

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 2495

5 By: Representative Pace
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For An Act To Be Entitled

9 AN ACT CONCERNING PERMITS AND FEES FOR FIREWORKS
10 DISPLAYS; AND FOR OTHER PURPOSES.
11

Subtitle

13 AN ACT CONCERNING PERMITS AND FEES FOR
14 FIREWORKS DISPLAYS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 20-22-701 is amended to read as follows:
20 20-22-701. Definitions.

21 As used in this subchapter, unless the context otherwise requires:

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

26 (2) "I.C.C. Class C common fireworks" means all articles of
27 fireworks classified as "I.C.C. Class C common fireworks" as defined in § 20-
28 22-708 and in the regulations of the Interstate Commerce Commission for the
29 transportation of explosives and other dangerous articles;

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

33 (4) "Jobber" means any person engaged in the business of making
34 sales of fireworks at wholesale to any other person engaged in the business
35 of making sales at retail. The word "wholesaler" shall have the same meaning
36 as "jobber";



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

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

10 (7) "Permit" means the written authority of the Director of the
11 State Police issued ~~without charge~~ for a public fireworks display under the
12 authority of this subchapter;

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

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

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

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

24 ~~(11)~~(12) "Special fireworks" means all articles of fireworks
25 that are classified as Class B explosives in the regulations of the
26 Interstate Commerce Commission and shall include all articles other than
27 those classified as Class C but shall not include such dangerous items of
28 commercial fireworks as cherry bombs, tubular salutes, repeating bombs,
29 aerial bombs, torpedoes, and fireworks containing more than fifty (50)
30 milligrams of explosive powder+.

31
32 SECTION 2. Arkansas Code § 20-22-702 is amended to read as follows:
33 20-22-702. Public displays excepted.

34 (a) Nothing in this subchapter shall be construed as applying to the
35 shipping, sale, possession, and use of fireworks for public displays by
36 holders of a permit for a public display to be conducted in accordance with

1 the rules and regulations promulgated by the Director of the State Police.
 2 Such items of fireworks which are to be used for public display only and
 3 which are otherwise prohibited for sale and use within the state shall
 4 include display shells designed to be fired from mortars and display set
 5 pieces of fireworks classified by the regulations of the Interstate Commerce
 6 Commission as Class B special fireworks and shall not include such items of
 7 commercial fireworks as cherry bombs, tubular salutes, repeating bombs,
 8 aerial bombs, and torpedoes.

9 (b)(1) Public displays shall be performed only under competent
 10 supervision and after the persons or organizations making the displays shall
 11 have applied for and received a permit for the displays issued by the
 12 Director of the State Police.

13 (2) Applications for permits for public displays shall be made
 14 in writing at least two (2) days in advance of the proposed display, and the
 15 application shall show that the proposed display is to be so located and
 16 supervised that it shall not be hazardous to life, limb, or property.

17 (3) If the display is to be performed within the limits of a
 18 municipality, the application shall so state and shall bear the signed
 19 approval of the chief supervisory officials of the fire and police
 20 departments of the municipality.

21 (c)(1) Permits issued shall be limited to the time specified therein
 22 and shall not be transferable.

23 (2) Only licensed distributors who are licensed importers or who
 24 purchase from licensed importers may possess special fireworks for resale to
 25 holders of a permit for a public fireworks display.

26 (d)(1) The Department of Arkansas State Police may charge a fee not to
 27 exceed fifty dollars (\$50.00) for each permit issued under this section.

28 (2) The total fee for all permits issued during a school year to
 29 an educational institution that provides instruction for grades kindergarten
 30 through twelve (K-12) shall not exceed twenty-five dollars (\$25.00).

31 (3) All permit fees shall be remitted to the Department of
 32 Arkansas State Police and shall be deposited in the State Treasury as special
 33 revenues to the credit of the Department of Arkansas State Police Fund.

34
 35 SECTION 3. Arkansas Code § 20-22-706 is amended to read as follows:
 36 20-22-706. License required - Penalty.

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

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

9
10 SECTION 4. Arkansas Code § 20-22-707 is amended to read as follows:

11 20-22-707. License - Application and issuance.

