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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1279 Session of  
2023

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INTRODUCED BY PROBST, MAY 31, 2023

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
MAY 31, 2023

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AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated  
2 Statutes, in fireworks, further providing for definitions,  
3 for use of display fireworks and for use of consumer  
4 fireworks and repealing provisions relating to rules and  
5 regulations by municipality, to sales locations, to fees,  
6 granting of licenses and inspections, to refusal, suspension  
7 or revocation of license, to conditions for facilities, to  
8 consumer fireworks tax and to disposition of certain funds.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The definition of "consumer fireworks" in section  
12 1101 of Title 3 of the Pennsylvania Consolidated Statutes, added  
13 July 11, 2022 (P.L.762, No.74), is amended to read:

14 § 1101. Definitions.

15 The following words and phrases when used in this chapter  
16 shall have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 \* \* \*

19 "Consumer fireworks."

20 (1) The term includes any combustible or explosive  
21 composition or any substance or combination of substances

1 which is intended to produce visible or audible effects by  
2 combustion, [is suitable for use by the public,] complies  
3 with the construction, performance, composition and labeling  
4 requirements promulgated by the Consumer Products Safety  
5 Commission in 16 CFR (relating to commercial practices) or  
6 any successor regulation and complies with the provisions for  
7 "consumer fireworks" as defined in APA 87-1[, the sale,  
8 possession and use of which shall be permitted throughout  
9 this Commonwealth].

10 (2) The term does not include devices such as "ground  
11 and hand-held sparkling devices," "novelties" or "toy caps"  
12 in APA 87-1, the sale, possession and use of which shall be  
13 permitted at all times throughout this Commonwealth.

14 \* \* \*

15 Section 2. Sections 1102 and 1104 of Title 3, added July 11,  
16 2022 (P.L.762, No.74), are amended to read:

17 § 1102. Use of display fireworks.

18 (a) Prohibition.--No display fireworks shall be ignited  
19 within 300 feet of a facility [that meets the requirements of  
20 section 1107 (relating to sales locations)] that sells display  
21 fireworks.

22 (b) Permit.--Permission shall be given by the governing body  
23 of a municipality under reasonable rules and regulations for  
24 displays of display fireworks to be held within the  
25 municipality. After permission is granted, purchase, possession  
26 and use of display fireworks shall be lawful for the use  
27 outlined in the permit only. Permits shall not be transferable.

28 (c) Limitations.--Each use of display fireworks shall be:

29 (1) handled by a competent operator at least 21 years of  
30 age who demonstrates evidence of fireworks handling and

1 safety training; and

2 (2) of a character and so located, discharged or fired  
3 as, in the opinion of the chief of the fire department or  
4 other appropriate officer as may be designated by the  
5 governing body of the municipality, after proper inspection,  
6 to not be hazardous to property or endanger any person.

7 (d) Insurance.--The governing body of the municipality shall  
8 require a permittee to carry insurance in an amount not less  
9 than \$1,000,000 conditioned for the payment of all damages which  
10 may be caused to a person or property by reason of the use of  
11 display fireworks and arising from an act of the permittee or an  
12 agent, an employee or a subcontractor of the permittee.

13 (e) Permit extension.--A municipality may grant an extension  
14 for a permit issued under this section to a new date for  
15 displays canceled due to unfavorable weather or other  
16 circumstances beyond the control of the permittee.

17 § 1104. Use of consumer fireworks.

18 [(a) Conditions.--A person who is at least 18 years of age  
19 may purchase, possess and use consumer fireworks.]

20 [(b) Prohibitions.--A person may not intentionally use  
21 consumer fireworks:]

22 [(1) On private property or on public property,  
23 including, but not limited to, streets, parking lots,  
24 sidewalks and parks, without the express permission of the  
25 owner or entity that controls the property.]

26 [(2) Within, directed at or directed from a vehicle or  
27 building.]

28 [(3) Directed at another person.]

29 [(4) While the person is under the influence of alcohol,  
30 a controlled substance or another drug.]

1 (5) Within 150 feet of a building or vehicle, whether or  
2 not the building or vehicle is owned by the user of the  
3 consumer fireworks.

4 (c) Conditional use.--No person may use consumer fireworks  
5 within 150 feet of an animal housing facility or a fenced area  
6 designed to confine livestock owned or managed by another  
7 person. If a person uses consumer fireworks at a distance of 150  
8 to 300 feet from an animal housing facility or fenced area  
9 designed to confine livestock owned or managed by another  
10 person, the user of consumer fireworks shall notify in writing  
11 the owner or manager of the livestock at least 72 hours in  
12 advance of the use that consumer fireworks will be used in the  
13 area.] A person may not purchase, possess or use consumer  
14 fireworks.

