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HOUSE BILL NO. 2067

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact §§ 18.2-85, 27-34.4, 27-95, 27-96.1, 27-97, and 27-97.2 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-974.1, 27-96.3, and 58.1-638.4, relating to Statewide Fire Prevention Code; State Fire Marshal; consumer fireworks; penalties.

Patrons—Garrett, Clark, Jones and Davis

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-85, 27-34.4, 27-95, 27-96.1, 27-97, and 27-97.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-974.1, 27-96.3, and 58.1-638.4 as follows:

§ 15.2-974.1. Permits for sale of consumer fireworks.

Any locality authorizing the sale of consumer fireworks, as defined in § 27-95, shall require an annual permit for any business offering consumer fireworks for retail sale. Such permit shall follow the minimum terms and conditions set forth in the Statewide Fire Prevention Code (§ 27-94 et seq.) and any additional terms and conditions as may be prescribed by the locality.

§ 18.2-85. Manufacture, possession, use, etc., of fire bombs or explosive materials or devices; penalties.

A. For the purpose purposes of this section:

"Device" means any instrument, apparatus, or contrivance, including its component parts, that is capable of producing or intended to produce an explosion but shall does not include fireworks as defined in § 27-95, provided that such fireworks are in their original packaging and are used in accordance with the manufacturer's instructions.

"Explosive material" means any chemical compound, mechanical mixture, or device that is commonly used or can be used for the purpose of producing an explosion and which that contains any oxidizing and combustive agents or other ingredients in such proportions, quantities, or packaging that an ignition by fire, friction, concussion, percussion, detonation, or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, gunpowder, powders for blasting, high explosives, low explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents and smokeless powder.

"Fire bomb" means any container of a flammable material such as gasoline, kerosene, fuel oil, or other chemical compound, having a wick composed of any material or a device or other substance which, if set or ignited, is capable of igniting such flammable material or chemical compound but does not include a similar device commercially manufactured and used solely for the purpose of illumination or cooking.

"Hoax explosive device" means any device which that by its design, construction, content, or characteristics appears to be or to contain a bomb or other destructive device or explosive but which is an imitation of any such device or explosive.

B. Any person who (i) possesses materials with which fire bombs or explosive materials or devices can be made with the intent to manufacture fire bombs or explosive materials or devices or, (ii) manufactures, transports, distributes, possesses, or uses a fire bomb or explosive materials or devices shall be is guilty of a Class 5 felony. Any person who constructs, uses, places, sends, or causes to be sent any hoax explosive device so as to intentionally cause another person to believe that such device is a bomb or explosive shall be is guilty of a Class 6 felony.

C. Any person who causes (i) damage to property or (ii) injury to another person due to the use of fireworks as defined in § 27-95 shall be subject to prosecution under existing applicable criminal statutes.

D. The governing body of any county, city, or town is authorized to bill any person who causes (i) damage to property or (ii) injury to another person due to the use of fireworks as defined in § 27-95 for services rendered by fire departments, emergency medical services, or law enforcement.

E. Nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use, or possession of any material, substance, or device by a member of the armed forces Armed Forces of the United States, fire fighters firefighters, or law-enforcement officers, nor shall it prohibit the manufacture, transportation, distribution, use, or possession of any material, substance, or device to be used solely for scientific research, educational purposes, or for any lawful purpose, subject to the provisions of §§ 27-97 and 27-97.2.

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58 **§ 27-34.4. Inspection and review of plans of buildings under construction.**

59 Inspection of buildings other than state-owned buildings under construction and the review and approval
60 of building plans for these structures for enforcement of the Uniform Statewide Building Code (§ 36-97 *et*
61 *seq.*) shall be the sole responsibility of the appropriate local building inspectors. Upon completion of such
62 structures, responsibility for fire safety protection, *including provisions relating to the handling, storage, and*
63 *use of fireworks*, shall pass to the local fire marshal or official designated by the locality to enforce the
64 Statewide Fire Prevention Code (§ 27-94 *et seq.*) in those localities ~~which~~ *that* enforce the Statewide Fire
65 Prevention Code.

66 **§ 27-95. Definitions.**

67 As used in this chapter, unless the context or subject matter requires otherwise, the following words or
68 terms shall have the meaning herein ascribed to them *requires a different meaning*:

69 "Board" means the Board of Housing and Community Development.

70 "Code provisions" means the provisions of the Fire Prevention Code as adopted and promulgated by the
71 Board, and the amendments thereof as adopted and promulgated from time to time by such Board.

