

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2349

 Session of 2006

INTRODUCED BY SCAVELLO, BIRMELIN, E. Z. TAYLOR AND HARPER,
JANUARY 18, 2006

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 14, 2006

AN ACT

1 Amending the act of May 15, 1939 (P.L.134, No.65), entitled, as
2 amended, "An act relating to fireworks; defining fireworks;
3 prohibiting the sale, regulating the sale, offering or
4 exposing for sale and use of fireworks, except in certain
5 cases; authorizing cities, boroughs, towns and townships to
6 issue permits for fireworks displays, and to regulate the
7 same; imposing duties on the Pennsylvania State Police,
8 sheriffs and police officers; and providing penalties,"
9 ~~further imposing restrictions on displays of fireworks.~~ <—
10 FURTHER PROVIDING FOR THE DEFINITION OF "CONSUMER FIREWORKS" <—
11 AND FOR THE REGULATION OF THE SALE OF FIREWORKS; AND FURTHER
12 PROVIDING FOR FACILITIES.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. Section 4.3 of the act of May 15, 1939 (P.L.134,~~ <—
16 ~~No.65), referred to as the Fireworks Law, added November 30,~~
17 ~~2004 (P.L.1598, No.204), is amended to read:~~

18 ~~Section 4.3. Consumer fireworks shall be sold only from~~
19 ~~facilities that are licensed by the Department of Agriculture~~
20 ~~and that meet the following criteria:~~

21 ~~(1) The facility shall comply with the provisions of the act~~
22 ~~of November 10, 1999 (P.L.491, No.45), known as the~~

~~"Pennsylvania Construction Code Act."~~

~~(2) The facility shall be in a stand alone building and shall be no larger than twelve thousand (12,000) square feet.~~

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

~~(4) The facility shall be located no closer than two hundred fifty (250) feet from any facility selling or dispensing gasoline, propane or other such flammable products.~~

~~(5) The facility shall be located at least two hundred fifty (250) feet from any other facility licensed to sell consumer fireworks.~~

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

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

~~(8) The facility shall be located no closer than two hundred fifty (250) feet from a residential property.~~

SECTION 1. THE DEFINITION OF "CONSUMER FIREWORKS" IN SECTION <—
1 OF THE ACT OF MAY 15, 1939 (P.L.134, NO.65), REFERRED TO AS
THE FIREWORKS LAW, AMENDED NOVEMBER 30, 2004 (P.L.1598, NO.204),
IS AMENDED TO READ:

SECTION 1. THE TERM "CONSUMER FIREWORKS" SHALL MEAN AND
INCLUDE:

(1) ANY COMBUSTIBLE OR EXPLOSIVE COMPOSITION OR ANY
SUBSTANCE OR COMBINATION OF SUBSTANCES INTENDED TO PRODUCE
VISIBLE AND/OR AUDIBLE EFFECTS BY COMBUSTION AND WHICH IS
SUITABLE FOR USE BY THE PUBLIC THAT COMPLIES WITH THE
CONSTRUCTION, PERFORMANCE, COMPOSITION AND LABELING REQUIREMENTS
PROMULGATED BY THE CONSUMER PRODUCTS SAFETY COMMISSION IN 16 CFR

1 (RELATING TO COMMERCIAL PRACTICES) OR ANY SUCCESSOR REGULATION
2 AND WHICH COMPLIES WITH THE PROVISIONS FOR "CONSUMER FIREWORKS"
3 AS DEFINED IN THE AMERICAN PYROTECHNICS ASSOCIATION (APA)
4 STANDARD 87-1, OR ANY SUCCESSOR STANDARD.

5 (2) THE TERM DOES NOT INCLUDE DEVICES DEFINED AS "GROUND AND
6 HAND-HELD SPARKLING DEVICES," "NOVELTIES" AND "TOY CAPS" IN APA
7 STANDARD 87-1, THE SALE, POSSESSION AND USE OF WHICH SHALL BE
8 PERMITTED AT ALL TIMES THROUGHOUT THIS COMMONWEALTH.

9 * * *

10 SECTION 2. SECTIONS 4, 4.2 AND 4.3 OF THE ACT, AMENDED OR
11 ADDED NOVEMBER 30, 2004 (P.L.1598, NO.204), ARE AMENDED TO READ:

12 SECTION 4. NOTHING IN THIS ACT SHALL BE CONSTRUED TO
13 PROHIBIT ANY LICENSED FACILITY FROM SELLING ANY CONSUMER
14 FIREWORKS OR THE YEAR-ROUND SALE OF ANY KIND OF CONSUMER
15 FIREWORKS TO OUT-OF-STATE RESIDENTS WHOSE STATUS IS VERIFIED TO
16 THE LICENSEE, PROVIDED THE LICENSEE RETAINS PROOF OF SUCH STATUS
17 AND PRODUCES IT FOR REVIEW UPON REQUEST OF THE DEPARTMENT OF
18 AGRICULTURE AND PROVIDED THE SAME ARE TO BE TRANSPORTED DIRECTLY
19 OUT OF STATE BY THE SELLER OR PURCHASER. CONSUMER FIREWORKS AND
20 DISPLAY FIREWORKS MAY BE PURCHASED, POSSESSED AND USED BY A
21 PERSON HOLDING A PERMIT FROM ANY MUNICIPALITY AT THE DISPLAY
22 COVERED BY SUCH PERMIT, OR WHEN USED AS AUTHORIZED BY A PERMIT
23 FOR AGRICULTURAL PURPOSES IN CONNECTION WITH THE RAISING OF
24 CROPS AND THE PROTECTION OF CROPS FROM BIRD AND ANIMAL DAMAGE,
25 OR THE USE BY RAILROADS OR OTHER TRANSPORTATION AGENCIES FOR
26 SIGNAL PURPOSES OR ILLUMINATION, OR WHEN USED IN QUARRYING OR
27 FOR BLASTING OR OTHER INDUSTRIAL USE, OR THE SALE OR USE OF
28 BLANK CARTRIDGES FOR A SHOW OR THEATRE, OR FOR SIGNAL OR
29 CEREMONIAL PURPOSES IN ATHLETICS OR SPORTS, OR FOR USE BY
30 MILITARY ORGANIZATIONS OR ORGANIZATIONS COMPOSED OF VETERANS OF

