

100.19 Consumer fireworks seller licensing — penalty — fund.

1. As used in this section:

a. “APA 87-1” means the American pyrotechnics association standard 87-1, as published in December 2001.

b. “Community group” means a nonprofit entity that is open for membership to the general public which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code or a fraternal benefit society, as that term is defined in section 512B.3.

c. “First-class consumer fireworks” means the following consumer fireworks, as described in APA 87-1, chapter 3:

(1) Aerial shell kits and reloadable tubes.

(2) Chasers.

(3) Helicopter and aerial spinners.

(4) Firecrackers.

(5) Mine and shell devices.

(6) Missile-type rockets.

(7) Roman candles.

(8) Sky rockets and bottle rockets.

(9) Multiple tube devices under this paragraph “c” that are manufactured in accordance with APA 87-1, section 3.5.

d. “Retailer” means as defined in section 423.1.

e. “Second-class consumer fireworks” means the following consumer fireworks, as described in APA 87-1, chapter 3:

(1) Cone fountains.

(2) Cylindrical fountains.

(3) Flitter sparklers.

(4) Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.

(5) Ground spinners.

(6) Illuminating torches.

(7) Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.

(8) Wheels.

(9) Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

2. a. The state fire marshal shall establish a consumer fireworks seller license. An application for a consumer fireworks seller license shall be made on a form provided by the state fire marshal. The state fire marshal shall adopt rules consistent with this section establishing minimum requirements for a retailer or community group to be issued a consumer fireworks seller license.

b. A person shall possess a consumer fireworks seller license under this section in order to sell consumer fireworks.

3. a. The state fire marshal shall establish a fee schedule for consumer fireworks seller licenses as follows:

(1) For a retailer at a permanent building who devotes fifty percent or more of the retailer’s retail floor space to the sale or display of first-class consumer fireworks, an annual fee of one thousand dollars.

(2) For a retailer at a temporary structure who devotes fifty percent or more of the retailer’s retail floor space to the sale or display of first-class consumer fireworks, an annual fee of five hundred dollars.

(3) For a retailer who devotes less than fifty percent of the retailer’s retail floor space to the sale or display of first-class consumer fireworks, an annual fee of four hundred dollars.

(4) For a community group that offers for sale, exposes for sale, or sells first-class consumer fireworks, an annual fee of four hundred dollars.

(5) For a retailer or community group that offers for sale, exposes for sale, or sells second-class consumer fireworks, but not first-class consumer fireworks, an annual fee of one hundred dollars.

b. A license issued to a retailer or community group pursuant to paragraph "a", subparagraph (1), (2), (3), or (4), shall allow the licensee to sell both first-class consumer fireworks and second-class consumer fireworks.

4. The state fire marshal shall adopt rules to:

a. Require that any retailer or community group offering for sale at retail any consumer fireworks, as described in APA 87-1, chapter 3, shall do so in accordance with the national fire protection association standard 1124, published in the code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles, 2006 edition.

b. Require that a retailer or community group to be issued a license pursuant to this section provide proof of and maintain commercial general liability insurance with minimum per occurrence coverage of at least one million dollars and aggregate coverage of at least two million dollars.

c. Permit a retailer or community group issued a license pursuant to this section to sell consumer fireworks, as described in APA 87-1, chapter 3, at the following locations as specified:

(1) At a permanent building that meets the requirements of paragraph "a", between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

(2) At a temporary structure that meets the requirements of paragraph "a" between June 13 and July 8 each year, both dates inclusive.

d. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under eighteen years of age.

5. a. The state fire marshal shall adopt rules to provide that a person's consumer fireworks seller license may be revoked for the intentional violation of this section. The proceedings for revocation shall be held before the division of the state fire marshal, which may revoke the license or licenses involved as provided in paragraph "b".

b. (1) If, upon the hearing of the order to show cause, the division of the state fire marshal finds that the licensee intentionally violated this section, then the license or licenses under which the licensed retailer or community group sells first-class consumer fireworks or second-class consumer fireworks, shall be revoked.

(2) Judicial review of actions of the division of the state fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. If the licensee has not filed a petition for judicial review in district court, revocation shall date from the thirty-first day following the date of the order of the division of the state fire marshal. If the licensee has filed a petition for judicial review, revocation shall date from the thirty-first day following entry of the order of the district court, if action by the district court is adverse to the licensee.

(3) A new license shall not be issued to a person whose license has been revoked, or to the business in control of the premises on which the violation occurred if it is established that the owner of the business had actual knowledge of the violation resulting in the license revocation, for the period of one year following the date of revocation.

6. a. A consumer fireworks fee fund is created in the state treasury under the control of the state fire marshal. Notwithstanding section 12C.7, interest or earnings on moneys in the consumer fireworks fee fund shall be credited to the consumer fireworks fee fund. Moneys in the fund are appropriated to the state fire marshal to be used to fulfill the responsibilities of the state fire marshal for the administration and enforcement of this section and section 100.19A and to provide grants pursuant to paragraph "b". The fund shall include the fees collected by the state fire marshal under the fee schedule established pursuant to subsection 3 and the fees collected by the state fire marshal under section 100.19A for wholesaler registration.

b. The state fire marshal shall establish a local fire protection and emergency medical service providers grant program to provide grants to local fire protection service providers and local emergency medical service providers to establish or provide fireworks safety education programming to members of the public. The state fire marshal may also provide grants to local fire protection service providers and local emergency medical service providers for the purchase of necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.

7. The state fire marshal shall adopt rules for the administration of this section.

8. A person who violates a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor.

2017 Acts, ch 115, §3, 12

Referred to in §100.19A, §272.2

NEW section