

## **SOUTH CAROLINA**

### CODE OF LAWS

#### TITLE 23. LAW ENFORCEMENT AND PUBLIC SAFETY

#### CHAPTER 35. FIREWORKS AND EXPLOSIVES

##### SECTION 23-35-130. Manufacture, storage, transportation or possession of certain fireworks illegal; storage and assembly of public display material; penalty.

(A) It is unlawful to manufacture, store, transport, or possess fireworks containing pyrotechnic composition in excess of two grains, designed to produce a loud and piercing effect, including, but not limited to, fireworks commonly called "ground salutes" or "cherry bombs", M-80's, T-N-T salutes, and "bulldog salutes". A manufacturer shall obtain a permit to store or assemble materials for public fireworks displays. No manufacturer may store public display material in the same building where legal fireworks are offered for sale to retailers.

(B) The provisions of this chapter do not prohibit continuous interstate commerce through this State into another state of any item of fireworks permitted for shipment by the regulations of the Interstate Commerce Commission or the United States Department of Transportation, or their successors. It is unlawful to ship into or through this State or possess, sell, or use, under any circumstances, any article of fireworks that is forbidden for transportation by regulations of the Interstate Commerce Commission, the United States Department of Transportation, or their successors.

(C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than two years, or both.

##### SECTION 23-35-150. Penalties.

Any person violating any provisions of this chapter or regulations promulgated by the State Fire Marshal or the State Board of Pyrotechnic Safety, unless otherwise specifically provided in this chapter, is guilty of a misdemeanor and, upon conviction, must be punished:

(1) for a first offense, by a fine of not more than two hundred dollars or imprisonment for not more than thirty days;

(2) for a second offense, by a fine of not less than five hundred dollars nor more than twenty-five hundred dollars or imprisonment for not less than sixty days, or both;

(3) for a third offense, by a fine of not less than one thousand dollars or imprisonment of not less than ninety days nor more than one year, or both.

In addition to the above penalties, the license of any wholesaler, jobber, or retailer must be permanently revoked upon conviction for a third offense.

##### SECTION 23-35-175. Fireworks prohibited zones; Discharge of Fireworks Prohibited Agreements; extension of zones; posting of notice.

(A) As used in this section:

(1) "Fireworks" means ICC Class C Common Fireworks as defined and enumerated Section 23-35-10.

(2) "Fireworks Prohibited Zone" means property designated through the processes in this section as an area in which Fireworks are prohibited from being knowingly and willfully discharged.

(3) "Local governing body" means the governing body of a county or municipality.

(4) "Managing authority" means a governing board of a condominium association.

(5) "Subject property" means the property controlled by the owner, lessee, or managing authority for which a Discharge of Fireworks Prohibited Agreement has been filed.

(B) It is unlawful to knowingly and willfully discharge Fireworks from, in, or into a Fireworks Prohibited Zone. A person who knowingly and willfully discharges Fireworks from, in, or into a Fireworks Prohibited Zone is guilty of a misdemeanor and, upon conviction, must be punished:

(1) for a first offense by a fine of not more than one hundred dollars or imprisonment for not more than thirty days; and

(2) for a second and subsequent offense by a fine of not more than two hundred dollars or imprisonment for not more than thirty days.

(C) An owner, a lessee, or managing authority of real property may establish a Fireworks Prohibited Zone by:

(1) filing a Discharge of Fireworks Prohibited Agreement with the law enforcement agency having jurisdiction over the subject property; and

(2) posting at least two signs or placards in conspicuous locations on the subject property. These signs or placards must be posted to be visible from any street or thoroughfare the subject property abuts and any public land sharing a common boundary with the subject property. The signs or placards must measure not less than twelve inches by twelve inches and bear the following inscription:

"DISCHARGE OF FIREWORKS PROHIBITED VIOLATORS WILL BE PROSECUTED"

In addition to the inscription, the signs or placards must identify the subject property for which the Discharge of Fireworks Prohibited Agreement has been filed and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone as provided in this section.

(D) The Discharge of Fireworks Prohibited Agreement must be in the following form:

DISCHARGE OF Fireworks PROHIBITED AGREEMENT

DATE:

ADDRESS OF SUBJECT PROPERTY:

NAME OF SUBJECT PROPERTY (IF COMMERCIAL):

PROPERTY BOUNDARIES OR LEGAL DESCRIPTION OF SUBJECT PROPERTY:

I, \_\_\_\_\_, the undersigned, being the owner, lessee, or managing authority of the above described subject property, establish for my period of ownership, occupancy, or authority over the subject property a Fireworks Prohibited Zone for the subject property and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone. By filing this agreement, I request that the applicable law enforcement agency enforce the prohibition of the discharge of Fireworks on said subject property and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone to the fullest extent of the law.

