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CH. 58B USE OF CONSUMER-GRADE FIREWORKS

CHAPTER 58B
USE OF CONSUMER-GRADE FIREWORKS

SOURCE: Entire chapter added as §§ 58B300-58B307 by P.L. 37-047:3 (Nov. 10, 2023), renumbered pursuant to the authority of 1 GCA § 1606.

- § 58B101. Legislative Findings and Intent.
- § 58B102. Definitions.
- § 58B103. Permissible Uses of Consumer Fireworks.
- § 58B104. Issuance of Licenses, Permits, Termination, Revocation, Seizure.
- § 58B105. Permits Requirements.
- § 58B106. Storage of Consumer Fireworks.
- § 58B107. Prohibiting Minors From Obtaining Consumer Fireworks.
- § 58B108. Penalty.

§ 58B101. Legislative Findings and Intent.

(a) *I Liheslaturan Guåhan* finds that numerous statutes have been enacted to stringently regulate the importation, sale, purchase, and use of consumer fireworks. These statutes include §§ 58109 and 58110 of Chapter 58, Division 3, Title 10, Guam Code Annotated, which bans the importation, storage, sale, purchase, and use of all consumer fireworks, also known as “safe and sane” fireworks, with the exception of caps as used in toy pistols and party favors containing comparable small amounts of explosives.

(b) *I Liheslaturan Guåhan* finds that the use of consumer-grade or “safe and sane” fireworks were legal and allowed in Guam prior to the enactment of §§ 58109 and 58110 of Chapter 58, Division 3, Title 10, Guam Code Annotated. Those who were able to enjoy consumer-grade fireworks prior to their prohibition recall fond memories of familial bonding during holidays and believe them to enhance these bonding experiences. Many families also wish to share these experiences starting with today’s generation.

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(c) In addition to enhancing familial experiences during holidays, consumer-grade fireworks will also create avenues for the residents of the island to open businesses that will sell these fireworks, aiding and promoting economic development in Guam. Legalizing consumer-grade fireworks will create business opportunities for entrepreneurs to capitalize on the need to import and sell these fireworks, contributing to the island's economy.

(d) *I Liheslaturan Guåhan* also finds that the prohibition of consumer-grade fireworks is grounded in the concern for public safety and security, but unfortunately, it has led to the illegal and dangerous practice of using actual firearms as a substitute for fireworks. There have been cases where teenagers would steal their parents' firearms and shoot them in the air as a substitute for fireworks. The act of shooting a firearm into the air is not only illegal, but incredibly dangerous due to the fact that bullets shot into the air will come back down with considerably more force and could potentially hit innocent bystanders. If teenagers and the people of Guam had access to consumer-grade fireworks, they would not have to resort to the illegal and dangerous practice of shooting firearms into the air.

(e) A collaboration between several different authorities and proper enforcement of the rules and regulations of the industry's supply chain at every level with severe yet reasonable penalties is vital to achieve the successful regulation of the industry. With proper enforcement mechanisms in place, the effective regulations of the "safe and sane" fireworks industry through precautionary advice, measures, and awareness of the general public is critical for the importation, sell, purchase and use of "safe and sane" fireworks. The common ground for many jurisdictions is the concern for public safety which has imposed stringent measures deriving from prior events or particular circumstances within the territory, state or country; e.g., fireworks use has been abused or misused.

(f) *I Liheslaturan Guåhan* intends to legalize consumer-grade or "safe and sane" fireworks while enacting stringent regulations and penalties to prevent misuse and abuse of these fireworks.

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2023 NOTE: Subsection designations (a)-(f) added pursuant to the authority of 1 GCA § 1606.

§ 58B102. Definitions.

(a) *Aerial devices* means any fireworks containing one hundred thirty (130) milligrams or less of explosive materials that produces an audible or visible effect and is designed to rise then detonate and explode in the air. Its use is prohibited by any person who does not have a permit for display fireworks issued by the Guam Fire Department. Aerial devices classified as fireworks under UN0336 and UN0337 by the United States Department of Transportation as set forth in Title 49 Code of Federal Regulation includes fireworks items commonly known as skyrockets, missile-type rockets, bottle rockets, helicopters, roman candles, dago bombs, torpedoes, flying pigs, and jumping jacks. These fireworks move about the ground further than a radius of a twelve (12) feet circle as measured from the point where the item was placed and ignited.