15 Section 3. Sections 1106, 1107, 1108, 1108.1, 1109, 1112 and  
16 1113 of Title 3 are repealed:

17 [~~§ 1106. Rules and regulations by municipality.~~

18 (a) Authorization.--

19 (1) Except for the limitations under subsection (b), a  
20 municipality may enact conditions, prohibitions and  
21 limitations on the use and sale of consumer fireworks that  
22 are not in conflict with this chapter.

23 (1.1) Except for the limitations under subsection (b), a  
24 municipality may require a permit for the use of consumer  
25 fireworks. A fee for a permit shall be reasonable.

26 (1.2) A municipality may prohibit the use of consumer  
27 fireworks if the use of the consumer fireworks within the  
28 municipality cannot comply with section 1104(b)(5) (relating  
29 to use of consumer fireworks).

30 (2) Facilities with a valid license issued by the

1 department under section 1108(a) or (e) (relating to fees,  
2 granting of licenses and inspections) prior to or within one  
3 year following the effective date of this section shall not  
4 be subject to municipal conditions, prohibitions or  
5 limitations enacted under paragraph (1) related to the sale  
6 of consumer fireworks.

7 (3) Except for the limitations under subsection (b), a  
8 municipality may enact the following restrictions on the use  
9 of consumer fireworks: Consumer fireworks may not be used  
10 between the hours of 10:00 p.m. and 10:00 a.m., except:

11 (i) on July 2, 3 and 4 and December 31, when  
12 consumer fireworks may be used until 1:00 a.m. the  
13 following day; and

14 (ii) when July 4 falls on a Tuesday, Wednesday or  
15 Thursday, consumer fireworks may be used until 1:00 a.m.  
16 on the immediately preceding and following Friday and  
17 Saturday.

18 (b) Limitations.--Except for authority exercised under  
19 subsection (a)(1.2), no municipality shall restrict or regulate  
20 the use of consumer fireworks on the following days:

21 (1) The days listed in subsection (a)(3)(i) and (ii).

22 (2) Memorial Day, including the immediately preceding  
23 Saturday and Sunday.

24 (3) Labor Day, including the immediately preceding  
25 Saturday and Sunday.

26 § 1107. Sales locations.

27 Consumer fireworks shall be sold only from facilities which  
28 are licensed by the Department of Agriculture and that meet the  
29 following criteria:

30 (1) The facility shall comply with the provisions of the

1 act of November 10, 1999 (P.L.491, No.45), known as the  
2 Pennsylvania Construction Code Act.

3 (2) The facility shall be a stand-alone, permanent  
4 structure.

5 (3) Storage areas shall be separated from wholesale or  
6 retail sales areas to which a purchaser may be admitted by  
7 appropriately rated fire separation.

8 (4) For a facility issued a license under section  
9 1108(a) (relating to fees, granting of licenses and  
10 inspections), the facility shall be located no closer than  
11 300 feet from a facility selling or dispensing gasoline,  
12 propane or other flammable products.

13 (5) For a facility issued a license under section  
14 1108(a), the facility shall be located at least 2,500 feet  
15 from another facility licensed to sell consumer fireworks.

16 (6) The facility shall have a monitored burglar and fire  
17 alarm system.

18 (7) Quarterly fire drills and preplanning meetings shall  
19 be conducted as required by the primary fire department.

20 (8) The facility shall comply with the requirements of  
21 NFPA 1124.

22 (9) The sale of consumer fireworks may be conducted  
23 through online, mail-order or other transaction, but delivery  
24 of consumer fireworks to a purchaser shall take place at a  
25 facility licensed under section 1108 and the sale shall be  
26 subject to the provisions of section 1112 (relating to  
27 consumer fireworks tax).

28 § 1108. Fees, granting of licenses and inspections.

29 (a) Initial application fees.--

30 (1) An initial application for a license to sell

1 consumer fireworks shall be submitted to the Department of  
2 Agriculture on forms prescribed and provided by the  
3 department with a nonrefundable application fee as follows:

4 (i) For a facility meeting the requirements of  
5 section 1107 (relating to sales locations), the  
6 application shall be submitted with a nonrefundable  
7 application fee of \$2,500.

8 (ii) (Reserved).

9 (2) An application under paragraph (1) shall also be  
10 accompanied by the appropriate annual license fee as provided  
11 in subsection (b).

