

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

400B0270

## SENATE BILL NO. 61

Introduced by: The Committee on Commerce at the request of the Department of Commerce  
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the regulation of  
2 fireworks.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-37-1 be amended to read as follows:

5 34-37-1. ~~As~~ Terms used in this chapter, ~~unless the context otherwise requires~~ mean:

6 (1) ~~Class C (common) "Consumer fireworks means,"~~ fireworks designed primarily to  
7 produce visible effects by combustion, that must comply with the construction,  
8 chemical composition and labeling regulations promulgated by the U.S. Consumer  
9 Product Safety Commission (CFR Title 16 - Commercial Practices, Part 1507),  
10 effective January 1, 1983. ~~Class C (common) fireworks are defined by the U.S.~~  
11 ~~Department of Transportation (CFR Title 49 - Transportation, Part 173.100(r)),~~  
12 ~~effective on January 1, 1983~~ 1998 and that are enumerated in the American  
13 Pyrotechnics Association Inc., Standard 87-1, April, 1993 edition;

14 (2) "Retailer," includes every person engaged in the business of making sales of fireworks  
15 at retail;

- 1       (3) ~~"Retail sale means,"~~ the sale of fireworks to any person not licensed to sell fireworks  
2             or for any purpose other than for resale;
- 3       (4) ~~"Sale means,"~~ any transfer, exchange or barter, conditional or otherwise, in any  
4             manner or by any means whatsoever, for a consideration;
- 5       (5) ~~"Wholesaler means,"~~ any person engaged in the business of making sales of fireworks  
6             to retailers for resale to consumers.

7       Section 2. That chapter 34-37 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9       For the purposes of this chapter, an approved exit is a continuous and unobstructed means  
10 of egress to a public way. Exit doors shall be of the pivoted or side-hinged swinging type and  
11 shall swing in the direction of exit travel. Exit doors shall be openable from the inside without  
12 the use of a key or any special knowledge or effort.

13       Section 3. That § 34-37-2 be amended to read as follows:

14       34-37-2. No person may sell, hold for sale, or offer for sale, as wholesaler or retailer any  
15 fireworks in this state unless such person has first obtained a license as a wholesaler or retailer.  
16 Application for a license as wholesaler or retailer shall be made to the Department of Commerce  
17 and Regulation on forms to be prescribed by it. Each application shall be accompanied by the  
18 required fee, which shall be five hundred dollars for a wholesaler's license, and twenty-five  
19 dollars for a retailer's license. Each application for a license as a retailer in any year must be  
20 received by the department no later than the fifteenth day of June of that year. Any application  
21 received after that date shall be denied by the department and returned to the applicant together  
22 with any application fee submitted. ~~The license shall be good only for the calendar year in which~~  
23 ~~issued and expires on the fourteenth day of June annually and is renewable annually.~~ The license  
24 shall at all times be displayed at the place of business of the holder thereof. The funds received  
25 under the provisions of this section shall be deposited in the general fund.

1 Section 4. That § 34-37-3 be amended to read as follows:

2 34-37-3. Any person who manufactures, uses or disposes to another, with or without  
3 consideration, so as to endanger the safety of others, any ~~firecrackers more than one and one-half~~  
4 ~~inches long or~~ consumer fireworks made wholly or in part of dynamite, nitroglycerin, or giant  
5 powder, is guilty of a Class 1 misdemeanor.

6 Section 5. That § 34-37-5 be amended to read as follows:

7 34-37-5. Permissible fireworks ~~includes:~~

8 ~~(1) Roman candles, not exceeding ten balls spaced uniformly in the tube, total pyrotechnic~~  
9 ~~composition not to exceed twenty grams each in weight. The inside tube diameter~~  
10 ~~may not exceed three-eighths inch;~~

11 ~~(2) Skyrockets with sticks, total pyrotechnic composition not to exceed twenty grams~~  
12 ~~each in weight. The inside tube diameter may not exceed one-half inch. The rocket~~  
13 ~~sticks shall be securely fastened to the tubes;~~

14 ~~(3) Helicopter type rockets, total pyrotechnic composition not to exceed twenty grams~~  
15 ~~each in weight. The inside tube diameter shall not exceed one-half inch;~~

