CHAPTER 56

State Board of Pyrotechnic Safety

**SECTION 40‑56‑1.** Policy and purpose.

 It is the policy of this State, and the purpose of this chapter, to promote the safety of the public and the environment by effective regulation of pyrotechnics. Public safety requires that persons who handle pyrotechnics have demonstrated their qualifications, that they adhere to reliable safety standards, and that the sites where pyrotechnics are manufactured, stored, and sold adhere to reliable safety standards. It is neither the policy of this State nor the purpose of this chapter to place undue restrictions upon entry into the business of handling pyrotechnics.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑5.** Applicability.

 Unless otherwise provided for in this chapter, Chapter 1, Title 40 applies to the Board of Pyrotechnic Safety and licensees regulated under this chapter. If there is a conflict between this chapter and Chapter 1, the provisions of this chapter control.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑10.** State Board of Pyrotechnic Safety.

 (A) The State Board of Pyrotechnic Safety is composed of seven members appointed by the Governor. One appointee must be employed by a local fire authority, one must be a pyrotechnics retailer, one must be a pyrotechnics wholesaler, one must be a law enforcement representative, and three must be members of the public who shall not possess any pecuniary interest in any entity engaged in a business directly involving the sale of pyrotechnics. A seat on the board that remains vacant for sixty days must be filled through an appointment by the Chairman of the House Labor, Commerce and Industry Committee, and the Chairman of the Senate Labor, Commerce and Industry Committee.

 (B) The terms of office for members are for four years and until their successors are appointed and qualified. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

 (C) The board shall meet at least annually and not more than once per month. All meetings must be scheduled at the call of the chairman. The board shall elect from its members a chairman, vice chairman, and other officers as it considers necessary to serve for terms of one year and until their successors are elected and qualified. All members shall receive mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions for days on which they are transacting official business, to be paid by the board.

 (D) The department’s Office of State Fire Marshal shall provide administrative support as required by the board to perform its prescribed functions. The State Fire Marshal is an official consultant and is authorized to attend all meetings.

HISTORY: 1979 Act No. 190 Section 8A; 1980 Act No. 519, Part II, Section 5; 1982 Act No. 466, Part II, Section 45; 1991 Act No. 248, Section 6; 1992 Act No. 425, Section 1; 1993 Act No. 181, Section 929; 2010 Act No. 196, Section 1, eff June 1, 2010.

Effect of Amendment

The 2010 amendment rewrote the section.

CROSS REFERENCES

State Fire Marshal, generally, see Section 23‑9‑10 et seq.

Library References

Explosives 3.

Westlaw Topic No. 164.

C.J.S. Explosives Sections 14 to 17, 20, 30 to 36.

**SECTION 40‑56‑20.** Definitions.

 As used in this chapter:

 (1) “APA” means the American Pyrotechnics Association.

 (2) “Board” means the State Board of Pyrotechnic Safety.

 (3) “Consumer fireworks” means any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507 and APA Standard 87‑1. Some small devices designed to produce audible effects are consumer fireworks, including, but not limited to, whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 C.F.R. 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4G. These fireworks were formerly known as “Class C Fireworks”.

 (4) “CPSC” means the U.S. Consumer Product Safety Commission.

 (5) “Department” means the Department of Labor, Licensing and Regulation.

 (6) “Display fireworks” means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as “consumer fireworks”. Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 C.F. R. 172.101. This term also includes fused setpieces containing components which together exceed 50 mg of salute powder. Display fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3G. These fireworks were formerly known as “Class B Fireworks”.

 (7) “DOT” means the U.S. Department of Transportation.

 (8) “Fireworks” means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of “consumer fireworks” or “display fireworks” as defined by this section.

 (9) “Licensee” means a person, firm, or entity that has been issued a license by the board under the provisions of this chapter to manufacture, sell, or store fireworks.

 (10) “NFPA” means National Fire Protection Association.

 (11) “Pyrotechnics” means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

 (12) “Small bottle rocket” is a consumer firework with a motor less than one‑half inch in diameter and three inches in length, a stabilizing stick less than fifteen inches in length, and a total pyrotechnic composition not exceeding 20 grams in weight.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

Federal Aspects

Fireworks devices regulations, see 16 C.F.R. Section 1507.1 et seq.

Hazardous materials table, see 49 C.F.R. Section 172.101.

Hazardous substances and articles, administration and enforcement, see 16 C.F.R. Section 1500.1 et seq.

Library References

Explosives 3.

Westlaw Topic No. 164.

C.J.S. Explosives Sections 14 to 17, 20, 30 to 36.

**SECTION 40‑56‑30.** Noncompliance with chapter unlawful.

 It is unlawful for a person to engage in the manufacturing, storage, or sale of pyrotechnics unless in compliance with this chapter.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑35.** License required for manufacture, sale, or storage of fireworks; exceptions.

