

SENATE BILL No. 199

By Committee on Commerce

2-5

1 AN ACT concerning fireworks, defining the fireworks sales season for
2 seasonal retailers of consumer fireworks and providing for year-round
3 sales by permanent retailers of consumer fireworks; requiring
4 registration with the state fire marshal by ~~such seasonal and~~ permanent
5 retailers; ~~prohibiting internet sales of consumer fireworks~~; creating the
6 license categories of distributor of display fireworks, distributor of
7 articles pyrotechnic and unlimited distributor; limiting lawful sale of
8 fireworks labeled "For Professional Use Only" to certain license
9 categories; amending K.S.A. 31-502 and 31-503 and repealing the
10 existing sections.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 31-502 is hereby amended to read as follows: 31-
14 502. As used in this act, unless the context otherwise requires:

15 (a) ~~"Licensed display fireworks operator" means a person licensed to~~
16 ~~operate an outdoor display of display fireworks.~~

17 (b) ~~"Licensed proximate pyrotechnic operator" means a person~~
18 ~~licensed to operate indoor or outdoor articles of pyrotechnic.~~

19 (c) ~~"Manufacturer" means any person engaged in the manufacture of~~
20 ~~fireworks of any kind in the state of Kansas. Manufacturer shall also~~
21 ~~include any person engaged in the assembly of consumer fireworks or~~
22 ~~component parts into a finished item or assortment, but shall not include~~
23 ~~repackaging finished goods into an assortment.~~

24 (d) ~~"Distributor" means any person engaged in the distribution of~~
25 ~~fireworks of any kind in the state of Kansas to include the following:~~

26 (1) ~~Sells, delivers, transports, consigns, gives, imports, exports or~~
27 ~~otherwise furnishes consumer fireworks to any person for the purpose of~~
28 ~~resale to a retailer or any other distributor or reseller within the state of~~
29 ~~Kansas;~~

30 (2) ~~sells, intends to sell, offer for sale, possess with intent to sell or~~
31 ~~consigns display fireworks or articles pyrotechnic to any person,~~
32 ~~distributor, municipality or any other organization within the state of~~
33 ~~Kansas; or~~

34 (3) ~~produces, conducts or provides a licensed operator or imports any~~
35 ~~display fireworks or articles pyrotechnic of any kind within the state of~~
36 ~~Kansas for profit.~~

1 ~~(e) "Distributor" shall not include:~~

2 ~~(1) Anyone who transports fireworks from one state to another state~~
3 ~~through the state of Kansas and such fireworks ultimate destination is not~~
4 ~~within the state of Kansas;~~

5 ~~(2) anyone who sells consumer fireworks during a fireworks season~~
6 ~~as a seasonal retailer;~~

7 ~~(3) freight delivery companies or common carriers as defined in U.S.~~
8 ~~department of transportation 49 C.F.R. § 171.8; or~~

9 ~~(4) an out-of-state person who sells, transports, delivers or gives~~
10 ~~fireworks to a licensed manufacturer or distributor.~~

11 ~~(f) "Hobbyist manufacturer" means any person who manufactures~~
12 ~~consumer fireworks, display fireworks or articles pyrotechnic for their~~
13 ~~personal use.~~

14 ~~(g) "Person" means any individual, partnership, firm, company,~~
15 ~~association, corporation, not-for-profit organization, municipality or~~
16 ~~limited liability corporation.~~

17 ~~(h) "Seasonal retailer" means a person who receives consumer~~
18 ~~fireworks and sells, delivers, consigns, gives or otherwise furnishes~~
19 ~~consumer fireworks only to the public for their personal use and only~~
20 ~~during a fireworks season.~~

21 ~~(i) "Storage" means the safekeeping of fireworks in a warehouse or~~
22 ~~magazine or comparable appropriate depository. Consumer fireworks that~~
23 ~~are located at the destination of their retail sale and that are being held in~~
24 ~~anticipation of retail sale shall not be considered as in storage.~~

25 ~~(j) "Fireworks season" means a period in time as set forth in the~~
26 ~~regulations authorized to be adopted by the state fire marshal during a~~
27 ~~calendar year in which seasonal retailers are permitted to sell consumer~~
28 ~~fireworks to the public.~~

29 ~~(k) "Fireworks display" means a private or public production of~~
30 ~~display fireworks or articles pyrotechnic, or both, which are intended for~~
31 ~~use and designed to produce visible or audible effects for entertainment~~
32 ~~purposes by combustion, deflagration or detonation.~~

