
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2752 Session of
2018

INTRODUCED BY FARRY, STEPHENS, STAATS, DiGIROLAMO, SCHLOSSBERG,
McGINNIS, SAYLOR, READSHAW, DAVIS, BARRAR, RYAN, PHILLIPS-
HILL, GODSHALL, HILL-EVANS, PASHINSKI, WATSON, J. McNEILL,
MARSICO AND DeLUCA, NOVEMBER 27, 2018

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
NOVEMBER 27, 2018

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in fireworks, further providing for definitions,
11 for permits, for request for extension, for use of consumer
12 fireworks, for agricultural purposes, for rules and
13 regulations by municipality, for fees, granting of licenses
14 and inspections, for conditions for facilities, for temporary
15 structures, for Attorney General, for consumer fireworks tax,
16 for penalties and for removal, storage and destruction.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Sections 2401, 2402, 2403, 2404, 2405, 2406,
20 2408(a)(1)(ii) and (c)(2), 2409, 2410, 2411, 2412(b), 2414 and
21 2415 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
22 Reform Code of 1971, added October 30, 2017 (P.L.672, No.43),
23 are amended to read:

1 Section 2401. Definitions.

2 The following words and phrases when used in this article
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 ["APA 87-1." The American Pyrotechnics Association Standard
6 87-1: Standard for Construction and Approval for Transportation
7 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001
8 edition, or any subsequent edition.]

9 "Aerial devices." The term includes aerial shell kits,
10 aerial spinners, bottle rockets, mine devices, missile-type
11 rockets, roman candles and shell devices.

12 "Aerial shell." A cylindrical or spherical cartridge
13 containing lift charge and burst charge effect composition which
14 meets the following criteria:

15 (1) The aerial shell is most likely to be two inches to
16 six inches in diameter and designed to be fired from metal,
17 high-density polyethylene, fiberglass or heavy cardboard
18 tubes.

19 (2) Upon firing, the lift charge is consumed and the
20 cartridge is expelled into the air.

21 (3) A pyrotechnic effect is produced near the apex of
22 flight.

23 (4) The burst charge used in the aerial shell only
24 contains black powder or similar pyrotechnic composition.

25 (5) The aerial shell is contained in a launch tube or is
26 a part of an aerial shell kit.

27 "Aerial shell kit." A package or kit containing a cardboard,
28 high-density polyethylene or equivalent launching tube capable
29 of firing twice the number of aerial shells in the kit without
30 failure of the launching tube and not more than 12 small aerial

1 shells which meet the following criteria:

2 (1) Each aerial shell does not exceed 60 grams of total
3 chemical composition, including lift charge, burst charge and
4 visible and audible effect composition.

5 (2) The maximum diameter of each aerial shell does not
6 exceed 1.75 inches.

7 (3) The maximum quantity of lift charge of each aerial
8 shell does not exceed 20 grams.

9 (4) The maximum quantity of burst charge in each aerial
10 shell does not exceed 25% of the total weight of chemical
11 composition in the aerial shell.

12 (5) The total chemical composition of all the aerial
13 shells, including lift charge, does not exceed 400 grams.

14 (6) The package of aerial shells complies with all
15 warning label requirements of CPSC.

16 "Aerial spinner." A tube which meets the following criteria:

17 (1) The tube does not exceed 20 grams of chemical
18 composition.

19 (2) The tube has a propeller or blade attached.

20 (3) Upon ignition, a rapidly spinning device rises into
21 the air.

22 (4) A visible or audible effect may be produced at or
23 near the height of flight.

24 "Audible ground device." The term includes firecrackers and
25 chasers.

26 "Black powder." A combination of potassium nitrate, sulfur
27 and charcoal or similar pyrotechnic composition.

28 "Bottle rocket." A cylindrical tube containing not more than
29 20 grams of chemical composition with a wooden stick attached
30 for guidance and stability which meets the following criteria:

1 (1) Upon ignition, a rocket rises into the air.

2 (2) A burst of color or sound may be produced at or near
3 the height of flight.

