

1 HB382
2 190262-1
3 By Representatives Ford, Drake, Black, Lindsey, Sessions,
4 Williams (JD) and Lovvorn
5 RFD: Ways and Means General Fund
6 First Read: 06-FEB-18

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8 SYNOPSIS: Under existing law, the State Fire Marshal
9 collects certain fees for issuing permits in the
10 regulation of the manufacturing, sale, and display
11 of fireworks and for the use of pyrotechnics in
12 close proximity to the audience under certain
13 conditions. The fees collected are paid into the
14 Fire Marshal Revolving Fund for the enforcement of
15 the laws and state agencies are authorized to
16 increase fees according to changes in the Consumer
17 Price Index.

18 This bill would increase the fees collected
19 by the State Fire Marshal for issuing permits in
20 the regulation of the manufacturing, sale, and
21 display of fireworks and for the use of
22 pyrotechnics in close proximity to the audience.

23 This bill would also provide for a quarterly
24 transfer of five percent of the permit fees
25 collected by the State Fire Marshal in the
26 regulation of fireworks and pyrotechnics to the
27 Alabama Firefighters Annuity and Benefit Fund.

1 This bill would also specify that the State
2 Fire Marshal would be authorized to increase the
3 fees at certain intervals according to increases in
4 the Consumer Price Index.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to fireworks and pyrotechnics; to amend
11 Sections 8-17-211 and 8-17-216.1, Code of Alabama 1975, to
12 increase the fees collected by the State Fire Marshal for
13 issuing permits in the regulation of the manufacturing, sale,
14 and display of fireworks and for the use of pyrotechnics
15 before a proximate audience; to provide for a quarterly
16 transfer of five percent of the permit fees collected by the
17 State Fire Marshal in the regulation of fireworks and
18 pyrotechnics to the Alabama Firefighters Annuity and Benefit
19 Fund; and to specify that the fees may be increased at certain
20 intervals according to increases in the Consumer Price Index.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 8-17-211 and 8-17-216.1, Code of
23 Alabama 1975, are amended to read as follows:

24 "§8-17-211.

25 "(a) It shall be unlawful for any person to
26 manufacture, sell, offer for sale, or ship or cause to be
27 shipped into or within the State of Alabama, except as herein

1 provided in this section, any item of fireworks or
2 pyrotechnics for use before a proximate audience, without
3 first having secured the required applicable permit, as a
4 manufacturer, distributor, wholesaler, retailer, or seasonal
5 retailer, from the State Fire Marshal. Possession of a permit
6 is a condition prerequisite to manufacturing, selling, or
7 offering for sale, or shipping or causing to be shipped any
8 fireworks or pyrotechnics for use before a proximate audience
9 into or within the State of Alabama, except as ~~herein~~ provided
10 in this section. This ~~provision~~ subsection applies to
11 nonresidents as well as residents of the State of Alabama.
12 Mail orders where consumers purchase any fireworks or
13 pyrotechnics for use before a proximate audience through the
14 mail or receive any fireworks or pyrotechnics for use before a
15 proximate audience in Alabama by mail, parcel service, or
16 other carrier are prohibited. A sales clerk must be on duty to
17 serve consumers at the time of purchase or delivery. All
18 fireworks or pyrotechnics for use before a proximate audience
19 sold and delivered to consumers within the State of Alabama
20 must take place within the State of Alabama and be sold and
21 delivered only by an individual, firm, partnership, or
22 corporation holding the proper Alabama permit and all
23 fireworks or pyrotechnics for use before a proximate audience
24 coming into the state, manufactured, sold, or stored within
25 the state shall be under the supervision of the State Fire
26 Marshal as provided for in this article.

