

House Bill 842

By: Representatives Taylor of the 79th and Beskin of the 54th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 25 and Chapter 60 of Title 36 of the Official Code of Georgia
2 Annotated, relating to regulation of fireworks and general provisions regarding local
3 government provisions applicable to counties and municipal corporations, respectively, so
4 as to distinguish between consumer fireworks retail sales facilities and consumer fireworks
5 retail sales stands; to revise definitions; to provide for the sale of consumer fireworks from
6 temporary consumer fireworks retail sales facilities; to provide for licensing for a distributor
7 selling consumer fireworks from a temporary consumer fireworks retail sales facility; to
8 provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of
12 fireworks, is amended by revising paragraph (2) of subsection (a) of Code Section 25-10-1,
13 relating to definitions, as follows:

14 "(2) 'Consumer fireworks retail sales facility' shall have the same meaning as provided
15 for by NFPA 1124; provided, however, that such term shall not include consumer
16 fireworks retail sales stands, and provided, further, that such term in reference to a
17 temporary building or structure shall include a tent, canopy, or membrane structure."

18 SECTION 2.

19 Said chapter is further amended in Code Section 25-10-2, relating to prohibited fireworks
20 activities, by revising paragraph (6) of subsection (b) as follows:

21 "(6)(A) It shall be lawful to sell consumer fireworks from a permanent consumer
22 fireworks retail sales facility or store only if such permanent consumer fireworks retail
23 sales facility or store is:

24 (i) In compliance with the requirements for such a permanent consumer fireworks
25 retail sales facility or store in the selling of consumer fireworks as provided for in
26 NFPA 1124; and

27 (ii) Selling consumer fireworks of a distributor licensed pursuant to subsection (b)
28 or (d) of Code Section 25-10-5.1.

29 (B) It shall be lawful to sell consumer fireworks from a temporary consumer fireworks
30 retail sales stand only if such temporary consumer fireworks retail sales stand is:

31 (i) In compliance with the requirements for such a temporary consumer fireworks
32 retail sales stand in the selling of consumer fireworks as provided for in NFPA 1124;

33 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political
34 subdivision or a fire department connection of a building affiliated with such
35 consumer fireworks retail sales stand, unless the chief administrative officer of the
36 fire department of a county, municipality, or other political subdivision or chartered
37 fire department legally organized to operate in this state pursuant to Chapter 3 of this
38 title and having operational authority over such location of the temporary consumer
39 fireworks retail sales stand provides in writing that such temporary consumer
40 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant
41 or fire department connection; and

42 (iii) Selling consumer fireworks of a distributor licensed pursuant to subsection (c)
43 of Code Section 25-10-5.1.

44 No distributor licensed pursuant to subsection (c) of Code Section 25-10-5.1 shall at
45 any one time operate more than two temporary consumer fireworks retail sales stands
46 for each license issued to such distributor under subsection (b) or (d) of Code Section
47 25-10-5.1, except that a distributor which is a retail chain and which is licensed
48 pursuant to subsection (d) of Code Section 25-10-5.1 shall not at any one time operate
49 more than two temporary consumer fireworks retail sales stands for each store of such
50 retail chain. Such temporary consumer fireworks retail sales stands shall be located
51 within the same county as the location of such permanent consumer fireworks retail
52 sales facility or store provided for under subsection (b) or (d) of Code Section
53 25-10-5.1; provided, however, that if a county does not have a distributor licensed
54 pursuant to subsection (b) or (d) of Code Section 25-10-5.1 offering consumer
55 fireworks for sale from a permanent consumer fireworks retail sales facility or store
56 within its boundaries, then a distributor licensed pursuant to subsection (b) or (d) of
57 Code Section 25-10-5.1 offering consumer fireworks for sale from a permanent
58 consumer fireworks retail sales facility or store within 75 miles of the perimeter of the
59 boundaries of such county may locate one of the two temporary consumer fireworks
60 retail sales stands in the unserved county.

- 61 (C) It shall be lawful to sell consumer fireworks from a temporary consumer fireworks
 62 retail sales facility only if such temporary consumer fireworks retail sales facility is:
 63 (i) In compliance with the requirements for such temporary consumer fireworks retail
 64 sales facility in the selling of consumer fireworks as provided for in NFPA 1124;
 65 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political
 66 subdivision or a fire department connection of a building affiliated with such
 67 temporary consumer fireworks retail sales facility, unless the chief administrative
 68 officer of the fire department of a county, municipality, or other political subdivision
 69 or chartered fire department legally organized to operate in this state pursuant to
 70 Chapter 3 of this title and having operational authority over such location of the
 71 temporary consumer fireworks retail sales facility provides in writing that such
 72 temporary consumer fireworks retail sales facility may operate in excess of 1,000 feet
 73 from such fire hydrant or fire department connection; and
 74 (iii) Selling consumer fireworks from a distributor licensed pursuant to subsection (e)
 75 of Code Section 25-10-5.1.
 76 (D) It shall be unlawful to sell consumer fireworks from any motor vehicle or from a
 77 trailer towed by a motor vehicle."