72 "*Consumer fireworks*" means *small fireworks devices containing restricted amounts of pyrotechnic*
73 *composition designed primarily to produce visible or audible effects by combustion. Such fireworks are c*
74 *lassified and labeled as 1.4G explosives and comply with the construction, chemical composition, and*
75 *labeling regulations of the U.S. Consumer Product Safety Commission as set forth in 16 C.F.R. Parts 1500*
76 *and 1507, 27 C.F.R. Part 555, and 49 C.F.R. Part 172 and in American Pyrotechnics Association Standard*
77 *87-1A, Standard for the Construction, Classification, Approval, and Transportation of Consumer Fireworks.*

78 "*Display fireworks*" means *large fireworks devices that are explosive materials intended for use in*
79 *fireworks displays and designed primarily to produce visible or audible effects by combustion, deflagration,*
80 *or detonation. Such fireworks are classified and labeled as 1.3G explosives and comply with the construction,*
81 *chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission as set forth*
82 *in 27 C.F.R. Part 555 and 49 C.F.R. Part 172 and in American Pyrotechnics Association Standard 87-1B,*
83 *Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks.*

84 "Enforcement agency" means the agency or agencies of any local governing body or the State Fire
85 Marshal charged with the administration or enforcement of the Fire Prevention Code.

86 "Fire Prevention Code" or "Code" means the Statewide Fire Prevention Code (§ 27-94 *et seq.*).

87 "Fire prevention regulation" means any law, rule, resolution, regulation, ordinance, or code, general or
88 special, or compilation thereof to safeguard life and property from the hazards of fire or explosion arising
89 from the improper maintenance of life safety and fire prevention and protection materials, devices, systems,
90 and structures, and the unsafe storage, handling, and use of substances, materials, and devices, including
91 explosives and blasting agents, wherever located, heretofore or hereafter enacted or adopted by the
92 Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or
93 other agencies.

94 "Fire Services Board" means the Virginia Fire Services Board as provided for in § 9.1-202.

95 "~~Fireworks~~" means ~~any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or~~
96 ~~construction, that contains any explosive or inflammable compound or substance, and is intended, or~~
97 ~~commonly known as fireworks, and which explodes, rises into the air or travels laterally, or fires projectiles~~
98 ~~into the air composition or device designed primarily for the purpose of producing a visible or audible effect~~
99 ~~for entertainment purposes by combustion, deflagration, or detonation that meets the definition of consumer,~~
100 ~~display, or permissible fireworks. "Fireworks" does not include (i) automobile flares; (ii) paper caps~~
101 ~~containing not more than the average of 0.25 grain of explosive content per cap; or (iii) toy pistols, toy~~
102 ~~canes, toy guns, or other devices utilizing such caps commonly known as party poppers, pop rocks, or~~
103 ~~snap-n-pops.~~

104 "Fireworks operator" or "pyrotechnician" means any person engaged in the design, setup, and firing of
105 any fireworks other than permissible fireworks either inside a building or structure or outdoors.

106 "Inspection warrant" means an order in writing, made in the name of the Commonwealth, signed by any
107 judge or magistrate whose territorial jurisdiction encompasses the building, structure, or premises to be
108 inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any
109 inspection, examination, testing, or collection of samples for testing required or authorized by the ~~Virginia~~
110 ~~Statewide~~ Fire Prevention Code.

111 "Local government" means the governing body of any city, county, or town in ~~this~~ *the* Commonwealth.

112 "Permissible fireworks" means any fountains that do not emit sparks or other burning effects to a distance
113 greater than five meters (16.4 feet); wheels that do not emit a flame radius greater than one meter (39 inches);
114 crackling devices and flashers or strobes that do not emit sparks or other burning effects to a distance greater
115 than two meters (78.74 inches); and sparkling devices or other fireworks devices that (i) do not explode or
116 produce a report, (ii) do not travel horizontally or vertically under their own power, (iii) do not emit or
117 function as a projectile, (iv) do not produce a continuous flame longer than 20 inches, (v) are not capable of
118 being reloaded, and (vi) if designed to be ignited by a fuse, have a fuse that is protected to resist side ignition

119 and a burning time of not less than four seconds and not more than eight seconds. *Such fireworks meet the*
 120 *definition of consumer fireworks as they are classified and labeled as 1.4G explosives and comply with the*
 121 *construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety*
 122 *Commission as set forth in 16 C.F.R. Parts 1500 and 1507, 27 C.F.R. Part 555, and 49 C.F.R. Part 172 and*
 123 *in American Pyrotechnics Association Standard 87-1A, Standard for the Construction, Classification,*
 124 *Approval, and Transportation of Consumer Fireworks.*

125 "State Fire Marshal" means the State Fire Marshal as provided for by § 9.1-206.

