

1 HB69  
2 203358-2  
3 By Representative Rich  
4 RFD: Insurance  
5 First Read: 04-FEB-20  
6 PFD: 02/03/2020

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8 SYNOPSIS: Under existing law, the State Fire Marshal  
9 collects certain fees for issuing permits in the  
10 regulation of the manufacturing, sale, and display  
11 of fireworks and for the use of pyrotechnics before  
12 a proximate audience. All fees collected are paid  
13 into the State Fire Marshal's Fund for the  
14 enforcement of those laws, and these fees are  
15 subject to being increased according to changes in  
16 the Consumer Price Index pursuant to Section  
17 41-1-11, Code of Alabama 1975.

18 This bill would increase the fees collected  
19 by the State Fire Marshal for issuing permits in  
20 the regulation of the manufacturing, sale, and  
21 display of fireworks and for the use of  
22 pyrotechnics before a proximate audience.

23 This bill would also provide for a  
24 semi-annual transfer of five percent of the permit  
25 fees collected by the State Fire Marshal in the  
26 regulation of fireworks and pyrotechnics to the  
27 Alabama Firefighters Annuity and Benefit Fund.

1                   This bill would also specify that the fees  
2                   may be increased at certain intervals according to  
3                   increases in the Consumer Price Index.

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5                   A BILL  
6                   TO BE ENTITLED  
7                   AN ACT

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9                   Relating to the State Fire Marshal; to amend  
10                  Sections 8-17-211, 8-17-216.1, 8-17-237, 8-17-255, 34-33-11,  
11                  34-33A-12, and 36-19-29, Code of Alabama 1975; and to add  
12                  Section 36-19-31 to the Code of Alabama 1975; to increase the  
13                  fees collected by the State Fire Marshal for issuing permits  
14                  in the regulation of the manufacturing, sale, and display of  
15                  fireworks and for the use of pyrotechnics before a proximate  
16                  audience; to specify that the fees may be increased at certain  
17                  intervals according; to increases in the Consumer Price Index;  
18                  to further provide for the operation of the State Fire  
19                  Marshal's Fund and to provide for retroactive effect; and to  
20                  provide for a transfer of five percent of the permit fees  
21                  collected by the State Fire Marshal in the regulation of  
22                  fireworks and pyrotechnics to the Alabama Firefighters Annuity  
23                  and Benefit Fund.

24                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25                  Section 1. Sections 8-17-211, 8-17-216.1, 8-17-237,  
26                  8-17-255, 34-33-11, 34-33A-12, and 36-19-29, Code of Alabama  
27                  1975, are amended to read as follows:

1           "§8-17-211.

2           "(a) It shall be unlawful for any person to  
3 manufacture, sell, offer for sale, or ship or cause to be  
4 shipped into or within the State of Alabama, except as herein  
5 provided, any item of fireworks or pyrotechnics for use before  
6 a proximate audience, without first having secured the  
7 required applicable permit, as a manufacturer, distributor,  
8 wholesaler, retailer, or seasonal retailer, from the State  
9 Fire Marshal. Possession of a permit is a condition  
10 prerequisite to manufacturing, selling, or offering for sale,  
11 or shipping or causing to be shipped any fireworks or  
12 pyrotechnics for use before a proximate audience into or  
13 within the State of Alabama, except as herein provided. This  
14 provision applies to nonresidents as well as residents of the  
15 State of Alabama. Mail orders where consumers purchase any  
16 fireworks or pyrotechnics for use before a proximate audience  
17 through the mail or receive any fireworks or pyrotechnics for  
18 use before a proximate audience in Alabama by mail, parcel  
19 service, or other carrier are prohibited. A sales clerk must  
20 be on duty to serve consumers at the time of purchase or  
21 delivery. All fireworks or pyrotechnics for use before a  
22 proximate audience sold and delivered to consumers within the  
23 State of Alabama must take place within the State of Alabama  
24 and be sold and delivered only by an individual, firm,  
25 partnership, or corporation holding the proper Alabama permit  
26 and all fireworks or pyrotechnics for use before a proximate  
27 audience coming into the state, manufactured, sold, or stored

1 within the state shall be under the supervision of the State  
2 Fire Marshal as provided for in this article.

