

FIRST REGULAR SESSION

# HOUSE BILL NO. 1309

## 102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SANDER.

2292H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 320.094, 320.106, 320.111, 320.131, and 320.141, RSMo, and to enact in lieu thereof five new sections relating to fire protection, with penalty provisions.

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

Section A. Sections 320.094, 320.106, 320.111, 320.131, and 320.141, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 320.094,  
3 320.106, 320.111, 320.131, and 320.141, to read as follows:

320.094. 1. The state treasurer shall annually transfer an amount prescribed in  
2 subsection 2 of this section out of the state revenues derived from premium taxes levied on  
3 insurance companies pursuant to sections 148.310 to 148.461 which are deposited by the  
4 director of revenue in the general revenue fund pursuant to section 148.330 in a fund hereby  
5 created in the state treasury, to be known as the "Fire Education Fund". Any interest earned  
6 from investment of moneys in the fund, and all moneys received from gifts, grants, or other  
7 moneys appropriated by the general assembly, shall be credited to the fund. The state  
8 treasurer shall administer the fund, and the moneys in such fund shall be used solely as  
9 prescribed in this section. Notwithstanding the provisions of section 33.080 to the contrary,  
10 moneys in the fire education fund at the end of any biennium shall not be transferred to the  
11 credit of the general revenue fund.

12 2. Beginning July 1, ~~[1998]~~ **2024**, ~~[three]~~ **five** percent of the amount of premium taxes  
13 collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461  
14 which are deposited in the general revenue fund that exceeds the amount of premium taxes  
15 which were deposited in the general revenue fund in the ~~[1997]~~ **2023** fiscal year shall be  
16 transferred from the general revenue fund to the credit of the fire education fund. At the end

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 of each fiscal year, the commissioner of administration shall determine the amount transferred  
18 to the credit of the fire education fund in each fiscal year by computing the premium taxes  
19 deposited in the general revenue fund in the prior fiscal year and comparing such amount to  
20 the amount of premium taxes deposited in the general revenue fund in the ~~[1997]~~ **2023** fiscal  
21 year. An amount equal to ~~[three]~~ **five** percent of the increase computed pursuant to this  
22 section shall be transferred by the state treasurer to the credit of the fire education fund;  
23 however, such transfer in any fiscal year shall not exceed one million five hundred thousand  
24 dollars.

25         3. There is hereby established a special trust fund, to be known as the "Missouri Fire  
26 Education Trust Fund", which shall consist of all moneys collected per subsection 2 of this  
27 section transferred to the fund from the fire education fund pursuant to this subsection, any  
28 earnings resulting from the investment of moneys in the fund, and all moneys received from  
29 gifts, grants, or other moneys appropriated by the general assembly. Each fiscal year, an  
30 amount equal to forty percent of the moneys transferred to the fire education fund collected  
31 pursuant to subsection 2 of this section shall be transferred by the state treasurer to the credit  
32 of the Missouri fire education trust fund. The fund shall be administered by the Missouri fire  
33 safety education/advisory commission. Subject to appropriations, moneys in the fund shall be  
34 used solely for the purposes described in this section. Moneys shall accumulate in the trust  
35 fund until the earnings from investment of moneys in the fund can adequately support the  
36 activities described in this section, as determined by the commission. Notwithstanding the  
37 provisions of section 33.080 to the contrary, moneys in the Missouri fire education trust fund  
38 at the end of any biennium shall not be transferred to the credit of the general revenue fund.

39         4. The moneys in the fire education fund shall be appropriated to the division of fire  
40 safety to coordinate education needs in cooperation with community colleges, colleges,  
41 regional training facilities, fire and emergency services training entities and universities of  
42 this state and shall provide training and continuing education to firefighters in this state  
43 relating to fire department operations and the personal safety of firefighters while performing  
44 fire department activities. Programs and activities funded under this subsection shall be  
45 approved by the Missouri fire safety education/advisory commission established in subsection  
46 5 of this section. These funds shall primarily be used to provide field education throughout  
47 the state, with not more than ~~[two]~~ **five** percent of funds under this subsection expended on  
48 administrative costs.