I acknowledge that this Discharge of Fireworks Prohibited Agreement exists only for the time period that I own, lease, or manage the subject property, or until I rescind the agreement, whichever occurs first.

I agree to post two signs or placards measuring not less than twelve inches by twelve inches in conspicuous locations on the subject property. The signs or placards must: (1) identify the subject property and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone, and (2) bear the following inscription:

"DISCHARGE OF FIREWORKS PROHIBITED VIOLATORS WILL BE PROSECUTED"

OWNER, LESSEE, OR MANAGING AUTHORITY

WITNESS

(E)(1) If authorized by a decision of the local governing body as provided in this subsection, an owner, lessee, or managing authority that has filed a Discharge of Fireworks Prohibited Agreement with a local law enforcement agency may extend the Fireworks Prohibited Zone beyond the subject property:

(a) to the low-water mark of all oceanic bodies of water adjoining the subject property;

(b) to the center line of any street or thoroughfare that abuts the subject property; or

(c) onto any public land sharing a common boundary with the subject property for a distance not to exceed five hundred feet.

(2) The owner, lessee, or managing authority must apply for the extension in the office of the local governing body on the following form:

APPLICATION FOR EXTENSION OF Fireworks PROHIBITED ZONE

DATE:

ADDRESS OF SUBJECT PROPERTY:

NAME AND ADDRESS OF APPLICANT:

I, \_\_\_\_\_, the undersigned, am the owner, lessee, or managing authority of the above described subject property for which a Discharge of Fireworks Prohibited Agreement was filed with the \_\_\_\_\_ law enforcement agency on \_\_\_\_\_. I am attaching with this application a copy of the Discharge of Fireworks Prohibited Agreement.

I have circled the following applicable description of the public property onto which I request the zone to be extended:

- (a) to the low-water mark of all oceanic bodies of water adjoining the subject property;
- (b) to the center line of any street or thoroughfare that abuts the subject property; or
- (c) onto any public land sharing a common boundary with the subject property for a distance not

to exceed five hundred feet.

Below I have briefly described the public property onto which this application proposes to extend the Fireworks prohibited zone:

If authorized by a decision of the local governing body to extend the Fireworks Prohibited Zone, I agree to identify the subject property and extended public property included in the Fireworks Prohibited Zone on two signs or placards measuring not less than twelve inches by twelve inches posted in conspicuous locations on the subject property.

OWNER, LESSEE, OR MANAGING AUTHORITY  
WITNESS

(3) A local governing body may provide by ordinance for additional information to be included in the application. The local governing body must not require a fee for this application.

(4) In considering whether a Fireworks Prohibited Zone may be extended onto public property as provided in item (1), the local governing body must:

- (a) schedule a public hearing within a reasonable time from which the application is made;
- (b) give fifteen days' public notice of the hearing in a newspaper of general circulation in the

community; and

- (c) receive testimony from interested persons, their agents, or their attorneys at the public hearing.

(5) No later than five calendar days following the public hearing, the local governing body must issue a written decision, including all findings of fact and rationales upon which the determination is made, concerning whether the Fireworks Prohibited Zone is to be extended. If the local governing body authorizes the extension of a Fireworks Prohibited Zone, the local governing body's decision must be filed by the owner, lessee, or managing authority with the Discharge of Fireworks Prohibited Agreement for the subject property at the local law enforcement agency.

(F) A local governing body or local law enforcement agency is authorized to post appropriate signs or placards indicating the location of Fireworks Prohibited Zones in areas where contiguous properties have filed a Discharge of Fireworks Prohibited Agreement.

(G) A person may be prosecuted pursuant to the provisions of this section only if the subject property of the Fireworks Prohibited Zone is posted as required by this section.

(H) Unless restricted or prohibited by a lease or contract, a lessee may establish a Fireworks Prohibited Zone and apply for an extension of the zone onto public property as provided in this section during the time of the lease.

(I) A Discharge of Fireworks Prohibited Agreement exists only:

(1) during the ownership, lease, or authority of the person filing the agreement; or

(2) until the owner, lessee, or managing authority rescinds the agreement by withdrawing the documentation filed with the local law enforcement agency. If the subject property is no longer established as a Fireworks Prohibited Zone, any extension by a local governing body of the Fireworks Prohibited Zone to public property is unenforceable.