1 "(b) Prior to engaging in the manufacture or sale
2 within the State of Alabama, or shipment into the State of
3 Alabama, of any fireworks or pyrotechnics for use before a
4 proximate audience, each person making shipment or delivery or
5 receiving any fireworks or pyrotechnics for use before a
6 proximate audience into or within the State of Alabama, must
7 make application on forms secured from the State Fire Marshal
8 for a permit or permits required under this article for each
9 location at which fireworks or pyrotechnics for use before a
10 proximate audience are to be offered for sale.

11 "(c) A manufacturer's permit issued under this
12 article shall be subject to rules ~~and regulations promulgated~~
13 adopted by the State Fire Marshal to govern the manufacture of
14 fireworks or pyrotechnics for use before a proximate audience
15 as in the judgment of the State Fire Marshal the public
16 welfare may require.

17 "(d) The decision of the State Fire Marshal as to
18 what type of permit or permits shall be required of each
19 person shall be final. The State Fire Marshal may deny a
20 permit to an applicant or revoke a permit if the State Fire
21 Marshal has knowledge or reason to believe the safety
22 standards and conditions of this article are not or cannot be
23 met by the applicant. No permit shall be issued to a person
24 under the age of 18 years. All permits shall be for the
25 calendar year or any fraction thereof and shall expire on
26 December 31 of each year, two days of grace shall be allowed
27 holders of permits after expiration thereof. Only one seasonal

1 retailer permit shall be required for a full calendar year and
2 it shall be valid for both fireworks seasons, provided that
3 the building is not moved from the location where it was
4 originally permitted and no substantial structural or
5 environmental changes have occurred. A seasonal retailer
6 permit may be issued after July tenth for the remaining
7 fireworks season of that calendar year. All permits issued
8 must be displayed in their place of business. No permit
9 provided for ~~herein~~ in this section shall be transferable nor
10 shall a person be permitted to operate under a permit issued
11 to any other person or under a permit issued for another
12 location, unless ~~transfer shall have been approved by the~~
13 State Fire Marshal approves the transfer.

14 "(e) The State Fire Marshal shall charge for permits
15 issued as follows:

16 "(1) Manufacturer, ~~two thousand dollars (\$2,000)~~ two
17 thousand seven hundred dollars (\$2,700).

18 "(2) Distributor, ~~two thousand dollars (\$2,000)~~ two
19 thousand seven hundred dollars (\$2,700).

20 "(3) Wholesaler, ~~seven hundred dollars (\$700)~~ nine
21 hundred forty-five dollars (\$945).

22 "(4) Retailer, ~~two hundred dollars (\$200)~~ two
23 hundred seventy dollars (\$270).

24 "(5) Seasonal Retailer, ~~two hundred dollars (\$200)~~
25 two hundred seventy dollars (\$270).

26 "(6) Seasonal Retailer after July 10, ~~one hundred~~
27 ~~dollars (\$100)~~ one hundred thirty-five dollars (\$135).

1 "(7) Display, application filed less than 10
2 business days before date, ~~fifty dollars (\$50)~~ seventy dollars
3 (\$70).

4 "(8) Display, application filed less than 10
5 business days before display date, one hundred forty dollars
6 (\$140).

7 (f) Only holders of a retailer or seasonal retailer
8 permit may engage in the retail sale of permitted items as
9 defined in Section 8-17-217, in any quantity, to consumers.

10 "(g) A holder of a manufacturer's permit is not
11 required to have any additional permit or permits in order to
12 sell to distributors, wholesalers, retailers, or seasonal
13 retailers.

14 "(h) A record of all sales by manufacturers,
15 distributors, or wholesalers must be kept showing the names
16 and addresses of purchasers. All fees collected for the
17 permits shall be paid into the Fire Marshal Revolving Fund for
18 the enforcement of this article. The State Fire Marshal may
19 designate a deputy fire marshal as the "fireworks enforcement
20 officer" who shall have the responsibility of directing
21 enforcement of the state fireworks laws.

