

CHAPTER 23-15 FIREWORKS

23-15-01. Fireworks defined - Sale of fireworks.

1. The term fireworks means any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation. The term includes any blank cartridge, toy pistol, toy cannon, toy cane, or toy gun in which an explosive other than a toy paper cap is used; balloon that requires fire underneath to propel the balloon; firecracker, torpedo, skyrocket, Roman candle, daygo bomb, sparkler, or other item of like construction; item containing any explosive or flammable compound; or any tablet or other device containing any explosive substance. This section does not apply to any toy paper cap containing not more than twenty-five hundredths of a grain [16.20 milligrams] of explosive composition per cap.
2. Any person operating a retail business and who has a retail license as provided in section 23-15-04 may offer for sale and sell at retail that year, to any individual who is at least twelve years of age, only during the periods of June twenty-seventh through July fifth and December twenty-sixth through January first, the following items:
 - a. A star light, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams each in weight (10 ball). However, a person may not offer to sell or offer to distribute a skyrocket, customarily known as a bottle rocket, if the outside diameter of the casing is less than five-eighths inch [15.875 millimeters] and the length of the casing is less than three and one-half inches [88.9 millimeters].
 - b. A helicopter type flyer, total pyrotechnic composition not to exceed twenty grams each in weight.
 - c. A cylindrical fountain, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter may not exceed three-fourths inch [19.05 millimeters].
 - d. A cone fountain, total pyrotechnic composition not to exceed fifty grams each in weight.
 - e. A wheel, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of a driver tube may not be over one-half inch [12.7 millimeters].
 - f. An illuminating torch or a colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight.
 - g. A sparkler or a dipped stick, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate may not exceed five grams.
 - h. A comet or shell, of which the mortar is an integral part, except a comet or shell designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight.
 - i. A soft shell firecracker not to exceed one and one-half inches [38.1 millimeters] in length and one-fourth inch [6.35 millimeters] in diameter, total pyrotechnic composition not to exceed fifty milligrams each in weight.
 - j. A whistle without report, total pyrotechnic composition not to exceed forty grams each in weight.

23-15-02. Sale of fireworks prohibited.

Except as otherwise provided in this chapter, no person may offer for sale, expose for sale, sell at retail, bring into this state or cause to be brought into this state, or use or explode any fireworks.

23-15-03. Public display of fireworks permitted by municipality or fair association within its limits - Supervised display allowed - Permit required - Duty of fire marshal to establish regulations.

This chapter does not prohibit supervised public displays of fireworks by cities, fair associations, amusement parks, and other organizations. Except when such display is given by a municipality or fair association within its own limits, no display may be given unless a permit therefor has first been secured. Every application for such a permit must be made in writing to the city auditor at least fifteen days in advance of the date of the display. The application promptly must be referred to the governing body of the city which shall make an investigation to determine whether the operator of the display is competent and whether the display is of such character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. Such governing body shall report the results of this investigation to the city auditor and if it reports that in its opinion the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the state fire marshal hereinafter provided for, such auditor shall issue a permit for the display when the applicant pays a permit fee of two dollars. When the supervised public display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application must be made to the county auditor and the duties imposed by this chapter upon the city auditor must be performed in such case by the county auditor. The duties imposed on the governing body of the city by this chapter must be performed in such case by the board of county commissioners. After such permit has been granted, sales, possession, use, and distribution of fireworks for such display are lawful for that purpose only. No permit granted hereunder is transferable. The state fire marshal shall adopt reasonable rules and regulations not inconsistent with the provisions of this chapter to ensure that fireworks displays are given safely.

23-15-04. Exceptions.

1. This chapter does not prohibit:
 - a. A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks that are not prohibited.
 - b. The sale of any kind of fireworks for shipment directly out of the state.
 - c. The use of fireworks by transportation agencies for signal purposes or illumination.
 - d. The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
2. An application for a license as distributor must be made to the state fire marshal on forms prescribed by the state fire marshal. An application for a license as a retailer must be made to the county sheriff on forms prescribed by the state fire marshal. Each application must be accompanied by the required fee, which must be two hundred fifty dollars for a distributor's license and twenty dollars for a retailer's license. Fees for distributors' licenses must be deposited in the general fund in the state treasury and fees for retailers' licenses must be deposited in the county general fund. The license is valid only for the calendar year in which issued and must at all times be displayed at the place of business of the licensee. The licenses are in addition to any other license required by law or municipal ordinance. The licensing provisions of this section do not apply to a retailer who is required to become licensed by any municipality. Any license fee levied by a municipality must be deposited in the municipality's general fund.

A person not licensed as a wholesaler or retailer may not bring any fireworks into this state, and a retailer may not sell any fireworks that have not been purchased from a wholesaler licensed under this chapter. A person licensed under this chapter shall keep available for inspection by the state fire marshal or any sheriff, police officer, or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on the invoice are held in the licensee's possession, which invoice must show the license number of the wholesaler from whom the purchase was made.

23-15-05. State fire marshal or sheriff to seize all fireworks or combustibles.

The state fire marshal or any sheriff, police officer, or local fire marshal shall seize, take, remove, or cause to be removed at the expense of the owner all fireworks or combustibles offered or exposed for sale, stored, or held for use in violation of this chapter.

23-15-06. General penalty.

Any person violating the provisions of this chapter is guilty of a class B misdemeanor.