

CONSUMER FIREWORKS

FREQUENTLY ASKED QUESTIONS

INTRODUCTION

The regulation of ‘fireworks’ has undergone significant changes due to the enactment of HB 110. The new laws on this topic became effective on July 1, 2015. A new category of ‘fireworks’ called “consumer fireworks” can now be legally sold and used in Georgia.

City and county attorneys should familiarize themselves with these new provisions so that they are able to advise properly municipal and county officials. This Frequently Asked Question Sheet has been produced jointly by the Georgia Municipal Association & Association County Commissioners of Georgia to provide local government attorneys with a place to start.

Q1. WHERE CAN I FIND THE NEW FIREWORKS LAW?

The provisions of HB 110, passed in 2015, have been codified into O.C.G.A. §§ 16-11-127.1, 25-10-1, 25-10-2, 25-10-5.1, 25-10-6, 25-10-9, 25-10-10, 36-60-24, and 48-13-130 through 133. The text of this material is available in any bound copy of the O.C.G.A. or by accessing the Code online at the General Assembly website at:

<http://www.lexisnexis.com/hottopics/gacode/Default.asp>

HB 110 can be found in Georgia Laws (clean copy) at Ga. L. 2015, p. 274 or on the General Assembly website (marked copy) at:

<http://www.legis.ga.gov/legislation/en-US/Display/20152016/HB/110>

Q2. WHAT ARE ‘CONSUMER FIREWORKS’?

‘Consumer fireworks’ are a new class of fireworks that generally include any small fireworks devices containing restricted amounts of pyrotechnic composition, designed

primarily to produce visible or audible effects by combustion, that comply with federal construction, chemical composition, and labeling regulations. ‘Consumer fireworks’ ALSO include Roman candles, an item which formerly was classified as ‘fireworks’. {O.C.G.A. § 25-10-1(1)}

Q3. ARE THERE OTHER KINDS OF ‘FIREWORKS’ BESIDES ‘CONSUMER FIREWORKS’?

Yes, in addition to ‘consumer fireworks’, the law also classifies items as ‘fireworks’ and items as ‘not fireworks’. Each of these broad classifications is different from ‘consumer fireworks’.

Q4. WHAT ARE ‘FIREWORKS’?

‘Fireworks’ generally include combustible or explosive devices prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. For example, ‘fireworks’ include: cartridges, firecrackers, torpedoes, skyrockets, bombs, and large sparklers, and other devices containing an explosive substance. {O.C.G.A. § 25-10-1(5)}

Please note that the definition above is merely a general description and is NOT a comprehensive definition. Please consult the statute for the complete listing of all included items.

Current statutory requirements for ‘fireworks’ are addressed in Q6.

Q5. WHAT ARE ‘NOT FIREWORKS’?

‘Not Fireworks’ fall into two groups. For purposes of simplicity these will be referred to as ‘Group 1’ and ‘Group 2’. *Please note that the following definitions are merely general descriptions and are NOT comprehensive definitions. Please consult the statute for the complete listing of all included items.*

‘Group 1 Not Fireworks’ generally include items such as model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models.

Group1 also includes toy pistol paper caps, toy cannons, toy canes, toy guns, or other devices using paper caps. Confusingly, this group is not just hobby or toy items but ALSO INCLUDES ammunition consumed by weapons used for sporting and hunting purposes. {O.C.G.A. § 25-10-1(b)(1)}

‘Group 2 Not Fireworks’ generally include items such as small wire or wood sparklers; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops. {O.C.G.A. § 25-10-1(b)(2)}

Q6. HOW DID THE LAW CHANGE FOR ‘FIREWORKS AND ‘NOT FIEWORKS’?

Essentially, the law on the sale of “fireworks” and “not fireworks” has not undergone significant change.

Display ‘fireworks’ or large scale ‘fireworks’ such as might be seen at a 4th of July show may be sold, transported, or used for public exhibitions or displays ONLY if licensed by the Safety Fire Commissioner under O.C.G.A. § 25-10-3.2 and licensed by the judge of the probate court under O.C.G.A. § 25-10-4 and have to meet a plethora of requirements under O.C.G.A. § 25-10-3.1 in order to be stored or used.

‘Not fireworks’, for the most part, can be sold and used as they have been in the past.

Q7. WHAT IS ‘NFPA 1124’?