49         5. There is established the "Missouri Fire Safety Education/Advisory Commission",  
50 to be domiciled in the division of fire safety within the department of public safety. The  
51 commission shall be composed of nine members appointed by the governor with the advice  
52 and consent of the senate, consisting of two firefighters, with one serving as a volunteer of a  
53 recognized fire department and one serving as a full-time firefighter employed by a

54 recognized fire department, two members shall be fire service training officers, one member  
55 shall be a person with expertise in fire investigation, one member shall be an insurer licensed  
56 to provide insurance coverage for losses due to fire, one member who provides fire safety  
57 appliances or equipment, one member who is serving as the chief of a recognized volunteer  
58 fire department, and one member serving as the full-time chief of a recognized paid fire  
59 department. No more than five members appointed by the governor shall be of the same  
60 political party. The terms of office for the members appointed by the governor shall be four  
61 years and until their successors are selected and qualified, except that, of those first  
62 appointed, two shall have a term of four years, two shall have a term of three years and one  
63 shall have a term of two years. There is no limitation on the number of terms an appointed  
64 member may serve. The governor may appoint a member for the remaining portion of the  
65 unexpired term created by a vacancy. The governor may remove any appointed member for  
66 cause. The members shall at their initial meeting select a chair. All members of the  
67 commission shall serve without compensation for their duties, but shall be reimbursed for  
68 necessary travel and other expenses incurred in the performance of their official duties. The  
69 commission shall meet at least quarterly at the call of the chair and shall review and determine  
70 appropriate programs and activities for which funds may be expended under subsection 4 of  
71 this section.

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

- 3 (1) "American Pyrotechnics Association (APA), Standard 87-1", or subsequent  
4 standard which may amend or supersede this standard for manufacturers, importers and  
5 distributors of fireworks;
- 6 (2) "Chemical composition", all pyrotechnic and explosive composition contained in  
7 fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;
- 8 (3) "Consumer fireworks", explosive devices **containing restricted amounts of**  
9 **pyrotechnic composition**, designed primarily to produce visible or audible effects by  
10 combustion and includes aerial devices and ground devices, ~~[all of which are classified as~~  
11 ~~fireworks, UNO336, within 49 CFR Part 172]~~ **that comply with the construction, chemical**  
12 **composition, and labeling regulations of the United States Consumer Product Safety**  
13 **Commission, as set forth in 16 CFR 1500, 16 CFR 1507, and 49 CFR 172, and in APA**  
14 **Standard 87-1, Standard for the Construction and Approval for Transportation of**  
15 **Fireworks, Novelties, and Theatrical Pyrotechnics;**
- 16 (4) "Discharge site", the area immediately surrounding the fireworks mortars used for  
17 an outdoor fireworks display;
- 18 (5) "Dispenser", a device designed for the measurement and delivery of liquids as  
19 fuel;

20 (6) "Display fireworks", explosive devices designed primarily to produce visible or  
21 audible effects by combustion, deflagration or detonation~~]. This term includes devices~~  
22 ~~containing more than two grains (130 mg) of explosive composition intended for public~~  
23 ~~display. These devices are classified as fireworks, UN0333 or UN0334 or UN0335, within~~  
24 ~~49 CFR Part 172] as set forth in 27 CFR 555 and 49 CFR 172, and in APA Standard 87-1,~~  
25 **Standard for the Construction and Approval for Transportation of Fireworks,**  
26 **Novelties, and Theatrical Pyrotechnics;**

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

30 (8) "Distributor", any person engaged in the business of ~~[selling]~~ **making licensed**  
31 **sales of any** fireworks to wholesalers, jobbers, seasonal retailers, other persons, **licensed**  
32 **operators, pyrotechnic operators,** or governmental bodies that possess the necessary  
33 permits as specified in sections 320.106 to 320.161, including any person that imports **or**  
34 **exports** any fireworks of any kind in any manner into **or out of** the state of Missouri;

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

39 (10) "Fireworks season", the period beginning on the ~~[twentieth]~~ **tenth** day of June  
40 and continuing through the tenth day of July of the same year and the period beginning on the  
41 ~~[twentieth]~~ **tenth** day of December and continuing through the second day of January of the  
42 next year, which shall be the only periods of time that **licensed** seasonal retailers may be  
43 permitted to sell consumer fireworks;

