

1982 WL 189520 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 17, 1982

*1 The Honorable Richard S. Campbell
State Fire Marshal
1109 Belleview Street
Columbia, South Carolina 29201

Dear Mr. Campbell:

You have asked whether the State Fire Marshal has authority to require conformance with minimum fire prevention and protection standards as to rules and regulations promulgated by the State Board of Pyrotechnic Safety.

[Section 23-9-60 of the 1976 CODE OF LAWS OF SOUTH CAROLINA](#), as amended, places a duty upon the State Fire Marshal to 'require conformance with minimum fire prevention and protection standards based upon nationally recognized standards as may be prescribed' by the State Fire Commission for the prevention of fires and the protection of life and property. [Section 23-8-30\(I\) of the 1976 CODE](#), as amended, declares that the State Fire Commission shall not promulgate regulations concerning the sale and storage of pyrotechnics which authority is vested in the State Board of Pyrotechnic Safety.

By Act 519 of 1980, Part II, § 6, page 2294, the State Fire Marshal was relieved of responsibility for the preparation and enforcement of the Pyrotechnic Board's regulations. Section 5 of Act 519 (codified as [§ 40-56-10 of the 1976 CODE](#)) accordingly charged the General Services Division of the Budget and Control Board with the responsibility to 'supervise the enforcement of the laws and regulations of the State Board of Pyrotechnic Safety' and to employ and supervise personnel necessary to carry out the duties of the Board.

From a review of the preceding sections of law, it is apparent that the State Fire Marshal has no authority or responsibility for promulgating or enforcing regulations specifically concerning the sale and storage of pyrotechnics in this State. Although he may not require compliance through duly promulgated regulations concerning pyrotechnics specifically, it nonetheless appears that the State Fire Marshal may require conformance with minimum fire prevention and protection standards of general application except where such general standards conflict with regulations or standards adopted by the State Board of Pyrotechnic Safety which regulations have specific application to the sale and storage of pyrotechnics in this State. 2A SUTHERLAND STATUTORY CONSTRUCTION § 51.05 p. 315 (4th Ed. 1973). Therefore, the State Fire Marshal and the Fire Commission have no authority to supervise, control, or require conformance with regulations promulgated by the State Board of Pyrotechnic Safety regarding the sale and storage of pyrotechnics.

I trust the preceding discussion adequately answers your question; however, if any further assistance is required, please do not hesitate to contact me.

Very truly yours,

Richard P. Wilson
Assistant Attorney General

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