
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 825 Session of
2021

INTRODUCED BY TOMLINSON, MARTIN, SCAVELLO, COLLETT, PHILLIPS-
HILL, BAKER, BROWNE, AUMENT, COMITTA AND CAPPELLETTI,
JULY 20, 2021

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JULY 20, 2021

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.

17 1107. Sales locations.

18 1108. Fees, granting of licenses and inspections.

- 1 1109. Conditions for facilities.
- 2 1110. (Reserved).
- 3 1111. Attorney General.
- 4 1112. Consumer fireworks tax.
- 5 1113. Disposition of certain funds.
- 6 1114. Penalties.
- 7 1115. Removal, storage and destruction.
- 8 § 1101. Definitions.

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

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

16 "Consumer fireworks."

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

28 (2) The term does not include devices such as "ground
29 and hand-held sparkling devices," "novelties" or "toy caps"
30 in APA 87-1, the sale, possession and use of which shall be

1 permitted at all times throughout this Commonwealth.

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

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

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

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

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

18 § 1102. Use of display fireworks.

19 (a) Prohibition.--No display fireworks shall be ignited
20 within 300 feet of a facility that meets the requirements of
21 section 1107 (relating to sales locations).

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

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

29 (1) handled by a competent operator at least 21 years of
30 age; and

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

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

12 § 1103. Request for extension.

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

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

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

27 (d) Conditions.--The extension of time shall be granted
28 without the payment of an additional fee and without requiring a
29 bond other than the bond given for the original permit, the
30 provisions of which shall extend to and cover all damages which

1 may be caused by reason of the fireworks display occurring at
2 the extended date and in the same manner and to the same extent
3 as if the display had occurred at the date originally designated
4 in the permit.

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

7 § 1104. Use of consumer fireworks.

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

10 (b) Prohibitions.--A person may not intentionally use
11 consumer fireworks:

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

14 (2) Within, directed at or directed from a vehicle or
15 building.

16 (3) Directed at another person.

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

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

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

21 except:

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

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

29 § 1105. Agricultural purposes.

30 (a) Authorization.--The governing body of a municipality

1 may, under reasonable rules and regulations adopted by it, grant
2 permits for the use of display fireworks for agricultural
3 purposes in connection with the raising of crops and the
4 protection of crops from bird and animal damage.

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

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

11 § 1106. Rules and regulations by municipality.

12 (a) Authorization.--

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

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

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

24 (1) The days listed in section 1104(b)(6) (relating to
25 use of consumer fireworks).

26 (2) Memorial Day, including the immediately preceding
27 Saturday and Sunday.

28 (3) Labor Day, including the immediately preceding
29 Saturday and Sunday.

30 § 1107. Sales locations.

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

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

7 (2) The facility shall be a stand-alone, permanent
8 structure.

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

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

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

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

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

23 (8) The facility shall comply with the requirements of
24 NFPA 1124.

25 § 1108. Fees, granting of licenses and inspections.

26 (a) Initial application fees.--

27 (1) An initial application for a license to sell
28 consumer fireworks shall be submitted to the Department of
29 Agriculture on forms prescribed and provided by the
30 department with a nonrefundable application fee as follows:

1 (i) For a facility meeting the requirements of
2 section 1107 (relating to sales locations), the
3 application shall be submitted with a nonrefundable
4 application fee of \$2,500.

5 (ii) (Reserved).

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

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

12 (1) \$7,500 for a location up to 10,000 square feet;

13 (2) \$10,000 for a location greater than 10,000 and up to
14 15,000 square feet; and

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

17 (c) Time limitations and inspections.--

18 (1) A facility meeting the requirements of section 1107
19 shall be inspected by the Department of Agriculture within 30
20 days of receipt of a complete application for a license. The
21 Department of Agriculture shall issue or deny a license
22 within 14 days of completing the inspection.

23 (2) (Reserved).

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

27 (e) License renewal and inspections.--License renewal shall
28 be automatic upon payment of the appropriate annual license fee
29 under subsection (b), but each facility shall be subject to
30 annual inspections by the Department of Agriculture and at other

1 times as the department may deem appropriate.

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

5 § 1109. Conditions for facilities.

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

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

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

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

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

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

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

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

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

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

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

13 § 1110. (Reserved).

14 § 1111. Attorney General.

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

19 § 1112. Consumer fireworks tax.

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

29 (b) Rate.--The tax authorized under subsection (a) shall be
30 imposed and collected at the rate of 12% of the purchase price

1 per item sold. The purchase price shall not include State and
2 local sales taxes.

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

11 § 1113. Disposition of certain funds.

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

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

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

25 (3) The Office of the State Fire Commissioner shall
26 establish guidelines for use of the money deposited under
27 paragraph (2). By December 31, 2022, and each December 31
28 thereafter, the Office of the State Fire Commissioner shall
29 provide a written report detailing the use of the money
30 received from the prior fiscal year to the chairperson and

1 minority chairperson of the Agriculture and Rural Affairs
2 Committee of the Senate, the chairperson and minority
3 chairperson of the Agriculture and Rural Affairs Committee of
4 the House of Representatives, the chairperson and minority
5 chairperson of the Veterans Affairs and Emergency
6 Preparedness Committee of the Senate and the chairperson and
7 minority chairperson of the Veterans Affairs and Emergency
8 Preparedness Committee of the House of Representatives.

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

12 § 1114. Penalties.

13 The following shall apply:

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

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

1 misdemeanor of the first degree and, upon conviction, in
2 addition to any other penalty authorized by law, shall be
3 punishable by a fine of not less than \$10,000.

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

14 (4) A person selling federally illegal explosives such
15 as devices as described in 49 CFR 173.54 (relating to
16 forbidden explosives) or those devices that have not been
17 tested, approved and labeled by the United States Department
18 of Transportation, including, but not limited to, those
19 devices commonly referred to as M-80, M-100, blockbuster,
20 cherry bomb or quarter-stick or half-stick explosive devices,
21 in violation of the provisions of this chapter for the first
22 offense commits a felony of the third degree and, upon
23 conviction, shall, in addition to any other penalty
24 authorized by law, be punishable by a fine of not less than
25 \$10,000. A subsequent offense under this paragraph committed
26 within one year of a prior conviction under this paragraph
27 shall constitute a felony of the second degree and, upon
28 conviction, shall, in addition to any other penalty
29 authorized by law, be punishable by a fine of not less than
30 \$15,000.

1 § 1115. Removal, storage and destruction.

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

12 Section 2. Repeals are as follows:

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

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

18 Section 3. The addition of 3 Pa.C.S. Ch 11 is a continuation
19 of Article XXIV of the act of March 4, 1971 (P.L.6, No.2), known
20 as the Tax Reform Code of 1971. Except as otherwise provided in
21 3 Pa.C.S. Ch 11, all activities initiated under Article XXIV of
22 the Tax Reform Code of 1971 shall continue and remain in full
23 force and effect and may be completed under 3 Pa.C.S. Ch 11.
24 Orders, regulations, rules and decisions which were made under
25 Article XXIV of the Tax Reform Code of 1971 and which are in
26 effect on the effective date of section 2 of this act shall
27 remain in full force and effect until revoked, vacated or
28 modified under 3 Pa.C.S. Ch 11. Contracts, obligations and
29 collective bargaining agreements entered into under Article XXIV
30 of the Tax Reform Code of 1971 are not affected nor impaired by

1 the repeal of Article XXIV of the Tax Reform Code of 1971.

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