

Rules of
Department of Public Safety
Division 40—Division of Fire Safety
Chapter 3—Fireworks

Title	Page
11 CSR 40-3.010 Fireworks—Licenses and Sales	3



**Title 11—DEPARTMENT OF
PUBLIC SAFETY**

**Division 40—Division of
Fire Safety**

Chapter 3—Fireworks

**11 CSR 40-3.010 Fireworks—Licenses
Sales and Penalties**

PURPOSE: This rule clarifies sections 320.106—320.161, RSMo (1986).

(1) Illegal fireworks. For purposes of these rules, the term illegal fireworks includes fireworks possessed without a proper license or permit, fireworks that are sold improperly or in violation of any statute or regulation. Illegal fireworks will also include fireworks whose explosive composition exceeds the limits for Class C common fireworks by the United States Department of Transportation, including ground salutes commonly known as M-80's, M-100's, M-1000's and Cherry Bombs.

(2) Every application for a permit or license shall be signed by a responsible agent for the licensee who, by signing the application, acknowledges that s/he will take reasonable steps to see that all employees, agents and officers of the licensee will be familiar with all rules applicable to fireworks operations and will abide by those rules.

(3) Any sales by jobbers during any period of time other than the fireworks season as defined in section 320.160(3), shall be to nonresidents of Missouri, or to residents of Missouri only after a reasonable inquiry and indication by the buyer that the fireworks are for use outside of Missouri if the sale is a retail transaction.

(4) Any wholesale transactions by a manufacturer, distributor, wholesaler or jobber to any retailer doing business in Missouri shall be permitted only if the purchaser is licensed by the state fire marshal.

(5) All licensees will permit the state fire marshal or his/her assistants to conduct inspections of the business premises or any location where the licensee stores or keeps fireworks and will cooperate with any inspection or investigation. Failure to cooperate or refusal to allow an inspection shall result in suspension or revocation of the licensee's license(s).

(6) Any violation of the laws or regulations dealing with fireworks may result in the suspension or revocation of any and all licenses held by the licensee at the time of the violation or may cause the fire marshal to refuse to issue any new license or renew any

license until the period of suspension or revocation has been completed.

(7) The state fire marshal will indicate to the licensee, in writing, the statute(s) and any regulations violated. Appeals from any decision of the state fire marshal will be made to the Administrative Hearing Commission. Except in cases in which a charged violation includes a violation of the criminal laws, the fire marshal will give the licensee seventy-two (72) hours notice before suspending or revoking a license by leaving a copy of the notice with the licensee or employee of the licensee.

(8) The state fire marshal may revoke any permit issued under the provisions of sections 320.106—320.161 upon evidence that the holder has violated any provisions of the sections.

(9) The period of suspension or revocation imposed by the state fire marshal will remain in effect against the licensee's future business, partnership, corporation or entity even if an attempt to change ownership or control of that licensee's, business, partnership, corporation or entity is made or attempted.

(10) The state fire marshal may refuse to issue a license to any applicant when an individual, corporation or partner, under suspension or revocation, or a partner, officer, manager or shareholder of a corporation is a partner, shareholder, manager, officer, spouse or close relative of the applicant or a party to the application or is in a position to obtain any financial gain should the application be granted during the period of suspension or revocation, unless the applicant who is a spouse or close relative provides reasonable assurance that the licensee under suspension or revocation will not be employed, manage, assist in the operation of the business or otherwise be involved in the operation or decision making of the business.

(11) Upon determining that an application has furnished or supplied false information in applying for a license or attempting to renew a license, or has failed to notify the state fire marshal of any change in the information supplied in an application, the state fire marshal may refuse to license the applicant or may revoke or suspend any license issued to the applicant for a period of not more than three (3) years.