4 "Burst charge." Chemical composition used to break open a
5 fireworks device after it has been propelled into the air,
6 producing a secondary effect such as a shower of stars. The term
7 may be referred to as expelling charge or break charge. The
8 following apply:

9 (1) A burst charge containing metallic powder, such as
10 magnalium or aluminum, less than 100 mesh in particle size,
11 shall be considered to be intended to produce an audible
12 effect, and is limited to 130 milligrams in 1.4G fireworks
13 devices.

14 (2) A burst charge consisting of black powder shall not
15 be considered to be intended to produce an audible effect
16 when it is used to expel and ignite a secondary effect in a
17 fireworks device.

18 (3) A burst charge for use in 1.3G fireworks shall be
19 limited to black powder.

20 "Chaser." A paper or cardboard tube venting out the fuse end
21 of the tube containing not more than 20 grams of chemical
22 composition which meets the following criteria:

23 (1) The device travels along the ground upon ignition.

24 (2) A whistling effect or other noise is often produced.

25 (3) Explosive composition may be included for the
26 purpose of producing a report, but is not more than 50
27 milligrams.

28 "Chemical composition." All pyrotechnic composition and
29 explosive composition contained in a fireworks device. The term
30 does not include inert materials, such as clay used for plugs,

1 or organic matter such as rice hulls used for density control.

2 "Cone fountain." A cardboard or heavy paper cone containing
3 not more than 50 grams of pyrotechnic composition which meets
4 the following criteria:

5 (1) The effect is the same as that of a cylindrical
6 fountain.

7 (2) When more than one cone is mounted on a common base,
8 total pyrotechnic composition does not exceed 200 grams.

9 "Consumer fireworks."

10 (1) The term includes all of the following:

11 (i) Any combustible or explosive composition or any
12 substance or combination of substances which is intended
13 to produce visible or audible effects by combustion, is
14 suitable for use by the public, complies with the
15 construction, performance, composition and labeling
16 requirements promulgated by the Consumer Products Safety
17 Commission in 16 CFR (relating to commercial practices)
18 or any successor regulation [and complies with the
19 provisions for "consumer fireworks" as defined in APA 87-
20 1 or any successor standard, the sale, possession and use
21 of which shall be permitted throughout this
22 Commonwealth].

23 (ii) Aerial devices and audible ground devices.

24 (2) The term does not include [devices as "ground and
25 hand-held sparkling devices," "novelties" or "toy caps" in
26 APA 87-1 or any successor standard,] ground and handheld
27 sparkling devices, novelties and toy caps, the sale,
28 possession and use of which shall be permitted at all times
29 throughout this Commonwealth.

30 "CPSC." The United States Consumer Product Safety

1 Commission.

2 "Cylindrical fountain." A cylindrical tube containing not
3 more than 75 grams of pyrotechnic composition which meets the
4 following criteria:

5 (1) Upon ignition, a shower of colored sparks and at
6 times a whistling effect or smoke is produced.

7 (2) The tube may be provided with a spike for insertion
8 into the ground, a wood or plastic base for placing on the
9 ground or a wood or cardboard handle to be handheld.

10 (3) When more than one tube is mounted on a common base,
11 total pyrotechnic composition does not exceed 200 grams.

12 "Display fireworks." Large fireworks [to be used solely by
13 professional pyrotechnicians and] designed primarily to produce
14 visible or audible effects by combustion, deflagration or
15 detonation. The term includes, but is not limited to, all of the
16 following:

17 (1) [salutes] Salutes that contain more than two grains
18 or 130 milligrams of explosive materials[;].

19 (2) [aerial] Aerial shells containing more than [60] 40
20 grams of pyrotechnic [compositions; and] composition.

21 (3) [other] Other display pieces that exceed the limits
22 of explosive materials for classification as consumer
23 fireworks [and are].

24 (4) Other display pieces that are classified as
25 [fireworks] UN0333, UN0334 or UN0335 under 49 CFR 172.101
26 (relating to purpose and use of hazardous materials table).