(J) The provisions of this section do not apply to a professional Fireworks display show or demonstration that has been permitted or licensed to operate by the local governing body or has been authorized to operate as provided by law.

(K) Nothing in this section is designed to abrogate any civil remedies available under statutory or common law.

CODE OF LAWS

TITLE 40. PROFESSIONS AND OCCUPATIONS

CHAPTER 56. STATE BOARD OF PYROTECHNIC SAFETY

SECTION 40-56-1. Policy and purpose.

It is the policy of this State, and the purpose of this chapter, to promote the safety of the public and the environment by effective regulation of pyrotechnics. Public safety requires that persons who handle pyrotechnics have demonstrated their qualifications, that they adhere to reliable safety standards, and that the sites where pyrotechnics are manufactured, stored, and sold adhere to reliable safety standards. It is neither the policy of this State nor the purpose of this chapter to place undue restrictions upon entry into the business of handling pyrotechnics.

SECTION 40-56-5. Applicability.

Unless otherwise provided for in this chapter, Chapter 1, Title 40 applies to the Board of Pyrotechnic Safety and licensees regulated under this chapter. If there is a conflict between this chapter and Chapter 1, the provisions of this chapter control.

SECTION 40-56-10. State Board of Pyrotechnic Safety.

(A) The State Board of Pyrotechnic Safety is composed of seven members appointed by the Governor. One appointee must be employed by a local fire authority, one must be a pyrotechnics retailer, one must be a pyrotechnics wholesaler, one must be a law enforcement representative, and three must be members of the public who shall not possess any pecuniary interest in any entity engaged in a business directly involving the sale of pyrotechnics. A seat on the board that remains vacant for sixty days must be filled through an appointment by the Chairman of the House Labor, Commerce and Industry Committee, and the Chairman of the Senate Labor, Commerce and Industry Committee.

(B) The terms of office for members are for four years and until their successors are appointed and qualified. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(C) The board shall meet at least annually and not more than once per month. All meetings must be scheduled at the call of the chairman. The board shall elect from its members a chairman, vice chairman, and other officers as it considers necessary to serve for terms of one year and until their successors are elected and qualified. All members shall receive mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions for days on which they are transacting official business, to be paid by the board.

(D) The department's Office of State Fire Marshal shall provide administrative support as required by the board to perform its prescribed functions. The State Fire Marshal is an official consultant and is authorized to attend all meetings.

SECTION 40-56-20. Definitions.

As used in this chapter:

- (1) "APA" means the American Pyrotechnics Association.
- (2) "Board" means the State Board of Pyrotechnic Safety.
- (3) "Consumer Fireworks" means any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507 and APA Standard 87-1. Some small devices designed to produce audible effects are consumer Fireworks, including, but not limited to, whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer Fireworks are classified as Fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 C.F.R. 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer Fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4G. These Fireworks were formerly known as "Class C Fireworks".
- (4) "CPSC" means the U.S. Consumer Product Safety Commission.
- (5) "Department" means the Department of Labor, Licensing and Regulation.
- (6) "Display Fireworks" means large Fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "consumer Fireworks".

Display Fireworks are classified as Fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 C.F. R. 172.101. This term also includes fused setpieces containing components which together exceed 50 mg of salute powder. Display Fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3G. These Fireworks were formerly known as "Class B Fireworks".

(7) "DOT" means the U.S. Department of Transportation.

(8) "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer Fireworks" or "display Fireworks" as defined by this section.

(9) "Licensee" means a person, firm, or entity that has been issued a license by the board under the provisions of this chapter to manufacture, sell, or store Fireworks.

(10) "NFPA" means National Fire Protection Association.

(11) "Pyrotechnics" means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

(12) "Small bottle rocket" is a consumer firework with a motor less than one-half inch in diameter and three inches in length, a stabilizing stick less than fifteen inches in length, and a total pyrotechnic composition not exceeding 20 grams in weight.

#### SECTION 40-56-30. Noncompliance with chapter unlawful.

It is unlawful for a person to engage in the manufacturing, storage, or sale of pyrotechnics unless in compliance with this chapter.

#### SECTION 40-56-35. License required for manufacture, sale, or storage of Fireworks; exceptions.

(A) Except as otherwise provided for in this section, a person, firm, or entity that manufactures, sells, or stores Fireworks shall obtain a license issued by the board pursuant to this chapter. General license requirements are as follows:

(1) A license may not be issued to anyone under the age of eighteen.

