

## CHAPTER 66

( HB 333 )

AN ACT relating to fireworks, making an appropriation therefor, and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of this section, "APA 87-1" means the latest document: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics written by the American Pyrotechnic Association (APA).*
- (2) *The storage of consumer fireworks, display fireworks, or theatrical pyrotechnic devices, as defined in APA 87-1, at retail, wholesale, storage, or manufacturing facilities shall be reported in writing to the state fire marshal and the local fire chief of the jurisdiction where the facilities are located.*
  - (a) *The report shall be completed by the owner or lessee of the property or the supplier of the fireworks, and shall include the address of the facility, the location of the fireworks to be stored, a copy of the shipping bill, and whether they are consumer fireworks, theatrical pyrotechnic devices, or display fireworks.*
  - (b) *The initial report for permanent business establishments open year round shall be submitted between January 1, 2012, and January 31, 2012, for existing business and fifteen (15) days before storage begins for new businesses. The report for permanent business establishments open year round shall be updated annually and upon a change in location of the stored items.*
- (3) *Seasonal retailers, as defined in Section 7 of this Act, shall submit, at least fifteen (15) days prior to opening for sale each year, a report to the state fire marshal and the local fire chief of the jurisdiction identifying:*
  - (a) *The address where the sales will be taking place;*
  - (b) *The address where the fireworks will be stored; and*
  - (c) *A description of how the fireworks will be stored. Only one (1) report is due if the seasonal retailer stores the same product at the same location for both the June 10 through July 7 and December 26 through January 4 seasons.*
- (4) *Failure to submit a report required under this section shall be cause to cease and desist operation of the facility or site until such time as the required information is properly submitted. Inspectors shall notify the permit holder in writing and may allow twenty-four (24) hours to remedy the violation, unless the violation poses a distinct fire hazard.*

➔Section 2. KRS 227.700 is amended to read as follows:

*As used in KRS 227.700 to 227.750, ~~the term~~ "fireworks" means ~~shall mean~~ any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer fireworks" ~~common~~ as defined in Section 3 of this Act or "display ~~special~~" fireworks as defined in Section 5 of this Act and as set forth in the United States Department of Transportation's (DOT) hazardous materials regulations. "Fireworks" does not include:*

- (1) Exception number 1: Toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with DOT regulations, and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times.
- (2) Exception number 2: Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models are not considered to be fireworks.
- (3) Exception number 3: Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.

➔Section 3. KRS 227.702 is amended to read as follows:

*As used in KRS 227.700 to 227.750, "consumer ~~Common~~ fireworks" means ~~are~~ fireworks that are suitable for use by the public, ~~and~~ designed primarily to produce visible effects by combustion, and ~~must~~ comply with the construction, chemical composition, and labeling regulations of the United States Consumer ~~Product~~ ~~Products~~*

Safety Commission. The types, sizes, and amount of pyrotechnic contents of these devices are limited as enumerated in this section. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing fifty (50) mg. or less of explosive composition, and aerial devices containing one hundred thirty (130) mg. or less of explosive composition. **Consumer**~~[Common]~~ fireworks are **further defined by the Consumer Product Safety Commission in CPSC, 16 C.F.R. Pts 1500 and 1507, are** classified as **Division 1.4G**~~[class C]~~ explosives by the United States Department of Transportation, and include the following:

- (1) Ground and hand-held sparkling devices.
  - (a) Dipped stick-sparkler *or wire sparkler. These devices consist of a metal wire or wood dowel that has been*~~[Stick or wire]~~ coated with pyrotechnic composition. *Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to*~~[that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed]~~ one hundred (100) grams of **pyrotechnic composition** per item. Those devices containing any perchlorate or chlorate salts may not exceed five (5) grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item are not included in this category, in accordance with DOT regulations;
  - (b) Cylindrical fountain. Cylindrical tube~~[not more than three fourths (3/4) in. (19 mm) inside diameter,]~~ containing **not more than**~~[up to]~~ seventy-five (75) grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect *or smoke*, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain). **When more than one (1) tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred (200) grams, or five hundred (500) grams if the tubes are separated from each other on the base by a distance of at least one-half (1/2) inch;**
  - (c) Cone fountain. Cardboard or heavy paper cone containing up to fifty (50) grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. **When more than one (1) cone is mounted on a common base, the total pyrotechnic composition may not exceed two hundred (200) grams, or five hundred (500) grams if the tubes are separated from each other on the base by a distance of at least one-half (1/2) inch;**
  - (d) Illuminating torch. Cylindrical tube containing up to one hundred (100) grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base or hand-held. **When more than one (1) tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred (200) grams, or five hundred (500) grams if the tubes are separated from each other on the base by a distance of at least one-half (1/2) inch;**
  - (e) Wheel. A~~[Pyrotechnic]~~ device attached to a post or tree by means of a nail or string. A~~[Each]~~ wheel may **have one (1) or more drivers, each of which may contain not more than**~~[contain up to six (6) "driver" units: tubes not exceeding one half (1/2) in. (12.5 mm) inside diameter and containing up to]~~ sixty (60) grams of pyrotechnic composition. **No wheel may contain more than two hundred (200) grams total pyrotechnic composition.** Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect;
  - (f) Ground spinner. Small device **containing not more than twenty (20) grams of pyrotechnic composition**, similar *in operation* to a wheel **but intended to be**~~[in design and effect and]~~ placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device;~~[and]~~
  - (g) Flitter sparkler. Narrow paper tube **attached to a stick or wire and** filled with **not more than one hundred (100) grams of** pyrotechnic composition that produces color and sparks upon ignition. ~~[This device does not have a fuse for ignition.]~~The paper at one (1) end of the tube is ignited to make the device function; *and*
  - (h) **Toy smoke device. Small plastic or paper item containing not more than one hundred (100) grams of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect;**
- (2) Aerial devices.
  - (a) Sky **rockets and bottle rockets. Cylindrical tube containing not more than** ~~[rocket. Tube not exceeding one half (1/2) in. (12.5 mm) inside diameter that may contain up to]~~ twenty (20) grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight;

- (b) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability;
  - (c) Helicopter, aerial spinner. A tube~~[not more than one half (1/2) in. (12.5 mm) inside diameter and]~~ containing up to twenty (20) grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight;
  - (d) Roman candles. Heavy paper or cardboard tube~~[not exceeding three eighths (3/8) in. (9.5 mm) inside diameter and]~~ containing up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals;~~[and]~~
  - (e) Mine, shell. Heavy cardboard or paper tube *usually*~~[up to two and one half (2 1/2) in. (63.5 mm) inside diameter]~~ attached to a wood or plastic base and containing up to *sixty (60)*~~[forty (40)]~~ grams of *total chemical composition (lift charge, burst charge, and visible or audible effect*~~[pyrotechnic]~~ composition). Upon ignition, "stars," *components producing reports containing up to one hundred thirty (130) milligrams of explosive composition per report*~~[firecrackers]~~, or other devices are propelled into the air. *The term "mine" refers to a device with no internal components containing a bursting charge, and the term "shell" refers to a device that propels a component that subsequently bursts open in the air. A mine or shell device may contain more than one (1) tube provided the tubes fire in sequence upon ignition of one (1) external fuse. The term "cake" refers to a dense-packed collection of mine or shell tubes. Total chemical composition including lift charges of any multiple tube devices may not exceed two hundred (200) grams. The maximum quantity of lift charge in any one (1) tube of a mine or shell device shall not exceed twenty (20) grams, and the maximum quantity of break or bursting charge in any component shall not exceed twenty-five percent (25%) of the total weight of chemical composition in the component.* The tube remains on the ground; *and*
  - (f) *Aerial shell kit, reloadable tube. A package kit containing a cardboard, high-density polyethylene (HDPE), or equivalent launching tube with multiple-shot aerial shells. Each aerial shell is limited to a maximum of sixty (60) grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition), and the maximum diameter of each shell shall not exceed one and three-fourths (1-3/4) inches. In addition, the maximum quantity of lift charge in any shell shall not exceed twenty (20) grams, and the maximum quantity of break or bursting charge in any shell shall not exceed twenty-five percent (25%) of the total weight of chemical composition in the shell. The total chemical composition of all the shells in a kit, including lift charge, shall not exceed four hundred (400) grams. The user lowers a shell into the launching tube, at the time of firing, with the fuse extending out of the top of the tube. After the firing, the tube is then reloaded with another shell for the next firing. All launching tubes shall be capable of firing twice the number of shells in the kit without failure of the tube. Each package of multiple-shot aerial shells must comply with all warning label requirements of the Consumer Product Safety Commission.*
- (3) Audible ground devices.
- (a) Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than fifty (50) mg. of pyrotechnic composition. *Those used in aerial devices may contain not more than one hundred thirty (130) milligrams of explosive composition per report.* Upon ignition, noise and a flash of light is produced; and
  - (b) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed fifty (50) mg~~[; and]~~
- ~~(4) Combination items. Firework devices containing combinations of two (2) or more of the effects described in paragraphs (a), (b), and (c) of subsection (2) of this section].~~

