
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 679 Session of
2017

INTRODUCED BY WHITE, YAW, VOGEL, BARTOLOTTA, FOLMER, STEFANO,
WARD, VULAKOVICH, WAGNER, RESCHENTHALER, BREWSTER, SCARNATI
AND ALLOWAY, MAY 5, 2017

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, MAY 5, 2017

AN ACT

1 Amending the act of May 15, 1939 (P.L.134, No.65), entitled "An
2 act relating to fireworks; defining fireworks; prohibiting
3 the sale, regulating the sale, offering or exposing for sale
4 and use of fireworks, except in certain cases; authorizing
5 cities, boroughs, towns and townships to issue permits for
6 fireworks displays, and to regulate the same; imposing duties
7 on the Pennsylvania State Police, sheriffs and police
8 officers; and providing penalties," further providing for
9 definitions, for sale, possession and use of fireworks, for
10 permits and for criteria for licensure; imposing a fireworks
11 safety fee; and establishing the Online Training Educator and
12 Training Reimbursement Account.

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

15 Section 1. Sections 1, 3, 4, 4.2, 4.3 and 4.4 of the act of
16 May 15, 1939 (P.L.134, No.65), referred to as the Fireworks Law,
17 are amended to read:

18 Section 1. The term "consumer fireworks" shall mean and
19 include:

20 (1) Any combustible or explosive composition or any
21 substance or combination of substances intended to produce
22 visible and/or audible effects by combustion and which is

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

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

15 The term "display fireworks" shall [be defined as provided in
16 27 CFR § 555.11 (relating to meaning of terms).] mean large
17 fireworks to be used solely by professional pyrotechnicians
18 licensed by the Department of Agriculture and designed primarily
19 to produce visible or audible effects by combustion,
20 deflagration or detonation. The term includes but is not limited
21 to:

22 (1) salutes that contain more than two (2) grains or one
23 hundred thirty (130) milligrams of explosive materials;

24 (2) aerial shells containing more than sixty (60) grams of
25 pyrotechnic compositions; and

26 (3) other display pieces that exceed the limits of explosive
27 materials for classification as consumer fireworks and are
28 classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR
29 172.101 (relating to purpose and use of hazardous materials
30 table).

1 The term "municipalities" shall include cities, boroughs,
2 incorporated towns and townships.

3 The term "occupied structure" shall include a structure,
4 vehicle or place adapted for overnight accommodation of persons
5 or for conducting business whether or not a person is actually
6 present.

7 Section 3. (a) Display fireworks may be possessed and used
8 by a person holding a permit from a municipality at the display
9 covered by the permit or when used as authorized by a permit for
10 any of the following:

11 (1) For agricultural purposes in connection with the raising
12 of crops and the protection of crops from bird and animal
13 damage.

14 (2) By railroads or other transportation agencies for signal
15 purposes or illumination.

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

17 (4) In the sale or use of blank cartridges for a show or
18 theatre.

19 (5) For signal or ceremonial purposes in athletics or
20 sports.

21 (6) By military organizations or organizations composed of
22 veterans of the United States Army or Navy.

23 (b) A display fireworks permit may not be issued to a person
24 younger than twenty-one (21) years of age.

25 (c) The governing body of the municipality shall require a
26 bond deemed adequate by it from the licensee in a sum not less
27 than [five hundred dollars (\$500)] fifty thousand dollars
28 (\$50,000) conditioned for the payment of all damages which may
29 be caused either to a person or persons, or to property by
30 reason of the licensed display and arising from any acts of the

1 licensee, his agents, employes or subcontractors.

2 Section 4. [Nothing in this act shall be construed to
3 prohibit any licensed facility from selling any consumer
4 fireworks or the year-round sale of any kind of consumer
5 fireworks to out-of-State residents whose status is verified to
6 the licensee, provided the licensee retains proof of such status
7 and produces it for review upon request of the Department of
8 Agriculture and provided the same are to be transported directly
9 out of state by the seller or purchaser. Consumer fireworks and
10 display fireworks may be possessed and used by a person holding
11 a permit from any municipality at the display covered by such
12 permit, or when used as authorized by a permit for agricultural
13 purposes in connection with the raising of crops and the
14 protection of crops from bird and animal damage, or the use by
15 railroads or other transportation agencies for signal purposes
16 or illumination, or when used in quarrying or for blasting or
17 other industrial use, or the sale or use of blank cartridges for
18 a show or theatre, or for signal or ceremonial purposes in
19 athletics or sports, or for use by military organizations or
20 organizations composed of veterans of the United States Army or
21 Navy. No such permit shall be issued to a person younger than
22 eighteen (18) years of age.] (a) A person who is at least
23 eighteen (18) years of age and meets the requirements of this
24 act may purchase, possess and use consumer fireworks.

25 (b) A person may not intentionally ignite or discharge:

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

28 (2) Consumer fireworks or sparkling devices within, or throw
29 the same from, a motor vehicle or building.

30 (3) Consumer fireworks or sparkling devices into or at a

1 motor vehicle or building, or at a person.

2 (4) Consumer fireworks or sparkling devices while the person
3 is under the influence of alcohol, a controlled substance or any
4 other drug.

5 (5) Consumer fireworks within one hundred fifty (150) feet
6 of an occupied structure.

