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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2157 Session of  
2021

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INTRODUCED BY FARRY, HELM, POLINCHOCK, SCHLOSSBERG, LEWIS  
DELROSSO, KINSEY, EMRICK, HEFFLEY, STAATS, SAPPEY,  
HOHENSTEIN, PICKETT, McNEILL, MENTZER, SCHROEDER, PASHINSKI,  
DRISCOLL, O'MARA, DEASY, NEILSON, CIRESI, LAWRENCE AND  
GILLEN, DECEMBER 13, 2021

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
DECEMBER 13, 2021

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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 11

9 FIREWORKS

10 Sec.

11 1101. Definitions.

12 1102. Use of display fireworks.

13 1103. Request for extension.

14 1104. Use of consumer fireworks.

15 1105. Agricultural purposes.

16 1106. Rules and regulations by municipality.

- 1 1107. Sales locations.
- 2 1108. Fees, granting of licenses and inspections.
- 3 1109. Conditions for facilities.
- 4 1110. (Reserved).
- 5 1111. Attorney General.
- 6 1112. Consumer fireworks tax.
- 7 1113. Disposition of certain funds.
- 8 1114. Penalties.
- 9 1115. Removal, storage and destruction.

10 § 1101. Definitions.

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

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

18 "Consumer fireworks."

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

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

1 and hand-held sparkling devices," "novelties" or "toy caps"  
2 in 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 § 1102. 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 1107 (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 § 1103. 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 § 1104. 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 § 1105. 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 § 1106. 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 1104(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 § 1107. 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 § 1108. 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 1107 (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 1107  
21 shall be inspected by the Department of Agriculture within 30  
22 days of receipt of a complete application for a license. The  
23 Department of Agriculture shall issue or deny a license  
24 within 14 days of completing the inspection.

25 (2) (Reserved).

26 (d) Term of license.--A license issued for the sale of  
27 consumer fireworks shall be effective for one year from the date  
28 the license is issued.

29 (e) License renewal and inspections.--License renewal shall  
30 be automatic upon payment of the appropriate annual license fee



1 under subsection (b), but each facility shall be subject to  
2 annual inspections by the Department of Agriculture and at other  
3 times as the department may deem appropriate.

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

7 § 1109. Conditions for facilities.

8 A facility licensed by the Department of Agriculture under  
9 section 1108 (relating to fees, granting of licenses and  
10 inspections) shall be exclusively dedicated to the storage and  
11 sale of consumer fireworks and related items, and the facility  
12 shall operate in accordance with the following rules:

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

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

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

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

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

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

30 (7) No display fireworks or federally illegal explosives

1 under 49 CFR 173.54 (relating to forbidden explosives) shall  
2 be stored or located at a facility.

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

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

9 (10) Written notice shall be conspicuously posted or  
10 provided with each purchase of consumer fireworks that  
11 provides the conditions and prohibitions for use of consumer  
12 fireworks under section 1104 (relating to use of consumer  
13 fireworks), and that additional conditions, prohibitions and  
14 limitations may be implemented by a municipality.

15 § 1110. (Reserved).

16 § 1111. Attorney General.

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

21 § 1112. Consumer fireworks tax.

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

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

5 (c) Collection and administration.--The provisions of Part  
6 VI of Article II of the Tax Reform Code shall apply to the tax  
7 authorized under subsection (a). No additional fee shall be  
8 charged for a license or license renewal other than the license  
9 or annual license fee required under section 1108 (relating to  
10 fees, granting of licenses and inspections) and the license or  
11 renewal fee authorized and imposed under Article II of the Tax  
12 Reform Code.

13 § 1113. Disposition of certain funds.

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

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

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

27 (3) The Office of the State Fire Commissioner shall  
28 establish guidelines for use of the money deposited under  
29 paragraph (2). By December 31, 2022, and each December 31  
30 thereafter, the Office of the State Fire Commissioner shall

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

11 (b) Payments.--The transfer required under subsection (a)  
12 shall be made by September 15, 2022, and each September 15  
13 thereafter.

14 § 1114. Penalties.

15 The following shall apply:

16 (1) A person using consumer fireworks in violation of  
17 the provisions of this chapter for the first offense commits  
18 a summary offense and, upon conviction, shall, in addition to  
19 any other penalty authorized by law, be punishable by a fine  
20 of not less than \$500. A subsequent offense under this  
21 paragraph committed within three years of a prior conviction  
22 under this paragraph shall constitute a misdemeanor of the  
23 third degree and, upon conviction, shall, in addition to any  
24 other penalty authorized by law, be punishable by a fine of  
25 not less than \$1,000.

26 (2) A person selling consumer fireworks in violation of  
27 the provisions of this chapter for the first offense commits  
28 a misdemeanor of the second degree and, upon conviction,  
29 shall, in addition to any other penalty authorized by law, be  
30 punishable by a fine of not less than \$5,000. A subsequent

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

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

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

1 authorized by law, be punishable by a fine of not less than  
2 \$15,000.

3 § 1115. Removal, storage and destruction.

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

14 Section 2. Repeals are as follows:

15 (1) The General Assembly declares that the repeal under  
16 paragraph (2) is necessary to effectuate the addition of 3  
17 Pa.C.S. Ch 11.

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

20 Section 3. The addition of 3 Pa.C.S. Ch 11 is a continuation  
21 of Article XXIV of the act of March 4, 1971 (P.L.6, No.2), known  
22 as the Tax Reform Code of 1971. Except as otherwise provided in  
23 3 Pa.C.S. Ch 11, all activities initiated under Article XXIV of  
24 the Tax Reform Code of 1971 shall continue and remain in full  
25 force and effect and may be completed under 3 Pa.C.S. Ch 11.  
26 Orders, regulations, rules and decisions which were made under  
27 Article XXIV of the Tax Reform Code of 1971 and which are in  
28 effect on the effective date of section 2 of this act shall  
29 remain in full force and effect until revoked, vacated or  
30 modified under 3 Pa.C.S. Ch 11. Contracts, obligations and

1 collective bargaining agreements entered into under Article XXIV  
2 of the Tax Reform Code of 1971 are not affected nor impaired by  
3 the repeal of Article XXIV of the Tax Reform Code of 1971.

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