➔Section 4. KRS 227.704 is amended to read as follows:

Items listed in this section are classified as novelties and trick noisemakers and are not classified as *consumer*~~[common]~~ fireworks by the United States Department of Transportation, *and their transportation, storage, retail sale, possession, sale, and use shall be allowed throughout the state at all times.*

- (1) Snake, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

- (2) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (3) Wire sparkler. Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed one hundred (100) grams of pyrotechnic composition per item. Devices containing any chlorate or perchlorate salts may not exceed five (5) grams of pyrotechnic composition per item.
- (4) Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:
  - (a) Party popper. Small plastic or paper item containing not more than sixteen (16) mg. of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.
  - (b) Booby trap. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.
  - (c) Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes producing a small report.
  - (d) Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match a small report or a shower of sparks is produced.
  - (e) Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.
  - (f) Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle or smoke, or both, when ignited. A small quantity of explosive, not exceeding fifty (50) mg. may also be used to produce a small report. A squib is used to ignite the device.

→Section 5. KRS 227.706 is amended to read as follows:

*As used in KRS 227.700 to 227.750, "display" ~~means~~ ~~the term "special"~~ fireworks "means pyrotechnic devices or ~~shall mean~~ large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, firecrackers containing more than two (2) grains (130 mg) of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as "consumer ~~common~~ fireworks." Display ~~Special~~ fireworks are **defined by the Consumer Product Safety Commission in CPSC, 16 C.F.R. Pts. 1500 and 1507, and are** classified as Class B explosives by the United States Department of Transportation.*

→Section 6. KRS 227.710 is amended to read as follows:

No person, firm, copartnership, or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell, possess, use, or explode any *display* fireworks, except as follows:

- (1) (a) In cities the chief of the fire department, or mayor, or similar official where there is no fire department, and in counties outside of cities the county judge/executive, may grant permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.
- (b) Every display shall be handled by a competent *display* operator to be approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of the official, after proper inspection, ~~to shall~~ not be hazardous to property or endanger any person. ~~†~~
- (c) *"Competent display operator" shall be defined as the person with overall responsibility for the operation and safety of a fireworks display. The competent display operator shall have a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) License and have participated as an assistant in firing at least five (5) public displays. A "competent display operator" is also an employee possessor. A permit under paragraph (a) of this subsection shall be issued only to a competent display operator holding an ATF license.*
- (d) *At least one (1) competent display operator shall be on site during display set-up and firing. This competent display operator shall maintain a copy of the permit application, as signed by the local authority having jurisdiction as identified in this section, on site and at all times the display is in place, and shall be presented on demand of the state fire marshal or local fire chief. All public*

*displays that require issuance of a permit shall be conducted in accordance with the provisions of National Fire Protection Association (NFPA) 1123 – Code for Fireworks Display (adopted edition).*

- (e) Permits shall be filed with the state fire marshal at least fifteen (15) days in advance of the date of the display. After the privilege is granted, sales, possession, use, and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted under this subsection shall be transferable. For the purposes of this subsection, "public display of fireworks" shall include the use of pyrotechnic devices or pyrotechnic materials before a proximate audience, whether indoors or outdoors.
  - (f) *Any person remaining within the display area shall be identified as licensed by the ATF, or an employee thereof, or be an assistant in training to become a competent display operator. All persons remaining within the display area shall be at least eighteen (18) years of age.*
  - (g) *The Commissioner of the Department of Housing, Buildings and Construction with recommendation from the state fire marshal shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this subsection. The regulations shall address the process by which permits are issued and any other procedures that are reasonably necessary to effectuate this subsection.*
- (2) The sale, at wholesale, of any **display** fireworks for ~~permitted~~<sup>permitted</sup> displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the United States Bureau of Alcohol, Tobacco and Firearms, **and Explosives** if the sale is to the person holding a display permit as outlined in subsection (1) of this section. The permit holder shall present the permit along with other verifiable identification at the time of sale.
  - (3) ~~The sale of display fireworks in accordance with a license issued by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, at wholesale, of any kind of fireworks by any resident manufacturer, wholesaler, dealer, or jobber, provided the fireworks are intended for shipment directly out of state in accordance with regulations of the United States Department of Transportation.~~
  - (4) The sale and use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, and highway use.
  - (5) The use of fuses and railway torpedoes by railroads.
  - (6) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.
  - (7) The use of any pyrotechnic device by military organizations.
  - (8) The use of fireworks for agricultural purposes under the direct supervision of the United States Department of the Interior or any equivalent or local agency.
  - (9) *Nothing in this section shall prohibit a person, firm, co-partnership, non-profit, or corporation from offering for sale, exposing for sale, selling at retail, keeping with intent to sell, possessing or using consumer fireworks as defined in Section 3 of this Act and* ~~The sale of common fireworks~~ as permitted pursuant to KRS 227.715.