78 **SECTION 3.**

79 Said chapter is further amended in Code Section 25-10-5.1, relating to requirements for
 80 issuance of license to distribute consumer fireworks, by adding a new subsection to read as
 81 follows:

82 "(e)(1) The license fee for a distributor selling consumer fireworks from a temporary
 83 consumer fireworks retail sales facility shall be \$500.00 per location, payable to the
 84 governing authority of the county, municipality, or other political subdivision of this state
 85 in whose boundaries such temporary consumer fireworks retail sales facility shall be
 86 located or is proposed to be located. Upon finding that a distributor has met the
 87 requirements of paragraph (1) of subsection (a) of this Code section and subparagraph
 88 (b)(6)(C) of Code Section 25-10-2 and upon payment of such license fee, such license
 89 shall be issued by the fire department of the county, municipality, or other political
 90 subdivision or the chartered fire department legally organized to operate in this state
 91 pursuant to Chapter 3 of this title and having operational authority of the area in which
 92 such temporary consumer fireworks retail sales facility shall be located or is proposed to
 93 be located. Such license shall identify the temporary consumer fireworks retail sales
 94 facility applicable to such license. Such license may be valid for only the dates of June
 95 18 through July 6 of each year and December 20 of each year through January 1 of the

96 following year; provided, however, that no such license shall be issued no more than 90
 97 days prior to each period.

98 (2) A determination by a fire department as provided for under paragraph (1) of this
 99 subsection of whether a distributor has met the requirements for the issuance of a license
 100 pursuant to this subsection shall be made within 15 days of the submission of an
 101 application for any such license. Such application shall be in writing and, if such fire
 102 department provides for a written form for the application for a license pursuant to this
 103 Code section, upon such form as may be provided by such fire department. If a
 104 determination has not been made within the time provided for by this paragraph, or for
 105 an appeal of a determination by such fire department, a distributor may seek review from
 106 the judge of the probate court of the county of the location or proposed location of the
 107 temporary consumer fireworks retail sales facility. Such judge may provide for the
 108 issuance or nonissuance of a license and for the payment of license fees in such manner
 109 as is consistent with the provisions of this subsection.

110 (3) The governing authority of a county, municipality, or other political subdivision
 111 receiving fees pursuant to this Code section shall expend such fees for public safety
 112 purposes."

113 **SECTION 4.**

114 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general
 115 provisions regarding local government provisions applicable to counties and municipal
 116 corporations, is amended by revising Code Section 36-60-24, relating to sale or use or
 117 explosion of consumer fireworks products, as follows:

118 "36-60-24.

119 (a) The governing authority of a county or municipal corporation shall not prohibit the sale
 120 or use or explosion of consumer fireworks or products or services which are lawful under
 121 subsection (b) of Code Section 25-10-1, unless such prohibition is expressly authorized by
 122 general law.

123 (b) If the sale of a product or service is regulated by Chapter 10 of Title 25, the governing
 124 authority of a county or municipal corporation shall not enact additional regulation of the
 125 sale or use or explosion of such product or service, unless such additional regulation is
 126 expressly authorized by general law.

127 (c) The governing authority of a county or municipal corporation shall not, based upon
 128 building or structure classifications, prohibit or restrict the location of or consumer
 129 fireworks sales from a store, permanent consumer fireworks retail sales facility, temporary
 130 consumer fireworks retail sales facility, or temporary consumer fireworks retail sales stand
 131 unless such prohibitions or restrictions are in a manner pursuant to the Constitution of this

132 state or of the United States, including, but not limited to, provisions relative to due process
133 and equal protection.

134 ~~(c)~~(d) Notwithstanding subsections (a) and (b) of this Code section, the governing
135 authority of a county or municipal corporation may provide for permits or licenses for the
136 sale or use of consumer fireworks as provided for under ~~subsection~~ subsections (c) and (e)
137 of Code Section 25-10-5.1.

138 ~~(d)~~(e) Notwithstanding subsections (a) ~~and (b)~~ through (c) of this Code section, the
139 governing authority of a county may further regulate the sale of consumer fireworks from
140 temporary consumer fireworks retail sales stands.

141 ~~(e)~~(f) The governing authority of a county shall not unreasonably delay or deny an
142 application for a temporary consumer fireworks retail sales stand or a temporary consumer
143 fireworks retail sales facility.

144 ~~(f)~~(g) For purposes of this subsection, the terms 'consumer fireworks,' 'consumer fireworks
145 retail sales facility,' and 'consumer fireworks retail sales stand' shall have the same
146 meanings as provided in Code Section 25-10-1.

147 ~~(g)~~(h) Any ordinance enacted before, on, or after July 1, 2006, by a county or municipal
148 corporation in violation of this Code section is void."

149 **SECTION 5.**

150 All laws and parts of laws in conflict with this Act are repealed.