16 ~~(4) Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams~~  
17 ~~each in weight. The inside tube diameter may not exceed three-fourths inch;~~

18 ~~(5) Cone fountains, total pyrotechnic composition not to exceed fifty grams each in~~  
19 ~~weight;~~

20 ~~(6) Wheels, total pyrotechnic composition not to exceed sixty grams for each driver unit~~  
21 ~~or two hundred and forty grams for each complete wheel. The inside tube diameter~~  
22 ~~of driver units may not exceed one-half inch.~~

23 ~~(7) Illuminating torches and colored fire, in any form, except items in subdivision (12),~~  
24 ~~total pyrotechnic composition not to exceed one hundred grams each in weight;~~

25 ~~(8) Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred~~

1           grams each in weight. Pyrotechnic composition containing any chlorate or perchlorate  
2           may not exceed five grams;

3   ~~— (9) — Mines and shells of which the mortar is an integral part, total pyrotechnic composition~~  
4           ~~not to exceed forty grams each in weight;~~

5   ~~— (10) — Firecrackers and salutes with casings, the external dimensions of which do not exceed~~  
6           ~~one and one-half inches in length and one-quarter inch in diameter, total pyrotechnic~~  
7           ~~composition not to exceed two grains each in weight;~~

8   ~~— (11) — Combinations consisting of two or more devices enumerated in this section;~~

9   ~~— (12) — Novelties and trick noisemakers, to include glow worm snakes, trick matches and~~  
10           ~~cigarette loads;~~

11   ~~— (13) — All Class C (common) fireworks unless specifically prohibited by this chapter~~  
12           ~~are consumer fireworks as enumerated in Chapter 3 of the American Pyrotechnics Association~~  
13           ~~Inc., Standard 87-1, 1993 edition and that comply with labeling regulations promulgated by the~~  
14           ~~U.S. Consumer Product Safety Commission (CFR Title 16 - Commercial Practices Part 1507),~~  
15           ~~effective January 1, 1998.~~

16           Section 6. That § 34-37-6 be amended to read as follows:

17           34-37-6. Before any additional permissible fireworks not enumerated in § 34-37-5 may be  
18           sold, held for sale, or offered for sale in this state, they ~~must~~ shall be submitted to the  
19           Department of Commerce and Regulation for examination to determine their compliance with  
20           CFR Title 16, Commercial Practices, Part 1507, effective January 1, ~~1983~~ 1998, and the  
21           American Pyrotechnics Association Inc., Standard 87-1, 1993.

22           Section 7. That § 34-37-10.2 be amended to read as follows:

23           34-37-10.2. ~~All buildings or structures wherein fireworks are sold at retail shall have at least~~  
24           ~~two separate door exits which shall be equipped with panic devices or kept unlocked at all times~~  
25           ~~when fireworks are being offered for sale. If the general public occupies a structure where~~

1 fireworks are being displayed or sold, two or more approved exits shall be provided. If the  
2 general public does not occupy a structure that displays or sells fireworks, one or more approved  
3 exits shall be provided.

4 Section 8. That § 34-37-10.5 be amended to read as follows:

5 34-37-10.5. No licensee may have on ~~his~~ the premises any device, apparatus, receptacle, or  
6 burner from which an open flame is emitted. Each licensee shall in the conduct of ~~his~~ the business  
7 of selling fireworks keep and maintain upon the premises a fire extinguisher bearing ~~an~~  
8 ~~Underwriters Laboratories Inc.~~ a rated capacity of at least 2-A.

9 Section 9. That § 34-37-13 be amended to read as follows:

10 34-37-13. Nothing in this chapter ~~may prohibit~~ prohibits the use of public display of  
11 fireworks. However, any ~~individual, group of individuals~~ person, association, organization,  
12 municipality, county, firm, partnership or corporation, before making such public display of  
13 fireworks shall secure a written permit from the governing board of the municipality, township  
14 or county where the public display is to be fired, and shall have purchased fireworks for the  
15 display from a licensed wholesaler under this chapter. ~~Public displays~~ Any public display shall  
16 comply with the National Fire Protection Association Standard 1123, ~~effective on January 1,~~  
17 ~~1983, for public display of fireworks~~ 1995 edition.