GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2019

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H.B. 615
Apr 4, 2019
HOUSE PRINCIPAL CLERK

HOUSE BILL DRH50067-BAxf-6C*

Short Title: (Public) NC Consumer Fireworks Safety Act. Representatives Szoka, Brody, Hardister, and Wray (Primary Sponsors). Sponsors: Referred to: A BILL TO BE ENTITLED AN ACT TO PERMIT THE SALE, POSSESSION, AND USE OF CERTAIN CONSUMER FIREWORKS AND TO LEVY AN EXCISE TAX ON THE SALES OF CONSUMER FIREWORKS. The General Assembly of North Carolina enacts: SECTION 1. G.S. 14-410 reads as rewritten: "§ 14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; license required; sale to persons under the age of 16-18 prohibited. (a) Except as otherwise provided in this section, it shall be unlawful for any individual,

firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use, handle, exhibit, or discharge any pyrotechnics of any description whatsoever within the State of North Carolina.

(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured,
or discharged within the State, provided all of the following apply:

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(1) The exhibition, use, or discharge is at a concert or public exhibition.

- All individuals who exhibit, use, handle, or discharge pyrotechnics in 16 (2)17 connection with a concert or public exhibition have completed the training and licensing required under Article 82A of Chapter 58 of the General 18 19 Statutes. The display operator or proximate audience display operator, as 20 required under Article 82A of Chapter 58 of the General Statutes, must be 21 present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics. 22 23 Notwithstanding this subdivision, the display operator for the University of North Carolina School of the Arts may appoint an on-site representative to 24 25 supervise any performances that include a proximate audience display subsequent to the opening performance, provided that the representative (i) is 26 a minimum of 21 years of age and (ii) is properly trained in the safe discharge 27 28 of proximate audience displays. 29
 - (3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from (i) The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange



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1			County owned by The University of North Carolina or the U	University of North
2			Carolina at Chapel Hill or (ii) the University of North Caro	olina School of the
3			Arts and pyrotechnics are exhibited on lands or in building	ings owned by the
4			State and used by the University of North Carolina School	of the Arts.
5	(a2)		thstanding any provision of this section, it shall not be unlaw	
6			transport, and deliver pyrotechnics in the regular course of	
7	(a3)		equirements of this section apply to G.S. 14-413(b) and G.S.	
8	(a4)		l be permissible for pyrotechnics to be exhibited, used, hand	
9		-	thin the State as a special effect by a production compa	-
10			0), for a motion picture production, if the motion picture s	set is closed to the
11	-	-	ated from the public by a minimum distance of 500 feet.	
12	(a5)		l be permissible for pyrotechnics to be exhibited, used, hand	
13			ithin the State for pyrotechnic or proximate audience of	
14			sroom and practical skills training approved by the Office of	
15	<u>(a6)</u>		l be permissible for pyrotechnics that are consumer firework	
16			used, transported, handled, or discharged within the S	
17	-		tising, sale, use, transportation, handling, or discharge com	<u>iply with Part 2 of</u>
18			hapter 58 of the General Statutes.	1 6 1 6
19 20	(b)		thstanding the provisions of G.S. 14-414, it shall be	
20			partnership, or corporation to sell <u>consumer fireworks as def</u>	
21 22	<u>or</u> pyrote 16.<u>18.</u>	chnics a	s defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to person	is under the age of
23	(c)	The fo	ollowing definitions apply in this Article:	
24		(1)	Concert or public exhibition A fair, carnival, show of a	any description, or
25			public celebration.	
26		<u>(1a)</u>	Consumer fireworks. – Defined in G.S. 58-82A-80(1).	
27		(2)	Display operator An individual issued a display oper	ator license under
28			G.S. 58-82A-3.	
29		(3)	State Fire Marshal. – Defined in G.S. 58-80-1."	
30			TON 2. G.S. 14-415 reads as rewritten:	
31			tion made misdemeanor.	
32	• •		iolating any of the provisions of this Article, except as othe	-
33			be guilty of a Class 2 misdemeanor, except that it is a Class	s 1 misdemeanor if
34	the sale is		ation of G.S. 14-410(b) or if the exhibition is indoors."	
35			TON 3. G.S. 58-82A-1 through G.S. 58-82A-55 are reco	dified as Part 1 of
36	Article 82	2A of Cl	hapter 58 of the General Statutes, to be entitled:	
37			"Part 1. Display Pyrotechnics Training and Permitting."	
38	1.11		TION 4. Article 82A of Chapter 58 of the General Statu	tes is amended by
39 40	adding a	new Par		
40	118 50 00	. <i>75</i> D	"Part 2. Consumer Fireworks.	
41	" <u>§ 58-82</u>			financializa chall ha
42 43			transport, possession, handling, or discharge of consumer	meworks shall be
43 44			compliance with the provisions of this Part. efinitions.	
44 45			<u>g definitions apply in this Part:</u>	
43 46		<u>(1)</u>	<u>Consumer fireworks. – Any small fireworks device des</u>	igned primarily to
40 47		(1)	produce visible effects by combustion or deflagration that (
47			a 1.4G firework device under Standard 87-1 of the Ame	
48 49			Association and (ii) complies with the construction, cher	
49 50			and labeling regulations of the United States Consum	•
50			and mooning regulations of the Office States Collsuin	<u>er i roudet Barety</u>

