

COLORADO

12-28-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Articles pyrotechnic" means pyrotechnic special effects materials and pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but are intended for theatrical performances and not intended for consumer use. "Articles pyrotechnic" shall also include pyrotechnic devices meeting the weight limits for consumer fireworks but are not labeled as such and are classified as UN0431 or UN0432 pursuant to 49 CFR 172.101, as amended.

(1.5) "Display fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and includes, but is not limited to, salutes containing more than one hundred thirty milligrams of explosive material, aerial shells containing more than forty grams of pyrotechnic compositions, and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks as defined in 16 CFR 1500.1 to 1500.272 and 16 CFR 1507.1 to 1507.12 and are classified as fireworks UN0333, UN0334, or UN0335 pursuant to 49 CFR 172.101, as amended, and including fused set pieces containing components that exceed fifty milligrams of salute powder.

(1.7) "Display retailer" means a person, including a manufacturer, who is licensed as a display retailer under the provisions of section 12-28-104 and who sells, delivers, consigns, gives, or otherwise furnishes display fireworks or articles pyrotechnic to a person authorized by section 12-28-103 to discharge fireworks in Colorado.

(2) "Exporter" means any person, including a manufacturer, licensed as an exporter under the provisions of section 12-28-104 and who sells, delivers, consigns, gives, or otherwise furnishes fireworks for export outside of the state of Colorado.

(3)(a) "Fireworks" means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnic, permissible fireworks, or display fireworks.

(b) "Fireworks" does not include:

(I) Toy caps, party poppers, and items similar to toy caps and party poppers that do not contain more than sixteen milligrams of pyrotechnic composition per item and snappers that do not contain more than one milligram of explosive composition per item;

(II) Highway flares, railroad fusees, ship distress signals, smoke candles, and other emergency signal devices;

(III) Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;

(IV) Fireworks which are used in testing or research by a licensed explosives laboratory.

(3.5) "Fireworks display operator" includes an individual who, by experience and training, has demonstrated the required skill and ability to safely set up and discharge display fireworks.

(4) "Fund" means the fireworks licensing cash fund created in section 12-28-104 (6) (b).

(5) "Governing body" means:

(a) The city council, town council, board of trustees, or other governing body of any city or town, as to the area within the corporate limits of such city or town;

(b) The board of directors of any fire protection district organized pursuant to part 1 of article 1 of title 32, C.R.S., as to the area within the boundaries of such fire protection district; and

(c) The board of county commissioners as to the area within a county outside the corporate limits of any city or town or the boundaries of any fire protection district.

(6) "Local authority" means the duly authorized fire department, police department, or sheriff's department of a local jurisdiction.

(7) "Manufacturer" means any person who manufactures, makes, constructs, or produces fireworks.

(8)(a) "Permissible fireworks" means the following small fireworks devices designed to produce audible or visual effects by combustion, complying with the requirements of the United States consumer product safety commission as set forth in 16 CFR 1500.1 to 1500.272 and 1507.1 to 1507.12, and classified as consumer fireworks UN0336 and UN0337 pursuant to 49 CFR 172.101:

(I) Cylindrical fountains, total pyrotechnic composition not to exceed seventy five grams each for a single tube or, when more than one tube is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

(II) Cone fountains, total pyrotechnic composition not to exceed fifty grams each for a single cone or, when more than one cone is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

(III) Wheels, total pyrotechnic composition not to exceed sixty grams for each driver unit or two hundred grams for each complete wheel;

(IV) Ground spinner, a small device containing not more than twenty grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground;

(V) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed two hundred grams each;

(VI) Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed one hundred grams, of which the composition of any chlorate or perchlorate shall not exceed five grams;

(VII) Any of the following that do not contain more than fifty milligrams of explosive composition:

(A) Explosive auto alarms;

(B) Toy propellant devices;

(C) Cigarette loads;

(D) Strike on box matches; or

(E) Other trick noise makers;

(VIII) Snake or glow worm pressed pellets of not more than two grams of pyrotechnic composition and packaged in retail packages of not more than twenty five units;

(IX) Fireworks that are used exclusively for testing or research by a licensed explosives laboratory;

(X) Multiple tube devices with:

(A) Each tube individually attached to a wood or plastic base;

(B) The tubes separated from each other on the base by a distance of at least one half of one inch;

(C) The effect limited to a shower of sparks to a height of no more than fifteen feet above the

ground:

(D) Only one external fuse that causes all of the tubes to function in sequence; and

(E) A total pyrotechnic composition of no more than five hundred grams.