27 (5) Fused setpieces containing components which together
28 exceed 50 milligrams of flash powder.

29 "Explosive composition." Any chemical compound or mixture,
30 the primary purpose of which is to function by explosion,

1 producing an audible effect or report in a fireworks device.

2 "Firecracker." A small, paper-wrapped or cardboard tube
3 containing not more than 50 milligrams of explosive composition
4 which meets the following criteria:

5 (1) If used in aerial devices, the tube does not exceed
6 130 milligrams of explosive composition per report.

7 (2) Upon ignition, noise and a flash of light are
8 produced.

9 "Flash powder." An explosive material intended to produce an
10 audible report and a flash of light when ignited which includes,
11 but is not limited to, all of the following:

12 (1) Oxidizers, such as potassium chlorate or potassium
13 perchlorate.

14 (2) Fuels, such as sulfur or aluminum powder.

15 "Flitter sparkler." A narrow paper tube attached to a stick
16 or wire and filled with not more than five grams of pyrotechnic
17 composition which meets the following criteria:

18 (1) Upon ignition, the tube produces color and sparks.

19 (2) The paper at one end of the tube is ignited to make
20 the device function.

21 "Ground and handheld sparkling device." As follows:

22 (1) A device that meets the following criteria:

23 (i) The device is ground based or handheld and
24 produces a shower of white, gold or colored sparks as the
25 device's primary pyrotechnic effect. Additional effects
26 may include a colored flame, an audible crackling effect,
27 an audible whistle effect and smoke.

28 (ii) The device does not rise into the air, fire
29 inserts or projectiles into the air or explode or produce
30 a report. A mild audible crackling-type effect shall not

1 be considered to be a report under this paragraph.

2 (2) The term includes all of the following:

3 (i) A ground-based or handheld device which produces
4 a cloud of smoke as the device's sole pyrotechnic effect.

5 (ii) A cylindrical fountain, cone fountain,
6 illuminating torch, wheel, ground spinner or flutter
7 sparkler.

8 "Ground spinner." A small device containing not more than 20
9 grams of pyrotechnic composition which meets the following
10 criteria:

11 (1) The device vents out of an orifice usually on the
12 side of the tube.

13 (2) The device is similar in operation to a wheel and
14 intended to be placed flat on the ground and ignited.

15 (3) A shower of sparks and color is produced by the
16 rapid spinning of the device.

17 "Illuminating torch." A cylindrical tube containing not more
18 than 100 grams of pyrotechnic composition which meets the
19 following criteria:

20 (1) The tube produces a colored flame upon ignition.

21 (2) The tube may be a spike, base or handheld.

22 (3) If more than one tube is mounted on a common base,
23 the total pyrotechnic composition does not exceed 200 grams.

24 "Lift charge." Pyrotechnic composition used to propel a
25 component of a mine device or shell device into the air and is
26 limited to black powder.

27 "Mine device." A heavy cardboard or paper tube usually
28 attached to a wooden or plastic base and containing not more
29 than 60 grams of total chemical composition, including lift
30 charge, burst charge and visible and audible effect composition,

1 which meets the following criteria:

2 (1) Upon ignition, stars, components producing reports
3 containing up to 130 milligrams of explosive composition per
4 report or other devices are propelled into the air.

5 (2) The device has no internal components containing a
6 burst charge.

7 (3) The device may contain more than one tube if the
8 tubes fire in sequence upon ignition of one external fuse.

9 (4) If the device is a multiple tube device, the total
10 chemical composition, including lift charges of the multiple
11 tube device, does not exceed 200 grams.

12 (5) The maximum quantity of lift charge in a tube of the
13 device does not exceed 20 grams.

14 (6) The maximum quantity of burst charge in a component
15 does not exceed 25% of the total weight of chemical
16 composition in the component.

17 (7) If the tubes of the device are securely attached to
18 a wood or plastic base and the tubes are separated from each
19 other on the base by a distance of at least one-half inch, a
20 maximum total weight of 500 grams of pyrotechnic composition
21 shall be permitted for approval as 1.4G fireworks.

