

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2707

1 AN ACT TO ESTABLISH THE LICENSING OF MANUFACTURERS,
2 DISTRIBUTORS AND WHOLESALERS OF FIREWORKS BY THE STATE FIRE
3 MARSHAL'S OFFICE; TO AMEND SECTION 45-13-11, MISSISSIPPI CODE OF
4 1972, TO PROVIDE THAT PERMITS ISSUED BY THE GOVERNING AUTHORITIES
5 OF COUNTIES OR MUNICIPALITIES SHALL BE IN COMPLIANCE WITH THE
6 NATIONAL FIRE PROTECTION ASSOCIATION AND THE MISSISSIPPI FIRE
7 PREVENTION CODE; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** As used in this act, the following terms shall
10 have the meanings ascribed to them in this section unless clearly
11 indicated otherwise:

12 (a) "Distributor" means any person engaged in the
13 business of making sales of fireworks for resale to all holders of
14 the required Mississippi license who in turn shall resell to any
15 permit holder or any person who receives, brings or imports any
16 fireworks of any kind into the State of Mississippi, except to a
17 holder of a Mississippi manufacturer's or distributor's license.

18 (b) "Fireworks" means all articles of fireworks as
19 defined in Section 45-13-1.

20 (c) "Chief Deputy State Fire Marshal" means the
21 individual appointed by the Commissioner of Insurance, who, along
22 with his employees, is designated by the commissioner to implement
23 and enforce this act.

24 (d) "License" means the written authority of the Chief
25 Deputy State Fire Marshal issued under the authority of this act.

26 (e) "Manufacturer" means any person engaged in the
27 making, manufacture or construction of fireworks of any kind
28 within the State of Mississippi.

29 (f) "Person" includes any corporation, association,
30 copartnership or one or more individuals.

31 (g) "Retailer" means any person engaged in the business
32 of making sales of fireworks to consumers within the State of
33 Mississippi during a calendar year from January 1 through December
34 31.

35 (h) "Sale" means an exchange of articles or fireworks
36 for money, including barter, exchange, gift or offer thereof, and
37 each such transaction made by any person, whether as principal
38 proprietor, salesman, agent association, copartnership or one or
39 more individuals.

40 (i) "State Fire Marshal" means the Commissioner of
41 Insurance.

42 (j) "Wholesaler" means any person engaged in the
43 business of making sales of fireworks to any other person engaged
44 in the business of making sales to a retailer.

45 **SECTION 2.** (1) It shall be unlawful for any person to
46 manufacture, sell or offer for sale, ship or cause to be shipped
47 into or within the state, except as herein provided, any item of
48 fireworks without first having secured the required applicable
49 license as a manufacturer, distributor or wholesaler from the
50 Chief Deputy State Fire Marshal. Possession of the license is a
51 condition prerequisite to manufacturing, selling or offering for
52 sale, shipping or causing to be shipped any fireworks into or
53 within the state except as herein provided. Mail orders where
54 consumers purchase any fireworks through the mail or receive any
55 fireworks in the state by mail, parcel service or other carrier
56 are prohibited. All fireworks coming into the state or
57 manufactured, sold or stored within the state shall be under the
58 supervision of the Chief Deputy State Fire Marshal as provided in
59 this act.

60 (2) Before engaging in the manufacture or sale within the
61 state, or shipment into the state, of any fireworks, each person

62 making shipment or delivery or receiving any fireworks into or
63 within the state shall make application on forms secured from the
64 Chief Deputy State Fire Marshal for a license or licenses required
65 under this act. It is expressly provided that the licensing
66 requirements of this act do not apply to retailers.

67 (3) A manufacturer's license issued under this act shall be
68 subject to rules and regulations promulgated by the Chief Deputy
69 State Fire Marshal to govern the manufacture of fireworks as in
70 his judgment the public welfare may require.

71 (4) The Chief Deputy State Fire Marshal may deny a license
72 to an applicant or revoke a license if he has knowledge or reason
73 to believe the safety standards and conditions of this act are not
74 or cannot be met by the applicant. No license shall be issued to
75 a person under the age of eighteen (18) years. All licenses shall
76 be for the calendar year or any fraction thereof and shall expire
77 on December 31 of each year. All licenses issued must be
78 displayed in their place of business. No license provided for
79 herein shall be transferable nor shall a person be permitted to
80 operate under a license issued to any other person.