(b) "Permissible fireworks" do not include aerial devices or audible ground devices, including, but not limited to, firecrackers.

(9) "Person" includes an individual, partnership, firm, company, association, corporation, or governmental entity.

(9.5) "Pyrotechnic operator" includes an individual who, by experience and training, has demonstrated the required skill and ability to safely set up and discharge articles of pyrotechnics.

(10) "Retailer" means any person who sells, delivers, consigns, or furnishes permissible fireworks to another person not for resale.

(11) "Storage" means the possession of fireworks for safe custody, where the safekeeping is the principal object of deposit, and not the consumption or sale.

(12) "Wholesaler" means any person, including a manufacturer, who is licensed as a wholesaler under section 12-28-104 and who sells, delivers, consigns, gives, or otherwise furnishes permissible fireworks to a retailer for resale in Colorado.

12-28-102. Unlawful use or sale of fireworks exceptions.

(1) Except as provided for in subsection (6) of this section, it shall be unlawful for any person to knowingly furnish to any person who is under sixteen years of age, by gift, sale, or any other means, any fireworks, including those defined as permissible fireworks in section 12-28-101 (8).

(2) Except as provided for in subsection (6) of this section, it shall be unlawful for any person who is under sixteen years of age to purchase any fireworks, including those defined as permissible fireworks in section 12-28-101 (8).

(3) Nothing in this section shall be construed to prohibit any statutory or home rule municipality from enacting any ordinance which prohibits a person under sixteen years of age from purchasing any fireworks, including those defined as permissible fireworks in section 12-28-101 (8).

(4) Any person who sells or offers to sell any fireworks, including those defined as permissible fireworks in section 12-28-101 (8), shall display a warning sign, as specified in this subsection (4). Said warning sign shall be displayed in a prominent place on the premises at all times, shall have a minimum height of eight and one half inches and a minimum width of eleven inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER SIXTEEN YEARS OF AGE TO PURCHASE ANY FIREWORKS. VIOLATORS MAY BE PUNISHED BY A FINE OF UP TO \$750.00, BY IMPRISONMENT FOR UP TO SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(5) Except as provided in this section and in section 12-28-103, it shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks, anywhere in this state.

(6) At all times that it is lawful for any person over the age of sixteen years to possess and discharge permissible fireworks, it shall also be lawful for a person under the age of sixteen years to possess and discharge permissible fireworks, if such person is under adult supervision.

(7)(a) Except as provided in this section, it shall be unlawful for any person who is not licensed as a retailer under this article, in retail transactions with the public, to offer for sale, expose for sale, sell, or have in such person's possession with the intent to offer for sale any permissible fireworks.

(8)(a) Except as provided in this section, it shall be unlawful for any person who is not licensed as a display retailer, wholesaler, or exporter under this article, in transactions other than retail transactions with the public, to offer for sale, expose for sale, sell, or have in such person's possession with the intent to offer for sale any fireworks including permissible fireworks.

(9) Nothing in this article shall prevent or regulate:

(a) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(b) The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations;

(c) The sale, purchase, possession, or use of fireworks distributed by the division of wildlife for agricultural purposes under conditions approved by said division; or

(d) The sale, delivery, consignment, gift, or furnishing of fireworks among display retailers, wholesalers, or exporters licensed under this article.

12-28-103. Permits exceptions to permit requirements.

(1) Any governing body has the power to grant nontransferable and nonassignable permits within the area under its jurisdiction for the storage of fireworks or for the facilities used for the retail sales of fireworks, including permissible fireworks, by any person and to adopt reasonable rules for the granting of such permits. The fee for a permit issued pursuant to this subsection (1) shall be limited to what is reasonable and necessary to cover the direct and indirect costs associated with the granting and enforcement of such permits.