22 "Municipality." A city, borough, incorporated town or
23 township.

24 "NFPA 1124." The National Fire Protection Association
25 Standard 1124, Code for the Manufacture, Transportation, [and]
26 Storage and Retail Sales of Fireworks and Pyrotechnic Articles,
27 2006 edition[, or any subsequent edition.

28 "Occupied structure." A structure, vehicle or place adapted
29 for overnight accommodation of persons or for conducting
30 business whether or not a person is actually present.]_.

1 "Novelties." The term includes party poppers, snappers, toy
2 smoke devices, snakes and sparklers.

3 "Outdoor storage unit." A stand-alone consumer fireworks
4 building, trailer, semitrailer, metal shipping container or
5 magazine meeting the specifications of NFPA 1124.

6 "Party popper." A small device with a paper or plastic
7 exterior which is actuated by means of friction and meets the
8 following criteria:

9 (1) A string or trigger is typically pulled to actuate
10 the device.

11 (2) The device frequently resembles a champagne bottle
12 or toy pistol in shape.

13 (3) Upon activation, the device expels flame-resistant
14 paper streamers, confetti or other novelties and produces a
15 small report.

16 (4) The device does not contain more than 16 milligrams
17 or 0.25 grains of explosive composition and shall be limited
18 to potassium chlorate and red phosphorus.

19 (5) The device is packaged in an inner packaging which
20 contains a maximum of 72 devices.

21 "Pyrotechnic composition." A chemical mixture which upon
22 burning and without explosion produces visible or brilliant
23 displays or bright lights or whistles or motion.

24 "Roman candle." A heavy paper or cardboard tube containing
25 not more than 20 grams of chemical composition and upon
26 ignition, stars are individually expelled which produce a
27 visible display of color and light upon burning in the air, and
28 at times, crackling or similar audible effect.

29 "Shell device." A mine device which propels a component that
30 subsequently bursts open in the air.

1 "Snake." A pressed pellet of pyrotechnic composition which
2 contains two grams or less of composition per article and meets
3 the following criteria:

4 (1) Upon burning, it produces a snake-like ash that
5 expands in length as the pellet burns.

6 (2) Chemical compositions typically contain ammonium
7 perchlorate, nitrated pitch, asphaltum and similar
8 carbonaceous materials.

9 (3) It comes in a package of not more than 25 pellets
10 per inner package in order to be transported as an
11 unregulated device.

12 "Snapper." A small, paper-wrapped device containing not more
13 than one milligram of silver fulminate coated on small bits of
14 sand or gravel, which meets the following criteria:

15 (1) When dropped, the device explodes, producing a small
16 report.

17 (2) The device is placed in an inner package which shall
18 not include more than 50 devices and the inner package
19 contains sawdust or a similar, impact-absorbing material.

20 "Sparkler." A device which consists of a metal wire or wood
21 dowel that has been coated with pyrotechnic composition and
22 meets the following criteria:

23 (1) Upon ignition of the tip of the device, a shower of
24 sparks is produced.

25 (2) The device contains not more than 100 grams of
26 pyrotechnic composition per item.

27 (3) The device typically uses barium nitrate as the
28 oxidizer with aluminum and dextrine as fuels.

29 (4) Iron filings produce the spark effect.

30 (5) If the device produces colorful sparks, the device

1 uses potassium perchlorate as an oxidizer.

2 (6) If the device contains a chlorate or perchlorate
3 oxidizer, the device is limited to a maximum of five grams of
4 composition per article.

5 (7) The device is placed in an inner package which
6 contains not more than eight devices to be transported as
7 unregulated devices.

8 "Star." A pressed or consolidated pellet of pyrotechnic
9 composition which is usually cylindrical, spherical or
10 rectangular in shape and meets the following criteria:

11 (1) The pellet is fired from a launch tube by means of a
12 propelling charge of black powder in roman candles and mine
13 devices or a component of an insert which is fired into the
14 air in an aerial shell.

15 (2) The composition produces a visible display of color
16 and light as it burns in the air, and at times, a crackling
17 or similar audible effect.