NFPA 1124 is defined in O.C.G.A. § 25-10-1(6) as “the National Fire Protection Association Standard 1124, *Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles*, 2006 Edition.” The full text of this material is available at the following URL, but know ahead of time the site is difficult to use and that there are a multitude of NFPA editions, so be sure to select the 2006 Edition: www.nfpa.org

Q8. WHY IS NFPA 1124 IMPORTANT?

Because O.C.G.A. § 25-10-1 specifies that the terms ‘consumer fireworks retail sales facility’; ‘consumer fireworks retail sales stand’; and ‘store’ are to be defined as provided under NFPA 1124. These definitions are as follows:

‘Consumer fireworks retail sales stand’ – a temporary or permanent building or structure that has a floor area not greater than 800 square feet, other than tents, canopies, or membrane structures, that is used primarily for the retail display and sale of consumer fireworks to the public. {NFPA 1124, 3.3.18}

‘Consumer fireworks retail sales facility’ – a permanent or temporary building or structure, consumer fireworks retail sales stand, tent, canopy, or membrane structure that is used primarily for the retail display and sale of consumer fireworks to the public. {NFPA 1124, 3.3.29.1}

‘Store’ – a building classified as a mercantile occupancy that contains a variety of merchandise and that is not used primarily for the retail sale of consumer fireworks. {NFPA 1124, 3.3.74}

Q9. WHEN CAN CONSUMER FIREWORKS BE USED OR EXPLODED?

Except as noted below, consumer fireworks can be used or exploded ON ANY DAY between 10:00 a.m. and 12:00 midnight. {O.C.G.A. § 25-10-2(b)(3)(B)}

Consumer fireworks can ALSO be used or exploded ON JANUARY 1, JULY 3, JULY 4, & DECEMBER 31 between 12:00 midnight and 2:00 a.m. {O.C.G.A. § 25-10-2(b)(3)(B)}

Q10. CAN LOCAL GOVERNMENT CHANGE THE TIMES DURING WHICH CONSUMER FIREWORKS CAN BE USED OR EXPLODED?

The governing authority of a city or county can expand the times but it CANNOT restrict the times to less than what state law provides.

To expand the times, the city or county governing authority must issue a special use permit that designates the additional time or times and location. {O.C.G.A. § 25-10-2(b)(3)(D)}.

Q11. CAN A CITY OR COUNTY CHARGE A FEE FOR A CONSUMER FIREWORKS SPECIAL USE PERMIT?

Yes, a fee can be charged for special use permit allowing consumer fireworks to be exploded at hours other than specifically allowed by general law above. The permit fee cannot exceed \$100.00. {O.C.G.A. § 25-10-2(b)(3)(D)}

Q12. CAN LOCAL GOVERNMENT BE HELD RESPONSIBLE IF SOMEONE GETS HURT?

The city or county attorney should ALWAYS be consulted regarding all questions of sovereign or official immunity. It should be noted that the new law does provide that: “No governing authority or official of a county, municipality, or other political subdivision shall bear liability for any decision made pursuant to this Code section.” {O.C.G.A. § 25-10-2(b)(3)(D)}

The scope of this liability exclusion is very unclear. First, it refers to a ‘decision’, but, does not describe exactly to what ‘decisions’ it is referring. It is placed in the portion of the Code section dealing specifically with the issuance of a special use permit, so it should apply to that decision at least. Second, while located in the portion of the Code section dealing ONLY with the issuance of a special use permit, it NONETHELESS refers to “any decisions made pursuant to this Code section” The entire Code section deals with many matters and actions which do or do not constitute prohibited actions. It is not clear what “decisions” local government might make regarding those matters. Since local government has almost no regulatory power over ‘consumer fireworks’, ‘fireworks’, and ‘not fireworks’ the breadth of whatever these “decisions” might be appears limited at best.

Q13. WHAT ARE THE NEW PROHIBITIONS FOR ‘CONSUMER FIREWORKS’, ‘FIREWORKS’ AND ‘NOT FIREWORKS’?