(2) Any governing body has the power to grant nontransferable and nonassignable permits within the area under its jurisdiction for displays of fireworks or pyrotechnic special effects performances by any person, fair association, amusement park, or other organizations or groups and to adopt reasonable rules for the granting of such permits.

(3) No permit shall be required for the display of fireworks at the state fairgrounds by the board of commissioners of the Colorado state fair authority, at any duly authorized county or district fair, or at any display by any governing body or local authority.

(4) The discharge of fireworks pursuant to a permit provided for in subsection (2) of this section, or as otherwise provided in subsection (3) of this section, shall be lawful in Colorado, if the display or pyrotechnic special effects performance is performed in accordance with the requirements of the national fire protection association as stated in NFPA1123, code for the outdoor display of fireworks or NFPA1126, standard for the use of pyrotechnics before a proximate audience.

12-28-104. Licensing creation of fireworks licensing cash fund.

(1) No person shall sell, offer for sale, expose for sale, or possess with intent to sell permissible fireworks for retail until that person first obtains a retailer of fireworks license from the director of the division of fire safety within the department of public safety and the permit, if any, required by section 12-28-103 (1). Such retailer's license shall be good only for the calendar year in which it is issued, shall apply to only one retail location, and shall at all times be displayed at the place of business of such licensed retailer.

(2) No person shall sell, deliver, consign, give, or furnish fireworks to a person authorized by section 12-28-103 to discharge fireworks in Colorado until that person first obtains a display retailer of fireworks license from the director of the division of fire safety within the department of public safety and the permit, if any, required by section 12-28-103 (1).

(3) No person shall sell, deliver, consign, give, or furnish permissible fireworks to a retailer for resale in Colorado until that person first obtains a wholesaler of fireworks license from the director of the division of fire safety within the department of public safety and the permit, if any, required by section 12-28-103 (1).

(4) No person shall sell, deliver, consign, give, or furnish fireworks for export outside of Colorado until that person first obtains an exporter of fireworks license from the director of the division of fire safety within the department of public safety and the permit, if any, required by section 12-28-103 (1).

(5) Applications for each display, retail, wholesale, and export license shall be filed with the director of the division of fire safety within the department of public safety at least thirty days before the start of activities for which the license is required. Each such license shall be valid through September 1 of the year following the date on which the license was issued.

(6)(a) All fees pursuant to this article shall be collected by the director of the division of fire safety within the department of public safety.

(b) All moneys received by the director pursuant to the administration of this article and all interest earned on the moneys shall be deposited in the state treasury in the fireworks licensing cash fund, which fund is hereby created, and the moneys shall be used, subject to annual appropriations by the general assembly, for the purposes set forth in this article, and shall not be deposited in or transferred to the general fund of the state of Colorado or any other fund.

(c) (I) The executive director of the department of public safety shall set fees pursuant to this article at such rates as are necessary to provide for the direct and indirect costs and expenses of the department of public safety in the administration of this article; except that the fee for a:

(A) Retailer of fireworks license shall not exceed twentyfive dollars;

(B) Display retailer of fireworks license, a wholesaler of fireworks license, or an exporter of fireworks license shall not exceed seven hundred fifty dollars; and

(II) Such rates shall be reviewed annually by the executive director of the department of public safety.

(7) The executive director of the department of public safety shall promulgate rules to implement the provisions of this article. Such rules may include requirements for the certification of fireworks display operators and pyrotechnic operators, and any other requirements that are reasonably necessary for the safety of workers and the public and the protection of property. The procedure for the promulgation of such rules shall be in accordance with the provisions of section 24-4103, C.R.S.

(8) Any person aggrieved by a decision or order of the director of the department of public safety may seek judicial review pursuant to the provisions of section 24-4106, C.R.S.

(10) This section shall take effect July 15, 1991.

12-28-105. Importation of fireworks duties of licensees - retention of invoices for inspection.

(1) It shall be unlawful for any person not licensed as a display retailer, wholesaler, or exporter under the provisions of section 12-28-104 to bring any fireworks including permissible fireworks into this state. Retail purchasers shall not purchase fireworks by mail order or receive any fireworks in Colorado by mail, parcel service, or other carrier. All fireworks sales and deliveries to retail purchasers in Colorado shall be made in Colorado and shall be conducted only by persons licensed pursuant to this article.

