

28 university buildings;

29 (B) building or structure used or intended for use as an asylum, a mental hospital, a
30 hospital, a sanitarium, a home for the aged, an assisted living facility, a children's home or day
31 care center, or any similar institutional type occupancy of any capacity; and

32 (C) place of assemblage where 50 or more persons may gather together in a building,
33 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

34 (iii) establishing safety and other requirements for placement and discharge of display
35 fireworks based upon:

36 (A) the specific edition of the nationally recognized fire code selected by the board
37 under Subsection (1)(a)(i); and

38 (B) relevant publications of the National Fire Protection Association;

39 (iv) establishing minimum safety standards for retail storage, handling, and sale of
40 class C common state approved explosives[;], including the modification or deletion of the
41 times provided in Section 53-7-225 for sale and discharge of those explosives, locally or
42 statewide, in accordance with Subsection (4);

43 (v) establishing the refunding of fees paid for licensing of retail sellers in accordance
44 with Subsection 11-3-3.5(1)(a), if the board bans the retail selling of fireworks for reasons of
45 severe drought or other natural emergency;

46 (vi) establishing a statewide public fireworks education program that emphasizes the
47 safe and responsible use of class C common state approved fireworks;

48 [~~(vii)~~] (vii) defining methods to establish proof of competence to place and discharge
49 display fireworks;

50 [~~(viii)~~] (viii) for deputizing qualified persons to act as deputy fire marshals, and to
51 secure special services in emergencies;

52 [~~(ix)~~] (ix) implementing Sections 53-7-106 and 53-7-205;

53 [~~(x)~~] (x) setting guidelines for use of funding; and

54 [~~(xi)~~] (xi) establishing criteria for training and safety equipment grants for fire
55 departments enrolled in firefighter certification;

56 (b) recommend to the commissioner a state fire marshal;

57 (c) develop policies under which the state fire marshal and his authorized
58 representatives will perform;

59 (d) provide for the employment of field assistants and other salaried personnel as
60 required;

61 (e) prescribe the duties of the state fire marshal and his authorized representatives;

62 (f) establish a statewide fire prevention, fire education, and fire service training
63 program in cooperation with the Board of Regents;

64 (g) establish a statewide fire statistics program for the purpose of gathering fire data
65 from all political subdivisions of the state;

66 (h) establish a fire academy in accordance with Section 53-7-204.2;

67 (i) coordinate the efforts of all people engaged in fire suppression in the state;

68 (j) work aggressively with the local political subdivisions to reduce fire losses; and

69 (k) regulate the sale and servicing of portable fire extinguishers and automatic fire
70 suppression systems in the interest of safeguarding lives and property.

71 (2) The board may incorporate in its rules by reference, in whole or in part, nationally
72 recognized and readily available standards and codes pertaining to the protection of life and
73 property from fire, explosion, or panic.

74 (3) (a) The board may only make amendments to the state fire code adopted under
75 Subsection (1)(a)(i) in accordance with Section 53-7-205.

76 (b) The amendments may be applicable to the entire state or within a city, county, or
77 fire protection district.

78 (4) (a) In times of severe drought or other natural emergency, the board may modify or
79 delete, locally or statewide, the times for sale and discharge of fireworks as provided under
80 Section 53-7-225 by majority vote.

81 (b) In carrying out Subsection (4)(a), the board shall:

82 (i) upon receiving indication from a city, county, or fire protection district that a severe
83 drought or other natural emergency exists, hold hearings to determine if fireworks restrictions
84 should be imposed in the area or affected areas;

85 (ii) use the Keetch-Byran Drought Index or other comparable measurement or practices
86 to determine the severity of the drought or other natural emergency;

87 (iii) review any imposed restrictions for changing conditions that indicate a severe
88 drought or other natural emergency no longer exists; and

89 (iv) rescind the imposed restrictions if the drought or other natural emergency ceases to

90 exist.

91 [~~4~~] (5) The following functions shall be administered locally by a city, county, or fire
92 protection district:

- 93 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
- 94 19-2-114;
- 95 (b) creating a local board of appeals in accordance with the state fire code; and
- 96 (c) establishing, modifying, or deleting fire flow and water supply requirements.

97 Section 2. Section **53-7-223** is amended to read:

98 **53-7-223. State license for display or special effects operators -- Permit -- Fee --**
 99 **Division duties -- Revocation.**

100 (1) A person may not purchase, possess, or discharge display or special effects
101 fireworks unless the person has obtained a display or special effects operator license from the
102 division.

103 (2) The division shall:

- 104 (a) issue an annual license to any display or special effects operator who:
 - 105 (i) applies for the permit;
 - 106 (ii) pays a [~~\$10~~] \$30 fee;
 - 107 (iii) demonstrates proof of competence; and
 - 108 (iv) certifies that he will comply with the rules governing placement and discharge of
109 fireworks established by the board;
- 110 (b) provide the licensee with a copy of the rules governing placement and discharge of
111 fireworks made under Section 53-7-204; and
- 112 (c) together with county and municipal officers enforce Sections 53-7-220 through
113 53-7-225.

114 (3) The division may:

- 115 (a) revoke a license issued under this section for cause;
- 116 (b) seize display and special effects fireworks, fireworks, and unclassified fireworks
117 that are offered for sale, sold, or in the possession of an individual in violation of Sections
118 53-7-220 through 53-7-225; and
- 119 (c) create application and certification forms.

120 Section 3. Section **53-7-224** is amended to read:

121 **53-7-224. Licensing importers and wholesalers -- Fee.**

122 (1) The division shall:

123 [~~(1)~~] (a) annually license each importer and wholesaler of pyrotechnic devices; and

124 [~~(2)~~] (b) charge an annual license fee of [~~\$250.~~] \$500.

125 (2) One-half of license fees collected under Subsection (1)(b) shall be deposited in the
126 General Fund as a nonlapsing dedicated credit to be used by the division to establish the public
127 fireworks education program established under Subsection 53-7-204(1)(a)(vi).

128 Section 4. Section **53-7-225** is amended to read:

129 **53-7-225. Times for sale and discharge of fireworks.**

130 [~~Class~~] Subject to modifications the board may make under Subsection 53-7-204(4),

131 class C common state approved explosives may be:

132 (1) sold:

133 (a) after June 19 and before July 26;

134 (b) after December 19 and before January 3; and

135 (c) 15 days before and on the Chinese New Year;

136 (2) discharged three days before, on the day of, and three days following:

137 (a) July 4;

138 (b) July 24;

139 (c) January 1; and

140 (d) the Chinese New Year.

141 Section 5. **Effective date.**

142 This act takes effect on July 1, 2003.

Legislative Review Note
as of 1-21-03 10:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

It is estimated that provisions of this bill will increase ongoing General Funds revenues by \$ 10,500. The State Fire Marshall Division will receive ongoing nonlapsing Dedicated Credits amounting to \$7,000 to establish a public fireworks education program.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$0	\$0	\$10,500	\$10,500
Dedicated Credits Revenue	\$7,000	\$7,000	\$7,000	\$7,000
TOTAL	<u><u>\$7,000</u></u>	<u><u>\$7,000</u></u>	<u><u>\$17,500</u></u>	<u><u>\$17,500</u></u>

Individual and Business Impact

Special effects operators will pay an additional \$20 annually for a permit, and importers and wholesalers of pyrotechnic devices will pay an additional \$250 annually for a permit.

Office of the Legislative Fiscal Analyst