

OREGON

480.110 Definitions for Oregon Fireworks Law.

For the purposes of ORS 480.110 to 480.165, which sections may be cited as the Oregon Fireworks Law, and unless otherwise required by the context:

(1) "Fireworks" means any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article which was prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges or toy cannons in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents or any other article of like construction or any article containing any explosive or inflammable compound, or any tablets or other device containing any explosive substances or inflammable compound; but does not include:

(a) Sparklers, toy pistol paper caps, toy pistols, toy canes, toy guns or other devices in which paper caps containing 0.25 grains or less of explosive compound are used, and when, the rate of burning and the explosive force of the materials in such devices are not greater than an equivalent weight of F.F.F.G. black powder, and when such devices are so constructed that the hand cannot come in contact with the cap when in place for explosion, and the major explosive force is contained or dispelled within the housing or shell of the device, there is no visible flame during discharge, there is no flaming or smoldering of any of the components or parts of the device after discharge, and the device does not produce sufficient heat to readily ignite combustible materials upon which the device may be placed. The sale and use of such devices shall be permitted at all times.

(b) Snakes or similar smoke-producing material containing not more than 100 grains of combustible substances when there is no visible flame during discharge, there is no after smoldering, and the devices do not produce sufficient heat to readily ignite combustible materials upon which the devices may be placed. The sale and use of such devices shall be permitted at all times.

(c) Model rockets and model rocket motors designed for the purpose of propelling recoverable aero models. The sale and use of such devices shall be permitted at all times.

(d) Those items described in ORS 480.127 (4).

(2) "Fire protection district" means any district created under the laws of Oregon or the United States, including rural fire protection districts and any federal, state or private forest patrol areas.

(3) For purposes of this section "sparklers" means materials of a character that will, when ignited, sparkle without throwing or dropping hot residue capable of igniting combustible materials, attached to a wire or other noncombustible central support, with such materials arranged in a cylindrical shape not more than 10 inches in length nor more than one-quarter inch in diameter and which shall not burn more rapidly than one inch in 10 seconds, but not including materials incased within a container of any character. "Explosive substance" or "explosive mixture" as used in this section shall mean any substance so arranged as to burn in less than one second. "Combustible substance" shall mean any substance so arranged as to burn in more than one second.

480.120 Sale, possession and use of fireworks prohibited; exceptions; enforcement.

(1) No person shall sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within Oregon, except as follows:

(a) Sales by manufacturers and wholesalers to customers residing outside this state in accordance with ORS 480.156;

(b) Sales to persons or organizations having obtained a permit from the State Fire Marshal for supervised public display;

(c) Sales to railroads, boats, motor vehicle or other transportation agencies, to be used for signal, warning or illumination purposes in connection with such business;

(d) Sale or use of blank cartridges for licensed shows or theaters or for signal or ceremonial purposes in athletics or sports;

(e) Experimental purposes by a manufacturer of explosives at such places where such experiments are normally conducted;

(f) Sale of blank cartridges for use by the militia or any organization of war veterans or other organization authorized by law to parade in public a color guard armed with firearms;

(g) Sale of shells, cartridges, gunpowder or explosives for use in legally permitted firearms;

(h) Sales of items described in ORS 480.127 to persons who possess the retail sales permit required by ORS 480.127 by a person who holds a manufacturer or wholesaler license issued pursuant to ORS 480.110 to 480.165; or

(i) Sales of items described in ORS 480.127 to individual members of the general public for personal use by taking direct delivery of those items at the time of sale from the holder of a retail sale permit issued pursuant to ORS 480.127.

(2) Law enforcement officers of the state, county or municipality shall enforce the provisions of ORS 480.110 to 480.165.

480.127 Sale permit for certain items; when required; fee.

(1) Any person who desires to sell cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers or combination items at retail to individual members of the general public for personal use shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the proposed sale and that the proposed sale will conform to the provisions of ORS 480.110 to 480.165 and any rules promulgated pursuant thereto. A fee may be charged for the permit. Subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, the amount of the fee shall be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2) The permit required by subsection (1) of this section shall not be valid for more than one year from the date of issuance and shall authorize sales only between midnight June 22 and midnight July 6 of any given calendar year.

(3) Notwithstanding any other provision of law, the State Fire Marshal shall not prescribe limitations on the aggregate amount of items described in subsection (4) of this section at a sales facility operated by a person who holds the permit referred to in this section. However, such items shall be stored in accordance with such fire codes as the State Fire Marshal by rule may prescribe to insure safe storage of such materials. In prescribing such rules the State Fire Marshal may consider, among other matters, requirements of the United States Department of Transportation regarding the storage of hazardous materials.

