

FIRE PREVENTION AND FIREWORKS ACT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Fire Prevention and Fireworks Act to address definitions and fireworks.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ repeals certain testing and approval requirements;
- ▶ modifies times for sale and discharge of fireworks;
- ▶ addresses state fire code; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with H.B. 203, Codification of State Construction and Fire Codes, so that specific language in H.B. 203 supersedes specified amendments in this bill.

Utah Code Sections Affected:

AMENDS:

53-7-202, as last amended by Laws of Utah 2010, Chapters 61 and 310

53-7-222, as last amended by Laws of Utah 2010, Chapters 61 and 324

53-7-225, as renumbered and amended by Laws of Utah 1993, Chapter 234

Utah Code Sections Affected by Coordination Clause:

53-7-222, as last amended by Laws of Utah 2010, Chapters 61 and 324

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-7-202 is amended to read:

53-7-202. Definitions.

As used in this part:

(1) "Agricultural and wildlife fireworks" means a class C dangerous explosive that:

(a) uses sound or light when deployed; and

(b) is designated to prevent crop damage or unwanted animals from entering a specified area.

(2) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(3) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(4) "Class C explosive" means a division 1.4G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(5) ~~(a)~~ "Class C common state approved explosive" means a ~~class C explosive that is:~~ firework that:

(a) is purchased at retail for use by a consumer; and

(b) is not a Class C dangerous explosive.

~~[(i) a cardboard or heavy paper cylindrical tube or cone that:]~~

~~[(A) produces a shower of color and sparks that reach a maximum height of 15 feet;]~~

~~[(B) may whistle or pop; and]~~

~~[(C) is not designed to explode or leave the ground;]~~

~~[(ii) a pyrotechnic wheel device that:]~~

~~[(A) may be attached to a post or tree; and]~~

~~[(B) contains up to six "driver" units or tubes;]~~

~~[(iii) any device that:]~~

~~[(A) spins, jumps, or emits popping sounds when placed on the ground;]~~

58 ~~[(B) does not exceed a height of 15 feet when discharged; and]~~
 59 ~~[(C) does not travel laterally more than 10 feet on a smooth surface when discharged;]~~
 60 ~~[(iv) a morning glory, suzuki, or flitter sparkler; and]~~
 61 ~~[(v) a single tube day type parachute that does not carry any flare or flame upon~~
 62 ~~descent.]~~
 63 ~~[(b) "Class C common state approved explosive" does not mean:]~~
 64 ~~[(i) class C dangerous explosives; or]~~
 65 ~~[(ii) exempt explosives.]~~
 66 (6) (a) "Class C dangerous explosive" means a class C explosive that is:
 67 (i) a firecracker, cannon cracker, ground salute, M-80, cherry bomb, or other similar
 68 explosive;
 69 (ii) (A) a skyrocket ~~[or any device other than a model rocket that uses combustible or~~
 70 ~~explosive material and rises more than 15 feet when discharged];~~
 71 (B) a missile type rocket;
 72 (C) a single shot, or reloadable aerial shell; or
 73 (D) a rocket similar to one described in Subsections (6)(a)(ii)(A) through (C),
 74 including an aerial salute, a flash shell, a comet, a mine, or a cake containing more than 500
 75 grams of pyrotechnic composition; or
 76 (iii) (A) a bottle rocket;
 77 (B) a roman candle ~~[or other device that discharges balls of fire over 15 feet in height];~~
 78 ~~[(iv) a tube or cone aerial firework that propels comets, shells, salutes, flash shells, or~~
 79 ~~similar devices more than 15 feet into the air; and]~~
 80 ~~[(v) a chaser, whistler, or other device that darts or travels more than 10 feet laterally~~
 81 ~~on a smooth surface or exceeds 15 feet in height when discharged.]~~
 82 (C) a rocket mounted on a wire or stick; or
 83 (D) a device containing a rocket described in this Subsection (6)(a)(iii).
 84 (b) A "class C dangerous explosive" does not mean~~[(i) class C common state~~
 85 ~~approved explosives; or (ii)] exempt explosives.~~

86 (7) (a) "Display fireworks" means large firework devices that consist of explosive
87 materials that are intended for use in outdoor aerial fireworks displays to produce visible or
88 audible effects by combustion, deflagration, or detonation.