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		Commission, as set forth in the Code of Federal Regulations, vo	olumes 16 and
		<u>49.</u>	
	<u>(2)</u>	Consumer fireworks distributor A person owning or otherwi	se controlling
		a facility where consumer fireworks are stored or otherwise n	naintained fo
		distribution to fireworks retailers permitted under this Part.	
	<u>(3)</u>	Consumer fireworks permanent retailer. – A person that sells or	ily "consume
		fireworks," "sparkling devices," "novelties," and related in	
		consumer fireworks retail establishment.	
	<u>(4)</u>	Consumer fireworks retail establishment A structure that	is designed
		planned, and constructed to remain in one location that is of	-
		consumer fireworks permanent retailer as a retail facility.	- <u>1</u>
	<u>(5)</u>	Consumer fireworks temporary retailer. – A person that sells or	ilv "consume
	<u></u>	fireworks," "sparkling devices," "novelties," and related in	•
		fireworks retail stand or a fireworks tent.	
	<u>(6)</u>	Fireworks retail stand. – A building or structure with a floor ar	ea not greate
	<u>107</u>	than 800 square feet, other than a fireworks tent. Stands	-
		buildings, manufactured buildings, trailers, shipping cor	
		temporary structures constructed from plywood, sheet meta	
		materials.	<u>1, 01 511111</u>
	<u>(7)</u>	<u>Fireworks retailer. – A consumer fireworks permanent retail</u>	ler consume
	<u>(7)</u>	fireworks temporary retailer, or an incidental sparkling d	
		permitted under this Part.	
	<u>(8)</u>	Fireworks safety and education trainer. – A person who h	as complete
	<u>(8)</u>	training on the function, safe handling, and best practices for the	-
		all categories of consumer fireworks under G.S. 58-82A-130	and annuan
	(0)	registers with the Department.	floor area no
	<u>(9)</u>	<u>Fireworks tent. – A tent, canopy, or membrane structure with a</u> greater than 1,500 square feet that is not permanently installed.	
	(10)	Sparkling devices. – Consumer fireworks and novelties that do	a not rice int
	<u>(10)</u>		
		the air, do not fire inserts or projectiles into the air, and do n	-
		produce a report. The specification of sparkling devices under the	
		shall substantially follow the definition of "ground and hand-h	-
	(11)	devices" under Standard 87-1 of the American Pyrotechnics As	
	<u>(11)</u>	Incidental sparkling device retailer. – A person selling only span	-
		and novelties that is not a consumer fireworks permanent retaile	<u>r or consume</u>
	(10)	fireworks temporary retailer as defined by this section.	
	<u>(12)</u>	NFPA standards. – Standard 1124 of the National Fire Protection	
		2017 edition, as it applies to the retail sale or distribution	of consume
		fireworks, except as otherwise specified by this Part.	
	<u>(13)</u>	Novelties Snaps, party poppers, snakes, glow worms, toy sr	
		and certain wire sparklers and dipped sticks containing five gra	
		polytechnic composition. The specification of novelties under th	
		shall substantially follow the definition of these devices under	Standard 87-
		of the American Pyrotechnics Association.	
	<u>(14)</u>	Public space. – Any building or area open to the public, whether	er privately o
		publicly owned. Public space includes restaurants, theaters, stat	<u>liums, arenas</u>
		retail establishments, and shopping malls.	
'		ossession and use of consumer fireworks.	
	(a) Excep	ot as provided in this section, the possession of consumer firewor	<u>rks is allowe</u>
:	in this State.		

