

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 853

Short Title: Consumer Fireworks Safety. (Public)

Sponsors: Representatives Brockman and Hardister (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Regulatory Reform, if favorable, Finance.

April 15, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT THE SALE, POSSESSION, AND DISCHARGE OF CERTAIN
3 CONSUMER FIREWORKS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 14-410 reads as rewritten:

6 "**§ 14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; license
7 required; sale to persons under the age of 16 prohibited.**

8 ...

9 (a6) It shall be permissible for pyrotechnics that are consumer fireworks to be sold, used,
10 handled, or discharged within the State, provided the sale, use, handling, or discharge comply
11 with Part 2 of Article 82A of Chapter 58 of the General Statutes.

12 (b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any
13 individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2),
14 (3), (4)c., (5), or (6) to persons under the age of 16.

15 (c) The following definitions apply in this Article:

16 (1) Concert or public exhibition. – A fair, carnival, show of any description, or
17 public celebration.

18 (1a) Consumer fireworks. – Any small fireworks device designed primarily to
19 produce visible effects by combustion or deflagration that (i) is categorized
20 as a 1.4G firework device under Standard 87.1 of the American Pyrotechnics
21 Association; and (ii) complies with the construction, chemical composition,
22 and labeling regulations of the United States Consumer Product Safety
23 Commission, as set forth in Volume 16, Parts 1500 and 1507 of the Code of
24 Federal Regulations.

25 (2) Display operator. – An individual issued a display operator license under
26 G.S. 58-82A-3.

27 (3) State Fire Marshal. – Defined in G.S. 58-80-1."

28 **SECTION 2.** G.S. 58-82A-1 through G.S. 58-82A-55 are recodified as Part 1 of
29 Article 82A of Chapter 58 of the General Statutes, to be entitled:

30 "Part 1. Display Pyrotechnics Training and Permitting."

31 **SECTION 3.** Article 82A of Chapter 58 of the General Statutes is amended by
32 adding a new Part to read:

33 "Part 2. Consumer Fireworks.

34 **§ 58-82A-75. Purpose.**



1 The sale, use, handling, or discharge of consumer fireworks shall be permitted only in
2 compliance with the provisions of this Part.

3 **"§ 58-82A-80. Definitions.**

4 The following definitions apply in this Part:

- 5 (1) Consumer fireworks. – Defined in G.S. 14-410(c), unless otherwise
6 excluded by the Commissioner under the authority granted in
7 G.S. 58-82A-100.
- 8 (2) Consumer fireworks distributor. – A person owning or otherwise controlling
9 a facility where consumer fireworks are stored or otherwise maintained for
10 distribution to fireworks retailers permitted under this Part.
- 11 (3) Consumer fireworks permanent retailer. – A retail establishment open
12 throughout the year, where the portion of the establishment's retail sales
13 floor devoted to displays of consumer fireworks is greater than twenty-five
14 percent (25%) of the total retail sales area, or 600 square feet, whichever is
15 less.
- 16 (4) Consumer fireworks retail stand. – A temporary or permanent building or
17 structure with a floor area not greater than 800 square feet, other than tents,
18 canopies, or membrane structures, that is used primarily for the temporary
19 retail display and sale of consumer fireworks to the public. Stands may
20 include, but are not limited to, small buildings, temporary structures
21 constructed from plywood, sheet metal, or similar materials, manufactured
22 buildings, trailers, and shipping containers.
- 23 (5) Consumer fireworks temporary retailer. – A consumer fireworks retail stand
24 or a consumer fireworks tent that operates for less than 45 days in any
25 calendar year.
- 26 (6) Consumer fireworks tent. – A tent, canopy, or membrane structure with a
27 floor area not greater than 1,500 square feet that is not permanently installed
28 and that is used primarily for the temporary retail display and sale of
29 consumer fireworks to the public.
- 30 (7) Fireworks retailer. – A consumer fireworks permanent retailer, a consumer
31 fireworks temporary retailer, or an incidental consumer fireworks retailer
32 permitted under this Part.
- 33 (8) Incidental consumer fireworks retailer. – A retail establishment selling
34 consumer fireworks that is not a consumer fireworks permanent retailer as
35 defined by this section.
- 36 (9) NFPA standards. – Standard 1124 of the National Fire Protection
37 Association, 2013 edition, as it applies to the retail sale or distribution of
38 consumer fireworks, except as otherwise specified by this Part.
- 39 (10) Public space. – Any building or area open to the public, whether privately or
40 publicly owned. Public Space includes, but is not limited to, bars,
41 restaurants, theaters, stadiums, arenas, retail establishments, and shopping
42 malls.
- 43 (11) Safe and sane consumer fireworks. – Consumer fireworks that do not
44 explode or become airborne, as the Commissioner, through the Office of the
45 State Fire Marshal, in consultation with the State Fire and Rescue
46 Commission, may specify by rule.

47 **"§ 58-82A-85. License for possession and use of consumer fireworks.**

48 (a) License Required. – The possession and use of consumer fireworks is allowed in the
49 State by any person holding a fireworks license issued under this section. The Commissioner,
50 through the Office of the State Fire Marshall, may by rule provide for the sale of licenses by
51 telephone, mail, online, or otherwise and may also provide for the appointment of persons as

1 license agents to sell the fireworks license authorized by this section. A service fee of two
2 dollars (\$2.00) per license transaction may be charged (i) by the Office of State Fire Marshall,
3 for licenses it directly sells to the public, or (ii) by license agents.