(12) A licensee will receive a written warning from the fire marshal for the first violation of any of the following:

(A) Failing to properly display a No Smoking sign;

(B) Failing to properly display a No Smoking sign of sufficient size;

(C) Failing to properly display a permit or license;

(D) Knowingly selling or offering for sale fireworks with an excessive powder content;

(E) Selling or offering for sale fireworks that are not properly labeled;

(F) Exposing fireworks to direct sunlight while displayed and unattended, as defined by section 320.136.2.;

(G) Leaving unattended fireworks accessible to the public;

(H) Attempting to make or making a single sale of fireworks of less than ten dollars (\$10) out of season while possessing a retail license;

(I) Attempting to make or making a single sale of fireworks of less than ten dollars (\$10) out of season to someone for use or distribution within Missouri while possessing a jobber license;

(J) Allowing an open flame or smoking within ten feet (10') of a place where fireworks are offered for sale; and

(K) Selling to a child under the age of fourteen (14) who is not in the presence of his/her parent or guardian.

(13) A second identical violation or a third violation of any combination of those previously mentioned will result in section (12) in a written warning and a reprimand. A reprimand will be an indication that any subsequent violation of any regulation or law will result in the suspension or revocation of the license(s).

(14) A third violation of any of the acts set forth in section (12) will result in the suspension of the license(s) of the licensee for a period of three to seven (3—7) days during the retail season.

(15) A fourth subsequent violation of any of the acts set forth in section (12) will result in the revocation of the license(s) of the licensee.

(16) A first violation of any of the following laws or regulations will result in a warning and reprimand only if the licensee or owner agrees to cease operating until the violation has been remedied:

(A) Receiving fireworks without a permit or license if the licensee was licensed but failed to renew;

(B) Selling fireworks without a license or permit if the licensee was licensed but failed to renew;

(C) Selling from other than a permanent structure, except for retail sales during fireworks seasons;

(D) Storing fireworks close to volatile liquids or gases, as defined by section 320.136.3.;



(E) Selling or shipping fireworks to a consumer within a city or county lawfully prohibiting the sale or possession of fireworks;

(F) Failing to pay state sales tax;

(G) Attempting to sell or selling out-of-season while holding a retail license if the sale was for more than ten dollars (\$10);

(H) Attempting to sell or selling out-of-season for use or distribution within Missouri out-of-season while holding a jobber's license if the sale was for more than ten dollars (\$10);

(I) Employing a person of less than sixteen (16) years of age who is unsupervised; and

(J) Failing to possess or obtain a special fireworks permit while possessing special fireworks.

(17) If the owner licensee or owner refuses to cease operations until the violations in section (16) have been corrected, the fire marshal may suspend or revoke the license(s) or may refuse to issue a permit or license.

(18) A second identical violation or a third violation of any combination of the acts set forth in section (16) will result in a suspension of between three to seven (3—7) days during the retail season or the refusal of the fire marshal to issue a license to the licensee.

(19) A third or subsequent violation of any of the provisions of section (15), or the violation of any of the provisions of section (16) after having received a written warning and reprimand under section (12) will result in the suspension or revocation of the license(s) of the licensee or the refusal to issue a license or permit to the licensee.

(20) Failure to obtain a license by May 31 of the calendar year may result in the fire marshal refusing to issue a license to the licensee or applicant for that calendar year.

(21) The following violations or acts may result in the suspension or revocation of the license(s) of the licensee and the refusal of the fire marshal to renew or issue a license(s) to the licensee or owner:

(A) Selling or improperly possessing fireworks while the permit or license has been suspended or revoked;

(B) Allowing another person or business to use or display the license of a licensee;

(C) Possessing illegal fireworks or selling illegal fireworks as defined by section 320.136.1;

(D) Failing or refusing to allow a reasonable inspection of any premises and all portions of buildings where fireworks are stored or are being offered for sale. A reasonable request is one made either during daylight hours or while the premises or building are open for business;

(E) Failing to fully cooperate with a reasonable request during an inspection; and

(F) Violating any other rules or laws relating to the receiving, storing, possession, distribution or sale of fireworks.

Auth: section 320.111.9., RSMo (Supp. 1988). Original rule filed Sept. 29, 1988, effective Feb. 24, 1989. Amended: Filed May 1, 1989, effective July 13, 1989.