

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1227 Session of
2020

INTRODUCED BY SCHWANK, STREET, COLLETT, TARTAGLIONE, MUTH,
DINNIMAN AND IOVINO, JULY 13, 2020

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JULY 13, 2020

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," repealing provisions relating to fireworks.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Article XXIV of the act of March 4, 1971 (P.L.6,
14 No.2), known as the Tax Reform Code of 1971, is repealed:

15 [ARTICLE XXIV

16 FIREWORKS

17 Section 2401. Definitions.

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

21 "APA 87-1." The American Pyrotechnics Association Standard
22 87-1: Standard for Construction and Approval for Transportation

1 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001
2 edition, or any subsequent edition.

3 "Consumer fireworks."

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

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

20 "Display fireworks." Large fireworks to be used solely by
21 professional pyrotechnicians and designed primarily to produce
22 visible or audible effects by combustion, deflagration or
23 detonation. The term includes, but is not limited to:

24 (1) salutes that contain more than two grains or 130
25 milligrams of explosive materials;

26 (2) aerial shells containing more than 60 grams of
27 pyrotechnic compositions; and

28 (3) other display pieces that exceed the limits of
29 explosive materials for classification as consumer fireworks
30 and are classified as fireworks UN0333, UN0334 or UN0335

1 under 49 CFR 172.101 (relating to purpose and use of
2 hazardous materials table).

3 "Municipality." A city, borough, incorporated town or
4 township.

5 "NFPA 1124." The National Fire Protection Association
6 Standard 1124, Code for the Manufacture, Transportation, and
7 Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or
8 any subsequent edition.

9 "Occupied structure." A structure, vehicle or place adapted
10 for overnight accommodation of persons or for conducting
11 business whether or not a person is actually present.

12 "Outdoor storage unit." A consumer fireworks building,
13 trailer, semitrailer, metal shipping container or magazine
14 meeting the specifications of NFPA 1124.

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

24 Section 2402. Permits.

25 (a) Permissible purposes.--Display fireworks may be
26 possessed and used by a person holding a permit from a
27 municipality at the display covered by the permit or when used
28 as authorized by a permit for any of the following:

29 (1) For agricultural purposes in connection with the
30 raising of crops and the protection of crops from bird and

1 animal damage.

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

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

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

8 (5) For signal or ceremonial purposes in athletics or
9 sports.

10 (6) By military organizations or organizations composed
11 of veterans of the armed forces of the United States.

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

14 (c) Bond.--The governing body of the municipality shall
15 require a bond deemed adequate by it from the permittee in a sum
16 not less than \$50,000 conditioned for the payment of all damages
17 which may be caused to a person or property by reason of the
18 display and arising from an act of the permittee or an agent, an
19 employee or a subcontractor of the permittee.

20 Section 2403. Request for extension.

21 (a) Authorization.--If, because of unfavorable weather, the
22 display for which a permit has been granted does not occur at
23 the time authorized by the permit, the person to whom the permit
24 was issued may within 24 hours apply for a request for extension
25 to the municipality which granted the permit.

26 (b) Contents of request.--The request for extension shall
27 state under oath that the display was not made, provide the
28 reason that the display was not made and request a continuance
29 of the permit for a date designated within the request, which
30 shall be not later than one week after the date originally

1 designated in the permit.

2 (c) Determination.--Upon receiving the request for
3 extension, the municipality, if it believes that the facts
4 stated within the request are true, shall extend the provisions
5 of the permit to the date designated within the request, which
6 shall be not later than one week after the date originally
7 designated in the permit.

8 (d) Conditions.--The extension of time shall be granted
9 without the payment of an additional fee and without requiring a
10 bond other than the bond given for the original permit, the
11 provisions of which shall extend to and cover all damages which
12 may be caused by reason of the display occurring at the extended
13 date and in the same manner and to the same extent as if the
14 display had occurred at the date originally designated in the
15 permit.

16 Section 2404. Use of consumer fireworks.

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

20 (b) Prohibitions.--A person may not intentionally ignite or
21 discharge:

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

24 (2) Consumer fireworks or sparkling devices within, or
25 throw consumer fireworks or sparkling devices from, a motor
26 vehicle or building.

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

29 (4) Consumer fireworks or sparkling devices while the
30 person is under the influence of alcohol, a controlled

1 substance or another drug.

2 (5) Consumer fireworks within 150 feet of an occupied
3 structure.

4 Section 2404.1. Use of display fireworks.

5 No display fireworks shall be ignited within 300 feet of a
6 facility that meets the requirements of section 2407 or 2410.

7 Section 2405. Agricultural purposes.

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

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

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

19 Section 2406. Rules and regulations by municipality.

20 (a) Authorization.--Permission shall be given by the
21 governing body of a municipality under reasonable rules and
22 regulations for displays of display fireworks to be held within
23 the municipality.

24 (b) Conditions.--

25 (1) Each display shall be:

26 (i) handled by a competent operator; and

27 (ii) of a character and so located, discharged or
28 fired as, in the opinion of the chief of the fire
29 department or other appropriate officer as may be
30 designated by the governing body of the municipality,

1 after proper inspection, to not be hazardous to property
2 or endanger any person.

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

6 (3) A permit shall be transferable.

7 Section 2407. Sales locations.

8 Except as provided in section 2410, consumer fireworks shall
9 be sold only from facilities which are licensed by the
10 Department of Agriculture and that meet the following criteria:

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

14 (2) The facility shall be a stand-alone, permanent
15 structure.

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

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

22 (5) The facility shall be located at least 1,500 feet
23 from another facility licensed to sell consumer fireworks.