4 (b) Conditions for Issuance of License. – A fireworks license shall be issued to any
5 person over the age of 18 years who pays twenty-five dollars (\$25.00), plus any service fee
6 levied under subsection (a) of this section, and who has completed the fireworks safety course
7 as set forth in subsection (c) of this section.

8 (c) Fireworks Safety Course. – The Commissioner, through the Office of State Fire
9 Marshall, shall institute and coordinate a statewide course of instruction in legal and safe
10 fireworks use. The course shall include proper handling, discharge, storage, and transportation
11 of consumer fireworks, as well as the restrictions on licensed use imposed under this Part. The
12 course of instruction shall be conducted as follows:

13 (1) The Commissioner shall designate those persons or agencies authorized to
14 give the course of instruction, and this designation shall be valid until
15 revoked by the Commissioner. Those designated persons shall submit to the
16 Commissioner validated listings naming all persons who have successfully
17 completed the course of instruction.

18 (2) The Commissioner may conduct the course in fireworks safety, using
19 Department personnel or other persons approved by the Commissioner.

20 (3) The Commissioner shall issue a certificate to each person who successfully
21 completes the course of instruction, and the certificate shall be valid until
22 revoked by the Commissioner.

23 (4) Any similar certificate issued outside the State by a governmental agency,
24 shall be accepted as complying with the requirements of subsection (b) of
25 this section, if the privileges are reciprocal for North Carolina residents.

26 (5) The Commissioner shall adopt rules and regulations to provide for the
27 course of instruction and the issuance of the certificates consistent with the
28 purpose of this section.

29 (d) Conditions on Licensed Use. – The possession and use of consumer fireworks by
30 the holder of a license issued under this section is subject to the following conditions:

31 (1) The use of consumer fireworks may occur only between the hours of 8:00
32 A.M. and 10:00 P.M., with the following exceptions:

33 a. On July 4, use is permitted until 12:00 A.M.

34 b. On December 31 and the following January 1, use is permitted from
35 8:00 A.M. on December 31 until 12:30 A.M. on January 1.

36 (2) The discharge of consumer fireworks is prohibited in the following
37 locations:

38 a. In or on the premises of a public or private primary or secondary
39 school.

40 b. On the campus of a college or university, unless the person has
41 received written authorization from the college or university.

42 c. Within 300 feet of a hospital, veterinary hospital, licensed child care
43 center, fireworks retailer, fireworks distributor, gas station, or bulk
44 storage facility for petroleum products or other explosive or
45 flammable substances.

46 (3) The possession or discharge of consumer fireworks is prohibited in or on the
47 premises of any public park or public space, except as otherwise permitted
48 by the person, State agency, or unit of local government owning or otherwise
49 controlling the park, property, or space.

50 **"§ 58-82A-90. Sale of consumer fireworks; permit required.**

1 (a) Permit Requirement. – No person shall sell consumer fireworks in this State unless
2 the person holds a retail permit issued under this Part. Permits for operation of a fireworks
3 retailer shall be posted in a location visible to members of the general public visiting the
4 retailer. The Commissioner, through the Office of State Fire Marshall and in consultation with
5 the State Fire and Rescue Commission, shall issue rules to implement this section. The rules
6 shall specify requirements for consumer fireworks permanent and temporary retailers, as well
7 as incidental consumer fireworks retailers, as defined by this Part.

8 **"§ 58-82A-95. Retail permit fees.**

9 The Commissioner shall charge an applicant for a permit under G.S. 58-82A-90 a
10 reasonable fee based on the costs to the Commissioner for issuing the permit and enforcing this
11 Part for each category of retailer.

12 **"§ 58-82A-100. Retail permittee financial responsibility.**

13 The Commissioner shall require a permit applicant or permit holder to demonstrate proof of
14 financial responsibility in the form of bonds, policies of insurance, or qualification as a self
15 insurer with minimum levels of financial responsibility determined by the Commissioner. The
16 Commissioner, through the Office of State Fire Marshall and in consultation with the State Fire
17 and Rescue Commission, shall issue rules to implement this section.

18 **"§ 58-82A-105. Power of Commissioner to exclude certain categories of pyrotechnics**
19 **from definition of consumer fireworks.**

20 The Commissioner, through the Office of State Fire Marshall and in consultation with the
21 State Fire and Rescue Commission, may by rule exclude certain types or categories of
22 pyrotechnics otherwise meeting the definition of "consumer fireworks" from the provisions of
23 this Part upon a finding that the type or category of pyrotechnic presents a significant and
24 widespread risk of death, serious bodily injury, or substantial damage to public or private
25 property.

26 **"§ 58-82A-110. Prohibition of consumer fireworks.**

27 During periods of hazardous forest fire conditions, the Commissioner in consultation with
28 the North Carolina Forest Service is authorized to prohibit all use of consumer fireworks
29 otherwise permitted by this Part in all or part of the State. The Commissioner shall issue a press
30 release containing relevant details of the prohibition to news media serving the area affected.

31 **"§ 58-82A-115. Civil and criminal penalties for violations.**

32 (a) G.S. 14-415 and G.S. 58-2-70 shall apply to any person violating any of the
33 provisions of this Part."

34 **SECTION 4.** This act becomes effective July 1, 2015.