(b) *Consumer-grade fireworks* means fireworks which are intended for retail sale and use by the general public and are considered as Division 1.4G explosives by the U.S Department of Transportation. Ignition of these fireworks produce visible and audible effects for entertainment. It is designed to spin rapidly or to be stationary on or near the ground and can include one (1) or more effects such as emitting smoke, shower of colored sparks, whistling, crackling, and fizzing effects, and flutter and balls of single or multicolored sparks. Consumer fireworks are manufactured in single paper cylinders not exceeding one and one-half (1½) inches in length, excluding the fuse, are one quarter (1/4) of an inch in diameter, and contain a charge of not more than fifty (50) milligrams of pyrotechnic composition. Consumer-grade fireworks consist of snakes, sparklers, fountains, and cylindrical or cone fountains that emit effects up to a height not greater than twelve (12) feet above the ground, illuminating torches, whistles, toy smoke devices, wheels, and ground spinners that, when ignited, remain in a circle with a radius of not more than twelve (12) feet as measured from the point where the item was placed, ignited or set off, and novelty and combination fireworks that are designed to produce the same or similar effects

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detailed in this Subsection. Consumer-grade fireworks do not include firework devices and kits or components that are banned by the U.S. Consumer Product Safety Commission in 16 CFR § 1500.17.

(c) *Articles pyrotechnic* means pyrotechnic devices designed with similar chemical composition and construction as fireworks for professional use and are not intended for consumer use. Articles pyrotechnics meet the weight limits for consumer fireworks; however, they are not labeled as such and are classified as UN0431 or UN0432 under 49 CFR § 172.101 by the United States Department of Transportation.

(d) *Class 1.3G explosives* means large fireworks designed primarily to produce audible or visible effects by combustion, deflagration, or detonation, and are formerly known as Class B, Special Fireworks, or Display Fireworks according to the U.S. Consumer Product Safety Commission.

(e) *Display* means the use of aerial devices, display fireworks, or article pyrotechnic for any activities.

(f) *Display fireworks* means any fireworks designed primarily for exhibition display by producing visible or audible effects and are classified as display fireworks in the regulations of the United States Department of Transportation, designated as UN0333 or UN0335. Display fireworks include salutes containing more than forty (40) grams of pyrotechnic compositions and other display pieces which exceed the limits of explosive materials classified as consumer fireworks. This term also includes fused set pieces containing components which exceed fifty (50) milligrams of salute powder together. The use of display fireworks shall be prohibited for use by any person who does not have a display permit issued by the Guam Fire Department.

(g) *Class 1.4G explosives* means consumer fireworks intended for use by the general public and are formerly known as Class C Common Fireworks according to the U.S. Consumer Product Safety Commission.

(h) *Fireworks* means any composition or device that produces a visible or an audible effect by combustion,

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deflagration, or detonation that meets the definition of consumer fireworks or display fireworks as defined in this Section and in the regulations of the United States Department of Transportation set forth in Title 49 Code of Federal Regulation (CFR).

(i) *Pyrotechnics* means devices intended for professional use with similarities to consumer fireworks in construction and chemical composition. Pyrotechnics meet the weight limits of consumer fireworks but are not labeled as such. Articles pyrotechnic fall under this category.

(j) *Safe and sane fireworks* means fireworks that are designed to remain on or near the ground, spin rapidly, emit smoke, release a shower, flitter, or balls of colored sparks, or produce whistling, crackling, and fizzing effects. Safe and sane fireworks can include such combination of items that contain one (1) or more of these effects that are intended for use by the public.

§ 58B103. Permissible Uses of Consumer Fireworks.

(a) It is unlawful for any person, firm, corporation, association, or organization to sell or offer for sale any fireworks, except as expressly permitted under the terms of this Section.

(b) No fireworks shall be ignited or set off within fifty (50) feet of any building, structure, or wildland areas.

(c) The Guam Fire Department shall conduct a study on the effects of fireworks on public safety after three (3) years of enactment of this Chapter. This study may be used to determine if amendments to this Chapter are warranted.

§ 58B104. Issuance of Licenses, Permits, Termination, Revocation, Seizure.

(a) No person, firm, corporation, association, or organization shall sell fireworks without first having obtained a license thereof (“Consumer Fireworks License”). Prior to issuance of the CFL, the requesting party shall fulfill all licensing and fire safety requirements outlined by the Guam Fire Department.

(b) Upon expiration of a Consumer Fireworks License, a qualified person, firm, corporation, association, or organization

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shall be required to obtain a new license, unless terminated due to the following:

(1) failure to comply with any provision or applicable regulatory statutes, rules, and regulations in the business of retailing safe and sane fireworks;

(2) a safety violation that, in the determination of the Guam Fire Department, created a potential to endanger the public; or

(3) failure to maintain the requirements of the Consumer Fireworks License.

(c) Failure or refusal to comply with any of the provisions or applicable regulatory statutes, rules, or regulations detailed in this Chapter shall result in the termination or revocation of the Consumer Fireworks License. Termination or revocation of the Consumer Fireworks License shall be immediate if deemed in violation of this Section. The Fire Chief or his or her authorized representatives shall have the authority to revoke or terminate the license for a period of time not less than twelve (12) months and not over eighteen (18) months. The license will also be revoked or terminated if the conduct of the operation is deemed inimical to public safety.

