
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1687 Session of
2019

INTRODUCED BY FARRY, DIGIROLAMO, SCHMITT, DONATUCCI, STAATS,
SCHLOSSBERG, SCHROEDER, YOUNGBLOOD, GROVE, MENTZER, HILL-
EVANS, T. DAVIS, SAYLOR, OTTEN, PASHINSKI, LAWRENCE,
SCHWEYER, FREEMAN, O'MARA AND DALEY, JULY 8, 2019

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
JULY 8, 2019

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, providing for fireworks; and making a related
3 repeal.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 3 of the Pennsylvania Consolidated Statutes
7 is amended by adding a chapter to read:

8 CHAPTER 9

9 FIREWORKS

10 Sec.

11 901. Definitions.

12 902. Use of display fireworks.

13 903. Request for extension.

14 904. Use of consumer fireworks.

15 905. Agricultural purposes.

16 906. Rules and regulations by municipality.

17 907. Sales locations.

1 908. Fees, granting of licenses and inspections.

2 909. Conditions for facilities.

3 910. (Reserved).

4 911. Attorney General.

5 912. Consumer fireworks tax.

6 913. Disposition of certain funds.

7 914. Penalties.

8 915. Removal, storage and destruction.

9 § 901. Definitions.

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

13 "APA 87-1." The American Pyrotechnics Association Standard
14 87-1: Standard for Construction and Approval for Transportation
15 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001
16 edition.

17 "Consumer fireworks."

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

19 (i) Any combustible or explosive composition or any
20 substance or combination of substances which is intended
21 to produce visible or audible effects by combustion, is
22 suitable for use by the public, complies with the
23 construction, performance, composition and labeling
24 requirements promulgated by the Consumer Products Safety
25 Commission in 16 CFR (relating to commercial practices)
26 or any successor regulation and complies with the
27 provisions for "consumer fireworks" as defined in APA 87-
28 1, the sale, possession and use of which shall be
29 permitted throughout this Commonwealth.

30 (2) The term does not include devices as "ground and

1 hand-held sparkling devices," "novelties" or "toy caps" in
2 APA 87-1, the sale, possession and use of which shall be
3 permitted at all times throughout this Commonwealth.

4 "Display fireworks." As defined in 27 CFR 555.11 (relating
5 to meaning of terms).

6 "Municipality." A city, borough, incorporated town or
7 township.

8 "NFPA 1124." The National Fire Protection Association
9 Standard 1124, Code for the Manufacture, Transportation, Storage
10 and Retail Sales of Fireworks and Pyrotechnic Articles, 2006
11 edition.

12 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
13 known as the Tax Reform Code of 1971.

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

20 § 902. Use of display fireworks.

21 (a) Prohibition.--No display fireworks shall be ignited
22 within 300 feet of a facility that meets the requirements of
23 section 907 (relating to sales locations).

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

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

1 (1) handled by a competent operator at least 21 years of
2 age;

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

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

14 § 903. Request for extension.

15 (a) Authorization.--If, because of unfavorable weather, the
16 fireworks display for which a permit has been granted does not
17 occur at the time authorized by the permit, the person to whom
18 the permit was issued may within 24 hours apply to the
19 municipality for an extension of a permit.

20 (b) Contents of request.--The request for extension shall
21 state under oath that the fireworks display was not made,
22 provide the reason that the display was not made and request a
23 continuance of the permit for a date designated within the
24 request.

25 (c) Determination.--Upon receiving the request for
26 extension, the municipality, if it believes that the facts
27 stated within the request are true, shall extend the provisions
28 of the permit to the date designated within the request.

29 (d) Conditions.--The extension of time shall be granted
30 without the payment of an additional fee and without requiring a

1 bond other than the bond given for the original permit, the
2 provisions of which shall extend to and cover all damages which
3 may be caused by reason of the fireworks display occurring at
4 the extended date and in the same manner and to the same extent
5 as if the display had occurred at the date originally designated
6 in the permit.

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

9 § 904. Use of consumer fireworks.

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

12 (b) Prohibitions.--A person may not intentionally use
13 consumer fireworks:

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

16 (2) Within, directed at or directed from a vehicle or
17 building.

18 (3) Directed at another person.

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

21 (5) Within 150 feet of a building or vehicle.

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

23 except:

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

27 (ii) when July 4 falls on a Tuesday, Wednesday or
28 Thursday, consumer fireworks may be used until 1:00 A.M.
29 on the immediately preceding and following Friday and
30 Saturday.

1 § 905. Agricultural purposes.

2 (a) Authorization.--The governing body of a municipality
3 may, under reasonable rules and regulations adopted by it, grant
4 permits for the use of display fireworks for agricultural
5 purposes in connection with the raising of crops and the
6 protection of crops from bird and animal damage.

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

9 (c) Conditions.--After a permit under this section has been
10 granted, sales, possession and use of display fireworks for the
11 purpose mentioned in the permit shall be lawful for that purpose
12 only.

13 § 906. Rules and regulations by municipality.