3 "(b) Prior to engaging in the manufacture or sale  
4 within the State of Alabama, or shipment into the State of  
5 Alabama, of any fireworks or pyrotechnics for use before a  
6 proximate audience, each person making shipment or delivery or  
7 receiving any fireworks or pyrotechnics for use before a  
8 proximate audience into or within the State of Alabama, must  
9 make application on forms secured from the State Fire Marshal  
10 for a permit or permits required under this article for each  
11 location at which fireworks or pyrotechnics for use before a  
12 proximate audience are to be offered for sale.

13 "(c) A manufacturer's permit issued under this  
14 article shall be subject to rules and regulations promulgated  
15 by the State Fire Marshal to govern the manufacture of  
16 fireworks or pyrotechnics for use before a proximate audience  
17 as in the judgment of the State Fire Marshal the public  
18 welfare may require.

19 "(d) The decision of the State Fire Marshal as to  
20 what type of permit or permits shall be required of each  
21 person shall be final. The State Fire Marshal may deny a  
22 permit to an applicant or revoke a permit if the State Fire  
23 Marshal has knowledge or reason to believe the safety  
24 standards and conditions of this article are not or cannot be  
25 met by the applicant. No permit shall be issued to a person  
26 under the age of 18 years. All permits shall be for the  
27 calendar year or any fraction thereof and shall expire on

1 December 31 of each year, two days of grace shall be allowed  
2 holders of permits after expiration thereof. Only one seasonal  
3 retailer permit shall be required for a full calendar year and  
4 it shall be valid for both fireworks seasons, provided that  
5 the building is not moved from the location where it was  
6 originally permitted and no substantial structural or  
7 environmental changes have occurred. A seasonal retailer  
8 permit may be issued after July tenth for the remaining  
9 fireworks season of that calendar year. All permits issued  
10 must be displayed in their place of business. No permit  
11 provided for herein shall be transferable nor shall a person  
12 be permitted to operate under a permit issued to any other  
13 person or under a permit issued for another location, unless  
14 transfer shall have been approved by the State Fire Marshal.

15 "(e) The State Fire Marshal shall charge for permits  
16 issued as follows:

17 "(1) Manufacturer, ~~two~~ three thousand dollars  
18 ~~(\$2,000)~~ (\$3,000).

19 "(2) Distributor, ~~two~~ three thousand dollars  
20 ~~(\$2,000)~~ (\$3,000).

21 "(3) Wholesaler, ~~seven hundred~~ one thousand dollars  
22 ~~(\$700)~~ (\$1,000).

23 "(4) Retailer, ~~two~~ three hundred dollars ~~\$200)~~  
24 (\$300).

25 "(5) Seasonal Retailer, ~~two~~ three hundred dollars  
26 ~~(\$200)~~ (\$300).

1           "(6) Seasonal Retailer after July 10, one hundred  
2 fifty dollars ~~(\$100)~~ (\$150).

3           "(7) Display, ~~fifty dollars~~ ~~(\$50)~~ application filed  
4 at least 10 business days before display date, seventy-five  
5 dollars (\$75).

6           "(8) Display, application filed less than 10  
7 business days before display date, one hundred fifty dollars  
8 (\$150).

9           "(f) Only holders of a retailer or seasonal retailer  
10 permit may engage in the retail sale of permitted items as  
11 defined in Section 8-17-217 in any quantity, to consumers.

12           "(g) A holder of a manufacturer's permit is not  
13 required to have any additional permit or permits in order to  
14 sell to distributors, wholesalers, retailers, or seasonal  
15 retailers.

16           "(h) A record of all sales by manufacturers,  
17 distributors, or wholesalers must be kept showing the names  
18 and addresses of purchasers. All fees collected for the  
19 permits shall be paid into the State Fire Marshal's  
20 ~~Revolving~~ Fund for the enforcement of this article. The State  
21 Fire Marshal may designate a deputy fire marshal as the  
22 "fireworks enforcement officer" who shall have the  
23 responsibility of directing enforcement of the state fireworks  
24 laws.

25           "(i) The State Fire Marshal is charged with the  
26 enforcement of this article and may call upon any state or  
27 county or city peace officer for assistance in the enforcement

1 of this article. The fire marshal is not authorized to  
2 promulgate rules or regulations in conflict with or that go  
3 beyond the scope or intent of this article.

