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FIRE PROTECTION AND SAFETY

Regulation of Fireworks: Prohibit Unlicensed Pyrotechnic Displays Before Proximate Audiences

CODE SECTIONS: O.C.G.A. §§ 25-10-1 (amended), -3.2 (new), -4 to -5, -8 (amended)

BILL NUMBER: SB 213

ACT NUMBER: 49

GEORGIA LAWS: 2003 Ga. Laws 294

SUMMARY: The Act requires any person or company operating a pyrotechnic display before a proximate audience to obtain from the Safety Fire Commissioner a license, which may only be obtained upon proof that the applicant has liability insurance of least \$1,000,000. Applicants desiring to operate a pyrotechnic display before a proximate audience must also follow the same permitting procedures required of individuals operating a fireworks display. Furthermore, the permit may be granted only if the local fire official has approved the site. The probate judge must send the Safety Fire Commissioner a copy of each permit issued to ensure that the applicant conforms with safety provisions. Moreover, the Act permits the State Fire Commissioner to issue regulations relating to the manufacture, storage, and transportation of fireworks, as well as safety regulations relating to the public exhibition or display of pyrotechnics and the licensing requirement of those conducting these

public exhibitions or displays. The Act makes noncompliance a felony.

EFFECTIVE DATE: May 28, 2003

History

In early 2003, nearly 100 people were killed in Rhode Island after a pyrotechnic display “ignited a blaze during a rock concert.”¹ The tragedy caused Georgia legislators and the Georgia Insurance and Safety Fire Commissioner, John Oxendine, to review state laws regarding pyrotechnics to prevent a similar tragedy from occurring in Georgia.² The previous legislation governing pyrotechnics was flexible and only required a promoter to apply for a permit with a probate judge, which the judge would grant if (1) the owner was competent, (2) the display was safe, and (3) a \$10,000 bond payable to the hosting county accompanied the application.³ The Act made conducting pyrotechnic operations more difficult by strengthening the permit requirements and imposing new licensing requirements.⁴

SB 213

Senator Mitch Seabaugh of the 28th district, Senator Rooney Bowen of the 13th district, Senator Jeff Mullis of the 53rd district, Senator Valencia Seay of the 34th district, and Senator Ross Tolleson of the 18th district sponsored SB 213.⁵ The Georgia General Assembly passed SB 213 with relative ease.⁶ Senator Seabaugh introduced it on March 3, 2003.⁷ The bill was then referred to the Senate Public Safety and Homeland Security Committee, which

1. See Carlos Campos, *Fireworks 'Wake-up Call' Oxendine Aids Bill to Prevent Club Tragedies*, ATLANTA J. CONST., Feb. 26, 2003, at B4, available at 2003 WL 13242557.

2. See *id.*

3. See 1996 Ga. Laws 945, § 4, at 947-48 (formerly found at O.C.G.A. § 25-10-4 (Supp. 2002)).

4. See Telephone Interview with John Oxendine, Georgia Insurance and Safety Fire Commissioner (June 4, 2003) [hereinafter Oxendine Interview]; see also O.C.G.A. § 25-10-3.2 (2003). Compare 1996 Ga. Laws 945, § 4, at 947-48 (formerly found at O.C.G.A. § 25-10-4 (Supp. 2002)), with O.C.G.A. § 25-10-4 (2003).

5. See SB 213, as introduced, 2003 Ga. Gen. Assem.

6. See Georgia Senate Voting Record, SB 213 (Mar. 25, 2003); Georgia House of Representatives Voting Record, SB 213 (Apr. 14, 2003).

7. See State of Georgia Final Composite Status Sheet, SB 213, Apr. 25, 2003; see also Telephone Interview with Sen. Mitch Seabaugh, Senate District No. 28 (June 2, 2003) [hereinafter Seabaugh Interview].

favorably reported a substitute on March 5, 2003.⁸ The Senate Committee made only one change to correct a technical error by including the penalties section omitted from the original version.⁹ The Senate unanimously adopted the Committee substitute on March 25, 2003.¹⁰

On March 26, 2003, the House introduced SB 213, and the Speaker referred it to the House Public Safety Committee.¹¹ The House Committee favorably reported SB 213 on April 14, 2003, and the House overwhelmingly adopted the bill.¹² Governor Sonny Perdue signed SB 213 into law on May 28, 2003.¹³

The Act

The Act strikes Code section 25-10-1 and replaces it with more comprehensive language.¹⁴ Section 1 of the Act defines the term proximate audience as “an audience closer to pyrotechnic devices than permitted by the National Fire Protection Association Standard 1123.”¹⁵ The Act defines the term pyrotechnics as “fireworks.”¹⁶