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(b)	The r	se and sale of consumer fireworks is prohibited within a county or city unle	ess
		y has adopted an ordinance to allow the use and sale of consumer fireworks	
		G.S. 153A-130.1 and G.S. 160A-190.1.	
<u>(c)</u>		ossession and use of consumer fireworks is subject to the following condition	ıs.
<u>(c)</u>	$\frac{110}{(1)}$	The person possessing or using the consumer fireworks must be at least	
	<u>(1)</u>	years old.	10
	<u>(2)</u>	The use of consumer fireworks may occur only between the hours of 10:0	00
	<u>(2)</u>	A.M. and 10:00 P.M., with the following exceptions:	50
		<u>a.</u> <u>On July 4, use is permitted until 12:00 A.M.</u>	
		b. On December 31 and the following January 1, use is permitted fro	m
		8:00 A.M. on December 31 until 12:30 A.M. on January 1.	111
	<u>(3)</u>	The use of consumer fireworks is prohibited in the following locations:	
	<u>107</u>	<u>a.</u> <u>In or on the premises of a public or private primary or seconda</u>	rv
		school, unless the person has written authorization from the school.	_
		b. On the campus of a college or university, unless the person h	
		received written authorization from the college or university.	<u>us</u>
		c. Within 1,500 feet of a hospital, veterinary hospital, animal ca	ire
		facility, licensed child care center, fireworks retailer, firewor	
		distributor, gas station, or bulk storage facility for petroleum produc	
		or other explosive or flammable substances.	
	(4)	The possession or use of consumer fireworks is prohibited in or on the	he
		premises of any public park or public space, except as otherwise permitted l	
		the person, State agency, or unit of local government owning or otherwi	se
		controlling the public park, property, or public space.	
<u>(d)</u>	No co	unty or city may restrict or exclude the transportation of consumer firewor	<u>ks</u>
across o	r through	the county or city. Nothing in this subsection is intended to prevent reasonab	ole
transpor	tation-re	ated restrictions applicable to all vehicles or a class of vehicles regardless	of
cargo, s	such as	vehicle weight limits or truck route restrictions in accordance with U.	<u>S.</u>
<u>Departn</u>	nent of T	ansportation regulations.	
" <u>§ 58-82</u>	2A-90. S	<u>ale of consumer fireworks; permit required.</u>	
<u>(a)</u>	-	rson shall sell consumer fireworks, sparkling devices, or novelties in this Sta	
		on holds a permit issued under this Part from the Commissioner. T	
		all issue rules to implement this section. Permits of a fireworks retailer shall	
-		ation visible to members of the general public visiting the retailer. The	he
<u>Commis</u>	ssioner sl	all issue a permit to a person who meets the following conditions:	
	<u>(1)</u>	Is 21 years of age or older.	
	<u>(2)</u>	Complies with all of the requirements of this Part.	
	<u>(3)</u>	Has not been convicted of a felony and has not received a pardon.	
	<u>(4)</u>	Has not been convicted of an offense for a violation of State or federal law,	
		been found in violation of any municipal ordinance, involving fireworks	
		explosives within five years prior to the date of the application for the perm	
	<u>(5)</u>	Maintains at all times public liability and product liability insurance wi	
		minimum coverage limits of five million dollars (\$5,000,000) to cover losse	
		damages, or injury that might occur as a result of the person selling consum	
		fireworks. The Commissioner, by rule, may increase the amount of liabili	_
		insurance required to be maintained by a fireworks retailer. In determining	
		whether to increase the amount of required liability insurance, the	
		Commissioner shall consider the maximum amount of inventory the firewor	
		retailer will have on hand at a given time, any property located within 1,00	
		feet of the property wherein the fireworks will be stored or sold, and any oth	er
		factors the Commissioner deems important.	