4 "(j) Every five years, the State Fire Marshal may  
5 increase the fees by the percentage increase in the Consumer  
6 Price Index for all urban consumers as published by the U.S.  
7 Department of Labor, Bureau of Labor Statistics from the end  
8 of December 2020, to the end of the month preceding the month  
9 in which the fee increase is to be effective, rounded down to  
10 the nearest dollar. The increase may not exceed two percent  
11 per year.

12 "§8-17-216.1.

13 "(a) The use of pyrotechnics before a proximate  
14 audience shall comply with the requirements set out in the  
15 latest edition of the National Fire Protection Association's  
16 Standard for the Use of Pyrotechnics Before a Proximate  
17 Audience (NFPA 1126) as shall be adopted by the State Fire  
18 Marshal. For purposes of this article, the term "proximate  
19 audience" shall mean an indoor audience closer to pyrotechnic  
20 devices than permitted by the National Fire Protection  
21 Association's Code for Fireworks Display (NFPA 1123).

22 "(b) No person shall use pyrotechnics before a  
23 proximate audience without first obtaining a permit therefor  
24 from the State Fire Marshal. An application for a permit for  
25 the use of pyrotechnics at an event with a proximate audience  
26 shall be filed with the State Fire Marshal not less than 10  
27 days prior to the planned date of the event. The State Fire



1 Marshal may accept an application for a permit under this  
2 section less than 10 days before the planned date of the event  
3 if accompanied by a fee of double the amount otherwise  
4 required.

5 "(c) The request for a permit under subsection (b)  
6 shall be in the form and manner prescribed by the State Fire  
7 Marshal. The permit shall be in addition to any locally  
8 required permit or approval.

9 "(d) A fee of one hundred fifty dollars ~~(\$100)~~  
10 (\$150) per event shall be submitted with each application.

11 "(e) Where more than one event is to take place at  
12 the same location during the same calendar date, a separate  
13 application shall be filed for each event. The application fee  
14 for the second and subsequent events on the same calendar date  
15 shall be ~~fifty~~ seventy-five dollars ~~(\$50)~~ (\$75) per event.

16 "(f) The State Fire Marshal may prescribe such other  
17 and additional requirements associated with the use of  
18 pyrotechnics before a proximate audience as are deemed  
19 necessary for the safety of property and persons present at  
20 the proximate event location.

21 "(g) All pyrotechnics found at an event with a  
22 proximate audience which does not have a permit shall be  
23 confiscated and destroyed by the State Fire Marshal or his or  
24 her designee.

25 "(h) All fees collected pursuant to this section  
26 shall be paid into the State Fire Marshal ~~Marshal's Revolving~~  
27 Fund for the enforcement of this article.

1           "(i) Every five years, the State Fire Marshal may  
2           increase the fees by the percentage increase in the Consumer  
3           Price Index for all urban consumers as published by the U.S.  
4           Department of Labor, Bureau of Labor Statistics from the end  
5           of December 2020, to the end of the month preceding the month  
6           in which the fee increase is to be effective, rounded down to  
7           the nearest dollar. The change may not exceed an increase of  
8           two percent per year.

9           "§8-17-237.

10           (a) A pyrotechnics display operator license or  
11           pyrotechnic special effects operator license issued under this  
12           article authorizes the holder to act pursuant to that license  
13           until the license is suspended, revoked, or not renewed. Upon  
14           the suspension or revocation of a license, or the failure to  
15           renew a license, the licensee shall return the license to the  
16           State Fire Marshal. Each license is valid for two years,  
17           unless suspended or revoked.

18           (b) All fees collected pursuant to this article  
19           shall be deposited in the State Treasury to the credit of the  
20           State Fire Marshal's Fund authorized in Section ~~24-5-10~~  
21           36-19-31. The State Fire Marshal may expend monies from the  
22           State Fire Marshal's Fund for the administration and  
23           enforcement of this article.

24           "§8-17-255.

25           "All sums received through the payment of fees, the  
26           recovery of civil penalties, grants, and appropriations by the  
27           Legislature shall be deposited in the State Treasury and

1 credited to the State Fire Marshal's Fund. This fund shall be  
2 available to the State Fire Marshal for expenditure in the  
3 administration and enforcement of this article, training, ~~and~~  
4 research programs, and to support fire safety and prevention  
5 programs. Provided, however, that no funds shall be withdrawn  
6 or expended except as budgeted and allocated according to  
7 Sections 41-4-80 to 41-4-96 and Sections 41-19-1 to 41-19-12,  
8 inclusive, and only in amounts as stipulated in the general  
9 appropriations bills or other appropriations bills. Any  
10 unencumbered and any unexpended balance of this fund remaining  
11 at the end of any fiscal year shall not lapse or revert to the  
12 General Fund, but shall be carried forward for the purposes of  
13 this article until expended.

