

AN ACT relating to fireworks.

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

➔Section 1. KRS 227.715 is amended to read as follows:

Except as provided in KRS 227.710, the consumer fireworks described in KRS 227.702 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, nonprofit, or business intending to sell consumer 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) 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, nonprofit, or corporation intending to sell "consumer fireworks" between June ~~(7)~~⁽⁷⁾ and July 7, or December ~~(5)~~⁽⁵⁾ and January 4 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, nonprofit, 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 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) Each site at which fireworks are offered for sale shall have its registration certificate displayed in a conspicuous location at the site;
- (7) 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);
- (8) No person or business shall give, offer for sale, or sell any consumer fireworks listed in KRS 227.702 to any person under eighteen (18) years of age;
- (9) 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 this section 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 2. KRS 227.752 is amended 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 KRS 227.715, 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 ~~(7)~~^[10] through July 7 and December ~~(5)~~^[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.