

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 835

96TH GENERAL ASSEMBLY

2012

5877S.02T

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## AN ACT

To repeal sections 320.106, 320.131, and 320.136, RSMo, and to enact in lieu thereof three new sections relating to fireworks, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 320.106, 320.131, and 320.136, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 320.106,  
3 320.131, and 320.136, to read as follows:

320.106. As used in sections 320.106 to 320.161, unless clearly indicated  
2 otherwise, the following terms mean:

3 (1) "American Pyrotechnics Association (APA), Standard 87-1", or  
4 subsequent standard which may amend or supersede this standard for  
5 manufacturers, importers and distributors of fireworks;

6 (2) "Chemical composition", all pyrotechnic and explosive composition  
7 contained in fireworks devices as defined in American Pyrotechnics Association  
8 (APA), Standard 87-1;

9 (3) "Consumer fireworks", explosive devices designed primarily to produce  
10 visible or audible effects by combustion and includes aerial devices and ground  
11 devices, all of which are classified as fireworks, UNO336, [1.4G by regulation of  
12 the United States Department of Transportation, as amended from time to time,  
13 and which were formerly classified as class C common fireworks by regulation of  
14 the United States Department of Transportation] **within 49 CFR Part 172;**

15 (4) "Discharge site", the area immediately surrounding the fireworks  
16 mortars used for an outdoor fireworks display;

17 (5) "Dispenser", a device designed for the measurement and delivery of

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 liquids as fuel;

19 (6) "Display fireworks", explosive devices designed primarily to produce  
20 visible or audible effects by combustion, deflagration or detonation. This term  
21 includes devices containing more than two grains (130 mg) of explosive  
22 composition intended for public display. These devices are classified as fireworks,  
23 **UN0333 or UN0334 or UN0335**, [1.3G by regulation of the United States  
24 Department of Transportation, as amended from time to time, and which were  
25 formerly classified as class B display fireworks by regulation of the United States  
26 Department of Transportation] **within 49 CFR Part 172**;

27 (7) "Display site", the immediate area where a fireworks display is  
28 conducted, including the discharge site, the fallout area, and the required  
29 separation distance from mortars to spectator viewing areas, but not spectator  
30 viewing areas or vehicle parking areas;

31 (8) "Distributor", any person engaged in the business of selling fireworks  
32 to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies  
33 that possess the necessary permits as specified in sections 320.106 to 320.161,  
34 including any person that imports any fireworks of any kind in any manner into  
35 the state of Missouri;

36 (9) "Fireworks", any composition or device for producing a visible, audible,  
37 or both visible and audible effect by combustion, deflagration, or detonation and  
38 that meets the definition of consumer, proximate, or display fireworks as set forth  
39 by 49 CFR Part 171 to end, United States Department of Transportation  
40 hazardous materials regulations[, and American Pyrotechnics Association 87-1  
41 standards];

42 (10) "Fireworks season", the period beginning on the twentieth day of  
43 June and continuing through the tenth day of July of the same year and the  
44 period beginning on the twentieth day of December and continuing through the  
45 second day of January of the next year, which shall be the only periods of time  
46 that seasonal retailers may be permitted to sell consumer fireworks;

47 (11) "Jobber", any person engaged in the business of making sales of  
48 consumer fireworks at wholesale or retail within the state of Missouri to  
49 nonlicensed buyers for use and distribution outside the state of Missouri during  
50 a calendar year from the first day of January through the thirty-first day of  
51 December;

52 (12) "Licensed operator", any person who supervises, manages, or directs  
53 the discharge of outdoor display fireworks, either by manual or electrical means;

54 who has met additional requirements established by promulgated rule and has  
55 successfully completed a display fireworks training course recognized and  
56 approved by the state fire marshal;

57 (13) "Manufacturer", any person engaged in the making, manufacture,  
58 assembly or construction of fireworks of any kind within the state of Missouri;

59 (14) "NFPA", National Fire Protection Association, an international codes  
60 and standards organization;

61 (15) "Permanent structure", buildings and structures with permanent  
62 foundations other than tents, mobile homes, and trailers;

63 (16) "Permit", the written authority of the state fire marshal issued  
64 pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge,  
65 or distribute fireworks;

66 (17) "Person", any corporation, association, partnership or individual or  
67 group thereof;

68 (18) "Proximate fireworks", a chemical mixture used in the entertainment  
69 industry to produce visible or audible effects by combustion, deflagration, or  
70 detonation, as [defined by the most current edition of the American Pyrotechnics  
71 Association (APA), Standard 87-1, section 3.8, specific requirements for theatrical  
72 pyrotechnics] **classified within 49 CFR Part 172 as UN0431 or UN0432;**