126 **§ 27-96.1. Chapter inapplicable to certain uses of fireworks.**

127 Unless prohibited by a local ordinance, the provisions of this chapter pertaining to fireworks shall not
 128 apply (i) to the sale of ~~or~~ *consumer or permissible fireworks*; (ii) to any person using, igniting, or exploding
 129 *consumer or permissible fireworks on private property with the consent of the owner of such property; or (iii)*
 130 *when such consumer or permissible fireworks are being transported from a locality where they were legally*
 131 *obtained to a locality where they are legally permitted.*

132 **§ 27-96.3. Authority to enforce local ordinances.**

133 *If a locality adopts a local ordinance prohibiting the sale, use, or storage of fireworks, the State Fire*
 134 *Marshal, in localities without a local fire marshal, is authorized to enforce such ordinance. Any locality*
 135 *adopting such an ordinance shall notify the State Fire Marshal.*

136 **§ 27-97. Adoption of Fire Prevention Code.**

137 The Board of Housing and Community Development is hereby empowered to adopt and promulgate a
 138 Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board
 139 pursuant to procedures agreed to by the two Boards. The Fire Prevention Code shall prescribe regulations to
 140 be complied with for the protection of life and property from the hazards of fire or explosion and for the
 141 handling, storage, sale, and use of fireworks, explosives, or blasting agents, and shall provide for the
 142 administration and enforcement of such regulations. The Fire Prevention Code shall require manufacturers of
 143 fireworks or explosives, as defined in the Code, to register and report information concerning their
 144 manufacturing facilities and methods of operation within the Commonwealth in accordance with regulations
 145 adopted by the Board. In addition to conducting criminal background checks pursuant to § 27-97.2, the Board
 146 shall also establish regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of
 147 fireworks or explosives. In the enforcement of such regulations, the enforcing agency may issue annual
 148 permits for such activities to any state regulated public utility. Such permits shall not apply to the storage,
 149 handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.2.

150 The Fire Prevention Code shall prohibit any person, firm, or corporation from transporting,
 151 manufacturing, storing, selling, offering for sale, exposing for sale, or buying, using, igniting, or exploding
 152 any fireworks except for those persons, firms, or corporations that manufacture, store, market, and distribute
 153 fireworks for the sole purpose of fireworks displays permitted by an enforcement agency or by any locality.

154 *The Fire Prevention Code shall prohibit any person younger than 18 years of age from purchasing*
 155 *fireworks and shall prohibit any person younger than 18 years of age from possessing or using fireworks*
 156 *without adult supervision.*

157 *For the purposes of the Fire Prevention Code adopted pursuant to this section and the Uniform Statewide*
 158 *Building Code adopted pursuant to § 36-98, the storage and transportation of consumer and permissible*
 159 *fireworks shall be considered the same hazard class as the storage and transportation of 1.4G explosives.*

160 The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local
 161 governments or other political subdivisions. Local governments are hereby empowered to adopt fire
 162 prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code
 163 provided such regulations do not affect the manner of construction, or materials to be used in the erection,
 164 alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and
 165 regulation and inspections thereof in commercial buildings where such smoke alarms are not required under
 166 the provisions of the Code. The Fire Prevention Code shall prohibit any person not certified by the State Fire
 167 Marshal's Office as a fireworks operator or pyrotechnician to design, set up, or conduct or supervise the
 168 design, setup, or conducting of any fireworks display, either inside a building or structure or outdoors, and
 169 shall require that at least one person holding a valid certification is present at the site where the fireworks
 170 display is being conducted *unless such display is conducted using consumer or permissible fireworks on*
 171 *private property in accordance with § 27-96.1. The Fire Prevention Code shall restrict the possession, sale,*
 172 *and use of consumer and permissible fireworks to only those fireworks that possess certification from a third*
 173 *party testing service indicating compliance with all U.S. Consumer Product Safety Commission and U.S.*
 174 *Department of Transportation regulations. Certification shall not be required for the design, storage, sale,*
 175 *use, conduct, transportation, and ~~set up~~ setup of consumer or permissible fireworks or the supervision thereof*
 176 *or in connection with any fireworks display conducted by a volunteer fire department, provided that one*
 177 *member of the volunteer fire department holds a valid certification.*

178 In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted standards
 179 as recommended by nationally recognized organizations, including, ~~but not limited to,~~ standards of the

180 International Code Council, the National Fire Protection Association, and recognized organizations issuing
181 standards for the protection of the public from the hazards of explosives and blasting agents. Such standards
182 shall be based on the companion document to the model building code referenced by the Uniform Statewide
183 Building Code.