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<u>(6)</u>	Submits the application for a permit no less than 120	days prior to the date the
	applicant proposes to begin sales of consumer firewo	orks under this Part.
<u>(7)</u>	Provides a lease or evidence of ownership of the site of	of the proposed fireworks
	retailer for no less than the duration of the permit	. A consumer fireworks
	temporary retailer or incidental sparkling device re	tailer operating out of a
	fireworks retail stand or fireworks tent may comply	with this subdivision by
	providing the required authorization under G.S. 58-8	=
<u>(b)</u> <u>A p</u>	erson issued a permit under this Part shall comp	bly with the following
requirements:	* *	
<u>(1)</u>	Standards The permittee must comply with (i) N	NFPA standards and (ii)
	applicable local zoning and land use rules.	
<u>(2)</u>	Employees. – All employees of the permittee engage	d in the sale of fireworks
	or sparkling devices must be at least 18 years of age.	
<u>(3)</u>	Fire suppression devices. – The permittee must ma	
<u></u>	minimum of two portable fire extinguishers with	-
	extinguishers shall be located in two different location	
	of the retailer, and at least one of the extinguishers sh	_
	water type, subject to additional provisions in NFPA	
<u>(4)</u>	Required signs. – The permittee shall post signs pro	
	premises and discharge of fireworks and sparkling d	
	of the premises in a manner specified by the Commis	
(c) In ac	dition to the requirements set forth in subsections (a)	
	or a consumer fireworks permanent retailer or consum	
	nply with the following requirements:	
(1)	Setbacks. – Areas within 20 feet of the retailer's prem	nises shall be kept free of
	dry vegetation and other combustible debris. The ret	tailer may not be located
	within 300 feet of the following:	
	a. Retail establishments dispensing flammable	or combustible liquids,
	flammable gas, or flammable liquefied gas.	
	b. Above-ground storage tanks storing flammabl	le or combustible liquids,
	flammable gas, or flammable liquefied gas.	
	<u>c.</u> <u>Propane dispensing stations.</u>	
<u>(2)</u>	Smoking prohibited Smoking shall not be permitted	ed inside of the retailer's
	premises, subject to the retailer's building location, la	ayout, and restrictions.
<u>(3)</u>	Egress requirements Means of egress, including	g aisles, doors, and exit
	discharge, shall be clear at all times when the retail	er is open to the public,
	and aisles must be at least 48 inches in width.	
<u>(4)</u>	Fire safety. – The retailer shall create and maintain a f	ire safety and evacuation
	plan in a form specified and approved by the Commi	ssioner.
<u>(5)</u>	<u>Training. – No less than two management or superv</u>	isory employees of each
	permittee subject to this subsection shall be Firewor	ks Safety and Education
	Trainers. Fireworks Safety and Education Trainers sh	all be responsible for the
	annual training of all employees on the function,	safe handling, and best
	practices regarding the safe use of all categories of co	onsumer fireworks. Such
	training shall be documented on forms approved by t	he Commissioner and be
	readily available at the request of the Commissioner.	
<u>(d)</u> <u>A pe</u>	rmit issued to an incidental sparkling device retailer	shall allow the sale of
	es and novelties only and shall require compliance	
applicable to sal	es of ground and handheld sparkling devices and novel	ties.