 (A) Except as otherwise provided for in this section, a person, firm, or entity that manufactures, sells, or stores fireworks shall obtain a license issued by the board pursuant to this chapter. General license requirements are as follows:

 (1) A license may not be issued to anyone under the age of eighteen.

 (2) An application for licensure must be submitted on forms prescribed by the board accompanied by applicable fees.

 (3) A license is required for each physical address or site at which fireworks are manufactured, sold, or stored.

 (4) A copy of the appropriate license issued by the South Carolina Department of Revenue for retail sales of fireworks must accompany each application for a retail fireworks sales license.

 (5) Initial license applications and applications for license renewal may be approved only after an authorized agent of the board inspects the buildings and facilities where fireworks are to be manufactured, sold, or stored for compliance with the current codes and standards.

 (6) All licenses and permits only may be issued for one calendar year.

 (7) Licenses must be prominently displayed at the licensee’s place of business approved for the manufacture, sale, or storage of fireworks.

 (8) Licenses issued by the board are nontransferable.

 (B) A license is not required for the:

 (1) manufacture, sale, storage, transportation, handling, or a combination of these, including, but not limited to, railroad torpedoes, automotive, aeronautical, and marine flares and smoke signals;

 (2) transportation, storage, handling, or use of fireworks, or a combination of these, by the Armed Forces of the United States;

 (3) transportation, handling, or use of fireworks, or a combination of these, by the State Fire Marshal, his employees, or a commissioned law enforcement officer acting within his official capacity; or

 (4) fireworks deregulated by the U.S. Department of Transportation.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑50.** Administrative support.

 The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspection, clerical, secretarial, and license renewal operations and activities of the board pursuant to Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑70.** Duties of board.

 (A) It is the duty and responsibility of the board to promulgate, pursuant to the Administrative Procedures Act, regulations relating to pyrotechnics in this State, including the manufacture, sale, storage, and fire safety of these products. These regulations must be adjusted using the procedures in Chapter 34, Title 1.

 (B) The board may conduct hearings on alleged violations by licensees of this chapter or regulations promulgated pursuant to this chapter and may discipline these licensees.

 (C) The board also shall recommend to the General Assembly legislation it considers necessary for the safety and control of the sale of pyrotechnics.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

Editor’s Note

Prior laws: 1979 Act No. 190, Section 8A; 1980 Act No. 519, Part II, Section 6; 1993 Act No. 181, Section 930; 1976 Code Section 40‑56‑20.

**SECTION 40‑56‑80.** Investigations; inspections; confiscation of illegal fireworks; board may compel attendance of witnesses.

 (A) The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Chapter 1.

 (B) During reasonable business hours, the department or its authorized agent may enter the premises or vehicle of a person engaged in the manufacture, sale, or storage of pyrotechnics to inspect, investigate, or examine the property or installation it considers necessary. When an emergency exists, as declared by the department, the inspector may enter the premises of a person and take necessary action for public safety including, but not limited to, the evacuation of the area where the emergency exists.

 (C) A fire chief and his inspector, a sheriff and his deputy, a chief of police and his officer, and an agent of SLED may inspect a building, facility, or vehicle where fireworks may be manufactured, stored, or sold and records of manufacturing, storage, sales, and purchases that must be maintained.

 (D) An official named in this section who has the authority to inspect may confiscate illegal fireworks being manufactured, offered for sale, stored, or possessed.

 (E) The board may compel the attendance of witnesses to testify in relation to a matter within its jurisdiction.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑100.** Issuance of cease and desist order, or petition for temporary restraining order or other equitable relief.

 In addition to other remedies provided for in this chapter, the board pursuant to Chapter 1 may issue a cease and desist order or may petition the Administrative Law Court for a temporary restraining order or other equitable relief to enjoin a violation of this chapter or a regulation promulgated pursuant to this chapter.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑115.** Jurisdiction of board.

 The board has jurisdiction over the actions of licensees and former licensees as provided for in Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑120.** Discipline.

 (A) Upon a determination by the board that grounds for discipline exist, the board is authorized to:

 (1) issue a public reprimand;

 (2) impose a civil penalty not to exceed two thousand five hundred dollars;

 (3) place a licensee on probation or restrict or suspend a license for a definite or indefinite time period and prescribe conditions to be met during this period including, but not limited to, satisfactory completion of additional education, or a supervisory period; or

 (4) revoke the license.

 (B) The board may take disciplinary action against a person for:

 (1) the grounds stated in Chapter 1; or

 (2) a condition found as a result of an inspection, examination, or investigation provided for in Section 40‑56‑80 that is hazardous to public safety.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑130.** License denial based on same grounds for discipline.

 The board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑140.** License denial based on prior criminal record.