12 (b) Annual license fees.--The annual license fee for a  
13 facility licensed to sell consumer fireworks shall be as  
14 follows:

15 (1) \$7,500 for a location up to 10,000 square feet;

16 (2) \$10,000 for a location greater than 10,000 and up to  
17 15,000 square feet; and

18 (3) \$20,000 for a location greater than 15,000 square  
19 feet.

20 (c) Time limitations and inspections.--

21 (1) A facility meeting the requirements of section 1107  
22 shall be inspected by the Department of Agriculture within 30  
23 days of receipt of a complete application for a license. The  
24 Department of Agriculture shall issue or deny a license  
25 within 14 days of completing the inspection.

26 (2) (Reserved).

27 (d) Term of license.--A license issued for the sale of  
28 consumer fireworks shall be effective for one year from the date  
29 the license is issued.

30 (e) License renewal and inspections.--License renewal shall

1 be automatic upon submission of a renewal application, proof of  
2 insurance under section 1109(5) (relating to conditions for  
3 facilities) and payment of the appropriate annual license fee  
4 under subsection (b), but each facility shall be subject to  
5 annual inspections by the Department of Agriculture and at other  
6 times as the department may deem appropriate. The department  
7 shall transmit an application for renewal to a licensee in such  
8 time to provide for submission within 30 days prior to the  
9 expiration of a license.

10 (f) Condition.--No license may be issued to a convicted  
11 felon or to an entity in which a convicted felon owns a  
12 percentage of the equity interest.

13 § 1108.1. Refusal, suspension or revocation of license.

14 (a) Authority.--The department may refuse, suspend or revoke  
15 a license issued or renewed under section 1108 (relating to  
16 fees, granting of licenses and inspections) if the licensee is  
17 not in compliance with the provisions of this chapter.

18 (b) Appeals.--The department shall provide an opportunity  
19 for a hearing to a person appealing an action of the department  
20 under subsection (a). All appeals shall be taken and hearings  
21 conducted in accordance with the provisions of 2 Pa.C.S. Chs. 5  
22 Subch. A (relating to practice and procedure of Commonwealth  
23 agencies) and 7 Subch. A (relating to judicial review of  
24 Commonwealth agency action). A person shall have 15 days to  
25 appeal an enforcement action of the department under subsection  
26 (a).

27 § 1109. Conditions for facilities.

28 A facility licensed by the Department of Agriculture under  
29 section 1108 (relating to fees, granting of licenses and  
30 inspections) shall be exclusively dedicated to the storage and

1 sale of consumer fireworks and related items, and the facility  
2 shall operate in accordance with the following rules:

3 (1) There shall be security personnel on the premises  
4 for the seven days preceding and including July 4 and on  
5 December 31.

6 (2) No smoking shall be permitted in the facility.

7 (3) No cigarettes or tobacco products, matches, lighters  
8 or any other flame-producing devices shall be permitted to be  
9 taken into the facility.

10 (4) No minors shall be permitted in the facility unless  
11 accompanied by an adult, and each minor shall stay with the  
12 adult in the facility.

13 (5) All facilities shall carry at least \$2,000,000 in  
14 public and product liability insurance.

15 (6) A licensee shall provide its employees with  
16 documented training in the area of operational safety of a  
17 facility. The licensee shall provide to the Department of  
18 Agriculture written documentation that each employee has  
19 received the training.

20 (7) No display fireworks or federally illegal explosives  
21 under 49 CFR 173.54 (relating to forbidden explosives) shall  
22 be stored or located at a facility.

23 (8) No person who appears to be under the influence of  
24 intoxicating liquor or drugs shall be admitted to the  
25 facility, and no liquor, beer or wine shall be permitted in  
26 the facility.

27 (9) Emergency evacuation plans shall be conspicuously  
28 posted in appropriate locations within the facility.

29 (10) Written notice shall be conspicuously posted or  
30 provided with each purchase of consumer fireworks that

1 provides the conditions and prohibitions for use of consumer  
2 fireworks under section 1104 (relating to use of consumer  
3 fireworks) and that additional conditions, prohibitions and  
4 limitations may be implemented by a municipality.

5 § 1112. Consumer fireworks tax.

6 (a) Imposition.--In addition to any other tax imposed by  
7 law, a tax is imposed on each separate sale at retail of  
8 consumer fireworks, which tax shall be collected by the retailer  
9 from the purchaser at the time of sale and shall be paid over to  
10 the Commonwealth as provided in this section. A tax imposed  
11 under this subsection on each separate sale at retail shall be  
12 paid to and received by the Department of Revenue and, along  
13 with interest and penalties, shall be deposited into the General  
14 Fund.

15 (b) Rate.--The tax authorized under subsection (a) shall be  
16 imposed and collected at the rate of 12% of the purchase price  
17 per item sold. The purchase price shall not include State and  
18 local sales taxes.