18 "Temporary structure." A structure, other than a permanent
19 facility with fixed utility connections, which is in use or in
20 place for a period of 20 consecutive calendar days or less and
21 is dedicated to the storage and sale of consumer fireworks and
22 related items. The term includes temporary retail sales stands,
23 tents, canopies and membrane structures meeting the
24 specifications of NFPA 1124. A temporary structure may not be
25 located inside of a permanent facility with fixed utility
26 connections. The term shall not include a vehicle or a facility
27 that is not licensed to sell consumer fireworks under this
28 article.

29 "Toy caps." Toy plastic or paper caps for toy pistols in
30 sheets, strips, rolls or individual caps and containing not more

1 than an average of 0.25 grains or 16 milligrams of explosive
2 composition per cap.

3 "Toy smoke device." A small device consisting of cork-like
4 spheres or cardboard or plastic tubes, containing not more than
5 five grams of pyrotechnic composition which produces a small
6 cloud of smoke after activation and meets the following
7 criteria:

8 (1) The device is typically ignited by means of a safety
9 fuse.

10 (2) The outer configuration of the device is typically a
11 sphere or smoke ball, cylindrical tube or paper cone.

12 (3) The chemical composition for white smoke consists of
13 potassium nitrate and sulfur.

14 (4) The chemical composition of colored smokes are
15 produced by mixtures consisting of potassium chlorate, sulfur
16 or sugar and a sublimable organic dye.

17 (5) Mixtures containing potassium chlorate contain a
18 neutralizer/coolant such as sodium bicarbonate.

19 (6) To be eligible for unregulated status, the device
20 must produce smoke as the device's sole pyrotechnic effect
21 after ignition and must be packaged in inner units containing
22 not more than 72 devices.

23 "Vehicle." Every device in, upon or by which any person or
24 property is or may be transported or drawn upon a highway,
25 except devices used exclusively upon rails or tracks. The term
26 does not include a self-propelled wheelchair or an electrical
27 mobility device operated by and designed for the exclusive use
28 of a person with a mobility-related disability.

29 "Wheel." A device intended to be attached to a post or tree
30 by means of a nail or string and meets the following criteria:

1 (1) The device may have one or more drivers, each of
2 which contains not more than 60 grams of pyrotechnic
3 composition.

4 (2) The device may not contain more than 200 grams of
5 total pyrotechnic composition.

6 (3) Upon ignition, the device revolves and produces a
7 shower of color and sparks, and at times, a whistling effect.

8 Section 2402. Permits.

9 (a) Permissible purposes.--Display fireworks may be
10 purchased, possessed and used by a person holding a permit from
11 a municipality [at] for the display or use covered by the permit
12 or when used as authorized by a permit [for any of the
13 following:

14 (1) For agricultural purposes in connection with the
15 raising of crops and the protection of crops from bird and
16 animal damage.

17 (2) By railroads or other transportation agencies for
18 signal purposes or illumination.

19 (3) In quarrying or for blasting or other industrial
20 use.

21 (4) In the sale or use of blank cartridges for a show or
22 theater.

23 (5) For signal or ceremonial purposes in athletics or
24 sports.

25 (6) By military organizations or organizations composed
26 of veterans of the armed forces of the United States.]_.

27 (b) Age limitation.--A display fireworks permit may not be
28 issued to a person under 21 years of age.

29 (c) Bond.--The governing body of the municipality shall
30 require a bond deemed adequate by it from the permittee in a sum

1 not less than [\$50,000] \$1,000 conditioned for the payment of
2 all damages which may be caused to a person or property by
3 reason of the [display] use of display fireworks and arising
4 from an act of the permittee or an agent, an employee or a
5 subcontractor of the permittee.

6 Section 2403. Request for extension.

7 (a) Authorization.--If, because of unfavorable weather, the
8 fireworks display for which a permit has been granted does not
9 occur at the time authorized by the permit, the person to whom
10 the permit was issued may within 24 hours apply [for a request
11 for extension to the municipality which granted the permit] to
12 the municipality for an extension of a permit.