➔ Section 7. KRS 227.715 is amended to read as follows:

Except as provided in KRS 227.710, the ~~consumer~~<sup>consumer</sup> fireworks described in KRS 227.702~~(1)~~ may be offered for sale, sold at retail, or kept with the intent to sell, only if the following requirements are met:

- (1) Any person **firm, co-partnership, non-profit**, or business intending to sell ~~consumer~~<sup>consumer</sup> fireworks **described in KRS 227.702(1)** shall register annually with the state fire marshal, who may assess a fee of no more than **twenty-five dollars (\$25)** ~~fifty dollars (\$50)~~ for each site at which fireworks shall be sold. The registration requirement under this section shall not apply to permanent business establishments which are open year round and in which the sale of fireworks is ancillary to the primary course of business. **Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200;**
- (2) **Permanent business establishments open year round and in which the sale of consumer fireworks is ancillary to the primary course of business shall only be permitted to sell those consumer fireworks described in KRS 227.702(1), or shall meet the criteria for "seasonal retailer" described in subsection (3) of this section;**
- (3) **"Seasonal retailers" shall be defined as any person, firm, co-partnership, non-profit, or corporation intending to sell "consumer fireworks" between June 10th and July 7th, or December 26th and January**

*4th of each year or both, and shall include permanent businesses, temporary businesses, stores, stands, or tents. A seasonal retailer shall register with the state fire marshal, who may assess a fee of no more than two hundred fifty dollars (\$250) for each site at which fireworks shall be sold. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200;*

- (4) *Any person, firm, co-partnership, non-profit, or corporation intending to sell consumer fireworks, as defined in KRS 227.702(2) and (3) as the primary source of business, that is not a seasonal retailer as defined in subsection (3) of this section, shall register with the state fire marshal, who may assess a fee of no more than five hundred dollars (\$500) for each site at which fireworks will be sold. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200;*
- (5) *The annual registration required by ~~subsection (4) of~~ this section shall be received by the state fire marshal at least fifteen (15) days prior to offering fireworks for sale at the site for which the registration is intended. Evidence that a sales and use tax permit has been obtained from the Department of Revenue shall be presented to the state fire marshal as a condition of registration. If the registration is received less than fifteen (15) days prior to offering fireworks for sale at the site for which registration is intended, an additional assessment of one hundred dollars (\$100) shall be added to the initial fee;*
- ~~(6)(3)~~ Each site at which fireworks are offered for sale shall have its registration certificate displayed in a conspicuous location at the site;
- ~~(7)(4)~~ Each site at which fireworks are offered for sale shall *comply with all applicable provisions of the International Building Code, with Kentucky Amendments (adopted edition), and NFPA 1124 (National Fire Protection Association) – Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (adopted edition)*~~have a working fire extinguisher at the site, in compliance with NFPA Pamphlet 10;~~
- ~~(8)(5)~~ *No common fireworks item shall be offered for sale if it has as part of its device any wings, fins, or other mechanism designed to cause the device to fly, or if it carries a cautionary label which includes in its description any of the following terms: "explosive," "emits flaming pellets," "flaming balls," "firecracker," "report," or "rocket;"*
- ~~(6)~~ No person or business shall give, offer for sale, or sell any *consumer*~~common~~ fireworks listed in KRS 227.702 to any person under *eighteen (18)*~~sixteen (16)~~ years of age;
- ~~(9)(7)~~ *No person under eighteen (18) years of age may be employed by a fireworks distribution facility, or manufacturing facility. No person under eighteen (18) years of age shall sell consumer fireworks at a consumer fireworks retail sales facility registered under Section 7 of this Act unless the individual is supervised by a parent or guardian;*
- (10) The state fire marshal may revoke the registration of any site which is in violation of a requirement of this section, or any other requirement provided pursuant to this chapter. If the violation renders any property especially susceptible to fire loss, and there is present such hazard to human life or limb that the public safety imperatively requires emergency action, the state fire marshal may take that action, as provided in KRS 227.330(6); *and*
- (11) *A person lawfully possessing consumer fireworks, as defined in KRS 227.702(2) and (3) may use those items if:*
- (a) *He or she is at least eighteen (18) years of age;*
  - (b) *Fireworks are not ignited within two hundred (200) feet of any structure, vehicle, or any other person; and*
  - (c) *Use of the fireworks does not place him or her in violation of any lawfully enacted local ordinance.*