7 Section 4.2. Permission shall be given by the governing body
8 of any city, borough, town or township under reasonable rules
9 and regulations for displays of [consumer fireworks and] display
10 fireworks to be held therein. Every such display shall be
11 handled by a competent operator and shall be of such a character
12 and so located, discharged or fired as, in the opinion of the
13 chief of the fire department or other such officer as may be
14 designated by the governing body of the municipality, after
15 proper inspection, to not be hazardous to property or endanger
16 any person or persons. After such privilege shall have been
17 granted, possession and use of [consumer fireworks and] display
18 fireworks for such display shall be lawful for that purpose
19 only. No permit shall be transferable.

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

23 (1) The facility shall comply with the provisions of the act
24 of November 10, 1999 (P.L.491, No.45), known as the
25 "Pennsylvania Construction Code Act."

26 (2) The facility shall be [in] a stand-alone [building and
27 shall be no larger than twelve thousand (12,000) square feet]
28 permanent structure.

29 (3) Storage areas shall be separated from wholesale or
30 retail sales areas to which a purchaser may be admitted by

1 appropriately rated fire separation.

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

5 (5) The facility shall be located at least [two hundred
6 fifty (250)] one thousand five hundred (1,500) feet from any
7 other facility licensed to sell consumer fireworks.

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

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

12 Section 4.4. [Applications for licenses to sell consumer
13 fireworks shall be submitted to the Department of Agriculture on
14 forms prescribed and provided by the department. The license
15 application shall be accompanied by an annual license fee of
16 five thousand dollars (\$5,000) per location. Facilities in
17 existence on the effective date of this section and new
18 facilities shall be inspected by the Department of Agriculture
19 within thirty (30) days of receipt of a complete application for
20 a license. The Department of Agriculture shall issue a license,
21 or deny a license, within fourteen (14) days of completing the
22 inspection. A license shall be effective for one year from the
23 date the license is issued, and renewal of a license shall be
24 automatic upon payment of the license fee, but each facility is
25 subject to annual inspection by the Department of Agriculture,
26 and at other times at its discretion, during normal business
27 hours. No license shall be issued to any convicted felons or to
28 any entities where a convicted felon owns any percentage of the
29 equity interest in such entity.] (a) An initial application for
30 a license to sell consumer fireworks shall be submitted to the

1 Department of Agriculture on forms prescribed and provided by
2 the department with a nonrefundable application fee of two
3 thousand five hundred dollars (\$2,500). The application shall
4 also be accompanied by the appropriate annual license fee as
5 provided in subsection (b).

6 (b) The annual license fee for a facility licensed to sell
7 consumer fireworks shall be as follows:

8 (1) Seven thousand five hundred dollars (\$7,500) for a
9 location up to ten thousand (10,000) square feet.

10 (2) Ten thousand dollars (\$10,000) for a location up to
11 fifteen thousand (15,000) square feet.

12 (3) Twenty thousand dollars (\$20,000) for a location up to
13 twenty thousand (20,000) square feet.

14 (c) A facility shall be inspected by the Department of
15 Agriculture within thirty (30) days of receipt of a complete
16 application for a license. The Department of Agriculture shall
17 issue or deny a license within fourteen (14) days of completing
18 the inspection.

19 (d) A license issued for the sale of consumer fireworks
20 shall be effective for one (1) year from the date the license is
21 issued.

22 (e) License renewal shall be automatic upon payment of the
23 appropriate annual license fee under subsection (b), but each
24 facility shall be subject to annual inspections by the
25 Department of Agriculture and at other times as the department
26 may deem appropriate.

27 (f) No license may be issued to a convicted felon or to an
28 entity in which a convicted felon owns a percentage of the
29 equity interest.

30 Section 2. The act is amended by adding a section to read:

1 Section 5.3. (a) In addition to any applicable State or
2 local tax, a fireworks safety fee is imposed upon the retail
3 sale of consumer fireworks at the rate of fifteen percent (15%)
4 of the sale price, including State and local sales tax, per item
5 sold. The fee shall be collected by the retailer from the
6 purchaser at the time of the sale and shall be remitted to the
7 Commonwealth on the same schedule as sales tax payments under
8 the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform
9 Code of 1971." Failure to properly collect and remit the fee
10 shall be grounds for the immediate revocation of the license to
11 sell consumer fireworks.

12 (b) The fireworks safety fee paid to the Commonwealth shall
13 be deposited into a special account in the State Treasury
14 designated as the Online Training Educator and Training
15 Reimbursement Account for the purposes of developing, delivering
16 and sustaining training programs for volunteer and career
17 firefighters in this Commonwealth. The Office of the State Fire
18 Commissioner shall distribute:

19 (1) not more than one million dollars (\$1,000,000) of the
20 fee collected during the first year and five hundred thousand
21 (\$500,000) of the fee collected during each subsequent year,
22 shall establish guidelines for its use and shall provide annual
23 written report detailing the use of the funds to the chairperson
24 and minority chairperson of the Agriculture and Rural Affairs
25 Committee of the Senate, the chairperson and minority
26 chairperson of the Agriculture and Rural Affairs Committee of
27 the House of Representatives, the chairperson and minority
28 chairperson of the Veterans Affairs and Emergency Preparedness
29 Committee of the Senate and the chairperson and minority
30 chairperson of the Veterans Affairs and Emergency Preparedness

1 Committee of the House of Representatives.

2 (2) The Auditor General shall periodically audit the account
3 for compliance with this act. The remainder of the fee collected
4 shall be transferred annually from the Online Training Educator
5 and Training Reimbursement Account to the General Fund and shall
6 be allocated for grants under 35 Pa.C.S. Ch. 78 (relating to
7 grants to fire companies and emergency medical services
8 companies).

9 Section 3. This act shall take effect in 60 days.