13 (b) Contents of request.--The request for extension shall
14 state under oath that the fireworks display was not made,
15 provide the reason that the display was not made and request a
16 continuance of the permit for a date designated within the
17 request, which shall be not later than one week after the date
18 originally designated in the permit.

19 (c) Determination.--Upon receiving the request for
20 extension, the municipality, if it believes that the facts
21 stated within the request are true, shall extend the provisions
22 of the permit to the date designated within the request[, which
23 shall be not later than one week after the date originally
24 designated in the permit].

25 (d) Conditions.--The extension of time shall be granted
26 without the payment of an additional fee and without requiring a
27 bond other than the bond given for the original permit, the
28 provisions of which shall extend to and cover all damages which
29 may be caused by reason of the fireworks display occurring at
30 the extended date and in the same manner and to the same extent

1 as if the display had occurred at the date originally designated
2 in the permit.

3 (e) Nonapplicability.--This section shall not apply to
4 permits issued for agricultural purposes.

5 Section 2404. Use of consumer fireworks.

6 (a) Conditions.--A person who is at least 18 years of age
7 [and meets the requirements of this article] may purchase,
8 possess and use consumer fireworks.

9 (b) Prohibitions.--A person may not intentionally [ignite or
10 discharge:

11 (1) Consumer fireworks on public or private property
12 without the express permission of the owner.

13 (2) Consumer fireworks or sparkling devices within, or
14 throw consumer fireworks or sparkling devices from, a motor
15 vehicle or building.

16 (3) Consumer fireworks or sparkling devices into or at a
17 motor vehicle or building or at another person.

18 (4) Consumer fireworks or sparkling devices while the
19 person is under the influence of alcohol, a controlled
20 substance or another drug.

21 (5) Consumer fireworks within 150 feet of an occupied
22 structure.] use consumer fireworks:

23 (1) On public or private property without the express
24 permission of the owner or entity that controls the property.

25 (2) Within, directed at, or directed from a temporary
26 structure, vehicle or building.

27 (3) Directed at another person.

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

30 (5) Within 150 feet of a temporary structure, building

1 or vehicle.

2 (6) Between the hours of 10:00 p.m. and 10:00 a.m.,

3 except:

4 (i) on July 4 and December 31, when consumer
5 fireworks may be used until 1:00 a.m. on the following
6 day; and

7 (ii) on days and times as may be determined by a
8 municipality.

9 Section 2405. Agricultural purposes.

10 (a) Authorization.--The governing body of a municipality
11 may, under reasonable rules and regulations adopted by it, grant
12 permits for the use of [suitable] display fireworks for
13 agricultural purposes in connection with the raising of crops
14 and the protection of crops from bird and animal damage.

15 (b) Duration of permit.--A permit under this section shall
16 remain in effect for the calendar year in which it was issued.

17 (c) Conditions.--After a permit under this section has been
18 granted, sales, possession and use of [fireworks of the type
19 and] display fireworks for the purpose mentioned in the permit
20 shall be lawful for that purpose only.

21 Section 2406. Rules and regulations by municipality.

22 (a) Authorization.--A municipality may enact conditions,
23 prohibitions and limitations on the sale and use of consumer
24 fireworks that are not in conflict with this article.

25 (b) Authorization for use of display fireworks.--

26 (1) Permission shall be given by the governing body of a
27 municipality under reasonable rules and regulations for
28 displays of display fireworks to be held within the
29 municipality.

30 [(b) Conditions.--

1 (1) Each display shall be:

2 (i) handled by a competent operator; and

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

9 (2) After permission is granted under this section,
10 possession and use of display fireworks for display shall be
11 lawful for that purpose only.

12 (3) A permit shall be transferable.]

13 (2) Each use of display fireworks shall be:

14 (i) handled by a competent operator; and

15 (ii) of a character and so located, discharged or
16 fired as, in the opinion of the chief of the fire
17 department or other appropriate officer as may be
18 designated by the governing body of the municipality,
19 after proper inspection, to not be hazardous to property
20 or endanger any person.

