

FIRST REGULAR SESSION

# HOUSE BILL NO. 303

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BRUNS (Sponsor), ROBB, SCHAAF, RUESTMAN, BIVINS,  
WHORTON, SATER, MOORE, CORCORAN, WALLACE AND SANDER (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

0939L.01I

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### AN ACT

To repeal sections 320.106, 320.146, 320.200, 320.271, 320.300, and 320.310, RSMo, and to enact in lieu thereof seven new sections relating to fire protection.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 320.106, 320.146, 320.200, 320.271, 320.300, and 320.310, RSMo,  
2 are repealed and seven new sections enacted in lieu thereof, to be known as sections 320.096,  
3 320.106, 320.146, 320.200, 320.271, 320.300, and 320.310, to read as follows:

**320.096. 1. Except as provided in subsection 2 of this section, fire protection**  
2 **districts as defined in chapter 321, RSMo, and municipal fire departments and volunteer**  
3 **fire protection associations as defined in this chapter shall be the sole providers of fire**  
4 **suppression and related activities, including but not limited to fire prevention, rescue,**  
5 **emergency medical services, hazardous material response, or special operations, within**  
6 **their legally defined boundaries.**

7 **2. Upon the approval of the governing body of a registered fire protection district,**  
8 **municipal fire department, or volunteer fire protection association, any other association,**  
9 **organization, group, or political subdivision may provide the fire protection and related**  
10 **activities described in this section within the legally defined boundaries of such registered**  
11 **fire protection district, municipal fire department, or volunteer fire protection association.**

12 **3. Any association, organization, group, or political subdivision denied**  
13 **authorization to provide fire protection and related services under subsection 2 of this**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 section may, within thirty days of such denial, appeal such denial to the circuit court with  
15 jurisdiction over such registered fire protection district, municipal fire department, or  
16 volunteer fire protection association. Such appeal shall be as a trial de novo.

17 **4. This section shall not be construed to supersede any provision in chapter 190,**  
18 **RSMo, or chapter 321, RSMo, relating to the formation and operation of any fire**  
19 **protection district, ambulance district, or ambulance service.**

320.106. As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the  
2 following terms mean:

3 (1) "American Pyrotechnics Association (APA), Standard 87-1", or subsequent standard  
4 which may amend or supersede this standard for manufacturers, importers and distributors of  
5 fireworks;

6 (2) "Chemical composition", all pyrotechnic and explosive composition contained in  
7 fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;

8 (3) "Consumer fireworks", explosive devices designed primarily to produce visible or  
9 audible effects by combustion and includes aerial devices and ground devices, all of which are  
10 classified as fireworks, UNO336, 1.4G by regulation of the United States Department of  
11 Transportation, as amended from time to time, and which were formerly classified as class C  
12 common fireworks by regulation of the United States Department of Transportation;

13 (4) "Discharge site", the area immediately surrounding the fireworks mortars used for  
14 an outdoor fireworks display;

15 (5) **"Dispenser", a device designed for the measurement and delivery of liquids as**  
16 **fuel;**

17 (6) "Display fireworks", explosive devices designed primarily to produce visible or  
18 audible effects by combustion, deflagration or detonation. This term includes devices containing  
19 more than two grains (130 mg) of explosive composition intended for public display. These  
20 devices are classified as fireworks, UNO335, 1.3G by regulation of the United States Department  
21 of Transportation, as amended from time to time, and which were formerly classified as class B  
22 display fireworks by regulation of the United States Department of Transportation;

23 [(6)] (7) "Display site", the immediate area where a fireworks display is conducted,  
24 including the discharge site, the fallout area, and the required separation distance from mortars  
25 to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;

26 [(7)] (8) "Distributor", any person engaged in the business of selling fireworks to  
27 wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the  
28 necessary permits as specified in sections 320.106 to 320.161, including any person that imports  
29 any fireworks of any kind in any manner into the state of Missouri;

30        [(8)] (9) "Fireworks", any composition or device for producing a visible, audible, or both  
31 visible and audible effect by combustion, deflagration, or detonation and that meets the definition  
32 of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United  
33 States Department of Transportation hazardous materials regulations, and American Pyrotechnics  
34 Association 87-1 standards;

35        [(9)] (10) "Fireworks season", the period beginning on the twentieth day of June and  
36 continuing through the tenth day of July of the same year and the period beginning on the  
37 twentieth day of December and continuing through the second day of January of the next year,  
38 which shall be the only periods of time that seasonal retailers may be permitted to sell consumer  
39 fireworks;

40        [(10)] (11) "Jobber", any person engaged in the business of making sales of consumer  
41 fireworks at wholesale or retail within the state of Missouri to nonlicensed buyers for use and  
42 distribution outside the state of Missouri during a calendar year from the first day of January  
43 through the thirty-first day of December;

44        [(11)] (12) "Licensed operator", any person who supervises, manages, or directs the  
45 discharge of outdoor display fireworks, either by manual or electrical means; who has met  
46 additional requirements established by promulgated rule and has successfully completed a  
47 display fireworks training course recognized and approved by the state fire marshal;

48        [(12)] (13) "Manufacturer", any person engaged in the making, manufacture, assembly  
49 or construction of fireworks of any kind within the state of Missouri;

50        [(13)] (14) "NFPA", National Fire Protection Association, an international codes and  
51 standards organization;

52        [(14)] (15) "Permanent structure", buildings and structures with permanent foundations  
53 other than tents, mobile homes, and trailers;

54        [(15)] (16) "Permit", the written authority of the state fire marshal issued pursuant to  
55 sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

56        [(16)] (17) "Person", any corporation, association, partnership or individual or group  
57 thereof;