89 (b) "Display fireworks" includes aerial shells, salutes, roman candles, flash shells,
90 comets, mines, and other similar explosives.

91 (8) (a) "Display operator" means a person licensed under Section 53-7-223 and who is
92 responsible for site selection, setting up, permits, overseeing assistants and support personnel,
93 and discharging display fireworks outdoors in situations where the audience maintains a
94 specific distance separating it from the display fireworks being discharged.

95 (b) "Display operator" does not mean a fire department.

96 (9) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal flare,
97 snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12 inches
98 in length.

99 (10) (a) "Fireworks" means:

- 100 (i) class C explosives;
- 101 (ii) class C dangerous explosives; and
- 102 (iii) class C common state approved explosives.

103 (b) "Fireworks" does not mean:

- 104 (i) exempt explosives;
- 105 (ii) class A explosives; or
- 106 (iii) class B explosives.

107 (11) "Flame effects" means the combustion of flammable solids, liquids, or gases to
108 produce thermal, physical, visual, or audible phenomena before an audience.

109 (12) (a) "Flame effects operator" means a person licensed under Section 53-7-223 who,
110 regarding flame effects, is responsible for:

- 111 (i) storage, setup, operations, teardown, devices, equipment, overseeing assistants and
112 support personnel, and preventing accidental discharge; and
- 113 (ii) completion of the sequence of control system functions that release the fuel for

114 ignition to cause combustion and create the flame effects.

115 (b) (i) "Flame effects operator" does not include a person who participates in a
116 meeting, as limited under Subsection (12)(b)(ii), with other persons solely to receive training,
117 to practice, or provide instruction regarding flame effects performance.

118 (ii) A meeting under Subsection (12)(b)(i) may include a nonpaying and unsolicited
119 audience of not more than 25 persons.

120 (13) "Importer" means a person who brings class B or class C explosives into Utah for
121 the general purpose of:

122 (a) resale or use within the state; or

123 (b) exportation to other states.

124 (14) (a) "Pyrotechnic" means any composition or device manufactured or used to
125 produce a visible or audible effect by combustion, deflagration, or detonation.

126 (b) "Pyrotechnic" does not mean exempt explosives.

127 (15) "Retail seller" means a person who sells class C common state approved
128 explosives to the public during the period authorized under Section 53-7-225.

129 (16) "Special effects" means a visual or audible effect caused by chemical mixtures
130 that produce a controlled, self-sustaining, and self-controlled exothermic chemical reaction that
131 results in heat, gas, sound, or light and may also create an illusion.

132 (17) "Special effects operator" means a person licensed under Section 53-7-223 who is
133 responsible for setting up, permits, overseeing assistants and support personnel, analyzing
134 potential hazards, setting clearances, and discharging pyrotechnic devices, either indoor or
135 outdoor, where the audience is allowed to be in closer proximity to the pyrotechnic devices
136 than the audience separation distance generally required for display fireworks.

137 (18) "Trick noisemaker" includes a:

138 (a) tube or sphere containing pyrotechnic composition that produces a white or colored
139 smoke as its primary effect when ignited; and

140 (b) device that produces a small report intended to surprise the user, including a:

141 (i) "booby trap," which is a small tube with a string protruding from both ends that

142 ignites the friction sensitive composition in the tube when the string is pulled;

143 (ii) "snapper," which is a small paper-wrapped device containing a minute quantity of
144 explosive composition coated on bits of sand that explodes producing a small report;

145 (iii) "trick match," which is a kitchen or book match coated with a small quantity of
146 explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

147 (iv) "cigarette load," which is a small wooden peg coated with a small quantity of
148 explosive composition that produces a small report when ignited; and

149 (v) "auto burglar alarm," which is a tube that:

150 (A) contains pyrotechnic composition that produces a loud whistle and smoke when
151 ignited;

152 (B) may contain a small quantity of explosive to produce a small explosive noise; and

153 (C) is ignited by a squib.