81 (5) The Chief Deputy State Fire Marshal is authorized and
82 directed to charge for licenses issued as follows:

- 83 (a) Manufacturer..... \$1,000.00
- 84 (b) Distributor..... \$1,000.00
- 85 (c) Wholesaler..... \$ 350.00

86 (6) A holder of a manufacturer's license is not required to
87 have any additional license or licenses in order to sell to
88 distributors or wholesalers.

89 (7) A record of all sales by manufacturers, distributors or
90 wholesalers must be kept showing the names and addresses of
91 purchasers. All fees collected for the licenses shall be paid
92 into the special fund in the State Treasury designated as the
93 Insurance Department Fund for the enforcement of this act. The
94 Chief Deputy State Fire Marshal may designate a deputy fire

95 marshal as the "fireworks enforcement officer" who shall have the
96 responsibility of directing enforcement of the state fireworks
97 laws.

98 (8) The Chief Deputy State Fire Marshal is charged with the
99 enforcement of this act and may call upon any state, county or
100 city police officer for assistance in the enforcement of this act.

101 **SECTION 3.** The Chief Deputy State Fire Marshal shall assign
102 a number to each license issued and each holder of a license of
103 any of the classes herein provided shall imprint or affix the same
104 to all purchase orders, delivery receipts and invoices issued or
105 used by each manufacturer, distributor or wholesaler.

106 **SECTION 4.** (1) The State Fire Marshal, after a hearing is
107 held with not less than twenty (20) days' written notice, may
108 revoke any license issued under the provisions of this act upon
109 evidence that the holder of the license has committed an act in
110 violation of this act.

111 (2) The State Fire Marshal, in his discretion, may refuse to
112 issue another license to the holder of a license which has been
113 cancelled or revoked for a period not to exceed three (3) years.

114 (3) Any person, distributor, manufacturer or wholesaler who,
115 after a hearing is held with not less than twenty (20) days'
116 written notice, is found by the State Fire Marshal to have
117 violated any provision hereof, may be assessed a penalty for each
118 violation of not less than Two Hundred and Fifty Dollars (\$250.00)
119 nor more than One Thousand Dollars (\$1,000.00). Funds from such
120 penalties shall be deposited with the State Treasurer to be placed
121 in a fund designated as the "Insurance Department Fund."

122 (4) Any person aggrieved by an action or decision of the
123 State Fire Marshal under the provision of this act may appeal to
124 the Circuit Court of the First Judicial District of Hinds County
125 by certiorari in the manner provided by law. Such appeal shall be
126 without supersedeas, except that the court may grant supersedeas
127 as otherwise provided by law where the license is revoked. The

128 court shall have the authority and jurisdiction to hear the appeal
129 and render its decision in regard thereto in term or vacation.

130 **SECTION 5.** Nothing in this act shall be construed as
131 applying to the shipping, sale, possession and use of special
132 fireworks for public displays by holders of a federal permit or
133 license for a public display to be conducted in accordance with
134 the rules and regulations governing this type of fireworks by the
135 Alcohol, Tobacco and Firearms Division of the United States
136 Treasury Department.

137 **SECTION 6.** Section 45-13-11, Mississippi Code of 1972, is
138 amended as follows:

139 45-13-11. The governing body of any municipality or the
140 board of supervisors of any county outside a municipality may
141 grant permits under which fireworks, the sale, possession or use
142 of which is otherwise prohibited hereby, may be sold and used for
143 exhibition purposes; however, such permit shall be issued in
144 compliance with Section 1123 of the National Fire Protection
145 Association, as revised, and the Mississippi Fire Prevention Code,
146 as revised. Such permits shall require that the persons in charge
147 of such exhibitions shall be experienced in the handling of
148 fireworks and the members of the public attending the exhibitions
149 shall be kept at a safe distance therefrom. Any fireworks held in
150 storage for such exhibitions shall be kept in a closed box until
151 removed therefrom for firing.

152 **SECTION 7.** This act shall take effect and be in force from
153 and after July 1, 2004.