Consumer fireworks (*roman candles and small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion*) and fireworks (*cartridges, firecrackers, torpedoes, skyrockets, bombs, and large sparklers, and other devices containing an explosive substance*) cannot be sold except as otherwise specifically authorized under O.C.G.A. Chapter 25-10. {O.C.G.A. § 25-10-2(a)}

Consumer fireworks (*roman candles and small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion*) and group 2 ‘not fireworks’ (*small wire or wood sparklers; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops*) cannot be sold to anyone under 18 years of age. {O.C.G.A. § 25-10-2(b)(1)}

Consumer fireworks (*roman candles and small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion*) and group 2 ‘not fireworks’ (*small wire or wood sparklers; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops*) cannot be sold by any means other than an in-person, face-to face sale where proper photo ID is shown. {O.C.G.A. § 25-10-2(b)(2)}

Consumer fireworks (*roman candles and small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion*); fireworks (*cartridges, firecrackers, torpedoes, skyrockets, bombs, and large sparklers, and other devices containing an explosive substance* ; and group 2 ‘not fireworks’ (*small wire or wood sparklers; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops*) cannot be used indoors. {O.C.G.A. § 25-10-2(b)(3)(A)}. However, this restriction most likely would not apply to locations such as under overhanging structures or on patios or decks. The term ‘indoors’ is not defined in statute. A common dictionary definition, however, means the area or space ‘inside’ a building. Underneath a deck or balcony that is on the outside of a building does not seem to meet such a definition. Neither does a patio or deck. All of these locations are typically ‘outdoors’ not ‘indoors’.

It is prohibited to release a balloon, bag, parachute, or other similar device which requires fire underneath for propulsion. {O.C.G.A. § 25-10-10}

It is prohibited to release a floating water lantern or wish lantern which uses a flame to create a lighting effect in any PUBLIC waterway, lake, pond, stream, or river. {O.C.G.A. § 25-10-10}

Q14. ARE THERE ANY LIMITS ON THE LOCATION WHERE CONSUMER FIREWORKS CAN BE USED OR EXPLODED?

The new law allows consumer fireworks to be used or exploded ANYWHERE IN THE STATE with only 4 EXCEPTIONS. {O.C.G.A. § 25-10-2(b)(3)(C)}.

The prohibited locations are:

- 1) Indoors;
- 2) Any location where the person, firm, association, or partnership who uses or explodes the consumer fireworks is not lawfully present or is not otherwise lawfully permitted to use or explode consumer fireworks;
- 3) Within 100 yards of a nuclear power facility; or
- 4) Within 100 yards of a facility engaged in retail gasoline sales or engaged in producing, refining, processing, or blending gasoline.

Q15. CAN CONSUMER FIREWORKS BE CARRIED INTO A SCHOOL SAFETY ZONE OR ON A SCHOOLBUS?

Yes. Just like fireworks, the new law EXCLUDES consumer fireworks from the prohibition about possessing or carrying weapons or explosives within a school safety zone, at a school function, or on a bus or other school-provided transportation. {O.C.G.A. § 16-11-127.1(b)(1)}

Q16. CAN CONSUMER FIREWORKS BE USED OR EXPLODED ON PUBLIC PROPERTY SUCH AS ON THE STEPS OF CITY HALL OR THE COURTHOUSE OR IN A PUBLIC PARK?

As long as a person is lawfully present on city or county property and as long as there is no other lawful prohibition, it appears that the answer is yes.

Q17. COULD A CITY OR COUNTY PROHIBIT CONSUMER FIREWORKS FROM BEING USED OR EXPLODED ON PUBLIC PROPERTY SUCH AS ON THE STEPS OF CITY HALL OR THE COURTHOUSE OR IN A PUBLIC PARK?

The new law states that consumer fireworks can be used or exploded anywhere except at a location where a person is not lawfully present or there is no other lawful prohibition.

Does this allow a city or county to provide that the use or explosion of consumer fireworks on public property is not ‘lawfully permitted’? It does not appear that a city or county could set up a permitting system to authorize, and therefore prohibit as well, the use or exploding of consumer fireworks on city or county property. An analogy would be parade permits. Although there is a right for parades to be conducted, the city or county can attach conditions, the least of which would be requiring prior notice to the city or county so that safety can be taken into consideration. The problem with that analogy is that under revised O.C.G.A. § 36-60-24(a) and (b), a city or county cannot prohibit or further regulate the sale, use, or explosion of consumer fireworks unless that prohibition is expressly authorized under general law, The SOLE general law exception that is specified is that under new O.C.G.A. § 36-60-24(c), a city or county is authorized to provide for permits or licenses to sell or explode fireworks under new O.C.G.A. § 25-10-5.1(c). This new subsection (c), however, does NOT in any way apply to the use or exploding of consumer fireworks. It deals SOLELY with the licensing of temporary consumer fireworks retail sales stands.