73 (19) "Pyrotechnic operator" or "special effects operator", an individual who  
74 has responsibility for pyrotechnic safety and who controls, initiates, or otherwise  
75 creates special effects for proximate fireworks and who has met additional  
76 requirements established by promulgated rules and has successfully completed  
77 a proximate fireworks training course recognized and approved by the state fire  
78 marshal;

79 (20) "Sale", an exchange of articles of fireworks for money, including  
80 barter, exchange, gift or offer thereof, and each such transaction made by any  
81 person, whether as a principal proprietor, salesman, agent, association,  
82 copartnership or one or more individuals;

83 (21) "Seasonal retailer", any person within the state of Missouri engaged  
84 in the business of making sales of consumer fireworks in Missouri only during a  
85 fireworks season as defined by subdivision (10) of this section;

86 (22) "Wholesaler", any person engaged in the business of making sales of  
87 consumer fireworks to any other person engaged in the business of making sales  
88 of consumer fireworks at retail within the state of Missouri.

320.131. 1. It is unlawful for any person to possess, sell or use within the

2 state of Missouri, or ship into the state of Missouri, except as provided in section  
3 320.126, any pyrotechnics commonly known as "fireworks" and defined as  
4 consumer fireworks in subdivision (3) of section 320.106 other than items now or  
5 hereafter classified as fireworks UNO336, 1.4G by the United States Department  
6 of Transportation that comply with the construction, chemical composition,  
7 labeling and other regulations relative to consumer fireworks regulations  
8 promulgated by the United States Consumer Product Safety Commission and  
9 permitted for use by the general public pursuant to such commission's  
10 regulations.

11           2. No wholesaler, jobber, or seasonal retailer, or any other person shall  
12 sell, offer for sale, store, display, or have in their possession any consumer  
13 fireworks that have not been approved as fireworks UNO336, 1.4G by the United  
14 States Department of Transportation.

15           3. No jobber, wholesaler, manufacturer, or distributor shall sell to  
16 seasonal retailer dealers, or any other person, in this state for the purpose of  
17 resale, or use, in this state, any consumer fireworks which do not have the  
18 numbers and letter "1.4G" printed within an orange, diamond-shaped label  
19 printed on or attached to the fireworks shipping carton.

20           4. This section does not prohibit a manufacturer, distributor or any other  
21 person **possessing the proper permits as specified by state and federal**  
22 **law** from storing, selling, shipping or otherwise transporting display or proximate  
23 fireworks[, defined as fireworks UNO335, 1.3G/UNO431, 1.4G or UNO432, 1.4S  
24 by the United States Department of Transportation, provided they possess the  
25 proper permits as specified by state and federal law].

26           5. Matches, toy pistols, toy canes, toy guns, party poppers, or other  
27 devices in which paper caps containing twenty-five hundredths grains or less of  
28 explosive compound, provided that they are so constructed that the hand cannot  
29 come into contact with the cap when in place for use, and toy pistol paper caps  
30 which contain less than twenty-five hundredths grains of explosive mixture shall  
31 be permitted for sale and use at all times and shall not be regulated by the  
32 provisions of sections 320.106 to 320.161.

          320.136. Ground salutes commonly known as "cherry bombs", "M-80's",  
2 "M-100's", "M-1000's", and any other tubular salutes or any items described as  
3 prohibited chemical components or forbidden devices as listed in the American  
4 Pyrotechnics Association Standard 87-1 or which exceed the [federal] limits set  
5 for **consumer** fireworks [UNO336, 1.4G formerly known as class C common

6 fireworks, display fireworks UNO335, 1.3F, and proximate fireworks UNO431,  
7 1.4F/UNO432, 1.4S by the United States Department of Transportation], **display**  
8 **fireworks, or proximate fireworks** for explosive composition are expressly  
9 prohibited from shipment into, manufacture, possession, sale, or use within the  
10 state of Missouri for consumer use. Possession, sale, manufacture, or transport  
11 of this type of illegal explosive shall be punished as provided by the provisions  
12 of section 571.020.

Section B. Because of the need to update state law to match federal law,  
2 section A of this act is deemed necessary for the immediate preservation of the  
3 public health, welfare, peace and safety, and is hereby declared to be an  
4 emergency act within the meaning of the constitution, and section A of this act  
5 shall be in full force and effect upon its passage and approval.

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Bill

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