(2) An application for licensure must be submitted on forms prescribed by the board accompanied by applicable fees.

(3) A license is required for each physical address or site at which Fireworks are manufactured, sold, or stored.

(4) A copy of the appropriate license issued by the South Carolina Department of Revenue for retail sales of Fireworks must accompany each application for a retail Fireworks sales license.

(5) Initial license applications and applications for license renewal may be approved only after an authorized agent of the board inspects the buildings and facilities where Fireworks are to be manufactured, sold, or stored for compliance with the current codes and standards.

(6) All licenses and permits only may be issued for one calendar year.

(7) Licenses must be prominently displayed at the licensee's place of business approved for the manufacture, sale, or storage of Fireworks.

(8) Licenses issued by the board are nontransferable.

(B) A license is not required for the:

(1) manufacture, sale, storage, transportation, handling, or a combination of these, including, but not limited to, railroad torpedoes, automotive, aeronautical, and marine flares and smoke signals;

(2) transportation, storage, handling, or use of Fireworks, or a combination of these, by the Armed Forces of the United States;

(3) transportation, handling, or use of Fireworks, or a combination of these, by the State Fire Marshal, his employees, or a commissioned law enforcement officer acting within his official capacity; or

(4) Fireworks deregulated by the U.S. Department of Transportation.

#### SECTION 40-56-50. Administrative support.

The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspection, clerical, secretarial, and license renewal operations and activities of the board pursuant to Chapter 1.

#### SECTION 40-56-70. Duties of board.

(A) It is the duty and responsibility of the board to promulgate, pursuant to the Administrative Procedures Act, regulations relating to pyrotechnics in this State, including the manufacture, sale, storage, and fire safety of these products. These regulations must be adjusted using the procedures in Chapter 34, Title 1.

(B) The board may conduct hearings on alleged violations by licensees of this chapter or regulations promulgated pursuant to this chapter and may discipline these licensees.

(C) The board also shall recommend to the General Assembly legislation it considers necessary for the safety and control of the sale of pyrotechnics.

SECTION 40-56-80. Investigations; inspections; confiscation of illegal Fireworks; board may compel attendance of witnesses.

(A) The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Chapter 1.

(B) During reasonable business hours, the department or its authorized agent may enter the premises or vehicle of a person engaged in the manufacture, sale, or storage of pyrotechnics to inspect, investigate, or examine the property or installation it considers necessary. When an emergency exists, as declared by the department, the inspector may enter the premises of a person and take necessary action for public safety including, but not limited to, the evacuation of the area where the emergency exists.

(C) A fire chief and his inspector, a sheriff and his deputy, a chief of police and his officer, and an agent of SLED may inspect a building, facility, or vehicle where Fireworks may be manufactured, stored, or sold and records of manufacturing, storage, sales, and purchases that must be maintained.

(D) An official named in this section who has the authority to inspect may confiscate illegal Fireworks being manufactured, offered for sale, stored, or possessed.

(E) The board may compel the attendance of witnesses to testify in relation to a matter within its jurisdiction.

SECTION 40-56-100. Issuance of cease and desist order, or petition for temporary restraining order or other equitable relief.

In addition to other remedies provided for in this chapter, the board pursuant to Chapter 1 may issue a cease and desist order or may petition the Administrative Law Court for a temporary restraining order or other equitable relief to enjoin a violation of this chapter or a regulation promulgated pursuant to this chapter.

SECTION 40-56-115. Jurisdiction of board.

The board has jurisdiction over the actions of licensees and former licensees as provided for in Chapter 1.

SECTION 40-56-120. Discipline.

(A) Upon a determination by the board that grounds for discipline exist, the board is authorized to:

(1) issue a public reprimand;

(2) impose a civil penalty not to exceed two thousand five hundred dollars;

(3) place a licensee on probation or restrict or suspend a license for a definite or indefinite time period and prescribe conditions to be met during this period including, but not limited to, satisfactory completion of additional education, or a supervisory period; or

(4) revoke the license.

(B) The board may take disciplinary action against a person for:

(1) the grounds stated in Chapter 1; or

(2) a condition found as a result of an inspection, examination, or investigation provided for in Section 40-56-80 that is hazardous to public safety.

SECTION 40-56-130. License denial based on same grounds for discipline.

The board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

SECTION 40-56-140. License denial based on prior criminal record.

A license may be denied based on a person's prior criminal record only as provided for in Chapter 1.

SECTION 40-56-150. Voluntary surrender of license.