33 ~~(a) (1) "Distributor of display fireworks" means any person engaged~~
34 ~~in the distribution of display fireworks in the state of Kansas, including:~~

35 ~~(A) Selling, intending to sell, offering for sale, possessing with intent~~
36 ~~to sell or consigning display fireworks to any person, distributor,~~
37 ~~municipality or any other organization within the state of Kansas; or~~

38 ~~(B) producing, conducting or providing to a licensed operator or~~
39 ~~importing any display fireworks of any kind within the state of Kansas for~~
40 ~~profit.~~

41 ~~(2) "Distributor of display fireworks" does not include the exclusions~~
42 ~~set forth in the definition of "unlimited distributor."~~

43 ~~(b) (1) "Distributor of articles pyrotechnic" means any person~~

1 engaged in the distribution of articles pyrotechnic in the state of Kansas,
2 including:

3 (A) Selling, intending to sell, offering for sale, possessing with intent
4 to sell or consigning articles pyrotechnic to any person, distributor,
5 municipality or any other organization within the state of Kansas; or

6 (B) producing, conducting or providing to a licensed operator or
7 importing any articles pyrotechnic of any kind within the state of Kansas
8 for profit.

9 (2) "Distributor of display fireworks" does not include the exclusions
10 set forth in the definition of "unlimited distributor."

11 (c) "Fireworks display" means a private or public production of
12 display fireworks or articles pyrotechnic, or both, that are intended for use
13 and designed to produce visible or audible effects for entertainment
14 purposes by combustion, deflagration or detonation.

15 (d) "Hobbyist manufacturer" means any person who manufactures
16 consumer fireworks, display fireworks or articles pyrotechnic for their
17 personal use.

18 (e) "Licensed display fireworks operator" means a person licensed to
19 operate an outdoor display of display fireworks.

20 (f) "Licensed proximate pyrotechnic operator" means a person
21 licensed to operate indoor or outdoor articles pyrotechnic.

22 (g) "Manufacturer" means any person engaged in the manufacture of
23 fireworks of any kind in the state of Kansas. "Manufacturer" includes any
24 person engaged in the assembly of consumer fireworks or component
25 parts into a finished item or assortment but does not include repackaging
26 finished goods into an assortment.

27 (h) "Permanent retailer" means any person engaged in the year-
28 round retail sale of consumer fireworks, including the receipt and
29 possession with intent to sell of consumer fireworks and the retail sale,
30 delivery, consignment, gifting or other distribution at retail of consumer
31 fireworks to any person from a permanent structure at a permanent
32 location within this state.

33 (i) "Person" means any individual, partnership, firm, company,
34 association, corporation, not-for-profit organization, municipality or
35 limited liability corporation.

36 (j) "Seasonal retailer" means a person who receives consumer
37 fireworks and sells, delivers, consigns, gives or otherwise furnishes
38 consumer fireworks only to the public for their personal use and only
39 during the period of June 20 through July 7 of a calendar year.

40 (k) "Storage" means the safekeeping of fireworks in a warehouse or
41 magazine or comparable appropriate depository. Consumer fireworks that
42 are located at the destination of their retail sale and being held in
43 anticipation of retail sale are not considered as in "storage."

1 (l) (1) "Unlimited distributor" means any person engaged in the
2 distribution of fireworks of any kind in the state of Kansas, including:

3 (A) Selling, delivering, transporting, consigning, giving, importing,
4 exporting or otherwise furnishing consumer fireworks to any person for
5 the purpose of reselling to a retailer or any other distributor or reseller
6 within the state of Kansas;

7 (B) selling, intending to sell, offering for sale, possessing with intent
8 to sell or consigning display fireworks or articles pyrotechnic to any
9 person, distributor, municipality or any other organization within the state
10 of Kansas; or

11 (C) producing, conducting or providing a licensed operator or
12 importing any display fireworks or articles pyrotechnic of any kind for
13 profit within the state of Kansas.

14 (2) "Unlimited distributor" does not include:

15 (A) Any person who transports fireworks from one state to another
16 state through the state of Kansas and such fireworks' ultimate destination
17 is not within the state of Kansas;

18 (B) any person who sells consumer fireworks during the period of
19 June 20 through July 7 of a calendar year as a seasonal retailer;

20 (C) any person who sells consumer fireworks year-round as a
21 permanent retailer;

22 (D) freight delivery companies or common carriers as defined in U.S.
23 department of transportation 49 C.F.R. § 171.8; or

24 (E) an out-of-state person who sells, transports, delivers or gives
25 fireworks to a licensed manufacturer or distributor.