1 THE UNITED STATES ARMY OR NAVY. NO SUCH PERMIT SHALL BE ISSUED
2 TO A PERSON YOUNGER THAN EIGHTEEN (18) YEARS OF AGE.

3 SECTION 4.2. PERMISSION SHALL BE GIVEN BY THE GOVERNING BODY
4 OF ANY CITY, BOROUGH, TOWN OR TOWNSHIP UNDER REASONABLE RULES
5 AND REGULATIONS FOR DISPLAYS OF CONSUMER FIREWORKS AND DISPLAY
6 FIREWORKS TO BE HELD THEREIN. EVERY SUCH DISPLAY SHALL BE
7 HANDLED BY A COMPETENT OPERATOR AND SHALL BE OF SUCH A CHARACTER
8 AND SO LOCATED, DISCHARGED OR FIRED AS, IN THE OPINION OF THE
9 CHIEF OF THE FIRE DEPARTMENT OR OTHER SUCH OFFICER AS MAY BE
10 DESIGNATED BY THE GOVERNING BODY OF THE MUNICIPALITY, AFTER
11 PROPER INSPECTION, TO NOT BE HAZARDOUS TO PROPERTY OR ENDANGER
12 ANY PERSON OR PERSONS. AFTER SUCH PRIVILEGE SHALL HAVE BEEN
13 GRANTED, PURCHASE, POSSESSION AND USE OF CONSUMER FIREWORKS AND
14 DISPLAY FIREWORKS FOR SUCH DISPLAY SHALL BE LAWFUL FOR THAT
15 PURPOSE ONLY. NO PERMIT SHALL BE TRANSFERABLE.

16 SECTION 4.3. CONSUMER FIREWORKS SHALL BE SOLD ONLY FROM
17 FACILITIES THAT ARE LICENSED BY THE DEPARTMENT OF AGRICULTURE
18 AND THAT MEET THE FOLLOWING CRITERIA:

19 (1) THE FACILITY SHALL COMPLY WITH THE PROVISIONS OF THE ACT
20 OF NOVEMBER 10, 1999 (P.L.491, NO.45), KNOWN AS THE
21 "PENNSYLVANIA CONSTRUCTION CODE ACT."

22 (2) THE FACILITY SHALL BE IN A [STAND-ALONE BUILDING AND]
23 BUILDING WHICH IS LIMITED TO THE LICENSED PURPOSE AND THE
24 WHOLESALE OR RETAIL AREAS OF A FACILITY TO WHICH THE PUBLIC MAY
25 BE ADMITTED SHALL BE NO LARGER THAN TWELVE THOUSAND (12,000)
26 SQUARE FEET.

27 (3) STORAGE AREAS SHALL BE SEPARATED FROM WHOLESALE OR
28 RETAIL SALES AREAS TO WHICH A PURCHASER MAY BE ADMITTED BY
29 APPROPRIATELY RATED FIRE SEPARATION.

30 (4) THE FACILITY SHALL BE LOCATED NO CLOSER THAN TWO HUNDRED

FIFTY (250) FEET FROM ANY FACILITY SELLING OR DISPENSING
GASOLINE, PROPANE OR OTHER SUCH FLAMMABLE PRODUCTS.

(5) THE FACILITY SHALL BE LOCATED AT LEAST TWO HUNDRED FIFTY
(250) FEET FROM ANY OTHER FACILITY LICENSED TO SELL CONSUMER
FIREWORKS.

(6) THE FACILITY SHALL HAVE A MONITORED BURGLAR AND FIRE
ALARM SYSTEM.

(7) QUARTERLY FIRE DRILLS AND PREPLANNING MEETINGS SHALL BE
CONDUCTED AS REQUIRED BY THE PRIMARY FIRE DEPARTMENT.

(8) THE FACILITY SHALL BE LOCATED NO CLOSER THAN TWO HUNDRED
FIFTY (250) FEET FROM A RESIDENTIAL PROPERTY AND SHALL BE
LOCATED NO CLOSER THAN ONE HUNDRED FIFTY (150) FEET FROM ANY
OTHER COMMERCIAL STRUCTURE. THIS PARAGRAPH SHALL NOT APPLY TO
EXISTING FACILITIES AND FACILITIES WHICH HAVE SUBMITTED
APPROPRIATE APPLICATION TO COMPLY WITH LOCAL ZONING AND
PERMITTING REQUIREMENTS OF THE LOCAL GOVERNMENT UNIT ON OR
BEFORE THE EFFECTIVE DATE OF THIS PARAGRAPH. THIS PARAGRAPH
SHALL NOT APPLY IF A RESIDENTIAL PROPERTY OR COMMERCIAL
STRUCTURE COMES INTO EXISTENCE WITHIN THE DISTANCE LIMITATIONS
PROVIDED FOR BY THIS PARAGRAPH OF A FACILITY AFTER THE EFFECTIVE
DATE OF THIS PARAGRAPH.

Section 2 3. This act shall take effect immediately.

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