A licensee under investigation for a violation of this chapter or a regulation promulgated pursuant to this chapter may voluntarily surrender the license pursuant to Chapter 1.

SECTION 40-56-160. Review of board decision.

A person aggrieved by a final action of the board may seek review of the decision pursuant to Chapter 1.

SECTION 40-56-170. Payment of investigation and prosecutions costs.

A person found in violation of this chapter or a regulation promulgated pursuant this chapter may be required to pay costs associated with the investigation and prosecution of the case pursuant to Chapter 1.

SECTION 40-56-180. Payment of costs and fines.

All costs and fines imposed pursuant to this chapter must be paid in accordance with, and are subject to, the collection and enforcement provisions of Chapter 1.

SECTION 40-56-190. Confidentiality of investigations and proceedings.

Investigations and proceedings conducted under the provisions of this chapter are confidential, and all communications are privileged as provided for in Chapter 1.

SECTION 40-56-200. Penalties; fire codes and regulations adopted by State Fire Marshal.

(A) A person required by this chapter to obtain a license to do business in this State, who has not obtained a license or who operates while his license is suspended or revoked or who violates a provision of this chapter or a regulation promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not less than ninety days and not more than one year.

(B) This chapter does not repeal, amend, or otherwise affect fire codes and regulations adopted by the State Fire Marshal.

SECTION 40-56-210. Civil penalties and injunctive relief.

In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief as provided for in Chapter 1.

SECTION 40-56-220. Facilities must comply with regulations; consumer Fireworks must comply with federal standards; small bottle rocket sale and use not legal; no sale of Fireworks to anyone under sixteen.

(A) All facilities for the manufacturing, sales, or storage of Fireworks must comply with regulations established by the board.

(B) All consumer Fireworks must comply with standards set by the U.S. Department of Transportation and the CPSC for consumer Fireworks. The board may request Fireworks be tested by a CPSC certified testing group to see that these standards are met.

(C) Retail sale and use of small bottle rockets are not legal within South Carolina.

(D) Fireworks may not be sold to anyone under the age of sixteen.

SECTION 40-56-230. Insurance.

(A) An application for a retail Fireworks sales license must be accompanied by evidence that the applicant holds a policy that:

(1) provides public liability insurance coverage for retail sales activities at the location for the permitted sale period;

(2) is issued by an insurance company authorized to do business in this State; and

(3) provides coverage in the following minimum amounts:

(a) one million dollars for injuries or damage to any one person in one accident or occurrence;

(b) one million dollars for injuries to two or more persons in any accident or occurrence; and

(c) one million dollars combined single-limit coverage for any one accident or occurrence.

(B) A policy, except those policies issued for fewer than ninety days' use for seasonal permits, by its original term or an endorsement, must obligate the insurer to not cancel, suspend, or nonrenew the policy without thirty days' written notice of the proposed cancellation, suspension, or nonrenewal being given to the board. The insured immediately shall give notice to the board if liability insurance is canceled, suspended, or nonrenewed.

SECTION 40-56-240. Wholesale licenses; display Fireworks.

(A) A person may not store display Fireworks in this State unless the person has obtained a wholesale license from the board.

(B) Only licensed wholesalers shall sell or provide Fireworks for displays.

(C) All buildings and structures used to store display Fireworks must meet regulations established by the board.

(D) These license holders also must comply with U.S. Bureau of Alcohol, Tobacco, and Firearms regulations.

SECTION 40-56-250. Orders of board to remove or correct hazardous condition; administrative citations and administrative penalties.

(A) If the board or its designee finds a condition as a result of an inspection, that is hazardous to the public safety or a violation of this chapter or regulations promulgated pursuant to this chapter, the board shall issue an order in writing to remove or correct the condition. If a person fails to comply with the terms of the order, the board may issue administrative citations and may assess administrative penalties against any licensee.

(B) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

(C) Administrative penalties assessed pursuant to this section may not exceed two thousand five hundred dollars for each violation.

(D) An entity or individual assessed administrative penalties by citation under this section may appeal the citation to the Board of Pyrotechnic Safety within fifteen days of receipt of the citation. The appeal must be filed in writing. If an appeal is filed, the board shall schedule a hearing, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order, and the administrative penalties must be paid within thirty days of receipt of the citation.

SECTION 40-56-260. Report to board of any fire or explosion.

An owner, manager, or operator of any location regulated by this chapter shall report to the board within twenty-four hours of any fire or explosion of which the person has knowledge, with as complete detail as possible, together with evidence as he has obtained after investigation of the fire or explosion. No reports filed pursuant to this section may be disclosed unless disclosure is in compliance with the requirements of Chapter 4, Title 30 of the 1976 Code.