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1	(e) Nothing in this section is meant to override any fire code appli	cable to a structure
2	regulated by this Part. If the fire code imposes a more stringent requirer	ment, the fire code
3	requirement will apply instead of the standards imposed by this section.	
4	" <u>§ 58-82A-95. Permit fees.</u>	
5	The Commissioner may charge an applicant for a permit under G.S. 58-82	2A-90 the following
6	annual fees:	
7	(1) One hundred dollars (\$100.00) for an incidental spark	ling device retailer
8	<u>permit.</u>	
9	(2) Five thousand dollars (\$5,000) for a consumer fireworks	-
10	permit, a consumer fireworks temporary retailer perm	<u>nit, or a consumer</u>
11	fireworks distributor permit.	
12	(4) <u>Twenty-five dollars (\$25.00) for the renewal of an inciden</u>	tal sparkling device
13	retailer permit.	1
14	(5) <u>Two thousand five hundred dollars (\$2,500) for the rene</u>	
15	fireworks permanent retailer permit, a consumer firework	<u>s temporary retailer</u>
16	permit, or a consumer fireworks distributor permit.	
17	" <u>§ 58-82A-100. Power of Commissioner to exclude certain categories of</u>	pyrotechnics from
18	definition of consumer fireworks.	
19 20	The Commissioner, through the Office of State Fire Marshal and in co	
20 21	State Fire and Rescue Commission, may by rule exclude certain type	
21 22	pyrotechnics otherwise meeting the definition of "consumer fireworks" or from the provisions of this Part upon a finding that the type or astegory of p	
22	from the provisions of this Part upon a finding that the type or category of p	
23 24	a significant and widespread risk of death, serious bodily injury, or substanti	
24 25	or private property. Exclusion of any type or category of pyrotechnics purs must be evidence-based.	uant to this section
23 26	"§ 58-82A-105. Prohibition of consumer fireworks.	
20 27	During periods of declared hazardous forest fire conditions, as reference	ed in $G S = 106-0/16$
28	the Commissioner, in consultation with the North Carolina Forest Service	
28 29	prohibit all use of consumer fireworks otherwise permitted by this Part in all	
30	The Commissioner shall issue a press release containing relevant details o	
31	news media serving the area affected.	<u>r uie promotion to</u>
32	"§ 58-82A-110. Civil and criminal penalties for violations.	
33	(a) Except as provided in this section, G.S. 14-415 and G.S. 58-2-70) shall apply to any
34	person violating any of the provisions of this Part.	<u>y shull upply to uny</u>
35	(b) The Commissioner, a State law enforcement officer, a municip	al law enforcement
36	officer, a code enforcement officer, or a fire safety official may petition the d	
37	or remove, at the expense of the permit holder, fireworks sold, offered for sale	
38	or used in violation of this Part.	<u></u>
39	(c) The Commissioner may order the payment of a civil penalty in ad	ldition to, or instead
40	of, suspending a permit, as set forth in G.S. 58-82A-115.	
41	(d) Any person violating G.S. 58-82A-120 is guilty of a Class 1 misc	lemeanor.
42	"§ 58-82A-115. Prohibited activities.	
43	(a) The Commissioner may suspend the permit of a person authorized	ed to sell consumer
44	fireworks or sparkling devices, order the payment of a civil penalty, or both,	
45	of the following prohibited activities:	
46	(1) <u>Selling fireworks or explosives not authorized under this</u>	<u>Part.</u>
47	(2) Selling consumer fireworks or sparkling devices within	
48	valid permit.	
49	(3) <u>Selling consumer fireworks or sparkling devices to a per</u>	son who appears to
50	be under the influence of alcohol or drugs.	