HOWEVER, it is important to remain mindful that there are general laws such as O.C.G.A. § 36-9-2 (county) and O.C.G.A. § 36-30-2 (city) which specifically authorize the governing authority to exercise control over local government property. So the question becomes whether such a general law is sufficient to allow a governing authority to prohibit or regulate the use or explosion of consumer fireworks on public property. In

other words, do those other general laws qualify as exceptions under revised O.C.G.A. § 36-60-24? Unfortunately, there is no clear answer to this question.

While there is little regulation that seems to be allowed at the local level, note that O.C.G.A. § 25-10-2(b)(3)(D) does seemingly contemplate local decisions other than the granting of a special use permit, so, perhaps this is one of the allowed decisions. BUT, keep in mind that the special use permit requirement applies ONLY to the allowing consumer fireworks to be used or exploded on days or at times that are not specifically authorized under general law.

Q18. HOW OLD DO YOU HAVE TO BE TO BUY, USE, EXPLODE, OR TRANSPORT CONSUMER FIREWORKS?

Consumer fireworks (*roman candles and small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion*) and Group 2 ‘not fireworks’ (*wire or wood sparklers; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops*) cannot be sold to anyone under 18 years of age. {O.C.G.A. § 25-10-2(b)(1)}

Except as noted below, consumer fireworks cannot be used, exploded, or transported by anyone under 18 years of age. {O.C.G.A. § 25-10-2(b)(4)(A)}

Consumer fireworks can be possessed or transported by a person who is 16 or 17 years of age, BUT ONLY IF serving as an assistant to a licensed distributor or certain benefiting nonprofits an ONLY IF not transporting them on certain interstate highways. {O.C.G.A. § 25-10-2(b)(4)(B)}

Q19. HOW OLD DO YOU HAVE TO BE TO SELL CONSUMER FIREWORKS?

Except as noted below, consumer fireworks cannot be sold by anyone less than 18 years of age. {O.C.G.A. § 25-10-2(b)(5)(A)}

Consumer fireworks can be sold by a person who is 16 or 17 years of age, BUT ONLY IF serving as an assistant to a licensed distributor or certain benefiting nonprofits. {O.C.G.A. § 25-10-2(b)(5)(B)}

Q20. CAN CONSUMER FIREWORKS BE SOLD ANYWHERE?

No. Consumer fireworks can ONLY be sold at EITHER a permanent consumer fireworks retail sales facility or store OR at a temporary consumer fireworks retail sales stand. {O.C.G.A. § 25-10-2(b)(6)(A)}

Consumer fireworks cannot be sold from EITHER a motor vehicle OR a trailer towed by a motor vehicle. {O.C.G.A. § 25-10-2(b)(6)(C)}

Q21. WHAT STATE RESTRICTIONS APPLY TO PERMANENT CONSUMER FIREWORKS RETAIL SALES FACILITIES OR STORES?

Consumer fireworks can only be sold at these permanent locations if they comply with NFPA 1124 and are selling consumer fireworks of a licensed distributor. {O.C.G.A. § 25-10-2(b)(6)(A)}

Q22. WHAT LOCAL RESTRICTIONS APPLY TO PERMANENT CONSUMER FIREWORKS RETAIL SALES FACILITIES OR STORES?

City or county regulation is not allowed unless the additional regulation is expressly authorized by general law. Consequently, it appears that permanent locations selling consumer fireworks would be subject to both zoning and occupation taxes. {O.C.G.A. § 36-60-24(b)}

City or county regulation of distributor licenses or permits is expressly authorized. {O.C.G.A. § 36-60-24(c)}

Q23. WHAT STATE RESTRICTIONS APPLY TO TEMPORARY CONSUMER FIREWORKS RETAIL SALES STANDS?