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

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

53 (13) "Manufacturer", any person engaged in the making, manufacture, assembly or  
54 construction of fireworks of any kind within the state of Missouri;

55 (14) "NFPA", National Fire Protection Association, an international codes and  
56 standards organization;

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

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

61 (17) "Person", any corporation, association, partnership or individual or group  
62 thereof;

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

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

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

74 (21) "Seasonal retailer", any person ~~[within the state of Missouri]~~ engaged in the  
75 business of making **licensed** sales of consumer fireworks ~~[in]~~ **at retail within the state of**  
76 **Missouri to nonlicensed buyers for use inside and outside the state of Missouri** only  
77 during a fireworks season as defined by subdivision (10) of this section;

78 (22) "Wholesaler", any person engaged in the business of making **licensed** sales of  
79 consumer fireworks to any other person engaged in the business of making **licensed** sales of  
80 consumer fireworks at retail within the state of Missouri.

320.111. 1. It is unlawful for any person to manufacture, sell, offer for sale, ship or  
2 cause to be shipped into, **out of**, or within the state of Missouri except as herein provided any  
3 item of fireworks, without first having secured the required applicable permit as a  
4 manufacturer, distributor, wholesaler, jobber, or seasonal retailer from the state fire marshal  
5 and applicable federal permit or license. Possession of said permit is a condition precedent to  
6 manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks  
7 into, **out of, or within** the state of Missouri, except as herein provided. This provision  
8 applies to nonresidents as well as residents of the state of Missouri.

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

13           3. Permits issued must be displayed in the permit holder's place of business. No  
14 permit provided for herein shall be transferable nor shall a person operate under a permit  
15 issued to another person or under a permit issued for another location. Manufacturer,  
16 wholesaler, jobber, and distributor permit holders operating out of multiple locations shall  
17 obtain a permit for each location.

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

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

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

26           (1) Manufacturer, a fee of [~~seven hundred seventy five~~] **one thousand** dollars per  
27 calendar year;

28           (2) Distributor, a fee of [~~seven hundred seventy five~~] **eight hundred** dollars per  
29 calendar year;

30           (3) Wholesaler, a fee of [~~two hundred seventy five~~] **six hundred** dollars per calendar  
31 year;

32           (4) Jobber, a fee of [~~five hundred twenty five~~] **four hundred** dollars per calendar  
33 year per sales location;

34           (5) Seasonal retailer, a fee of [~~fifty~~] **two hundred** dollars per calendar year per sales  
35 location;

36           (6) Display fireworks **site**, a fee of one hundred dollars per calendar year per location;

37           (7) Proximate fireworks [~~display permit~~] **site**, a fee of one hundred dollars per  
38 calendar year per location;

39           (8) Licensed operator, a fee of one hundred dollars for a three-year license;

40           (9) Pyrotechnic operator, a fee of one hundred dollars for a three-year license.

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

44           8. A holder of a distributor's permit shall not be required to have any additional  
45 permits in order to sell to wholesalers, jobbers, seasonal retailers, **licensed operators, or**  
46 **pyrotechnic operators**, or to sell display, or proximate fireworks.

47           9. A holder of a jobber's permit shall not be required to have any additional permit in  
48 order to sell consumer fireworks at retail **to nonlicensed buyers** during the fireworks season  
49 from such jobber's permanent structure.

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

54           11. The state fire marshal is charged with the enforcement of the provisions of  
55 sections 320.106 to 320.161 and may call upon any state, county or city peace officer for  
56 assistance in the enforcement of the provisions of sections 320.106 to 320.161. The state fire  
57 marshal may promulgate rules pursuant to the requirements of this section and chapter 536  
58 necessary to carry out his or her responsibilities under this act including rules requiring  
59 training, examination, and licensing of licensed operators and pyrotechnic operators engaging  
60 in or responsible for the handling and use of display and proximate fireworks. The test shall  
61 incorporate the rules of the state fire marshal, which shall be based upon nationally  
62 recognized standards. No rule or portion of a rule promulgated pursuant to this chapter shall  
63 become effective unless it has been promulgated pursuant to the provisions of chapter 536.

