

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 835
96TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, April 19, 2012, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 835, adopted April 30, 2012.

Taken up for Perfection April 30, 2012. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

5877S.02P

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.

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Section A. Sections 320.106, 320.131, and 320.136, RSMo, are repealed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, UN0336, [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

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

16 mortars used for an outdoor fireworks display;

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

✓

Bill

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