➔Section 8. KRS 227.750 is amended to read as follows:

- (1) *The state fire marshal, or any fire department having jurisdiction which has been deputized to act on behalf of the state fire marshal, shall cause to be removed at the expense of the owner all stocks of fireworks which are stored and held in violation of this chapter. After a period of sixty (60) days, the seized fireworks may be offered for sale by closed bid to a properly certified fireworks wholesaler.*
- (2) *After a period of sixty (60) days, the seized fireworks may be offered for sale by closed bid to a properly certified manufacturer, distributor, or wholesaler. All seized fireworks or explosives with a Class 1.3G or "Display" designation shall require the notification of the United States Bureau of Alcohol, Tobacco and*

*Firearms. The state fire marshal shall provide the owner or possessor a receipt containing the complete inventory of any fireworks seized within five (5) business days of the seizure.*

- (3) *Before any seized fireworks may be disposed of:*
- (a) *If the owner of the seized fireworks is known to the state fire marshal, the state fire marshal shall give notice by registered mail or personal service to the owner of the state fire marshal's intention to dispose of the fireworks. The notice shall inform the owner of the state fire marshal's intent. The state fire marshal shall conduct an administrative hearing in accordance with KRS Chapter 13B concerning the disposal of fireworks; or*
  - (b) *If the identity of the owner of any seized fireworks is not known to the state fire marshal, the state fire marshal shall cause to be published, in a newspaper of general circulation in the county in which the seizure was made, notice of the seizure, and of the state fire marshal's intention to dispose of the fireworks. The notice shall be published once each week for three (3) consecutive weeks. If no person claims ownership of the fireworks within ten (10) days of the date of the last publication, the state fire marshal may proceed with disposal of the fireworks. If the owner does claim the fireworks within ten (10) days of the date of the last publication, a hearing as set out in paragraph (a) of this subsection shall be held*
  - (4) *Nothing in KRS 227.700 to 227.750 shall restrict a local government from enacting ordinances that affect the sale or use of fireworks within their jurisdiction*~~[The state fire marshal shall seize, take, remove, or cause to be removed at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter. All fireworks held, possessed, or used in violation of this chapter shall be destroyed as contraband].~~

➔Section 9. KRS 227.708 is amended to read as follows:

- (1) Items described in KRS 227.702~~[(4)]~~ are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.
- (2) Items described in ~~[KRS 227.702(2) and (3) and ]~~KRS 227.706 are not legal for retail sale but are legal under permits granted pursuant to KRS 227.710 for the purposes specified in this chapter for public displays and may be sold at wholesale as provided in this chapter.
- (3) Items described in KRS 227.704 are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.

➔Section 10. KRS 227.782 is amended to read as follows:

- (1) There is hereby established in the State Treasury a special fund to be known as the fire prevention and public safety fund. The fund shall consist of all moneys recovered as penalties under KRS 227.778 *and moneys collected for fees pursuant to Section 7 of this Act.*~~]~~
- (2) *Notwithstanding KRS 45.229, fund amounts not expended at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (4) The moneys shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be made available to the state fire marshal to *administer Sections 1 to 10 of this Act and to* support fire safety and prevention programs.

➔Section 11. Whereas the ordinary effective date of legislation passed during the 2011 Regular Session of the Kentucky General Assembly would hinder persons subject to the provisions of this Act from complying with its requirements before the July 4 holiday, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 15, 2011.**