 A license may be denied based on a person’s prior criminal record only as provided for in Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑150.** Voluntary surrender of license.

 A licensee under investigation for a violation of this chapter or a regulation promulgated pursuant to this chapter may voluntarily surrender the license pursuant to Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑160.** Review of board decision.

 A person aggrieved by a final action of the board may seek review of the decision pursuant to Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑170.** Payment of investigation and prosecutions costs.

 A person found in violation of this chapter or a regulation promulgated pursuant this chapter may be required to pay costs associated with the investigation and prosecution of the case pursuant to Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑180.** Payment of costs and fines.

 All costs and fines imposed pursuant to this chapter must be paid in accordance with, and are subject to, the collection and enforcement provisions of Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑190.** Confidentiality of investigations and proceedings.

 Investigations and proceedings conducted under the provisions of this chapter are confidential, and all communications are privileged as provided for in Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑200.** Penalties; fire codes and regulations adopted by State Fire Marshal.

 (A) A person required by this chapter to obtain a license to do business in this State, who has not obtained a license or who operates while his license is suspended or revoked or who violates a provision of this chapter or a regulation promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not less than ninety days and not more than one year.

 (B) This chapter does not repeal, amend, or otherwise affect fire codes and regulations adopted by the State Fire Marshal.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑210.** Civil penalties and injunctive relief.

 In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief as provided for in Chapter 1.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑220.** Facilities must comply with regulations; consumer fireworks must comply with federal standards; small bottle rocket sale and use not legal; no sale of fireworks to anyone under sixteen.

 (A) All facilities for the manufacturing, sales, or storage of fireworks must comply with regulations established by the board.

 (B) All consumer fireworks must comply with standards set by the U.S. Department of Transportation and the CPSC for consumer fireworks. The board may request fireworks be tested by a CPSC certified testing group to see that these standards are met.

 (C) Retail sale and use of small bottle rockets are not legal within South Carolina.

 (D) Fireworks may not be sold to anyone under the age of sixteen.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑230.** Insurance.

 (A) An application for a retail fireworks sales license must be accompanied by evidence that the applicant holds a policy that:

 (1) provides public liability insurance coverage for retail sales activities at the location for the permitted sale period;

 (2) is issued by an insurance company authorized to do business in this State; and

 (3) provides coverage in the following minimum amounts:

 (a) one million dollars for injuries or damage to any one person in one accident or occurrence;

 (b) one million dollars for injuries to two or more persons in any accident or occurrence; and

 (c) one million dollars combined single‑limit coverage for any one accident or occurrence.

 (B) A policy, except those policies issued for fewer than ninety days’ use for seasonal permits, by its original term or an endorsement, must obligate the insurer to not cancel, suspend, or nonrenew the policy without thirty days’ written notice of the proposed cancellation, suspension, or nonrenewal being given to the board. The insured immediately shall give notice to the board if liability insurance is canceled, suspended, or nonrenewed.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑240.** Wholesale licenses; display fireworks.

 (A) A person may not store display fireworks in this State unless the person has obtained a wholesale license from the board.

 (B) Only licensed wholesalers shall sell or provide fireworks for displays.

 (C) All buildings and structures used to store display fireworks must meet regulations established by the board.

 (D) These license holders also must comply with U.S. Bureau of Alcohol, Tobacco, and Firearms regulations.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑250.** Orders of board to remove or correct hazardous condition; administrative citations and administrative penalties.

 (A) If the board or its designee finds a condition as a result of an inspection, that is hazardous to the public safety or a violation of this chapter or regulations promulgated pursuant to this chapter, the board shall issue an order in writing to remove or correct the condition. If a person fails to comply with the terms of the order, the board may issue administrative citations and may assess administrative penalties against any licensee.

 (B) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

 (C) Administrative penalties assessed pursuant to this section may not exceed two thousand five hundred dollars for each violation.

 (D) An entity or individual assessed administrative penalties by citation under this section may appeal the citation to the Board of Pyrotechnic Safety within fifteen days of receipt of the citation. The appeal must be filed in writing. If an appeal is filed, the board shall schedule a hearing, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order, and the administrative penalties must be paid within thirty days of receipt of the citation.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑260.** Report to board of any fire or explosion.

 An owner, manager, or operator of any location regulated by this chapter shall report to the board within twenty‑four hours of any fire or explosion of which the person has knowledge, with as complete detail as possible, together with evidence as he has obtained after investigation of the fire or explosion. No reports filed pursuant to this section may be disclosed unless disclosure is in compliance with the requirements of Chapter 4, Title 30 of the 1976 Code.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.

**SECTION 40‑56‑270.** Severability.

 If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter, which can be given effect without the invalid provisions, or application, and to this end the provisions of this chapter are severable.

HISTORY: 2010 Act No. 196, Section 1, eff June 1, 2010.