184 The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in
185 accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any
186 building which is (i) more than 75 feet or more than six stories high and (ii) used, in whole or in part, as a
187 dormitory to house students by any public or private institution of higher education shall be required to
188 comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual fire drills in all
189 buildings having floors used for human occupancy located more than 75 feet above the lowest level of fire
190 department vehicle access. The drills shall be conducted by building staff personnel or the owner of the
191 building in accordance with a plan approved by the appropriate fire official and shall not affect other current
192 occupants. The Board may modify, amend, or repeal any Code provisions as the public interest requires. Any
193 such Code changes shall be developed in cooperation with the Fire Services Board pursuant to procedures
194 agreed to by the two Boards.

195 **§ 27-97.2. Issuance of permit; background investigations.**

196 A. The State Fire Marshal or other issuing authority shall consider all permit applications for
197 manufacturing, storage, handling, use, or sales of explosives and applications for certification as a blaster or
198 as a fireworks operator or pyrotechnician, and may grant a valid permit or certification to applicants who
199 meet the criteria established in the ~~Statewide~~ Fire Prevention Code. The State Fire Marshal shall require a
200 background investigation, to include a national criminal history record information check, of all individual
201 applicants and all designated persons representing an applicant that is not an individual, for a permit to
202 manufacture, store, handle, use, or sell explosives, and for any applicant for certification as a blaster or as a
203 fireworks operator or pyrotechnician. Each such applicant shall submit his fingerprints to the State Fire
204 Marshal on a form provided by the State Fire Marshal and provide personal descriptive information to be
205 forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the
206 Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check
207 regarding such applicant. Any firm or company manufacturing, storing, using, or selling explosives shall
208 provide to the enforcement agency, the State Fire Marshal or other issuing authority the name of a
209 representative responsible for (i) ensuring compliance with state law and regulations relating to blasting
210 agents and explosives and (ii) applying for permits. The State Fire Marshal or other issuing authority shall
211 deny any application for a permit or for certification as a blaster or as a fireworks operator or pyrotechnician
212 if the applicant or designated person representing an applicant has been convicted of any felony, whether
213 such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia,
214 the United States or any territory thereof, unless his civil rights have been restored by the Governor or other
215 appropriate authority. The provisions of this section shall not apply to the manufacturing, storage, handling,
216 use, or sales of permissible fireworks or in connection with any fireworks display conducted by a volunteer
217 fire department provided one member of the volunteer fire department holds a valid certification.

218 B. No permit under this section shall be required of any person holding a certification or permit issued
219 pursuant to the provisions of Title 45.2.

220 C. *The State Fire Marshal or other issuing authority may, upon application for a permit under this*
221 *section, charge a fee not to exceed \$1,000 for the retail sale of consumer fireworks on a permanent basis and*
222 *\$500 for the retail sale of consumer fireworks on a temporary basis in localities that do not employ a local*
223 *fire marshal.*

224 **§ 58.1-638.4. Disposition of fireworks tax revenues for first responders.**

225 A. *Of the sales and use tax revenue generated by the local sales and use tax imposed by §§ 58.1-605 and*
226 *58.1-606 on the sale of consumer or permissible fireworks, 13 percent of such revenues shall be allocated by*
227 *the governing body of the locality in which the sale of such fireworks occurs to a special fund. Moneys in the*
228 *special fund shall be used as follows: (i) 10 percent of such revenues shall be used to provide funding for first*
229 *responders and (ii) three percent of such revenues shall be allocated to the local fire marshal appointed*
230 *pursuant to § 27-30 or, for a locality that does not appoint a fire marshal, shall be transferred by the locality*
231 *to the State Fire Marshal employed pursuant to § 9.1-206. Revenues transferred to the State Fire Marshal*
232 *pursuant to clause (ii) shall be used by the State Fire Marshal solely on behalf of the locality that transferred*
233 *such funds. For purposes of this section, "first responder" means a law-enforcement officer, firefighter,*
234 *emergency medical services technician, or local fire marshal identified as a member of an agency authorized*
235 *by the locality.*

236 B. *A dealer shall, as part of his return required by § 58.1-615, provide sufficient information for the Tax*
237 *Commissioner to determine the amount of local sales and use taxes collected from the sale of consumer or*
238 *permissible fireworks. The Tax Commissioner shall transmit information regarding such amounts to the*
239 *locality when making transfers of sales and use tax revenue.*

240 **2. That the provisions of this act shall become effective on January 1, 2026.**

241 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**

242 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
243 **appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be**
244 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**

INTRODUCED

HB2067