(d) Any person engaged in the selling of consumer fireworks shall be eighteen (18) years of age or older.

(e) At least one (1) person twenty-one (21) years of age or older shall be in attendance and in charge of the permitted sales of consumer fireworks.

(f) All permits shall be non-transferrable

(g) No person, firm, corporation, association or organization holding a Consumer Fireworks License shall be allowed to sell firecrackers in a packet size larger than two thousand (2,000) individual units.

(h) The Fire Chief, his or her authorized representatives, or any other public entity authorized by statute to enforce government regulations may seize any fireworks described in this Chapter.

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§ 58B105. Permits Requirements.

(a) Any person in the business of importing, dealing, distributing, storing, or otherwise receiving consumer fireworks shall obtain a license from the Guam Fire Department by no later than ten (10) business days. The Guam Fire Department shall create distinct licenses for fireworks distributors or wholesalers and fireworks retailers.

(b) No person, firm, corporation, association, or organization shall sell any consumer fireworks to any persons under the age of eighteen (18).

(c) A permit shall be required to sell any consumer fireworks with a fee payment of Four Hundred Sixty-five Dollars (\$465.00) for a permit.

(d) All permits and licenses shall be posted in the establishment and shall be visible to the public.

(e) Any person who sells, imports, and delivers consumer fireworks shall keep a record book in which the time of each sale, delivery, and importation of consumer fireworks were conducted.

(f) The record book shall be kept on file for not less than a period of four (4) years and shall be subject to examination at all times upon proper demand by any duly authorized law enforcement officer or duly authorized personnel of the Guam Fire Department or his or her authorized representatives.

(g) No person, firm, corporation, association, or organization shall sell any consumer fireworks unless:

(1) Every fireworks device or the packaging in which they are sold has the word "CAUTION" or "WARNING".

(2) Every fireworks device or the packaging in which they are sold displays a statement of hazard designed to warn the user of the specific aspect of the item's operation that may result in the potential for injury. A statement of hazard includes statements such as: "FLAMMABLE, SHOOTS FLAMING BALLS WITH REPORTS, SPINS ON GROUND, EMITS SHOWERS OF SPARKS, etc."

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(3) Every fireworks device or the packaging in which they are sold are conspicuously labeled with country of origin, the name and place of business of the manufacturer, packer, distributor, or seller.

§ 58B106. Storage of Consumer Fireworks.

(a) Any person, firm, corporation, association, or organization which stores consumer fireworks shall notify the Guam Fire Department of the consumer fireworks that are being stored, the type, and the location of each site where they are stored. Such notifications shall be made orally at the end of the day in which storage of the consumer fireworks commenced and in writing within forty-eight (48) hours from the time such storage commenced.

(b) The facility in which consumer fireworks are stored shall be in accordance to guidelines set by the Guam Fire Department.

(c) Shipments of consumer fireworks must receive approval from the Guam Fire Department fifteen (15) calendar days prior to the shipment's arrival; and

(d) shall meet all fire and safety codes.

§ 58B107. Prohibiting Minors From Obtaining Consumer Fireworks.

(a) Any person, firm, corporation, association, or organization which sells, gives, or purchases consumer fireworks for a minor or allows a minor to set off or ignite any consumer fireworks shall be deemed in violation of this Chapter and are subject to penalties thereunder:

(1) First Offense: Penalty of up to One Hundred Dollars (\$100);

(2) Second Offense: Offense of the same fire code provision within a twelve (12)-month period shall be subject to a penalty of up to Four Hundred Dollars (\$400), but not less than One Hundred Dollars (\$100).

(3) Third Offense: Offense of the same fire code provision within a twelve (12)-month period shall be

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punishable as a misdemeanor and the business license and permit shall be suspended for up to one (1) year.

(b) Minors shall only be allowed to ignite or set off consumer fireworks under the expressed permission and immediate supervision and control of the parent(s), guardian(s), or a supervising adult.

§ 58B108. Penalty.

(a) Any person, firm, corporation, association or organization in the business of importing, dealing, distributing, selling, storing, or otherwise receiving consumer fireworks deemed in violation of this Chapter are subject to penalties and fines. Each violation shall be subject to the following penalties:

(1) First Offense shall be subject to a penalty of up to One Hundred Dollars (\$100);

(2) Second Offense of the same fire code provision within a twelve (12)-month period shall be subject to a penalty of up to Four Hundred Dollars (\$400), but not less than One Hundred Dollars (\$100);

(3) Third Offense of the same fire code provision within a twelve (12) month period shall be subject to a penalty of Five Thousand Dollars (\$5,000).

(b) All fines shall be deposited into a Fund which shall be used for enforcement and programs to educate consumers in the proper and legal use of fireworks.”