64           12. The state fire marshal, upon notification by the department of revenue, may  
65 withhold permits from applicants upon evidence that all state sales taxes for the preceding  
66 year or years have not been paid; except, this subsection shall not apply if an applicant is  
67 pursuing any proper remedy at law challenging the amount, collection, or assessment of any  
68 sales tax.

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

75           14. It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell  
76 consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the  
77 state fire marshal for the current permit period. A seasonal retailer shall acquire and present  
78 the appropriate permit from the state fire marshal before any manufacturer, distributor,  
79 wholesaler, or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided  
80 that such seasonal retailer is purchasing the consumer fireworks for resale in this state.

81           15. The state fire marshal and the marshal's deputies may conduct inspections of any  
82 premises and all portions of buildings where fireworks are stored, manufactured, kept or  
83 being offered for sale. All persons selling, offering for sale, barter, gift, exchange, or offer  
84 thereof any fireworks shall cooperate fully with the state fire marshal and the marshal's  
85 deputies during any such inspection. This inspection shall be performed during normal  
86 business hours.

87           16. In addition to any other penalty, any person who manufactures, sells, offers for  
88 sale, ships or causes to be shipped into or caused to be shipped into, **out of, or within** the  
89 state of Missouri, for use in Missouri, any items of fireworks without first having the required  
90 applicable permit shall be assessed a civil penalty of up to a one thousand dollar fine for each  
91 day of operation up to a maximum of ten thousand dollars.

          320.131. 1. It is unlawful for any person to possess, sell or use within the state of  
2 Missouri, or ship into, **out of, or within** the state of Missouri, except as provided in section  
3 320.126, any pyrotechnics commonly known as "fireworks" and defined as consumer  
4 fireworks in subdivision (3) of section 320.106 other than items now or hereafter classified as  
5 fireworks [~~UNO336, 1.4G by the United States Department of Transportation~~] **with a valid**  
6 **EX or FC number** that comply with the construction, chemical composition, labeling and  
7 other regulations relative to consumer fireworks regulations promulgated by the United States  
8 Consumer Product Safety Commission and permitted for use by the general public pursuant  
9 to such commission's regulations.

10           2. No wholesaler, jobber, or seasonal retailer, or any other person shall sell, offer for  
11 sale, store, display, or have in their possession any consumer fireworks that have not been  
12 approved as fireworks [~~UNO336, 1.4G by the United States Department of Transportation~~]  
13 **with a valid EX or FC number.**

14           3. No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer  
15 dealers, or any other person, in this state for the purpose of resale, or use, in this state, any  
16 consumer fireworks which do not have [~~the numbers and letter "1.4G" printed within~~] an  
17 orange, diamond-shaped label printed on or attached to the fireworks shipping carton.

18           4. This section does not prohibit a manufacturer, distributor or any other person  
19 possessing the proper permits as specified by state and federal law from storing, selling,  
20 shipping or otherwise transporting display or proximate fireworks.

21           5. Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which  
22 paper caps containing twenty-five hundredths grains or less of explosive compound, provided  
23 that they are so constructed that the hand cannot come into contact with the cap when in place  
24 for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of  
25 explosive mixture shall be permitted for sale and use at all times and shall not be regulated by  
26 the provisions of sections 320.106 to 320.161.

27           **6. Sky lanterns shall be prohibited for sale or use within the state of Missouri at**  
28 **all times.**

          320.141. Permissible items of consumer fireworks defined in section 320.131 may be  
2 sold at wholesale [~~or retail by holders of a jobber's permit to nonlicensed buyers from outside~~  
3 ~~the state of Missouri~~] **to licensed buyers** during a calendar year from the first day of January  
4 until the thirty-first day of December. Permissible items of consumer fireworks defined in



5 section 320.131 may be sold at retail by holders of a **jobber's permit to nonlicensed buyers**  
6 **during a calendar year from the first day of January until the thirty-first day of**  
7 **December. Permissible items of consumer fireworks defined in section 320.131 may be**  
8 **sold at retail by holders of a seasonal retail permit to nonlicensed buyers** during the selling  
9 periods of the [~~twentieth~~] **tenth** day of June through the tenth day of July and the [~~twentieth~~]  
10 **tenth** day of December through the second day of January.

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