21 (3) After permission is granted under this subsection,
22 purchase, possession and use of display fireworks shall be
23 lawful for the use outlined in the permit only.

24 (4) A permit shall not be transferable.

25 Section 2408. Fees, granting of licenses and inspections.

26 (a) Initial application fees.--

27 (1) An initial application for a license to sell
28 consumer fireworks shall be submitted to the Department of
29 Agriculture on forms prescribed and provided by the
30 department with a nonrefundable application fee as follows:

1 * * *

2 (ii) For a facility meeting the requirements of
3 section 2410, the application shall be submitted with a
4 nonrefundable application fee of \$1,000 no later than 60
5 days prior to the first day of sale during the licensed
6 selling period.

7 * * *

8 (c) Time limitations and inspections.--

9 * * *

10 (2) The Department of Agriculture shall issue or deny a
11 license for a facility meeting the requirements of section
12 2410 no later than 10 days prior to the first day of sale
13 during the licensed selling period. The facility shall be
14 available for inspection by the Department of Agriculture for
15 compliance with NFPA 1124 at all times during the licensed
16 selling period.

17 * * *

18 Section 2409. Conditions for facilities.

19 A facility licensed by the Department of Agriculture under
20 section 2408 shall be exclusively dedicated to the storage and
21 sale of consumer fireworks and related items, and the facility
22 shall operate in accordance with the following rules:

23 (1) There shall be security personnel on the premises
24 for the seven days preceding and including July 4 and for the
25 three days preceding and including January 2.

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

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

30 (4) No minors shall be permitted in the facility unless

1 accompanied by an adult, and each minor shall stay with the
2 adult in the facility.

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

5 (6) A licensee shall provide its employees with
6 documented training in the area of operational safety of a
7 facility. The licensee shall provide to the Department of
8 Agriculture written documentation that each employee has
9 received the training.

10 (7) No display fireworks shall be stored or located at a
11 facility.

12 (8) No person who appears to be under the influence of
13 intoxicating liquor or drugs shall be admitted to the
14 facility, and no liquor, beer or wine shall be permitted in
15 the facility.

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

18 (10) Written notice shall be conspicuously posted or
19 provided with each purchase of consumer fireworks that
20 provides the conditions and prohibitions for use of consumer
21 fireworks under section 2404, and that additional conditions,
22 prohibitions and limitations may be implemented by a
23 municipality.

24 Section 2410. Temporary structures.

25 (a) Conditions.--Notwithstanding section 2407 or any other
26 provision of law, a temporary structure may be licensed by the
27 Department of Agriculture to sell consumer fireworks if the
28 temporary structure meets all of the following requirements:

29 (1) The temporary structure is located no closer than
30 250 feet from a facility storing, selling or dispensing

1 gasoline, propane or other flammable products.

2 [(2) An evacuation plan is posted in a conspicuous
3 location for a temporary structure in accordance with NFPA
4 1124.]

5 (3) The outdoor storage unit, if any, is separated from
6 the wholesale or retail sales area to which a purchaser may
7 be admitted by appropriately rated fire separation.

8 (4) The temporary structure complies with NFPA 1124 as
9 it relates to retail sales of consumer fireworks in temporary
10 structures.

11 (5) The temporary structure is located one of the
12 following distances from a permanent facility licensed to
13 sell consumer fireworks under the former act of May 15, 1939
14 (P.L.134, No.65), referred to as the Fireworks Law, at the
15 time of the effective date of this article:

16 (i) Prior to January 1, 2023, at least five miles.

17 (ii) Beginning January 1, 2023, at least two miles.

18 (6) The temporary structure does not exceed 2,500 square
19 feet.

20 (7) The temporary structure is secured at all times
21 during which consumer fireworks are displayed within the
22 structure.

23 [(8) The temporary structure has a minimum of \$2,000,000
24 in public and product liability insurance.]

25 (9) The sales period is limited to June 15 through July
26 8 and December 21 through January 2 of each year.