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(4)	Knowingly aiding or assisting in procuring, furni	shing, giving, selling, or
	delivering consumer fireworks or sparkling devices	
	of 18. It is an affirmative defense to any disciplinary	· · ·
	this subdivision that the permit holder procured,	
	delivered consumer fireworks or sparkling devices	-
	of 18 in reasonable reliance upon fraudulent proo	
	permit holder.	<u>I of age presented to the</u>
<u>(5)</u>	Selling consumer fireworks or sparkling devices at a	a fireworks retail stand or
<u></u>	fireworks tent in violation of G.S. 58-82A-120.	
(b) If the	Commissioner orders the payment of a civil penalty	pursuant to subsection (a)
	he penalty shall not be less than one thousand dollars (
	s (\$10,000). In determining the amount of the penalty	
	ree and extent of harm caused by the violation, the am	
	the violator as a result of the violation, whether the	•
	e prior record of the violator in complying or failing to	·
	able to the violator. The clear proceeds of the penalty	1 .
	d Forfeiture Fund in accordance with G.S. 115C-45'	
	is section shall be in addition to payment of any other	-
the criminal law	· · · ·	
<u>(c)</u> <u>A pe</u>	rson whose permit has been suspended or has been iss	sued a civil penalty under
	l receive a hearing before the Commissioner within 1	
he decision is u	pheld, the person may seek judicial review in superior	court.
	Prohibition on certain retail stand and tent sales.	
	covided in G.S. 58-82A-121, it shall be unlawful to s	ell, transfer, or distribute
	orks, sparkling devices, or novelties at a fireworks retail	
§ 58-82A-121.	Certain retail stand and tent sales permitted.	
In addition	to the requirements provided in this Part, a person m	nay only sell, transfer, or
stribute consu	mer fireworks, sparkling devices, or novelties at a fi	reworks retail stand or a
reworks tent if	the following conditions are met:	
<u>(1)</u>	If the fireworks retailer does not own the property w	herein the fireworks retail
	stand or fireworks tent is located, the owner or custo	
	provide written confirmation that the fireworks	retailer is authorized to
	conduct business on the premises.	
<u>(2)</u>	There is adequate parking to accommodate customer	rs of the fireworks retailer
	and, if applicable, any other businesses that are on t	he premises.
' <u>§ 58-82A-125.</u>	Labeling and safety requirements.	
(a) Any	consumer fireworks, sparkling devices, or novelties au	uthorized to be sold under
his Part shall ha	we a safety label affixed to the packaging of the firewo	ork in accordance with 16
C.F.R. § 1500.1	4(b)(7) prior to being sold in this State.	
<u>(b)</u> <u>Whe</u>	n selling fireworks in this State, a fireworks retailed	er shall provide a safety
-	d by the Office of State Fire Marshal to the purchaser	
urchase. The p	pamphlet shall outline safe handling and best practic	ces for the safe use of a
irework.	-	
	Fireworks safety and education trainer.	
	ssioner shall create a training course, or identify existing	
	ne function, safe handling, and best practices for the sa	-
consumer firew	orks. The Commissioner shall also create and maintain	n a listing of persons that
-	a training course created or identified by the Commis	
*	may issue rules to implement this section, including	-
	or certification that persons have met the training requ	
The Department	may also charge a fee to cover the costs of implement	ting this section "

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SECTION 5.(a) Article 6 of Chapter 153A of the Gene	ral Statutes is amended by
adding a new section to read:	
" <u>§ 153A-130.1.</u> Use and sales of consumer fireworks.	
Notwithstanding G.S. 153A-128, a county may, by ordinance, re	gulate the use and sales of
consumer fireworks, sparkling devices, and novelties to the public pu	
82A of Chapter 58 of the General Statutes. An ordinance adopted pu	
be effective on October 1 following the adoption of the ordinance. The	
effect until the ordinance is repealed. If the ordinance is repealed, the	
October 1 following the repeal of the ordinance."	repear shall be effective on
SECTION 5.(b) Article 8 of Chapter 160A of the Gene	ral Statutes is amended by
adding a new section to read:	far Statutes is amended by
" <u>§ 160A-190.1. Use and sales of consumer fireworks.</u>	
<u>Notwithstanding G.S. 160A-183, a city may, by ordinance, reg</u>	ulate the use and sales of
consumer fireworks, sparkling devices, and novelties to the public pu	
82A of Chapter 58 of the General Statutes. An ordinance adopted public be effective on October 1 following the adoption of the ordinance. The	
effect until the ordinance is repealed. If the ordinance is repealed, the October 1 following the repeal of the ordinance."	repear shall be effective on
SECTION 5.(c) A county or city may adopt an ordinance.	a nurment to this section
	1
any time after this act becomes law. For ordinances adopted pursual December 1, 2010, the ordinance shall be effective December 1, 2010	1
December 1, 2019, the ordinance shall be effective December 1, 2019	
SECTION 6. Subchapter I of Chapter 105 of the Gener	rai Statutes is amended by
adding a new Article to read:	
" <u>Article 2E.</u> "Ton on <u>Consumer Einswerke</u>	
" <u>Tax on Consumer Fireworks.</u> "§ 105-113.125. Tax on consumer fireworks.	
(a) Tax on Consumer Fireworks. – An excise tax is levied on	consumar fireworks at the
	•
rate of five percent (5%) of the cost price. A person who sells cons subject to and liable for the tax imposed by this section.	diller lifeworks at letall is
• • •	
(b) <u>Definitions. – The following definitions apply in this Artic</u> (1) Consumer fireworks. – Defined in G.S. 58-82A-80	
(2) <u>Cost price. – The price a person liable for the ta</u>	
imposed by this Article paid for the products, before	bre any discount, redate, or
$\frac{\text{allowance.}}{\text{Eigenvalue metailing}} Defined in C.S. 58.824.80$	
(3) <u>Fireworks retailer. – Defined in G.S. 58-82A-80.</u>	11 1 .
(c) Monthly Report. – The taxes levied by this Article are	
required to be filed. A report is due on a monthly basis. A monthly re	÷
activities occurring in a calendar month and is due within 20 days	
covered by the report. A report shall be filed on a form provided l	by the Secretary and shall
contain the information required by the Secretary.	
(d) Discount. – A person who is liable for the excise taxes im	• •
files a timely report under this section, and who sends a timely payr	
amount due with the report a discount of two percent (2%). This	
incurred in preparing the records and reports required by this Article.	
(e) <u>Refund.</u> – A person liable for the excise taxes impose	•
possession of unsalable consumer fireworks upon which the tax has	÷ •
consumer fireworks to the manufacturer and apply to the Secretary	•
application shall be in the form prescribed by the Secretary and shall be	
certificate signed under penalty of perjury or an affidavit from the	-
consumer fireworks returned to the manufacturer by the applicant. The	e Secretary shall refund the
tax paid, less the discount allowed, on the listed products.	