Consumer fireworks can only be sold at these temporary locations if: they comply with NFPA 1124; are within 1000 feet of a fire hydrant or fire department connection unless

waived in writing by the chief administrative officer of the fire department; and are selling consumer fireworks of a licensed distributor. {O.C.G.A. § 25-10-2(b)(6)(B)}

There are limits on the number of temporary stands which can be operated by a licensee and only a limited number of temporary stands are allowed in certain geographic areas. {O.C.G.A. § 25-10-2(b)(6)(B)}

Q24. WHAT LOCAL RESTRICTIONS APPLY TO TEMPORARY CONSUMER FIREWORKS RETAIL SALES STANDS?

City or county regulation is not allowed unless the additional regulation is expressly authorized by general law. Consequently, it appears that these locations of temporary retail sales stands would be subject to both zoning and occupation taxes. {O.C.G.A. § 36-60-24(b)}

City or county regulation of distributor licenses or permits is expressly authorized. {O.C.G.A. § 36-60-24(c)}

Further regulation of the sale of consumer fireworks from temporary stands is expressly authorized. {O.C.G.A. § 36-60-24(d)}

If, as a part of such further regulation, the local government does in fact perform the requisite investigations or inspections, then regulatory fees under O.C.G.A. 48-13-9 could be imposed.

The governing authority of the county (but NOT a city) is prohibited from unreasonable delay or denial of an application for a temporary stand. The new law does not provide a reason for this distinction. {O.C.G.A. § 36-60-24(e)}

Q25. WHAT STATE LICENSE REQUIREMENTS APPLY TO DISTRIBUTORS SELLING AT PERMANENT LOCATIONS?

In order for consumer fireworks to be sold at a permanent consumer fireworks retail sales facility, a distributor must have a state license issued by the Safety Fire Commissioner. {O.C.G.A. § 25-10-5.1(b)}

In order for consumer fireworks to be sold at a store, a distributor must have a state license issued by the Safety Fire Commissioner. {O.C.G.A. § 25-10-5.1(d)}

In order for a distributor to get a state license issued by the Safety Fire Commissioner, the distributor must maintain at all times public liability and product liability insurance with minimum coverage limits of \$2 million to cover the losses, damages, or injuries that might ensue to persons or property as a result of selling consumer fireworks. {O.C.G.A. § 25-10-5.1(a)(1)(B)}

In order for a distributor to get a state license issued by the Safety Fire Commissioner, the distributor must pay to the state initial and annual renewal license fees. Local government does NOT receive any of this money. {O.C.G.A. § 25-10-5.1(b)(1) & (d)(1)}

Q26. WHAT LOCAL LICENSE REQUIREMENTS APPLY TO DISTRIBUTORS SELLING AT PERMANENT LOCATIONS?

None. These license requirements and fees are set by and controlled by the state.

Q27. WHAT STATE LICENSE REQUIREMENTS APPLY TO DISTRIBUTORS SELLING AT TEMPORARY LOCATIONS?

Almost all local license requirements and fees are set by the state but controlled by local government. One exception is that distributors are required to submit to the Safety Fire Commissioner a list of the names and addresses of each temporary stand. The list must be kept up to date and available for public inspection. {O.C.G.A. § 25-10-5.1(c)(5)}

Q28. WHAT LOCAL LICENSE REQUIREMENTS APPLY TO DISTRIBUTORS SELLING AT TEMPORARY LOCATIONS?

In order for consumer fireworks to be sold at a temporary consumer fireworks retail sales stand, a distributor must have a local license issued by the local fire department of the city or county in which the stand is located. {O.C.G.A. § 25-10-5.1(c)(2)}

In order for a distributor to get a local license issued by the applicable local fire department, the distributor must maintain at all times public liability and product liability

insurance with minimum coverage limits of \$2 million to cover the losses, damages, or injuries that might ensue to persons or property as a result of selling consumer fireworks. {O.C.G.A. § 25-10-5.1(a)(1)(B)}

In order for a distributor to get a local license issued by the applicable local fire department, the distributor must pay to the governing authority of the applicable city or county a fee of \$500.00 per location. The state does NOT receive any of this money. {O.C.G.A. § 25-10-5.1(c)(1)}

All fee proceeds go to the governing authority of the city or county of the area of operation of the fire department which issues the license. The fee proceeds must be expended for public safety purposes. The statute is silent regarding how, and the frequency with which, the proceeds must be turned over to the governing authority. {O.C.G.A. § 25-10-5.1(c)(4)}

Local licenses can ONLY be issued: if the distributor complies with state specified limits on the number of temporary stands; AND if the consumer fireworks sales accrue to the benefit of a nonprofit group which participates directly in the operation of the stand. {O.C.G.A. § 25-10-5.1(c)(1) & (3)}

Local licenses can ONLY be issued: on or after January 1, 2016; AND shall expire 90 days after the date of issuance. {O.C.G.A. § 25-10-5.1(c)(1)}. The law does not provide for any restriction for how many times a licensee may apply and be granted a temporary consumer fireworks retail stand license in a given year.

