

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

June 24, 2014

Opinion No. 14-63

Lawful Sale of Fireworks in Certain Municipalities

QUESTION

Is the provision in Tenn. Code Ann. § 68-104-112(a)(4) making it lawful to sell common fireworks in certain municipalities of the State's most populated counties limited to particular businesses in those municipalities?

OPINION

No.

ANALYSIS

The State of Tennessee regulates the manufacture, sale, and display of fireworks in Title 68, Chapter 104, of the Tennessee Code. Tenn. Code Ann. § 68-104-112(a)(4) prohibits the sale of Class C common fireworks in all Tennessee counties with populations greater than 335,000 according to the 2010 federal census or any subsequent census.¹ But the statute goes on to provide: "except in municipalities within such counties with a population of not less than six hundred (600) nor more than six hundred twenty (620), according to the 1980 federal census or any subsequent census, that permitted the sale of such fireworks before 1984." *Id.*²

A search for a statute's meaning and purpose must begin with the words of the statute, *Blankenship v. Estate of Bain*, 5 S.W.3d 647, 651 (Tenn. 1999), and when a statute's language is clear and unambiguous, there is no need to look beyond the statute itself, *State v. Strode*, 232 S.W.3d 1, 9-10 (Tenn. 2007); *Corum v. Holston Health & Rehab. Ctr.*, 104 S.W.3d 451, 454 (Tenn. 2003). The exception to the

¹ These counties are Hamilton, Knox, Davidson, and Shelby. Tenn. Code Ann. Vol. 13, at 303 (2013 Supp.). "D.O.T. Class C common fireworks" are those article of fireworks "as are now or hereafter classified as D.O.T. Class C common fireworks in the regulations of the United States department of transportation for transportation of explosive and other dangerous articles." Tenn. Code Ann. § 68-104-101(2).

² This exception was added in 1985, *see* 1985 Tenn. Pub. Acts, ch. 51, and the City of Lakeland in Shelby County was the only city in the covered counties with a population between 600 and 620 according to the 1980 federal census. Tenn. Code Ann. Vol. 13, at 818 (1984).

prohibition on fireworks sales in Tenn. Code Ann. § 68-104-112(a)(4) clearly applies to certain *municipalities*, namely, those that fall within the identified population bracket and that permitted the sale of common fireworks before 1984. This exception is not limited to any particular business or businesses within those municipalities.³

ROBERT E. COOPER, JR.
Attorney General and Reporter

JOSEPH F. WHALEN
Acting Solicitor General

MARY BYRD FERRARA
Assistant Attorney General

Requested by:

The Honorable Steve McManus
State Representative
20 Legislative Plaza
Nashville, Tennessee 37243

³ By contrast, subdivisions -112(a)(4)(A) and (B) of the statute *are* business-specific. They provide that it is not unlawful for common fireworks to continue to be sold on a parcel of land that contains a fireworks stand if the parcel is partially located in a county with a population greater than 335,000 and fireworks have been sold annually at that stand for at least 45 years.