

SECOND REGULAR SESSION

# SENATE BILL NO. 561

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 1, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4241S.02I

## AN ACT

To repeal sections 320.106 and 320.111, RSMo, and to enact in lieu thereof two new sections relating to hobby firework manufacturing, with an existing penalty provision.

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

Section A. Sections 320.106 and 320.111, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 320.106 and 320.111, to read as follows:

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

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

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

(3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UNO336, within 49 CFR Part 172;

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

(5) "Dispenser", a device designed for the measurement and delivery of liquids as fuel;

(6) "Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term

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

18 includes devices containing more than two grains (130 mg) of explosive  
19 composition intended for public display. These devices are classified as fireworks,  
20 UN0333 or UN0334 or UN0335, within 49 CFR Part 172;

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

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

30 (9) "Fireworks", any composition or device for producing a visible, audible,  
31 or both visible and audible effect by combustion, deflagration, or detonation and  
32 that meets the definition of consumer, proximate, or display fireworks as set forth  
33 by 49 CFR Part 171 to end, United States Department of Transportation  
34 hazardous materials regulations;

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

40 (11) "**Hobby manufacturer**", **any person engaged in the making,**  
41 **manufacture, assembly, or construction of fireworks of any kind for the**  
42 **sole purpose of personal use;**

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

48 [(12)] (13) "Licensed operator", any person who supervises, manages, or  
49 directs the discharge of outdoor display fireworks, either by manual or electrical  
50 means; who has met additional requirements established by promulgated rule and  
51 has successfully completed a display fireworks training course recognized and  
52 approved by the state fire marshal;

53 [(13)] (14) "Manufacturer", any person engaged in the making,

54 manufacture, assembly or construction of fireworks of any kind within the state  
55 of Missouri **for the purposes of sale or distribution;**

56 [(14)] (15) "NFPA", National Fire Protection Association, an international  
57 codes and standards organization;

58 [(15)] (16) "Permanent structure", buildings and structures with  
59 permanent foundations other than tents, mobile homes, and trailers;

60 [(16)] (17) "Permit", the written authority of the state fire marshal issued  
61 pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge,  
62 or distribute fireworks;

63 [(17)] (18) "Person", any corporation, association, partnership or  
64 individual or group thereof;

65 [(18)] (19) "Proximate fireworks", a chemical mixture used in the  
66 entertainment industry to produce visible or audible effects by combustion,  
67 deflagration, or detonation, as classified within 49 CFR Part 172 as UN0431 or  
68 UN0432;

69 [(19)] (20) "Pyrotechnic operator" or "special effects operator", an  
70 individual who has responsibility for pyrotechnic safety and who controls,  
71 initiates, or otherwise creates special effects for proximate fireworks and who has  
72 met additional requirements established by promulgated rules and has  
73 successfully completed a proximate fireworks training course recognized and  
74 approved by the state fire marshal;

75 [(20)] (21) "Sale", an exchange of articles of fireworks for money,  
76 including barter, exchange, gift or offer thereof, and each such transaction made  
77 by any person, whether as a principal proprietor, salesman, agent, association,  
78 copartnership or one or more individuals;

79 [(21)] (22) "Seasonal retailer", any person within the state of Missouri  
80 engaged in the business of making sales of consumer fireworks in Missouri only  
81 during a fireworks season as defined by subdivision (10) of this section;

82 [(22)] (23) "Wholesaler", any person engaged in the business of making  
83 sales of consumer fireworks to any other person engaged in the business of making  
84 sales of consumer fireworks at retail within the state of Missouri.

320.111. 1. It is unlawful for any person to manufacture, sell, offer for  
2 sale, ship or cause to be shipped into or within the state of Missouri except as  
3 herein provided any item of fireworks, without first having secured the required  
4 applicable permit as a manufacturer, **hobby manufacturer**, distributor,  
5 wholesaler, jobber or seasonal retailer from the state fire marshal and applicable

6 federal permit or license. Possession of said permit is a condition precedent to  
7 manufacturing, selling or offering for sale, shipping or causing to be shipped any  
8 fireworks into the state of Missouri, except as herein provided. This provision  
9 applies to nonresidents as well as residents of the state of Missouri.

10       2. The state fire marshal has the authority and is authorized and directed  
11 to issue permits for the sale **and manufacture** of fireworks. No permit shall be  
12 issued to a person under the age of eighteen years. All permits except for seasonal  
13 retailers shall be for the calendar year or any fraction thereof and shall expire on  
14 the thirty-first day of December of each year.

15       3. Permits issued must be displayed in the permit holder's place of  
16 business **or for hobby manufacturers, the permit shall be readily**  
17 **accessible at the manufacturing site.** No permit provided for herein shall be  
18 transferable nor shall a person operate under a permit issued to another person  
19 or under a permit issued for another location. Manufacturer, wholesaler, jobber,  
20 and distributor permit holders operating out of multiple locations shall obtain a  
21 permit for each location.

22       4. Failure to make application for a permit by May thirty-first of the  
23 calendar year may result in the fire marshal's refusal to issue a license to the  
24 licensee or applicant for such calendar year.