19 (c) Collection and administration.--The provisions of Part  
20 VI of Article II of the Tax Reform Code shall apply to the tax  
21 authorized under subsection (a). No additional fee shall be  
22 charged for a license or license renewal other than the license  
23 or annual license fee required under section 1108 (relating to  
24 fees, granting of licenses and inspections) and the license or  
25 renewal fee authorized and imposed under Article II of the Tax  
26 Reform Code.

27 § 1113. Disposition of certain funds.

28 (a) Transfer.--The tax collected under section 1112(b)  
29 (relating to consumer fireworks tax) in each fiscal year shall  
30 be transferred annually for use as follows:

1 (1) \$1,500,000 of the amount transferred under this  
2 subsection shall be used for the purpose of making grants  
3 under 35 Pa.C.S. Ch. 78 Subch. C (relating to Emergency  
4 Medical Services Grant Program).

5 (2) \$250,000 of the amount transferred under this  
6 subsection shall be deposited into a special account in the  
7 State Treasury designated as the Online Training Educator and  
8 Training Reimbursement Account for the purposes of  
9 developing, delivering and sustaining training programs for  
10 firefighters in this Commonwealth.

11 (3) \$1,000,000 of the amount transferred under this  
12 subsection shall be transferred to the Pennsylvania Higher  
13 Education Assistance Agency to provide loan forgiveness and  
14 tuition assistance to active volunteer firefighters and  
15 volunteer emergency medical services providers serving with  
16 volunteer organizations who are students at or graduates of  
17 approved trade and technical schools and institutions of  
18 higher learning.

19 (4) \$1,000,000 of the amount transferred under this  
20 subsection shall be transferred to the Department of Health  
21 for the purpose of training emergency medical services  
22 personnel.

23 (5) \$500,000 of the amount transferred under this  
24 subsection shall be transferred to the Office of the State  
25 Fire Commissioner for the purpose of providing emergency  
26 services training center capital grants.

27 (6) \$500,000 of the amount transferred under this  
28 subsection shall be transferred to the Office of the State  
29 Fire Commissioner for the purpose of providing career fire  
30 department capital grants.

1 (7) \$250,000 of the amount transferred under this  
2 subsection shall be transferred to the Office of the State  
3 Fire Commissioner for the purpose of providing a public  
4 safety campaign on the precautions that should be taken when  
5 using fireworks.

6 (7.1) \$500,000 of the amount transferred under this  
7 subsection shall be transferred to the Office of the State  
8 Fire Commissioner for the purpose of providing reimbursement  
9 to a Pennsylvania bomb squad accredited by the Federal Bureau  
10 of Investigation and certified in hazardous devices training  
11 for costs associated with the removal, storage and  
12 destruction of consumer fireworks, display fireworks or  
13 combustibles under section 1115 (relating to removal, storage  
14 and destruction). Any money not used annually by September 10  
15 for the purpose specified under this paragraph shall be  
16 subject to paragraph (8).

17 (8) Any remaining money shall be equally divided and  
18 transferred as follows:

19 (i) 50% of the amount shall be transferred in  
20 accordance with paragraph (1).

21 (ii) 50% of the amount shall be used for the purpose  
22 of making grants under 35 Pa.C.S. Ch. 78 Subch. B  
23 (relating to Fire Company Grant Program).

24 (9) The Office of the State Fire Commissioner shall  
25 establish guidelines for use of the money deposited or  
26 transferred under paragraphs (2), (5), (6) and (7). By  
27 December 31, 2022, and each December 31 thereafter, the  
28 Office of the State Fire Commissioner shall provide a written  
29 report detailing the use of the money received from the prior  
30 fiscal year to the chairperson and minority chairperson of

1 the Agriculture and Rural Affairs Committee of the Senate,  
2 the chairperson and minority chairperson of the Agriculture  
3 and Rural Affairs Committee of the House of Representatives,  
4 the chairperson and minority chairperson of the Veterans  
5 Affairs and Emergency Preparedness Committee of the Senate  
6 and the chairperson and minority chairperson of the Veterans  
7 Affairs and Emergency Preparedness Committee of the House of  
8 Representatives.

9 (b) Payments.--The transfer required under subsection (a)  
10 shall be made by September 15, 2022, and each September 15  
11 thereafter.

12 (c) Limitation on certain transferred money.--Money  
13 transferred under subsection (a) (3), (4), (5), (6) or (7.1)  
14 shall not be expended until legislation is enacted providing for  
15 the expenditure of the money.]

16 Section 4. This act shall take effect in 60 days.