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

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

28 Section 2408. 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 2407, the application shall be submitted with a
6 nonrefundable application fee of \$2,500.

7 (ii) For a facility meeting the requirements of
8 section 2410, the application shall be submitted with a
9 nonrefundable application fee of \$1,000 no later than 60
10 days prior to the first day of sale.

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

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

17 (1) \$7,500 for a location up to 10,000 square feet;

18 (2) \$10,000 for a location greater than 10,000 and up to
19 15,000 square feet;

20 (3) \$20,000 for a location greater than 15,000 square
21 feet; and

22 (4) \$3,000 for a temporary structure.

23 (c) Time limitations and inspections.--

24 (1) A facility meeting the requirements of section 2407
25 shall be inspected by the Department of Agriculture within 30
26 days of receipt of a complete application for a license. The
27 Department of Agriculture shall issue or deny a license
28 within 14 days of completing the inspection.

29 (2) The Department of Agriculture shall issue or deny a
30 license for a facility meeting the requirements of section

1 2410 no later than 10 days prior to the first day of sale.

2 The facility shall be available for inspection by the
3 Department of Agriculture for compliance with NFPA 1124 at
4 all times during the licensed selling period.

5 (d) Term of license.--A license issued for the sale of
6 consumer fireworks shall be effective for one year from the date
7 the license is issued.

8 (e) License renewal and inspections.--License renewal shall
9 be automatic upon payment of the appropriate annual license fee
10 under subsection (b), but each facility shall be subject to
11 annual inspections by the Department of Agriculture and at other
12 times as the department may deem appropriate.

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

16 Section 2409. Conditions for facilities.

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

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

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

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

28 (4) No minors shall be permitted in the facility unless
29 accompanied by an adult, and each minor shall stay with the
30 adult in the facility.

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

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

8 (7) No display fireworks shall be stored or located at a
9 facility.

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

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

16 Section 2410. Temporary structures.

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

21 (1) The temporary structure is located no closer than
22 250 feet from a facility storing, selling or dispensing
23 gasoline, propane or other flammable products.

24 (2) An evacuation plan is posted in a conspicuous
25 location for a temporary structure in accordance with NFPA
26 1124.

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

30 (4) The temporary structure complies with NFPA 1124 as

1 it relates to retail sales of consumer fireworks in temporary
2 structures.

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

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

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

10 (6) The temporary structure does not exceed 2,500 square
11 feet.

12 (7) The temporary structure is secured at all times
13 during which consumer fireworks are displayed within the
14 structure.

15 (8) The temporary structure has a minimum of \$2,000,000
16 in public and product liability insurance.

17 (9) The sales period is limited to June 15 through July
18 8 and December 21 through January 2 of each year.

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

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

23 (1) Helicopter, Aerial Spinner (APA 87-1, 3.1.2.3).

24 (2) Roman Candle (APA 87-1, 3.1.2.4).

25 (3) Mine and shell devices not exceeding 500 grams.

26 Section 2411. Attorney General.

27 (a) Registration.--Any business entity which performs,
28 provides or supervises fireworks displays or exhibitions for
29 profit shall register annually with the Attorney General.

30 (b) Rules.--The Attorney General shall promulgate rules to

1 implement this section.

2 Section 2412. Consumer fireworks tax.

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

12 (b) Rate.--The tax authorized under subsection (a) shall be
13 imposed and collected at the rate of 12% of the purchase price
14 per item sold. The purchase price shall include State and local
15 sales taxes.

16 (c) Collection and administration.--The provisions of Part
17 VI of Article II shall apply to the tax authorized under
18 subsection (a). No additional fee shall be charged for a license
19 or license renewal other than the license or annual license fee
20 required under section 2408 and the license or renewal fee
21 authorized and imposed under Article II.

22 Section 2413. Disposition of certain funds.

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

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

30 (2) Twenty-five percent of the amount transferred under

1 this subsection shall be deposited into a special account in
2 the State Treasury designated as the Online Training Educator
3 and Training Reimbursement Account for the purposes of
4 developing, delivering and sustaining training programs for
5 volunteer firefighters in this Commonwealth.

6 (b) Payments.--The transfer required under subsection (a)
7 shall be made by September 15, 2018, and each September 15
8 thereafter.

9 Section 2414. Penalties.

10 The following shall apply:

11 (1) A person using consumer fireworks in violation of
12 the provisions of this article commits a summary offense and,
13 upon conviction, shall be punished by a fine of not more than
14 \$100.

15 (2) A person selling consumer fireworks in violation of
16 the provisions of this act commits a misdemeanor of the
17 second degree.

18 (3) A person selling display fireworks in violation of
19 the provisions of this act commits a felony of the third
20 degree.

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

30 Section 2415. Removal, storage and destruction.

1 The Pennsylvania State Police, a sheriff or police officer
2 shall take, remove or cause to be removed at the expense of the
3 owner all stocks of consumer fireworks or display fireworks or
4 combustibles offered or exposed for sale, stored or held in
5 violation of this article. The owner shall also be responsible
6 for the storage and, if deemed necessary, the destruction of
7 these fireworks.

8 Section 2416. Transition.

9 A person who, on the effective date of this section, holds a
10 license under the former act of May 15, 1939 (P.L.134, No.65),
11 referred to as the Fireworks Law, may continue the activity
12 permitted by the license for a period of 90 days following the
13 effective date of this section or the date the license expires
14 by the terms of the license, whichever is sooner. After the
15 expiration of the 90-day period or the license, whichever is
16 sooner, the person must obtain the license required under this
17 article to continue the permitted activity, if applicable.]

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