SECTION 40-56-270. Severability.

If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter, which can be given effect without the invalid provisions, or application, and to this end the provisions of this chapter are severable.

CODE OF REGULATIONS

CHAPTER 71. DEPARTMENT OF LABOR, LICENSING AND REGULATION-DIVISION OF LABOR

ARTICLE 7 PYROTECHNIC SAFETY

71-7405. Pyrotechnic Safety.

71-7405.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, and licensees from the manufacture, storage, sale and possession of Fireworks in South Carolina.

B. This regulation shall apply to:

1. The manufacture, sale, storage, and possession of Fireworks.
2. The licensing of persons or entities manufacturing, selling or storing Fireworks.

C. This regulation shall not apply to:

1. The handling, use, and transportation of pyrotechnics and Fireworks regulated by the Office of State Fire Marshal pursuant to SCRR 71-8300, et seq..
2. The transportation, handling, and/or use of Fireworks by the State Fire Marshal, his employees, or any commissioned law enforcement officers acting within their official capacities.
3. Fireworks when regulated by the U.S. Department of Transportation.
4. Weapons used in enactments, when there is no projectile.
5. The outdoor use of model rockets within the scope of NFPA 1122.



#### D. Definitions

1. "Board" means The State Board of Pyrotechnic Safety.
2. "Consumer Fireworks" means any small device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer Fireworks are classified as Fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused set pieces containing components, which together exceed 50 mg of salute powder. Consumer Fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4G. These Fireworks were formerly known as "Class C Fireworks."
3. "Department" means The South Carolina Department of Labor, Licensing and Regulation.
4. "Display Fireworks" means large Fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "Consumer Fireworks." Display Fireworks are classified as Fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused set pieces containing components, which together exceed 50 mg of salute powder. Display Fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3G. These Fireworks were formerly known as "Class B Fireworks."
5. "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration or detonation, and which meets the definition of "consumer Fireworks" or "display Fireworks" as defined by this section.
6. "Jobber" means a person or entity that only purchases consumer Fireworks from a wholesale distributor licensed to do business in South Carolina and only sells consumer Fireworks to retailers licensed to do business in South Carolina.
7. "Manufacturer" means a person or entity licensed to manufacture consumer or display Fireworks in South Carolina.
8. "NFPA" means the National Fire Protection Association.
9. "Pyrotechnics" means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.
10. "Retailer" means a person or entity that only purchases consumer Fireworks from a wholesale distributor or jobber licensed to do business in South Carolina and only sells consumer Fireworks to the general public.
11. "Temporary Retail Permit" is a Retail Permit valid for up to ninety (90) days.
12. "Wholesale Distributor" means a person or entity that may buy foreign or domestic Fireworks, store Fireworks, supply or sell Fireworks to any person or entity holding the proper South Carolina license.

#### 71-7405.2. Codes and Standards.

A. The requirements of NFPA 1124, 2006 Edition, including Annex A, B, C, and D, shall constitute the minimum standards for manufacture, storage, and retail sales of all Fireworks and pyrotechnic articles used in South Carolina, except as modified by these regulations.

#### 71-7405.3. Licensing and Permitting Fees.

- A. All fees are due at time of application for licenses or permitting.
- B. License or permit applications without inspections reports are due in the Department fifteen (15) business days before the start of operations. Applications submitted less than fifteen (15) business days before the start of operations will be subject to a \$200 special processing fee.
- C. License or permit applications, with inspections reports, are due in the Department two (2) business days before the start of operation. Applications submitted less than two (2) business days before the start of operation will be subject to a \$200 special processing fee.
- D. Fees for licenses and permits are:
  1. Manufacturer License \$2,000
  2. Wholesaler License \$1,250
  3. Jobber License \$500
  4. Retailer Permit (per location) \$200

5. Temporary Retailer Permit (per location) \$100

6. Display Magazine Permit \$100

E. When licensing inspections are performed by personnel of the Department, the fees stated are for one permit inspection. Any return inspection resulting from the owner's failure to comply will be charged at a rate of \$75 per hour (including travel time) in addition to the annual fee.

F. Wholesaler License Fees includes up to five (5) Display Magazine Permits.

#### 71-7405.4. Licensing and Permitting Requirements.

A. Licenses are valid for up to one (1) calendar year. Licenses expire August 31 and must be renewed every year.

B. Permits are valid for up to one (1) calendar year. Licenses expire August 31 and must be renewed every year.

C. Temporary Retailer Permits expire when the underlying insurance expires or after ninety (90) days, whichever occurs first.