(4) As used in this section:

(a) "Combination item" means a device that contains combinations of two or more of the effects described in paragraphs (b) to (g) of this subsection.

(b) "Cone fountain" means a cardboard or heavy paper cone containing not more than 50 grams of pyrotechnic composition. The effect upon ignition is the same as that of a cylindrical fountain.

(c) "Cylindrical fountain" means a cylindrical tube not more than three-fourths inch (19 mm) inside diameter and containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be handheld.

(d) "Flitter sparkler" means a narrow paper tube containing not more than 100 grams of pyrotechnic composition that produces colored sparks upon ignition. The paper at one end of the tube is ignited to make the device function.

(e) "Ground spinner" means a small device similar to a wheel in design and effect and containing not more than 60 grams of pyrotechnic composition. When placed on the ground and ignited, a shower of colored sparks is produced by the rapidly spinning device.

(f) "Illuminating torch" means a cylindrical tube containing not more than 100 grams of pyrotechnic composition. This device may be provided with a spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be handheld.

(g) "Wheel" means a pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain not more than six driver units or tubes not exceeding one-half inch (12.5 mm) inside diameter and containing not more than 60 grams of pyrotechnic composition. Upon ignition, the wheel revolves and produces a shower of colored sparks, and sometimes a whistling effect.

480.130 Permit required for sale or public display of fireworks; fee.

(1) All persons, municipalities, associations or organizations or groups of individuals desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell items described in ORS 480.127 (4) to persons who possess the permit referred to in ORS 480.127, shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale or date of the display. The State Fire Marshal, upon receipt of such application, shall determine if the proposed sale or display will conform to law and any rules promulgated thereunder. If the State Fire Marshal finds that the applicant is qualified to conduct such sale or display and that the

proposed sale or display is in accordance with the law and all rules, the State Fire Marshal shall issue a permit; otherwise the State Fire Marshal shall refuse to issue it.

(2) The fee for a permit for the public display of fireworks and each permit for sale of fireworks or items described in ORS 480.127 (4) shall be established by rule by the State Fire Marshal, subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, and subsequently shall be adjusted to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. All fees collected shall be deposited to the credit of the State Fire Marshal Fund.

(3) Sales permits for fireworks or items described in ORS 480.127 (4) shall not be valid for more than one year from date of issue. A public display permit shall not be valid for more than 10 days from date of issuance and shall authorize only one fireworks display during that period.

480.150 Permits for fireworks sales or displays; rules; security.

(1) The State Fire Marshal may adopt reasonable rules for granting permits for supervised public displays or sales of fireworks or items described in ORS 480.127 (4) by municipalities, fair associations, amusement parks, and other persons, organizations or groups of individuals. The governing body of any municipality, or of any county, may require liability insurance, or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or other form of indemnity deemed adequate by the municipality, or the county, from any person, in a sum not less than \$500, conditioned for payment of all damages which may be caused either to a person or property by reason of the authorized display or sale and arising from any acts of any person or agents, employees or subcontractors of the person. At the time a permit is revoked, the State Fire Marshal or approving authority may include in the revocation order a provision prohibiting the holder of the revoked permit from applying for or obtaining another such permit, for a period not to exceed three years from the revocation date, if the State Fire Marshal or approving authority finds that the circumstances of the permit holder's failure to comply with applicable sale or display statutes and regulations presented a significant fire hazard or other public safety danger.

(2) The State Fire Marshal or the approving authority of any governmental subdivision may revoke permits for display or sale of fireworks or items described in ORS 480.127 when in the opinion of the State Fire Marshal or the approving authority the sale or display of fireworks or items described in ORS 480.127 (4) is not in compliance with applicable statutes and regulations governing such sale or displays.

(3) Permit fees required by ORS 480.130 shall not be refunded in the event such permits are revoked.

480.152 Publication of advertisement for sale of unlawful fireworks prohibited.

(1) No person shall publish or cause to be published:

(a) Any advertisement for the sale of fireworks the use or possession of which is declared unlawful by ORS 480.110 to 480.165.

(b) Any advertisement for the sale of items described in ORS 480.127 in any county, municipality or fire protection district that by law or ordinance has declared the sale or use of such items is prohibited.

(2) Subsection (1) of this section does not apply to any advertising medium which accepts such advertising in good faith, without knowledge of the violation of law.