14 "§34-33-11.

15 "All funds collected pursuant to this chapter shall  
16 be deposited in the State Treasury to the credit of the State  
17 Fire Marshal's Fund authorized by ~~Section 24-5-10~~ 36-19-31.  
18 The State Fire Marshal shall be authorized to expend moneys  
19 from the State Fire Marshal's Fund for the administration and  
20 enforcement of this chapter. The State Fire Marshal shall be  
21 allowed to receive grants and donations from associations,  
22 firms, or individuals who are interested in the upgrading and  
23 quality of fire protection sprinkler systems."

24 "§34-33A-12.

25 "All funds collected pursuant to this chapter shall  
26 be deposited in the State Treasury to the credit of the State  
27 Fire Marshal's Fund authorized in Section ~~24-5-10~~ 36-19-31.

1 The State Fire Marshal may expend moneys from the State Fire  
2 Marshal's Fund for the operation of the State Fire Marshal's  
3 office, includes the administration and enforcement of this  
4 chapter. The State Fire Marshal may receive grants and  
5 donations from associations, firms, or individuals who are  
6 interested in the upgrading and quality of fire alarm systems  
7 in compliance with Alabama state ethics laws."

8 "§36-19-29.

9 All penalties, ~~fees~~ or forfeitures collected under  
10 the provisions of this article, unless otherwise provided,  
11 shall be placed in the General Fund of the State.

12 Section 2. Section 36-19-31 is added to the Code of  
13 Alabama 1975, to read as follows:

14 §36-19-31.

15 (a) There is hereby established in the State  
16 Treasury a special fund to be known as the State Fire  
17 Marshal's Fund. All sums received by the State Fire Marshal's  
18 Office through the payment of fees, the recovery of civil  
19 penalties, grants, and appropriations by the Legislature,  
20 including funds received pursuant to Article 8, Article 8A,  
21 Article 9, and Article 10 of Chapter 17 of Title 8, and  
22 pursuant to Chapter 33 and Chapter 33A of Title 34, shall be  
23 deposited in the State Fire Marshal's Fund.

24 (b) The State Fire Marshal's Fund shall be expended  
25 for the operation of the State Fire Marshal's Office,  
26 including the administration and enforcement of Article 8,  
27 Article 8A, Article 9, and Article 10 of Chapter 17 of Title

1 8, and of Chapter 33 and Chapter 33A of Title 34, for training  
2 and research programs, and to support fire safety and  
3 prevention programs.

4 (c) No funds shall be withdrawn or expended from the  
5 State Fire Marshal's Fund except as budgeted and allotted  
6 according to Sections 41-4-80 to 41-4-96, inclusive, and  
7 41-19-1 to 41-19-12, inclusive, and only in amounts as  
8 stipulated in the general appropriations act, or other  
9 appropriations act. Any unencumbered and unexpended balance of  
10 the fund remaining at the end of any fiscal year shall not  
11 lapse or revert to the General Fund but shall be carried  
12 forward to the next fiscal year.

13 Section 3. The deposit of any funds in the State  
14 Fire Marshal's Fund and the expenditure of any funds from the  
15 State Fire Marshal's Fund prior to the effective date of this  
16 act are ratified and confirmed.

17 Section 4. Beginning six months following the  
18 effective date of this act, and on a semi-annual basis  
19 thereafter, the State Fire Marshall shall cause to be  
20 transferred from the Fire Marshal's Fund to the Alabama  
21 Firefighters Annuity and Benefit Fund established pursuant to  
22 Section 36-21-185 an amount equal to five percent of the fees  
23 collected by the State Fire Marshal during the previous six  
24 months pursuant to Sections 8-17-211 and 8-17-216.1, as  
25 currently provided or as those fees may be hereafter adjusted.

1                   Section 5. This act shall become effective October  
2    1, 2020, upon its passage and approval by the Governor, or its  
3    otherwise becoming law.