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THE SALE AND USE OF FIREWORKS IN COLORADO

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Due to severe drought conditions, Colorado is experiencing an extreme fire season with over 300,000 acres of forest burned statewide. In response to the severe fire danger, Governor Owens issued an executive order banning the sale and use of all fireworks in Colorado. This issue brief summarizes the ban and examines the state's fireworks law, including the ability of cities and counties to regulate fireworks.

Statewide Ban on Fireworks

Executive Order D015 02 temporarily prohibits the sale and use of *all* fireworks until further notice by the Governor. All retail and export fireworks dealers' licenses are temporarily suspended, and dealers are prohibited from selling fireworks. Individuals cannot use fireworks that are normally considered legal, although public and professional fireworks displays are still allowed.

The Colorado Attorney General has indicated that the penalties for violating the statewide fireworks ban are the same as the penalties for violating existing state fireworks laws. Federal authorities are enforcing the statewide ban on fireworks on federal lands in the state.

Current Law on the Sale and Use of Fireworks

Colorado law regulates the type of fireworks that people may use, and local governments may further

regulate fireworks. The types of fireworks that are permissible in Colorado are:

- non-explosive fireworks that are not intended to leave the ground, such as sparklers, fountains, ground spinners, and novelty fireworks, such as party poppers.

Fireworks that are always illegal to use in Colorado (except for public and professional displays) are:

- firecrackers, rockets (including bottle rockets), roman candles, cherry bombs, mortars and similar items, such as M-80's.

Anyone selling fireworks in Colorado must first obtain a license. Fireworks that cannot be used in Colorado may be sold within the state for export purposes by vendors with an export license. Anyone who purchases illegal fireworks in Colorado must possess an out-of-state driver's license and proof of a valid out-of-state motor vehicle registration. An individual with an out-of-state wholesale or retail license may also purchase illegal fireworks.

It is illegal for anyone not licensed as a display retailer, exporter, or wholesaler to bring any fireworks purchased in other states into Colorado. Due to the extreme fire danger, the Colorado State Patrol has increased its efforts in looking for fireworks that residents bring back into the state during routine traffic stops.

Municipal and County Fireworks Authority

Municipalities can impose restrictions that are more stringent than the state's on the types of fireworks that can be sold or used within their boundaries and may ban the sale and use altogether. Counties, however, can only regulate the use of fireworks. The different regulatory authority between jurisdictions can mean that what is illegal to buy or use in one area may be legal in another area.

Penalties for Violations of the Statewide Ban and State Fireworks Law

Local law enforcement agencies enforce the state fireworks laws as well as violations of the executive order temporarily banning the sale and use of fireworks. Colorado law provides that:

- the sale or use of illegal fireworks is a Class 3 misdemeanor resulting in a fine of \$50 to \$750 and up to six months in jail; and

- violators can have their fireworks seized.

Municipalities may prescribe and enforce more severe penalties for any violations of their ordinances restricting the sale and use of fireworks.

Other penalties. In addition to penalties directly relating to the use and sale of fireworks, there are penalties associated with setting fires and reckless conduct resulting in fires, including any fires caused by fireworks. Depending on the circumstances, violations could result in fines up to \$1,000 or up to twelve years in jail.

Offenders could also be ordered to pay for property destroyed or for injuries caused by a fire, and to pay restitution to emergency responders (police, fire, medical, health response teams, state agencies) to cover their costs of responding to the fire. Individuals could also be sued by victims impacted by their criminal or irresponsible activity.