14 (a) Authorization.--

15 (1) Except for the limitations under subsection (b), a
16 municipality may enact conditions, prohibitions and
17 limitations on the use of consumer fireworks that are not in
18 conflict with this chapter.

19 (2) Notwithstanding a valid license issued by the
20 department on the effective date of this section, a
21 municipality may enact conditions, prohibitions and
22 limitations on the sale of consumer fireworks that are not in
23 conflict with this chapter.

24 (b) Limitations.--No municipality shall restrict or regulate
25 the use of consumer fireworks on the following days:

26 (1) The days listed in section 904(b)(6) (relating to
27 use of consumer fireworks).

28 (2) Memorial Day, including the immediately preceding
29 Saturday and Sunday.

30 (3) Labor Day, including the immediately preceding

1 Saturday and Sunday.

2 § 907. Sales locations.

3 Consumer fireworks shall be sold only from facilities which
4 are licensed by the Department of Agriculture and that meet the
5 following criteria:

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

9 (2) The facility shall be a stand-alone, permanent
10 structure.

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

14 (4) The facility shall be located no closer than 250
15 feet from a facility selling or dispensing gasoline, propane
16 or other flammable products.

17 (5) For facilities licensed after the effective date of
18 this section, the facility shall be located at least 1,500
19 feet from another facility licensed to sell consumer
20 fireworks.

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

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

25 (8) The facility shall comply with the requirements of
26 NFPA 1124.

27 § 908. Fees, granting of licenses and inspections.

28 (a) Initial application fees.--

29 (1) An initial application for a license to sell
30 consumer fireworks shall be submitted to the Department of

1 Agriculture on forms prescribed and provided by the
2 department with a nonrefundable application fee as follows:

3 (i) For a facility meeting the requirements of
4 section 907 (relating to sales locations), the
5 application shall be submitted with a nonrefundable
6 application fee of \$2,500.

7 (ii) (Reserved).

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

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

14 (1) \$7,500 for a location up to 10,000 square feet;

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

17 (3) \$20,000 for a location greater than 15,000 square
18 feet.

19 (c) Time limitations and inspections.--

20 (1) A facility meeting the requirements of section 907
21 (relating to sales locations) shall be inspected by the
22 Department of Agriculture within 30 days of receipt of a
23 complete application for a license. The Department of
24 Agriculture shall issue or deny a license within 14 days of
25 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 payment of the appropriate annual license fee
2 under subsection (b), but each facility shall be subject to
3 annual inspections by the Department of Agriculture and at other
4 times as the department may deem appropriate.

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

8 § 909. Conditions for facilities.

9 A facility licensed by the Department of Agriculture under
10 section 908 (relating to fees, granting of licenses and
11 inspections) shall be exclusively dedicated to the storage and
12 sale of consumer fireworks and related items, and the facility
13 shall operate in accordance with the following rules:

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

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

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

21 (4) No minors shall be permitted in the facility unless
22 accompanied by an adult, and each minor shall stay with the
23 adult in the facility.

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

26 (6) A licensee shall provide its employees with
27 documented training in the area of operational safety of a
28 facility. The licensee shall provide to the Department of
29 Agriculture written documentation that each employee has
30 received the training.

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

4 (8) No person who appears to be under the influence of
5 intoxicating liquor or drugs shall be admitted to the
6 facility, and no liquor, beer or wine shall be permitted in
7 the facility.

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

10 (10) Written notice shall be conspicuously posted or
11 provided with each purchase of consumer fireworks that
12 provides the conditions and prohibitions for use of consumer
13 fireworks under section 904 (relating to use of consumer
14 fireworks), and that additional conditions, prohibitions and
15 limitations may be implemented by a municipality.

16 § 910. (Reserved).

17 § 911. Attorney General.

18 An entity which performs, provides or supervises fireworks
19 displays or exhibitions for profit shall register annually with
20 the Attorney General in accordance with 37 Pa. Code Ch. 711
21 (relating to registration for fireworks displays).

22 § 912. Consumer fireworks tax.

23 (a) Imposition.--In addition to any other tax imposed by
24 law, a tax is imposed on each separate sale at retail of
25 consumer fireworks, which tax shall be collected by the retailer
26 from the purchaser at the time of sale and shall be paid over to
27 the Commonwealth as provided in this section. A tax imposed
28 under this subsection on each separate sale at retail shall be
29 paid to and received by the Department of Revenue and, along
30 with interest and penalties, shall be deposited into the General

1 Fund.

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

6 (c) Collection and administration.--The provisions of Part
7 VI of Article II of the Tax Reform Code shall apply to the tax
8 authorized under subsection (a). No additional fee shall be
9 charged for a license or license renewal other than the license
10 or annual license fee required under section 908 (relating to
11 fees, granting of licenses and inspections) and the license or
12 renewal fee authorized and imposed under Article II of the Tax
13 Reform Code.

14 § 913. Disposition of certain funds.

