

31-509. Violation of act; seizure of fireworks; administrative hearing. (a) If fireworks are found to be stored, possessed or transported in violation of the Kansas fireworks act or any state fire marshal regulation, such fireworks may be seized by the state fire marshal or other state or local law enforcement agency. The seizing authority shall inventory all seized items and provide a copy of the inventory to the person from whom the fireworks were seized upon completion of the seizure. Reasonable costs for the storage and destruction of such fireworks shall be assessed against the party found to be in violation of the state fireworks act or regulations, except that if a hearing is requested pursuant to subsection (b), no person shall be assessed for storage costs incurred for more than 60 days after the completion of judicial review or the expiration of the time for seeking judicial review.

(b) The owner of any fireworks seized under subsection (a) may make written demand upon the state fire marshal for a hearing pursuant to the Kansas administrative procedure act. Where, after hearing, the state fire marshal finds that there has been a violation of the provisions of the Kansas fireworks act or state fire marshal regulations, the state fire marshal may destroy or order the destruction of such fireworks or direct such other disposition of the fireworks as is deemed proper. Unless necessary to protect against a substantial threat to the public health, safety or welfare, the fireworks shall not be destroyed until the completion of judicial review or expiration of the time for seeking judicial review. If the state fire marshal finds there has been no violation, the fireworks shall be returned to their owner.

(c) Where no claimant has appeared within 60 days of the seizure, demanded the return of the fireworks and proved, to the satisfaction of the state fire marshal, the claimant's title to and right of possession of such fireworks, the state fire marshal may, without process and without liability, destroy or order the destruction of the fireworks or direct such other disposition thereof as is deemed proper.

(d) Any provision herein to the contrary notwithstanding, where the manufacture, condition, storage, packing or location of fireworks is such that their continued existence or transportation is an immediate danger to public safety, health or welfare, the state fire marshal or authorized representative thereof may apply to the court which has jurisdiction over such fireworks for an emergency ex parte order authorizing the state fire marshal or authorized representative to destroy or dispose of the fireworks without liability to the owner thereof.

History: L. 2013, ch. 108, § 1; Apr. 25.