58        [(17)] (18) "Proximate fireworks", a chemical mixture used in the entertainment industry  
59 to produce visible or audible effects by combustion, deflagration, or detonation, as defined by  
60 the most current edition of the American Pyrotechnics Association (APA), Standard 87-1,  
61 section 3.8, specific requirements for theatrical pyrotechnics;

62        [(18)] (19) "Pyrotechnic operator" or "special effects operator", an individual who has  
63 responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special  
64 effects for proximate fireworks and who has met additional requirements established by

65 promulgated rules and has successfully completed a proximate fireworks training course  
66 recognized and approved by the state fire marshal;

67 [(19)] (20) "Sale", an exchange of articles of fireworks for money, including barter,  
68 exchange, gift or offer thereof, and each such transaction made by any person, whether as a  
69 principal proprietor, salesman, agent, association, copartnership or one or more individuals;

70 [(20)] (21) "Seasonal retailer", any person within the state of Missouri engaged in the  
71 business of making sales of consumer fireworks in Missouri only during a fireworks season as  
72 defined by subdivision (9) of this section;

73 [(21)] (22) "Wholesaler", any person engaged in the business of making sales of  
74 consumer fireworks to any other person engaged in the business of making sales of consumer  
75 fireworks at retail within the state of Missouri.

320.146. 1. It shall be unlawful to expose fireworks to direct sunlight through glass to  
2 the merchandise displayed, except where the fireworks are in the original package. All fireworks  
3 which the public may examine shall be kept for sale in original packages, except where an  
4 attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in  
5 showcases out of the reach of the public when an attendant is not on duty. One or more signs  
6 reading, "FIREWORKS--NO SMOKING" shall be displayed at all places where fireworks are  
7 stored or sold in letters not less than four inches in height.

8 2. Fireworks shall not be **manufactured**, stored, kept or sold within fifty feet of any  
9 [gasoline pump, gasoline filling station] **motor vehicle fuel dispensing station dispenser, retail**  
10 **propane dispensing station dispenser, compressed natural gas dispensing station dispenser,**  
11 gasoline **or propane** bulk station, or any building in which gasoline or volatile liquids are sold  
12 in quantities in excess of one gallon. The provisions of this subsection shall not apply to stores  
13 where cleaners, paints, and oils are sold in the original containers to consumers.

14 3. It shall be unlawful to permit the presence of lighted cigars, cigarettes, pipes, or any  
15 other open flame within twenty-five feet of where fireworks are manufactured, stored, kept, or  
16 offered for sale.

17 [4. Fireworks shall not be manufactured, stored, kept or sold within one hundred feet of  
18 any dispensing unit for ignitable liquids or gases.]

320.200. As used in sections 320.200 to 320.270, unless the context requires otherwise,  
2 the following terms mean:

3 (1) "Division", the division of fire safety created in section 320.202;

4 (2) "Dwelling unit", one or more rooms arranged for the use of one or more individuals  
5 living together as a single housekeeping unit, with cooking, living, sanitary, and sleeping  
6 facilities;

7           (3) **"Fire department", any fire protection district as defined in section 321.010,**  
8 **RSMo, any voluntary fire protection association as defined in section 320.300, or any**  
9 **agency or organization that provides fire suppression and related activities, including but**  
10 **not limited to fire prevention, rescue, emergency medical services, hazardous material**  
11 **response, or special operations to a population within a fixed and legally recorded**  
12 **geographical area;**

13           (4) **"Fire loss", loss of or damage to property, or the loss of life or of personal injury, by**  
14 **fire, lightning, or explosion;**

15           [(4)] (5) **"Investigator", the supervising investigators and investigators appointed under**  
16 **sections 320.200 to 320.270;**

17           [(5)] (6) **"Owner", any person who owns, occupies, or has charge of any property;**

18           [(6)] (7) **"Privately occupied dwelling", a building occupied exclusively for residential**  
19 **purposes and having not more than two dwelling units;**

20           [(7)] (8) **"Property", property of all types, both real and personal, movable and**  
21 **immovable;**

22           [(8)] (9) **"State fire marshal", the state fire marshal selected under the provisions of**  
23 **sections 320.200 to 320.270.**

320.271. 1. All fire protection districts, fire departments, and all volunteer fire  
2 protection associations as defined in section 320.300 shall file with the state fire marshal within  
3 sixty days after August 13, 1988, and annually thereafter, the name and address of the fire  
4 protection district, fire department, or volunteer fire protection association.

5           2. **No fire protection district, fire department, or volunteer fire protection**  
6 **association as defined in section 320.300 shall be recognized as a fire department by the**  
7 **division of fire safety unless such entity has filed with the state fire marshal a registration**  
8 **form provided by the state fire marshal within sixty days after January 30, 2008, and**  
9 **annually thereafter. The state fire marshal may issue a fire department identification**  
10 **number to each registered fire protection district, fire department, and volunteer fire**  
11 **protection association upon the submission of such registration.**

320.300. As used in sections 320.300 to 320.310, the phrase "volunteer fire protection  
2 association" means any fire department, including a municipal fire department, which is staffed  
3 by volunteers and organized for the purpose of combating fires in a specified area. The  
4 provisions of sections 320.300 to 320.310 shall apply only to volunteer fire protection  
5 associations **that provide fire suppression and related activities, including but not limited**  
6 **to fire prevention, rescue, emergency medical services, hazardous material response, or**  
7 **special operations to a population within a fixed and legally recorded geographical area,**  
8 **and that are** either partially or wholly funded by membership or subscriber fees, and shall not

9 apply to fire protection districts supported by local tax revenues, or which have contracted with  
10 a political subdivision to respond to fires within the area of an association's boundaries.

320.310. All volunteer fire protection associations [may] **shall** identify the association's  
2 boundaries and file the same with the county administrative body.

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