15 (a) Transfer.--One-sixth of the tax collected under this
16 chapter in a fiscal year, not to exceed \$2,000,000, shall be
17 transferred annually for use as follows:

18 (1) Seventy-five percent of the amount transferred under
19 this subsection shall be used for the purpose of making
20 grants under 35 Pa.C.S. Ch. 78 Subch. C (relating to
21 Emergency Medical Services Grant Program).

22 (2) Twenty-five percent of the amount transferred under
23 this subsection shall be deposited into a special account in
24 the State Treasury designated as the Online Training Educator
25 and Training Reimbursement Account for the purposes of
26 developing, delivering and sustaining training programs for
27 volunteer firefighters in this Commonwealth.

28 (3) The Office of the State Fire Commissioner shall
29 establish guidelines for use of the money deposited under
30 paragraph (2). By December 31, 2018, and each December 31

1 thereafter, the Office of the State Fire Commissioner shall
2 provide a written report detailing the use of the money
3 received from the prior fiscal year to the chairperson and
4 minority chairperson of the Agriculture and Rural Affairs
5 Committee of the Senate, the chairperson and minority
6 chairperson of the Veterans Affairs and Emergency
7 Preparedness Committee of the Senate, the chairperson and
8 minority chairperson of the Agriculture and Rural Affairs
9 Committee of the House of Representatives and the Veterans
10 Affairs and Emergency Preparedness Committee of the House of
11 Representatives.

12 (b) Payments.--The transfer required under subsection (a)
13 shall be made by September 15, 2018, and each September 15
14 thereafter.

15 § 914. Penalties.

16 The following shall apply:

17 (1) A person using consumer fireworks in violation of
18 the provisions of this chapter for the first offense commits
19 a summary offense and, upon conviction, shall, in addition to
20 any other penalty authorized by law, be punishable by a fine
21 of not less than \$100. A subsequent offense under this
22 paragraph committed within one year of a prior conviction
23 under this paragraph shall constitute a misdemeanor of the
24 third degree and, upon conviction, shall, in addition to any
25 other penalty authorized by law, be punishable by a fine of
26 not less than \$500.

27 (2) A person selling consumer fireworks in violation of
28 the provisions of this chapter for the first offense commits
29 a misdemeanor of the second degree and, upon conviction,
30 shall, in addition to any other penalty authorized by law, be

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

7 (3) A person selling display fireworks in violation of
8 the provisions of this chapter for the first offense commits
9 a felony of the third degree and, upon conviction, shall, in
10 addition to any other penalty authorized by law, be
11 punishable by a fine of not less than \$10,000. A subsequent
12 offense under this paragraph committed within one year of a
13 prior conviction under this paragraph shall constitute a
14 felony of the second degree and, upon conviction, shall, in
15 addition to any other penalty authorized by law, be
16 punishable by a fine of not less than \$15,000.

17 (4) A person selling federally illegal explosives such
18 as devices as described in 49 CFR 173.54 (relating to
19 forbidden explosives) or those devices that have not been
20 tested, approved and labeled by the United States Department
21 of Transportation, including, but not limited to, those
22 devices commonly referred to as M-80, M-100, blockbuster,
23 cherry bomb or quarter or half stick explosive devices, in
24 violation of the provisions of this chapter for the first
25 offense commits a felony of the third degree and, upon
26 conviction, shall, in addition to any other penalty
27 authorized by law, be punishable by a fine of not less than
28 \$10,000. A subsequent offense under this paragraph committed
29 within one year of a prior conviction under this paragraph
30 shall constitute a felony of the second degree and, upon

1 conviction, shall, in addition to any other penalty
2 authorized by law, be punishable by a fine of not less than
3 \$15,000.

4 § 915. Removal, storage and destruction.

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

15 Section 2. Repeals are as follows:

16 (1) The General Assembly declares that the repeal under
17 paragraph (2) is necessary to effectuate the addition of 3
18 Pa.C.S. Ch 9.

19 (2) The Article XXIV of the act of March 4, 1971 (P.L.6,
20 No.2), known as the Tax Reform Code of 1971, is repealed.

21 Section 3. The addition of 3 Pa.C.S. Ch 9 is a continuation
22 of Article XXIV of the act of March 4, 1971 (P.L.6, No.2), known
23 as the Tax Reform Code of 1971. Except as otherwise provided in
24 3 Pa.C.S. Ch 9, all activities initiated under Article XXIV of
25 the Tax Reform Code of 1971 shall continue and remain in full
26 force and effect and may be completed under 3 Pa.C.S. Ch 9.
27 Orders, regulations, rules and decisions which were made under
28 Article XXIV of the Tax Reform Code of 1971 and which are in
29 effect on the effective date of section 2 of this act shall
30 remain in full force and effect until revoked, vacated or

1 modified under 3 Pa.C.S. Ch 9. Contracts, obligations and
2 collective bargaining agreements entered into under Article XXIV
3 of the Tax Reform Code of 1971 are not affected nor impaired by
4 the repeal of Article XXIV of the Tax Reform Code of 1971.

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