Q29 WHAT PROCEDURES APPLY TO LICENSING OF TEMPORARY LOCATIONS BY THE LOCAL FIRE DEPARTMENT?

A local license can only be issued by “the fire department of the county, municipality, or other political subdivision or the chartered fire department legally organized to operate in this state pursuant to Chapter 3 of Title 25 and having operational authority of the area in which such temporary consumer fireworks retail sales stand shall be located or is proposed to be located.”. {O.C.G.A. § 25-10-5.1(c)(1)}

The statute is silent regarding the specific procedures which are to be followed. It merely says that the applicable local fire department is required to make a determination within 15 days of submission of the written license application. The application form can be, but

is not required to be specified by the local fire department. If the decision is not rendered within the 15 day period, or, of the application is denied, an appeal can be filed with the judge of the probate court. The probate judge may provide for the issuance or non-issuance of a license “in such manner as is consistent with O.C.G.A. § 25-10-5.1 (c).” {O.C.G.A § 25-10-5.1(c)(2)}

Q30. CAN THE CITY OR COUNTY TAKE OVER THE LOCAL LICENSING FUNCTION?

It does appear that the licensing function could be assumed by the city or county. Under revised O.C.G.A. § 36-60-24(a) and (b), a city or county cannot prohibit or further regulate the sale, use, or explosion of consumer fireworks unless that prohibition is expressly authorized under general law. The SOLE general law exception that is specified is that under new O.C.G.A. § 36-60-24(c), a city or county is authorized to provide for permits or licenses to sell or explode fireworks under new O.C.G.A. § 25-10-5.1(c). Consequently, it appears that a city or county could, by ordinance, take over the licensing function. Whether or not this function would include providing a different appeal process is unclear.

Q31. DO TAXES APPLY TO LOCATIONS WHICH SELL CONSUMER FIREWORKS?

Yes. There are several existing and one new tax that will apply.

The sale and use of consumer fireworks is subject to state sales and use tax and local sales and use tax (SPLOST, LOST, etc.) since there is no exemption under O.C.G.A. § 48-8-3 that excludes such sale or use from taxation.

Occupation taxes under O.C.G.A. § 48-13-8 will apply and regulatory fees under O.C.G.A. 48-13-9 could apply if the local government does in fact perform the requisite investigations or inspections.

A new 5% state excise tax is imposed on the sale of ‘consumer fireworks’ (*roman candles and small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion*) and Group 2 ‘not fireworks’ (*wire or wood sparklers; snake and glow worms; smoke devices; or trick noise makers which include paper*

streamers, party peppers, string peppers, snappers, and drop pops). This is a state tax only and local government does not receive any of these proceeds. {O.C.G.A. § 48-13-131(a)}

Q32. WHAT STEPS SHOULD A CITY OR A COUNTY TAKE REGARDING CONSUMER FIREWORKS?

In consultation with the city or county attorney, local governments should consider the following:

- 1) Determine whether or not to handle local licensing instead of the fire department;
- 2) If a business and occupation tax is levied, review the ordinance or resolution regarding its applicability to consumer fireworks;
- 3) Enforce sales and use tax compliance by sellers of consumer fireworks;
- 4) Consider the appropriateness of special use permits for off-hour use or explosion of consumer fireworks; and
- 5) Consider the appropriateness of trying to regulate the use or explosion of consumer fireworks on public property.

Q33. WHERE CAN I LOCATE ADDITIONAL INFORMATION ABOUT THE STATE EXCISE TAX?

The Department of Revenue maintains an FAQ page on its website regarding the excise tax:

<https://dor.georgia.gov/fireworks-excise-tax-faq>

The Department of Revenue has issued a regulation regarding the excise tax:

<http://dor.georgia.gov/documents/rule-560-13-1-01-fireworks-excise-tax>