480.154 Manufacturer or wholesaler required to maintain records of sale of fireworks; shipments to show permit number; confiscation.

(1) Each manufacturer or wholesaler of fireworks or items described in ORS 480.127 shall keep a record of all sales showing the name and address of the purchaser, the state of destination, license and permit numbers, the state and date of permit issuance and a list of the type and quantity of fireworks or items sold.

(2) All shipments of fireworks or items described in ORS 480.127 coming into this state must show the appropriate permit number of the addressee on the outside of the package. If the permit number is not so shown, such shipment may be confiscated by a law enforcement officer or fire protection enforcement authority having jurisdiction.

480.156 Sale of fireworks to out-of-state resident without valid license or permit prohibited; seller to ascertain license or permit requirements of other states; seller's records.

(1) It is unlawful for any person to sell fireworks or items described in ORS 480.127, at wholesale to any out-of-state resident who does not possess and present to the seller for inspection at the time of sale a valid license or permit issued in the name of such out-of-state resident, if such license or permit is required to purchase, possess,

transport, store, distribute, sell or otherwise deal with or use fireworks or items described in ORS 480.127, by the laws of such other state.

(2) The burden of ascertaining whether the laws of such other state require a license or permit and whether the purchaser possesses such a valid license or permit shall be entirely on the seller. Each seller shall record, in a manner prescribed by the State Fire Marshal, each sale described in this section. The record shall include the identification of type and quantity of fireworks sold, name of purchaser, state of destination, state issuing license or permit and number or other identifying description and date of issue of license or permit.

480.158 Parents of minor liable for costs incurred in suppressing fires caused by use of fireworks by minor; exception.

(1) In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for costs incurred by a public fire agency in suppressing fires caused by use of fireworks by such minor child. However, a parent who is not entitled to legal custody of the minor child at the time of the fire shall not be liable for such damages.

(2) The legal obligation of the parent or parents of an unemancipated minor child to pay damages under this section shall be limited to not more than \$5,000 payable to the same claimant, for one or more acts.

(3) When an action is brought under this section on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

(4) Nothing in subsections (1) to (3) of this section applies to foster parents.

480.160 Local regulation and effect of state law; local enforcement authority.

(1) Nothing in ORS 480.110 to 480.165, nor in any permit issued thereunder, shall authorize the manufacture, sale, use or discharge of fireworks or items described in ORS 480.127 in any city, county or fire protection district in which such manufacture, sale, use or discharge is otherwise prohibited by law or municipal ordinance; nor shall any city, county or fire protection district authorize the sale or use of any fireworks prohibited by the provisions of ORS 480.110 to 480.165.

(2) For the purposes of enforcing ORS 480.110 to 480.165 in an area exempt under ORS 476.030 (3) within a rural fire protection district, the fire marshal, if there is one, or the fire chief of that rural fire protection district has the same enforcement authority as the State Fire Marshal.

(3) No person shall deliver or cause to be delivered into any county, municipality or rural fire protection district for the purpose of sale to individual members of the general public for personal use any items described in ORS 480.127 if the county, municipality or rural fire protection district by law or ordinance has declared that the sale or use of such items is prohibited.

(4) The manufacture, sale, use or discharge of fireworks or items described in ORS 480.127 may be regulated by the governing body of a rural fire protection district, subject to the following conditions:

(a) The regulation must be by ordinance adopted by the governing body of the district, after public notice and hearing, not later than January 1 of any calendar year in which regulation is to be operative.

(b) The regulation shall not be operative within the boundaries of any city that regulates such matters by city ordinance.

(c) The regulation shall not prohibit the manufacture, sale, use or discharge of fireworks or items referred to in ORS 480.127, the manufacture, sale, use or discharge of which is authorized by ORS 480.110 to 480.165.

(d) The regulation may not limit sales to less than five days per calendar year, and must include the five consecutive day period beginning June 30.

480.165 Civil penalty for fireworks law violations.

(1) In addition to any other penalty provided by law, any person who violates any provision of ORS 480.110 to 480.165, or any rule adopted by the State Fire Marshal pursuant thereto, is subject to a civil penalty imposed by the State Fire Marshal in an amount not to exceed \$500 per violation. However, an individual member of the general public who possesses fireworks of a retail value less than \$50 is not subject to a civil penalty. Each day a violation continues shall be considered a separate offense.

(2) All moneys recovered pursuant to this section shall be paid into the State Fire Marshal Fund.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.