22 "(i) The State Fire Marshal is charged with the
23 enforcement of this article and may call upon any state or
24 county or city peace officer for assistance in the enforcement
25 of this article. The fire marshal ~~is~~ may not ~~authorized to~~
26 ~~promulgate~~ adopt rules ~~or regulations~~ in conflict with or that
27 go beyond the scope or intent of this article.

1 "(j) Every five years, the State Fire Marshal may
2 increase the fees by the percentage increase in the Consumer
3 Price Index for all urban consumers as published by the U.S.
4 Department of Labor, Bureau of Labor Statistics, from the end
5 of December 2018, to the end of the month preceding the month
6 in which the fee increase is to be effective, rounded down to
7 the nearest dollar. The change may not exceed an increase of
8 two percent per year.

9 "§8-17-216.1.

10 "(a) The use of pyrotechnics before a proximate
11 audience shall comply with the requirements set out in the
12 latest edition of the National Fire Protection Association's
13 Standard for the Use of Pyrotechnics Before a Proximate
14 Audience (NFPA 1126) as shall be adopted by the State Fire
15 Marshal. For purposes of this article, the term "proximate
16 audience" shall mean an indoor audience closer to pyrotechnic
17 devices than permitted by the National Fire Protection
18 Association's Code for Fireworks Display (NFPA 1123).

19 "(b) No person shall use pyrotechnics before a
20 proximate audience without first obtaining a permit therefor
21 from the State Fire Marshal. An application for a permit for
22 the use of pyrotechnics at an event with a proximate audience
23 shall be filed with the State Fire Marshal not less than 10
24 days prior to the planned date of the event. The State Fire
25 Marshal may accept an application for a permit under this
26 section less than 10 days before the planned date of the event

1 if accompanied by a fee of double the amount otherwise
2 required.

3 "(c) The request for a permit under subsection (b)
4 shall be in the form and manner prescribed by the State Fire
5 Marshal. The permit shall be in addition to any locally
6 required permit or approval.

7 "(d) A fee of ~~one hundred dollars (\$100)~~ one hundred
8 fifty dollars (\$150) per event shall be submitted with each
9 application.

10 "(e) Where more than one event is to take place at
11 the same location during the same calendar date, a separate
12 application shall be filed for each event. The application fee
13 for the second and subsequent events on the same calendar date
14 shall be ~~fifty dollars (\$50)~~ seventy-five dollars (\$75) per
15 event.

16 "(f) The State Fire Marshal may prescribe such other
17 and additional requirements associated with the use of
18 pyrotechnics before a proximate audience as are deemed
19 necessary for the safety of property and persons present at
20 the proximate event location.

21 "(g) All pyrotechnics found at an event with a
22 proximate audience which does not have a permit shall be
23 confiscated and destroyed by the State Fire Marshal or his or
24 her designee.

25 "(h) All fees collected pursuant to this section
26 shall be paid into the Fire Marshal Revolving Fund for the
27 enforcement of this article.

1 "(i) Every five years, the State Fire Marshal may
2 increase the fees by the percentage increase in the Consumer
3 Price Index for all urban consumers as published by the U.S.
4 Department of Labor, Bureau of Labor Statistics, from the end
5 of December 2018, to the end of the month preceding the month
6 in which the fee increase is to be effective, rounded down to
7 the nearest dollar. The change may not exceed an increase of
8 two percent per year."

9 Section 2. On a quarterly basis, the State Fire
10 Marshal shall cause to be transferred from the Fire Marshal
11 Revolving Fund to the Alabama Firefighters Annuity and Benefit
12 Fund established pursuant to Section 36-21-185, Code of
13 Alabama 1975, an amount equal to five percent of the fees
14 collected by the State Fire Marshal during the previous
15 quarter pursuant to Sections 8-17-211 and 8-17-216.1, Code of
16 Alabama 1975, or as those fees may be changed from time to
17 time.

18 Section 3. This act shall become effective January
19 1, 2019, upon its passage and approval by the Governor, or its
20 otherwise becoming law.