall not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five-hundredths grains (0.25 gr.) or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five-hundredths grains (0.25 gr.) of explosive compounds, cone, bottle, tube, or other type serpentine pop-off novelties, nonpoisonous toy snake, smoke sticks without report, and sparklers, the sale and use of which shall be permitted at all times.

20-22-712. Sales to certain people prohibited.

It shall be unlawful to offer for retail sale or to sell any fireworks to children under twelve (12) years of age or to any person known to be intoxicated or irresponsible.

20-22-713. Place of explosion or ignition.

(a) It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale.

(b) No person shall ignite or discharge any permissible articles of fireworks within, or throw the fireworks from, a motor vehicle while therein, nor shall any person place or throw any ignited article of fireworks into or at a motor vehicle or at or near any person or group of people.

20-22-714. Seizure of contraband fireworks.

(a) The Director of the Department of Arkansas State Police shall seize as contraband any fireworks other than Class C common fireworks defined in § 20-22-708, or special fireworks for public displays as provided in § 20-22-702 or for agricultural or industrial purposes as provided in § 20-22-703, which are sold, displayed, used, or possessed in violation of this subchapter.

(b) The director may destroy fireworks so seized.

20-22-715. Notice of violation-Hearing.

(a) With reference to the administrative and civil penalties imposed by this subchapter, the Director of the Department of Arkansas State Police shall notify the person accused of a violation, setting a time and place for hearing to be held by the director or his or her designated agent.

(b) If the hearing results in a revocation or refusal to renew a license of or the imposition of any civil penalty upon that person, the person adjudged guilty of the violation shall have a right to appeal the decision, for a trial de novo, to the Pulaski County Circuit Court.