(2) It shall be unlawful for any retailer to sell, offer for sale, expose for sale, or possess with intent to sell any permissible fireworks in this state which have not been purchased from a wholesaler licensed under the provisions of section 12-28-104.

(3) It shall be unlawful for a person to conduct any fireworks display or pyrotechnic special effects performance using fireworks that have not been purchased from a display retailer licensed under the provisions of section 12-28-104.

(4) Any retailer licensed under the provisions of section 12-28-104 (1), and any person who discharges fireworks pursuant to section 12-28-103 (2) or (3), shall keep available, for inspection by local authorities, a copy of each invoice for fireworks purchased as long as any fireworks included on such invoice are held in such person's possession. Such invoice shall show the license number of the wholesaler or display retailer from whom such fireworks were purchased.

(5) This section shall take effect July 15, 1991.

12-28-106. Exportation of fireworks.

(1) It shall be unlawful to export fireworks, other than permissible fireworks, from the state of Colorado, unless such fireworks are transported in accordance with the regulations of the United States department of transportation regulating the transportation of explosives, fireworks, and other dangerous articles by motor, rail, air, and water and the exporter obtains a signed bill of lading from each person transporting such fireworks, which shall show the quantity and types of fireworks transported and the recipient's full legal name and address.

(2) The exporter may transport such fireworks by common carrier or by the exporter's vehicle; except that the sale of such fireworks for transport in the purchaser's vehicle is unlawful unless:

(a) The exporter requires the purchaser to display a valid motor vehicle driver's license issued by a state other than the state of Colorado and records the number and state of issue of such driver's license on the bill of lading pertaining to such sale, and further requires the purchaser to display a valid motor vehicle registration showing that the purchaser owns a motor vehicle licensed in a state other than the state of Colorado, which license plate number and state of issue shall be recorded on the bill of lading pertaining to such sale; or

(b) The exporter requires the purchaser to display a valid motor vehicle driver's license issued by the state of Colorado and records the number and state of issue of such driver's license on the bill of lading pertaining to such sale, and further requires the purchaser to furnish a valid wholesale or retail license number or resale license number issued by the governing body of a state or local authority located outside of the state of Colorado, which number and state of issue shall be recorded on the bill of lading pertaining to such sale.

(3) The bills of lading required by this section shall be retained by the exporter for a period of three years from the date of such sale.

12-28-107. Regulation by municipalities and counties.

(1) This article shall not be construed to prohibit the imposition by municipal ordinance of further regulations and prohibitions upon the sale, use, and possession of fireworks, including permissible fireworks, within the corporate limits of any city or town, but no such city or town shall permit or authorize the sale, use, or possession of any fireworks in violation of this article.

(2) This article shall not be construed to prohibit the imposition by county ordinance of further regulations and prohibitions upon the sale, use, and possession of fireworks, including permissible fireworks, within all or any part of the unincorporated areas of a county, but no county shall permit or authorize the sale, use or possession of any fireworks in violation of this article.

12-28-108. Storage of fireworks.

All storage of fireworks shall be in accordance with the building and fire codes adopted by the governing body.

12-28-109. Seizure of fireworks.

The local authorities shall seize, take, and remove, at the expense of the owner, all stocks of fireworks, including permissible fireworks, offered or exposed for sale, stored, or held in violation of this article.

12-28-110. Violations penalty.

Any person who violates any provision of this article commits a class 3 misdemeanor and shall be punished as provided in section 181.3501, C.R.S.

12-28-111. Denial, suspension, or revocation of or refusal to renew license.

(1) The executive director of the department of public safety may deny, suspend, revoke, or refuse to renew any license issued or applied for under the provisions of this article for any of the following reasons:

- (a) Violations of any of the provisions of this article;
- (b) A conviction of any felony, but subject to the provisions of section 24-5101, C.R.S.;
- (c) A conviction pursuant to section 12-28-110;
- (d) Any material misstatement, misrepresentation, or fraud in obtaining a license.

(2) Such revocation or suspension proceedings shall be brought by the Colorado executive director of the department of public safety pursuant to the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S.