25       5. Any false statement or declaration made on a permit application may  
26 result in the state fire marshal's refusal to issue such permit to the requesting  
27 person for a period of time not to exceed three years.

28       6. The state fire marshal is authorized and directed to charge the following  
29 fees for permits:

30       (1) Manufacturer, a fee of seven hundred seventy-five dollars per calendar  
31 year;

32       (2) **Hobby manufacturer, a fee of one hundred dollars per calendar**  
33 **year;**

34       (3) Distributor, a fee of seven hundred seventy-five dollars per calendar  
35 year;

36       [(3)] (4) Wholesaler, a fee of two hundred seventy-five dollars per  
37 calendar year;

38       [(4)] (5) Jobber, a fee of five hundred twenty-five dollars per calendar  
39 year per sales location;

40       [(5)] (6) Seasonal retailer, a fee of fifty dollars per calendar year per sales  
41 location;

42            [(6)] (7) Display fireworks, a fee of one hundred dollars per calendar year  
43 per location;

44            [(7)] (8) Proximate fireworks display permit, a fee of one hundred dollars  
45 per calendar year per location;

46            [(8)] (9) Licensed operator, a fee of one hundred dollars for a three-year  
47 license;

48            [(9)] (10) Pyrotechnic operator, a fee of one hundred dollars for a  
49 three-year license.

50            7. A holder of a manufacturer's permit shall not be required to have any  
51 additional permits in order to sell to distributors, wholesalers, jobbers or seasonal  
52 retailers, or to sell display, or proximate fireworks.

53            8. A holder of a distributor's permit shall not be required to have any  
54 additional permits in order to sell to wholesalers, jobbers, seasonal retailers or to  
55 sell display, or proximate fireworks.

56            9. A holder of a jobber's permit shall not be required to have any  
57 additional permit in order to sell consumer fireworks at retail during the fireworks  
58 season from such jobber's permanent structure.

59            10. All fees collected for permits issued pursuant to this section shall be  
60 deposited to the credit of the fire education fund created pursuant to section  
61 320.094. Any person engaged in more than one permit classification shall pay one  
62 permit fee based upon the permit classification yielding the highest amount of  
63 revenue.

64            11. The state fire marshal is charged with the enforcement of the  
65 provisions of sections 320.106 to 320.161 and may call upon any state, county or  
66 city peace officer for assistance in the enforcement of the provisions of sections  
67 320.106 to 320.161. The state fire marshal may promulgate rules pursuant to the  
68 requirements of this section and chapter 536 necessary to carry out his or her  
69 responsibilities under this act including rules requiring training, examination, and  
70 licensing of licensed operators and pyrotechnic operators engaging in or  
71 responsible for the handling and use of display and proximate fireworks. The test  
72 shall incorporate the rules of the state fire marshal, which shall be based upon  
73 nationally recognized standards. No rule or portion of a rule promulgated  
74 pursuant to this chapter shall become effective unless it has been promulgated  
75 pursuant to the provisions of chapter 536.

76            12. The state fire marshal, upon notification by the department of revenue,  
77 may withhold permits from applicants upon evidence that all state sales taxes for

78 the preceding year or years have not been paid; except, this subsection shall not  
79 apply if an applicant is pursuing any proper remedy at law challenging the  
80 amount, collection, or assessment of any sales tax.

81 13. A holder of a distributor, wholesaler, or jobber's permit shall be  
82 required to operate out of a permanent structure in compliance with all applicable  
83 building and fire regulations in the city or county in which said person is  
84 operating a fireworks business. Seasonal retail permit locations shall be in  
85 compliance with all applicable building and fire regulations. The applicant may  
86 be subject to a fire safety inspection by the state fire marshal based upon  
87 promulgated rules and regulations adopted by the state fire marshal.

88 14. It is unlawful for any manufacturer, distributor, wholesaler, or jobber  
89 to sell consumer fireworks to a seasonal retailer who has not acquired an  
90 appropriate permit from the state fire marshal for the current permit period. A  
91 seasonal retailer shall acquire and present the appropriate permit from the state  
92 fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed  
93 to sell consumer fireworks to such seasonal retailer, provided that such seasonal  
94 retailer is purchasing the consumer fireworks for resale in this state.

95 15. **It is unlawful for a hobby manufacturer to sell or distribute**  
96 **any type of fireworks to another person.**

97 16. The state fire marshal and the marshal's deputies may conduct  
98 inspections of any premises and all portions of buildings where fireworks are  
99 stored, manufactured, kept or being offered for sale. All persons selling, offering  
100 for sale, barter, gift, exchange, or offer thereof any fireworks shall cooperate fully  
101 with the state fire marshal and the marshal's deputies during any such  
102 inspection. This inspection shall be performed during normal business hours.

103 [16.] 17. In addition to any other penalty, any person who manufactures,  
104 sells, offers for sale, ships or causes to be shipped into or caused to be shipped into  
105 the state of Missouri, for use in Missouri, any items of fireworks without first  
106 having the required applicable permit shall be assessed a civil penalty of up to a  
107 one thousand dollar fine for each day of operation up to a maximum of ten  
108 thousand dollars.

✓