Section 2 of the Act creates new Code section 25-10-3.2, detailing the requirements of obtaining a license to operate a pyrotechnics display before a proximate audience.¹⁷ The Act requires persons or entities to obtain this license from the Safety Fire Commissioner.¹⁸ The applicant must have insurance coverage of at least \$1,000,000 with a carrier “authorized to do business in Georgia.”¹⁹

The Act also sets forth more stringent requirements than had previously existed for operating a fireworks display *not* before a

8. See State of Georgia Final Composite Status Sheet, SB 213, Apr. 25, 2003.

9. Compare SB 213, as introduced, 2003 Ga. Gen. Assem., with SB 213 (SCS), 2003 Ga. Gen. Assem.

10. See Georgia Senate Voting Record, SB 213 (Mar. 25, 2003).

11. See State of Georgia Final Composite Status Sheet, SB 213, Apr. 25, 2003.

12. *Id.*; see also Georgia House of Representatives Voting Record, SB 213 (Apr. 14, 2003).

13. See 2003 Ga. Laws 294.

14. Compare 1986 Ga. Laws 798, § 1, at 799 (formerly found at O.C.G.A. § 25-10-1 (Supp. 2002)), with O.C.G.A. § 25-10-1 (2003).

15. O.C.G.A. § 25-10-1 (2003).

16. *Id.*

17. See O.C.G.A. § 25-10-3.2 (2003).

18. *Id.*

19. *Id.*

proximate audience.²⁰ All persons wishing to operate these displays must obtain a permit from a probate judge in the county where the display will take place.²¹ The probate judge may only grant the permit upon finding that the local fire official has approved the site.²² Furthermore, the applicant must show that he has either (1) posted a \$10,000 bond payable to the county or has at least \$25,000 in liability insurance for bodily injury for each person or (2) \$50,000 in liability insurance for each accident and \$25,000 in property damage insurance for each accident and \$50,000 in the aggregate.²³

Persons wishing to operate a pyrotechnic display before a proximate audience must follow the same permitting procedures.²⁴ However, as stated above, the law also requires these applicants to first obtain a license from the Safety Fire Commissioner.²⁵ This license number must be contained in the application for a permit from the probate judge.²⁶

The Act also creates more stringent requirements for operating a business that transports, manufactures, distributes, or stores fireworks in Georgia.²⁷ The Act retains the previous requirement that businesses or persons annually apply for a permit with the Safety Fire Commissioner and pay a \$1000 fee each year.²⁸ Additionally, the Act retains the Commissioner's broad authority to adopt any safety regulation regarding the manufacturing, storing, and transporting of fireworks to "ensure the adequate protection of the employees of any such person, firm, or corporation and of the general public."²⁹ The Act further authorizes the Commissioner to promulgate safety regulations relating to public displays of fireworks and the licensing

20. Compare 1996 Ga. Laws 945, § 4, at 947-48 (formerly found at O.C.G.A. § 25-10-4 (Supp. 2002)), with O.C.G.A. § 25-10-4 (2003).

21. O.C.G.A. § 25-10-4 (2003).

22. See *id.*

23. See *id.*

24. See *id.*

25. O.C.G.A. § 25-10-3.2 (2003).

26. See O.C.G.A. § 25-10-4 (2003); see also Facsimile Interview with Chris Stephens, Office of Insurance and Safety Fire Commissioner (Nov. 3, 2003).

27. Compare 1996 Ga. Laws 945, § 6, at 949 (formerly found at O.C.G.A. § 25-10-5 (Supp. 2002)), with O.C.G.A. § 25-10-5 (2003).

28. Compare 1996 Ga. Laws 945, § 6, at 949 (formerly found at O.C.G.A. § 25-10-5 (Supp. 2002)), with O.C.G.A. § 25-10-5 (2003).

29. Compare 1996 Ga. Laws 945, § 6, at 949 (formerly found at O.C.G.A. § 25-10-5 (Supp. 2002)), with O.C.G.A. § 25-10-5 (2003).

requirements of these exhibitions.³⁰ If an applicant does not conform to the regulations set forth by the Commissioner, the applicant cannot obtain a permit.³¹

Finally, the Act amends Code section 25-10-8 to increase the penalty for any “person, firm, corporation, association, or partnership” violating the provisions relating to the operation of pyrotechnics before a proximate audience to a felony, subject to imprisonment of two to ten years and to a \$10,000 maximum fine.³²

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30. Compare 1996 Ga. Laws 945, § 6, at 949 (formerly found at O.C.G.A. § 25-10-5 (Supp. 2002)), with O.C.G.A. § 25-10-5 (2003).

31. O.C.G.A. § 25-10-4 (2003).

32. Compare 1962 Ga. Laws 11, § 6, at 14 (formerly found at O.C.G.A. § 25-10-8 (1982)), with O.C.G.A. § 25-10-8 (2003).