154 (19) "Unclassified fireworks" means:

155 (a) a pyrotechnic device that is used, given away, or offered for sale, that has not been
156 tested, approved, and classified by the United States Department of Transportation;

157 (b) an approved device that has been altered or redesigned since obtaining approval by
158 the United States Department of Transportation; and

159 (c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler
160 before receiving approval by the United States Department of Transportation.

161 (20) "Wholesaler" means:

162 (a) a person who sells class C common state approved explosives to a retailer; or

163 (b) a person who sells class B explosives or class C dangerous explosives for display
164 use.

165 Section 2. Section **53-7-222** is amended to read:

166 **53-7-222. Restrictions on the sale or use of fireworks.**

167 ~~[(1) (a) The division shall test and approve a representative sample of each class C
168 common state-approved explosive before the explosive may be sold to the public.]~~

169 ~~[(b) The division shall publish a list of all class C explosives that are approved for sale~~

170 ~~to the public each year.]~~

171 ~~[(2)]~~ (1) (a) Except as provided in Subsection ~~[(2)]~~ (1)(b), class C dangerous
172 explosives may not be possessed, discharged, sold, or offered for retail sale.

173 (b) (i) The following persons may purchase, possess, or discharge class C dangerous
174 explosives:

175 (A) display operators and special effects operators who receive a license from the
176 division in accordance with Section 53-7-223 and approval from their local licensing authority
177 in accordance with Section 11-3-3.5; and

178 (B) operators approved by the Division of Wildlife Resources or Department of
179 Agriculture and Food to discharge agricultural and wildlife fireworks.

180 (ii) Importers and wholesalers licensed under Section 53-7-224 may possess, sell, and
181 offer to sell class C dangerous explosives.

182 ~~[(3)]~~ (2) Unclassified fireworks may not be sold, or offered for sale.

183 (3) (a) As used in this section, "NFPA" means the edition of the National Fire
184 Protection Association adopted by the state fire code.

185 (b) For purposes of the portion of the state fire code that includes the amendments and
186 additions to NFPA 1124, and subject to the amendments and additions made in the state fire
187 code, the board shall:

188 (i) by rule, adopt standards for the retail sales of consumer fireworks; and

189 (ii) in adopting the standards described in Subsection (3)(a)(i), consider the applicable
190 provisions of NFPA 1124, Chapter 7, Retail Sales of Consumer Fireworks.

191 Section 3. Section **53-7-225** is amended to read:

192 **53-7-225. Times for sale and discharge of fireworks.**

193 Class C common state approved explosives may be:

194 (1) sold each year:

195 (a) ~~[after June 19 and before]~~ beginning on June 26 and ending on July 26;

196 (b) ~~[after December 19 and before January 3]~~ beginning on December 26 and ending
197 on January 1; and

198 (c) ~~[15]~~ three days before and on the Chinese New Year; and
199 (2) discharged ~~[three days before, on the day of, and three days following]~~ each year:
200 ~~[(a) July 4;]~~
201 ~~[(b) July 24;]~~
202 (a) beginning on June 26 and ending on July 26;
203 ~~[(c)]~~ (b) on January 1 and December 31; and
204 ~~[(d)]~~ (c) the day before and on the Chinese New Year.

205 Section 4. **Coordinating H.B. 22 with H.B. 203 -- Providing for superseding**
206 **amendments.**

207 If this H.B. 22, Fire Prevention and Fireworks Act Amendments, and H.B. 203,
208 Codification of State Construction and Fire Codes, both pass it is the intent of the Legislature
209 that the Office of Legislative Research and General Counsel, in preparing the Utah Code
210 database for publication, not give effect to Subsection 53-7-222(3) enacted in this H.B. 22.