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(f) Records. – Every person liable for the excise taxes imposed by this Article shall keep
accurate records of the purchases, inventories, and sales of consumer fireworks. These records
shall be open at all times for inspection by the Secretary or an authorized representative of the
Secretary.
(g) Use. – The Secretary must credit the net proceeds of the tax collected under this
Article as follows:
(1) An amount equal to twenty-five percent (25%) to the Firefighters' Education
Fund established under G.S. 58-85B-1.
(2) The remainder to the General Fund.
"§ 105-113.126. Bond or irrevocable letter of credit.
(a) Bond. – The Secretary may require a fireworks retailer to furnish a bond in an amount
that adequately protects the State from loss if the fireworks retailer fails to pay taxes due under
this Article. A bond must be conditioned on compliance with this Article, payable to the State
and in the form required by the Secretary. The amount of the bond is two times the distributor's
average expected monthly tax liability under this Article, as determined by the Secretary.
provided the amount of the bond may not be less than one thousand dollars (\$1,000) and may not
be more than fifty thousand dollars (\$50,000). The Secretary should periodically review the
sufficiency of bonds required of the fireworks retailer and increase the required bond amount it
the amount no longer covers the anticipated tax liability of the fireworks retailer and decrease the
amount if the Secretary finds that a lower bond amount will protect the State adequately from
loss.
(b) Letter of Credit. – For purposes of this section, a fireworks retailer may substitute ar
irrevocable letter of credit for the secured bond required by this section. The letter of credit must
be issued by a commercial bank acceptable to the Secretary and available to the State as a
beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upor
compliance with this Article, and in the amounts stipulated in this section."
SECTION 7. Chapter 58 of the General Statutes is amended by adding a new Article
to read:
"Article 85B.
"Firefighters' Education Fund.
"§ 58-85B-1. Fund established.
The "Firefighters' Education Fund" is created and established within the Department of
Insurance. It consists of the revenue credited to the Fund under G.S. 105-113.125 and shall be
used for the purposes set forth in this Article. The Office of the State Fire Marshal shall
administer the Fund.
"§ 58-85B-2. Use of funds.
The Office of the State Fire Marshal may deduct and retain from the Firefighters' Education
Fund only amounts necessary for its administrative expenses. The remaining revenues credited
to the Firefighters' Education Fund shall be used to provide education and training to firefighters
in North Carolina. The term "firefighter" has the same meaning as G.S. 58-84-5."
SECTION 8. Section 6 is effective December 1, 2019, and applies to the cost price
paid for fireworks on or after that date. Section 5 is effective when this act becomes law. The
remainder of this act becomes effective December 1, 2019, and applies to offenses committed or
or after that date. Prosecutions for offenses committed before the effective date of this act are not
abated or affected by this act, and the statutes that would be applicable but for this act remain
applicable to those prosecutions.