12 (a)(1) An applicant, in order to engage in the sale of fireworks as a
13 manufacturer, importer, distributor, wholesale jobber, ~~or~~ retailer, or
14 shooter must submit to the Director of the Department of Arkansas State
15 Police an application on a form provided by the director, before April 1 of
16 each year, setting forth such facts and information as the director may
17 determine necessary and proper, considering the requirements of public
18 health, safety, and welfare. The license for manufacturers, importers,
19 distributors, wholesale jobbers, and retailers shall be effective from and
20 shall date from May 1 of the year of issuance. It shall be valid through
21 April 30 of the following year. The license for shooters shall be effective
22 from and shall date from May 1 of the year of issuance. It shall be valid
23 through April 30 of the following fifth year. Upon approval of the
24 application by the director and before the issuance of the license therefor,
25 the applicant shall pay to the director a license fee for each type of
26 business conducted to the following schedule:

- 27 (A) Manufacturer \$1,000.00
- 28 (B) Importer ~~500.00~~ 750.00
- 29 (C) Distributor ~~250.00~~ 500.00
- 30 (D) Jobber Wholesaler ~~50.00~~ 100.00
- 31 (E) Retailer ~~10.00~~ 25.00
- 32 (F)(i) Shooter 50.00

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

35 (2) However, retailers may purchase their licenses from their
36 vendors, which include importers, distributors, or jobber wholesalers. The

1 retailers' licenses shall be made available by the Department of Arkansas
 2 State Police to the vendors in books of twenty (20) licenses to a book. The
 3 vendors shall record the sales of the licenses to retailers and submit their
 4 records to the director semiannually on January 31 and July 31 of each year.
 5 Each semiannual report shall cover the preceding six-month period. Vendors
 6 may exchange unsold licenses for current licenses at no charge to them or may
 7 secure a refund of the fees paid for retailer licenses which are not sold by
 8 vendor. Failure to obtain the permit shall be deemed a violation of this
 9 subchapter.

10 (b)(1) Renewal of outstanding licenses to engage in the sale of
 11 fireworks as a manufacturer, importer, distributor, jobber, ~~or~~ retailer, or
 12 shooter will be made effective by payment of the ~~annual~~ fee, as set forth in
 13 subsection (a) of this section, to the director, on or before May 1 of each
 14 year. License renewal applications postmarked after May 1 of each year shall
 15 be assessed a late penalty in an amount equal to two (2) times the ~~annual~~
 16 renewal fee, as set forth in subsection (a) of this section.

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

20 (c) All funds collected under this subchapter by the director,
 21 including license fees and penalties, shall be deposited in the State
 22 Treasury to the credit of the Department of Arkansas State Police Fund. ~~These~~
 23 ~~funds are to be used for the enforcement of this subchapter.~~

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

28 (e)(1) It shall be unlawful for a jobber licensed under this
 29 subchapter or for an Arkansas-domiciled retailer to purchase fireworks from a
 30 distributor, importer, or manufacturer domiciled outside the State of
 31 Arkansas unless the distributor, manufacturer, or importer can show proof
 32 that they hold valid licenses under this subchapter to perform functions of
 33 the distributor, importer, or manufacturer, or all of them, as the case may
 34 be.

35 (2) In the event of a violation of the provisions of this
 36 section, if the distributor, importer, or manufacturer cannot show valid

1 proof of being properly and currently licensed under this subchapter and if
 2 purchase of fireworks is consummated by a jobber licensed under this
 3 subchapter, or by an Arkansas retailer, from the distributor, importer, or
 4 manufacturer, then the jobber or retailer shall become liable, as a civil
 5 penalty, for the full amount of the license fee required by this subchapter
 6 from the distributor, importer, or manufacturer. The amount of the license
 7 fee is payable immediately, or in the event of failure to pay the penalty
 8 within thirty (30) days of the violation, the distributor, importer, or
 9 manufacturer shall be subject to the criminal penalties provided by this
 10 subchapter.

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

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

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

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

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

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

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

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

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

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

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

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