D. Before a license or permit may be issued, the facility must be inspected following the procedures set forth by the Board.

E. All facilities must be inspected by a county, city or state inspector on a form approved by the Board before the issuance of the license.

#### 71-7405.5. Supplemental Provisions for Sale of Pyrotechnics.

A. Each temporary structure shall be located in such a manner as to make it immobile and to prevent it from shifting or blowing over. Tie down devices may be affixed to prevent shifting or blowing over, and wheels shall be removed.

B. These general provisions do not exempt retail Fireworks establishments from other rules and regulations where applicable.

C. The operator's, salesman's or handler's conduct or condition shall be as such as not to imperil the public safety.

D. The operator, salesman, or handler at a location selling retail Fireworks shall be capable of reading, writing, speaking and understanding the English language at a level sufficient to read and explain all notices applicable to Fireworks.

E. No person under the age of sixteen (16) shall be sold permissible Fireworks.

F. All disputes arising as a result of these Rules and Regulations shall be referred to the Board.

1. Any party involved in a dispute arising under these Rules and Regulations may within fifteen (15) days of the occurrence giving rise to such dispute petition the Board, in writing via certified or registered mail, for an appearance before the Board. The petition shall plainly and substantially set forth the details of the occurrence, including its time, location and date, and state petitioner's reasoning for request to appear before the Board.

2. The Board shall, within twenty (20) days of receipt of a written request for appearance, make a determination as to the necessity of the appearance and notify the petitioner, in writing via certified or registered mail, of its decision to grant or deny the appearance, and the reasons therefore.

G. No Fireworks shall be permitted to be sold from vehicles such as vans, buses, automobiles, or any other motor driven vehicle.

H. The Board shall prohibit the retail sale of consumer Fireworks from tents, canopies and membrane structures.

#### 71-7405.6. Wholesale Distributors and Jobbers.

A. All Wholesalers and Jobbers shall store permissible Fireworks in their original packaging and in unopened cases or cartons, so as to take advantage of the insulation provided by such packaging, provided. However, unopened Fireworks packages that have been returned by retailers for repackaging or resale may be temporarily retained in bins.

B. No person under the age of eighteen (18) shall be employed or allowed to participate as a handler of Fireworks.

C. The salesman's or handler's conduct or condition of sobriety shall be such as not to imperil the public safety, and this individual shall be capable of reading, speaking and understanding the English language.

D. All disputes arising as a result of these rules and regulations shall be referred to the Board.

CODE OF REGULATIONS

CHAPTER 71. DEPARTMENT OF LABOR, LICENSING AND REGULATION-DIVISION OF LABOR  
SUBARTICLE 6 FIREWORKS AND PYROTECHNICS

71-8305. Fireworks and Pyrotechnics.

71-8305.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, performers, and display operators from the hazards associated with the handling, use, transportation, and storage of pyrotechnics and Fireworks.

B. This regulation shall apply to:

1. The handling and use of Fireworks intended for public Fireworks display;
2. The construction, handling and use of Fireworks equipment intended for public Fireworks display;
3. The general conduct and operation of public firework displays;
4. The transportation and storage of Fireworks for public Fireworks display;
5. The transportation and use of consumer Fireworks;
6. The construction, handling, and use of pyrotechnics intended for proximate audience displays; special effects for motion picture, theatrical, and television productions;
7. The construction, handling, and use of flame effects intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions;
8. The construction, handling, and use of rockets intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions; and
9. The general conduct and operation of proximate audience displays.

C. This regulation shall not apply to:

1. The manufacture, sale, or storage of Fireworks as governed by the SC Department of Labor Licensing and Regulation, State Board of Pyrotechnic Safety;
2. The transportation, handling, and/or use of Fireworks by the State Fire Marshal, his employees, or any commissioned law enforcement officers acting within their official capacities;
3. Fireworks deregulated by the U.S. Department of Transportation;
4. Weapons used in enactments, when there is no projectile;
5. Artillery field pieces used as salutes with no projectile; and
6. The outdoor use of model rockets within the scope of NFPA 1122.

D. Definitions.

1. "AHJ" means Authority Having Jurisdiction, which is the State Fire Marshal, or his agents, or any local fire official covered by 23-9-30.

2. "Consumer Fireworks" means any small device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing fifty (50) mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer Fireworks are classified as Fireworks UN0336 and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer Fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4g. These Fireworks were formerly known as "Class C Fireworks."