27 (10) Consumer fireworks not on display for retail sale
28 are stored in an outdoor storage unit.

29 (b) Limitations.--The sale of consumer fireworks from the
30 temporary structure is limited to the following:

- 1 (1) [Helicopter,] Aerial Spinner [(APA 87-1, 3.1.2.3)].
2 (2) Roman Candle [(APA 87-1, 3.1.2.4)].
3 (3) Mine devices and shell devices not exceeding 500
4 grams.

5 Section 2411. Attorney General.

6 [(a) Registration.--Any business] An entity which performs,
7 provides or supervises fireworks displays or exhibitions for
8 profit shall register annually with the Attorney General in
9 accordance with 37 Pa. Code Ch. 711 (relating to registration
10 for fireworks displays).

11 [(b) Rules.--The Attorney General shall promulgate rules to
12 implement this section.]

13 Section 2412. Consumer fireworks tax.

14 * * *

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 * * *

20 Section 2414. Penalties.

21 The following shall apply:

22 (1) A person using consumer fireworks in violation of
23 the provisions of this article for the first offense commits
24 a summary offense and, upon conviction, shall, in addition to
25 any other penalty authorized by law, be punished by a fine of
26 not [more] less than \$100. A subsequent offense under this
27 paragraph committed within one year of a prior conviction
28 under this paragraph shall constitute a misdemeanor of the
29 third degree and, upon conviction shall, in addition to any
30 other penalty authorized by law, be punished by a fine of not

1 less than \$500.

2 (2) A person selling consumer fireworks in violation of
3 the provisions of this [act] article for the first offense
4 commits a misdemeanor of the second degree[.] and, upon
5 conviction, shall, in addition to any other penalty
6 authorized by law, be punished by a fine of not less than
7 \$2,500. A subsequent offense under this paragraph committed
8 within one year of a prior conviction under this paragraph
9 shall constitute a misdemeanor of the first degree and, upon
10 conviction, in addition to any other penalty authorized by
11 law, shall be punished by a fine of not less than \$5,000.

12 (3) A person selling display fireworks in violation of
13 the provisions of this [act] article for the first offense
14 commits a felony of the third degree[.] and, upon conviction,
15 shall, in addition to any other penalty authorized by law, be
16 punished by a fine of not less than \$10,000. A subsequent
17 offense under this paragraph committed within one year of a
18 prior conviction under this paragraph shall constitute a
19 felony of the second degree and, upon conviction, shall, in
20 addition to any other penalty authorized by law, be punished
21 by a fine of not less than \$15,000.

22 (4) A person selling federally illegal explosives such
23 as devices as described in 49 CFR 173.54 (relating to
24 forbidden explosives) or those devices that have not been
25 tested, approved and labeled by the United States Department
26 of Transportation, including, but not limited to, those
27 devices commonly referred to as M-80, M-100, blockbuster,
28 cherry bomb or quarter or half stick explosive devices, in
29 violation of the provisions of this [act] article for the
30 first offense commits a felony of the third degree[.] and,

1 upon conviction, shall, in addition to any other penalty
2 authorized by law, be punished by a fine of not less than
3 \$10,000. A subsequent offense under this paragraph committed
4 within one year of a prior conviction under this paragraph
5 shall constitute a felony of the second degree and, upon
6 conviction, shall, in addition to any other penalty
7 authorized by law, be punished by a fine of not less than
8 \$15,000.

9 Section 2415. Removal, storage and destruction.

10 The Pennsylvania State Police, [a sheriff or police officer]
11 an individual employed as a municipal officer as defined in 42
12 Pa.C.S. § 8951 (relating to definitions) who holds a current
13 certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating to
14 municipal police education and training), a sheriff or a deputy
15 shall take, remove or cause to be removed at the expense of the
16 owner all stocks of consumer fireworks or display fireworks or
17 combustibles offered or exposed for sale, stored or held in
18 violation of this article. The owner shall also be responsible
19 for the storage and, if deemed necessary, the destruction of
20 these fireworks.

21 Section 2. This act shall take effect in 60 days.