26 Sec. 2. K.S.A. 31-503 is hereby amended to read as follows: 31-503.

27 (a) Any person who intends to sell, offer for sale, possess with intent to
28 sell, any consumer fireworks, display fireworks or articles pyrotechnic or
29 discharge, use, display fireworks or articles pyrotechnic shall first obtain
30 the appropriate license from the state fire marshal. This shall not include
31 seasonal retailers.

32 (b) The types of license shall be as follows:

33 (1) Manufacturer;

34 (2) hobbyist manufacturer;

35 (3) distributor of display fireworks;

36 (4) distributor of articles pyrotechnic;

37 (5) unlimited distributor;

38 ~~(4)~~(6) display fireworks operator; and

39 ~~(5)~~(7) proximate pyrotechnic operator.

40 (c) It shall be unlawful for any person to possess, purchase, sell or
41 offer for sale fireworks labeled "For Professional Use Only" that is not a
42 current licensee and in physical possession of a license, issued by the state
43 fire marshal, as a:

- 1 (1) *Manufacturer;*
- 2 (2) *hobbyist manufacturer;*
- 3 (3) *distributor of display fireworks;*
- 4 (4) *distributor of articles pyrotechnic;*
- 5 (5) *unlimited distributor;*
- 6 (6) *display fireworks operator; or*
- 7 (7) *proximate pyrotechnic operator.*

8 (d) Before a license holder may operate, such license holder ~~must~~
9 shall satisfy the requirements of this act and regulations adopted by the
10 state fire marshal.

11 ~~(d)~~(e) The license holder shall be at least 21 years of age upon
12 applying for a license.

13 ~~(e)~~(f) Licenses shall not be transferable.

14 ~~(f)~~(g) The state fire marshal shall not charge or collect fees for
15 licensure. The licenses shall be valid for the following period of time:

16 (1) A manufacturer license shall be valid for a period of one year. A
17 holder of a manufacturer license is not required to have any additional
18 licenses in order to manufacture and sell any fireworks defined by this act.

19 (2) A hobbyist manufacturer license shall be valid for a period of four
20 years.

21 (3) A distributor license shall be valid for a period of one year.

22 (4) A display fireworks operator license shall be valid for a period of
23 four years.

24 (5) A proximate pyrotechnics operator license shall be valid for a
25 period of four years.

26 ~~(g)~~(h) A permit to conduct a fireworks display shall be obtained by
27 the sponsor or operator of a fireworks display from and approved by the
28 city or county where the fireworks display is to be discharged.

29 ~~(h)~~(i) No fee shall be charged for a license or permit under this
30 section for any person who is an officer or employee of the state or any
31 political or taxing subdivision of the state when that person is acting on
32 behalf of the state or political or taxing subdivision.

33 ~~(j) The retail sale of consumer fireworks through the internet or by~~
34 ~~mail shall be prohibited. All retail sales or transfers of consumer~~
35 ~~fireworks shall be made by a registered seasonal or permanent retailer or~~
36 ~~a seasonal retailer at a physical location registered with the state fire~~
37 ~~marshal.~~

38 (k) Any person who intends to sell consumer fireworks at retail as a
39 ~~seasonal retailer or a permanent retailer shall register annually as a~~
40 ~~seasonal retailer or permanent retailer with the state fire marshal. Such~~
41 ~~registration shall entitle the person to engage in the possession for~~
42 ~~purposes of retail sale, delivery, consignment, gifting or other distribution~~
43 ~~at retail of consumer fireworks to any person as a seasonal retailer or~~

1 ~~permanent retailer; respectively,~~ subject to the provisions, limitations and
2 requirements of this act and regulations of the state fire marshal for a
3 ~~seasonal retailer or permanent retailer, as applicable.~~ Registration shall
4 be effective for one year from the date of registration. Registration shall
5 be made in the form and manner as determined by the state fire marshal.
6 Registration requirements shall include submission by a registrant of
7 permanent business contact information, the address of the physical
8 location or locations that retail sales will occur, the time period or periods
9 sales will occur and any other information that may be required by the
10 state fire marshal.

11 (l) The state fire marshal shall adopt rules and regulations as
12 necessary for the purpose of implementing the provisions of subsections
13 (c), (j) and (k).

14 Sec. 3. K.S.A. 31-502 and 31-503 are hereby repealed.

15 Sec. 4. This act shall take effect and be in force from and after its
16 publication in the statute book.