3. "Day box" means a portable magazine used for immediate storage of pyrotechnic materials.

4. "Display Fireworks" means large Fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than two (2) grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "Consumer Fireworks." Display Fireworks are classified as Fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused setpieces containing components which together exceed fifty (50) mg of salute powder. Display Fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3g. These Fireworks were formerly known as "Class B Fireworks."

5. "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer Fireworks" or "display Fireworks" as defined by this section.

6. "MSDS(s)" means Material Safety Data Sheet(s).

7. "Motion Picture" means, for the purposes of this item, any audiovisual work with a series of related images either on film, tape, or other embodiment, where the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced, adapted, or altered for exploitation as entertainment, advertising, promotional, industrial, or educational media.

8. "Proximate Audience" means any indoor use of pyrotechnics and the use of pyrotechnics before an audience located closer than the distances allowed by NFPA 1123.

9. "Public Firework Display" means a presentation of Display or Consumer Fireworks for a public gathering.

10. "Pyrotechnics" means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

11. "SFM" means State Fire Marshal or his agent.

12. "Theatrical Pyrotechnics" means pyrotechnic devices for professional use in the entertainment industry similar to consumer Fireworks in chemical composition and construction but not intended for consumer use.

#### 71-8305.2. Codes and Standards.

A. All references to ICC Codes found in these regulations refer to the editions adopted in SCRR 71-8300.2. The building code shall define occupancy classifications referenced in these regulations.

B. All references to NFPA standards found in these regulations refer to the editions adopted in SCRR 71-8300.2 and are modified by the following regulations as shown below.

#### 71-8305.3. Licensing and Permitting Fees.

A. All fees are due at time of application for licenses, tests, or permitting.

B. Permit applications are due in the Office of State Fire Marshal fifteen days before the performance date. Fees will be doubled for an application received less than fifteen days before the performance date.

C. The Office of State Fire Marshal is responsible for all administrative activities of the licensing program. The State Fire Marshal shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in South Carolina Code 40-1-50(D).

D. Fees shall be established for the following:

1. Application
2. Background Check
3. Testing
4. Licensing
5. Permitting
6. Inspection
7. Renewal

E. All fees are due at time of application for licenses, background checks, testing, permits, inspection or renewal.

F. All fees paid to the Office of State Fire Marshal are nonrefundable.

#### 71-8305.7. Use of Consumer Fireworks in South Carolina.

A. It shall be deemed a violation of these regulations to:

1. Explode or ignite Fireworks within 600 ft. of any Assembly Occupancy, Educational Occupancy, Hazardous Occupancy, Institutional Occupancy, or any facility storing or dispensing flammable liquids, combustible liquids, LP Gas, or other hazardous materials;

2. Explode or ignite Fireworks within 75 ft. of where Fireworks are stored, sold or offered for sale;

3. Ignite, discharge, and/or throw Fireworks from any motor vehicle or to place, ignite, discharge, and/or throw Fireworks into or at any motor vehicle; and

4. Ignite or discharge Fireworks in a wanton or reckless manner to constitute a threat to the personal safety or property of another.

B. The distances in SCRR 71-8305.7 A (1) maybe reduced if the display is permitted with the Office of State Fire Marshal as a Public Fireworks Display or as a Proximate Audience Display.

C. Consumer Fireworks shall not be used for a Public Fireworks Display unless permitted by the Office of State Fire Marshal per the applicable provisions of this regulation and all permit fees are paid.

71-8305.8. Transportation of Fireworks or Pyrotechnics in South Carolina.

A. Vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall be in the custody of drivers with a CDL with a HAZMAT endorsement.

B. On both sides, on the front, and on the rear, vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall prominently display signs marked "EXPLOSIVES" that conform to the United States Department of Transportation and other federal regulations.

C. The fire and police departments shall be promptly notified when a vehicle transporting pyrotechnics is involved in an accident, break down, or fire. Only in the event of such an emergency shall the transfer of pyrotechnics from one vehicle to another be allowed on highways and then only when qualified supervision is provided.

D. Any vehicle used for the transportation of pyrotechnics covered by item A or B above shall have not less than one approved-type fire extinguisher with a minimum rating of 2A 10 B:C and shall be so located as to be readily available for use.

E. Operators must notify the Office of State Fire Marshal within 24 hours of any fires or thefts involving Fireworks. The operator shall provide the Office of State Fire Marshal with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the Office of State Fire Marshal with a copy of ATF Form 5400.5.