

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
AGRICULTURE AND RURAL AFFAIRS COMMITTEE

MAIN CAPITOL BUILDING  
ROOM 140  
HARRISBURG, PENNSYLVANIA

PUBLIC HEARING  
HOUSE BILL 1687  
FIREWORKS LAW

TUESDAY, SEPTEMBER 24, 2014  
9:04 A.M.

BEFORE:

HONORABLE MARTIN CAUSER, MAJORITY CHAIRMAN  
HONORABLE RUSS DIAMOND  
HONORABLE MINDY FEE  
HONORABLE MARCIA HAHN  
HONORABLE RICHARD IRVIN  
HONORABLE MARK KELLER  
HONORABLE JOHN LAWRENCE  
HONORABLE DAVID MILLARD  
HONORABLE MARCI MUSTELLO  
HONORABLE CLINT OWLETT  
HONORABLE DAVID ZIMMERMAN  
HONORABLE EDDIE DAY PASHINSKI, MINORITY  
CHAIRMAN

HONORABLE DANILO BURGOS  
HONORABLE BRIDGET KOSIEROWSKI  
HONORABLE MAUREEN MADDEN  
HONORABLE CHRISTINA SAPPEY  
HONORABLE PAM SNYDER

ALSO PRESENT:

HONORABLE FRANK FARRY

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## SUBMITTED WRITTEN TESTIMONY

\* \* \*

(See submitted written testimony and handouts  
online.)

## P R O C E E D I N G S

MAJORITY CHAIRMAN CAUSER: Good morning, everyone. I'd like to call this meeting of the House Agriculture and Rural Affairs Committee to order and ask you to join me in the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MAJORITY CHAIRMAN CAUSER: Welcome, everyone.

Today's meeting is a public hearing on House Bill 1687, sponsored by our colleague, Representative Frank Farry.

I'm going to first turn to Representative Farry and thank him for being here with us and offer him the opportunity for brief comments.

REPRESENTATIVE FARRY: Thank you, Chairman.

I realize that the diversity of Pennsylvania in terms of our more rural, suburban, and urban areas may leave some folks wondering, you know, why this is necessary.

I will tell you this. As we may remember, the fireworks law was in the tax

1 code. It wasn't a free-standing bill that  
2 went through a legislative process. It was  
3 just dropped into the tax code, which now some  
4 of us are regretting.

5 The number one issue that we face in  
6 July in my area in terms of complaints from  
7 constituents is about the usage of fireworks.  
8 My district is such that there's very few  
9 areas where the residents have to shoot  
10 fireworks. Under current law, there has to be  
11 one hundred fifty feet from occupied  
12 structures, so, really, that's a three  
13 hundred-foot area. Our municipalities are  
14 overwhelmed with the complaints. Our law  
15 enforcement did not have the resources to  
16 monitor and oversee the situation. And,  
17 obviously, our fire and EMS providers have to  
18 deal with the ramifications of the structure  
19 fires and the injuries.

20 The SR 6 Commission, which I had the  
21 honor of serving on, actually included  
22 reforming the fireworks law as one of their  
23 twenty-seven recommendations. The preference  
24 of that commission was to repeal the fireworks  
25 law. I realize that that's not going to be

1        what happens. But I think there's some common  
2        sense things we can do to give our local  
3        government a little more control over the  
4        situation.

5                Right now, there's no time limit as  
6        to when fireworks can be shot. So, they can  
7        be shot at 2 o'clock in the morning every day  
8        by your neighbors, which I'm sure you would  
9        find quite aggravating. It's impactful on  
10       people that have pets, veterans, seniors. I  
11       have a 10-month old at home. And trust me,  
12       when my wife puts him to bed and the neighbor  
13       start shooting fireworks off, my wife's not  
14       very happy with that neighbor.

15               At the same time, those people that  
16       are legally shooting fireworks should have the  
17       opportunity to do that.

18               So, I think we can find a balance  
19       here. The bill, as drafted, limits the times  
20       which fireworks can be shot, increases the  
21       penalties for subsequent offenses, ensures  
22       that when fireworks are purchased, the  
23       information relating to how they can legally  
24       be shot is prominently displayed at the  
25       checkout counter.

1           There needs to be a few other things  
2       done with this bill. This was a test bulletin  
3       that we floated to get feedback, and we're  
4       going to get a tremendous amount of feedback  
5       today. I've gotten feedback from municipal  
6       folks and law enforcement that they would like  
7       to see the initial penalty, which is a hundred  
8       dollars, increased. I think that makes sense.  
9       And I think the money should go directly to  
10      our municipality to help fund police overtime.

11           Additionally, the 12 percent tax on  
12      fireworks, 2 percent of that goes to our first  
13      responder community, 10 percent of that goes  
14      to the general fund. The numbers Revenue gave  
15      me were 7.7 million dollars last year went to  
16      the general fund -- or last budget season. I,  
17      quite frankly, think that money should be  
18      repurposed. I think it should be repurposed  
19      to go to our EMS providers, our career fire  
20      departments, and our rural fire departments.  
21      I think we can establish grant programs and  
22      take that money to help those folks in the  
23      first responder community.

24           I also think we should probably do  
25      some sort of public safety awareness program



1       so people understand the dangers of fireworks.  
2       We've had some minors injured and some minors  
3       killed through the use of fireworks, which,  
4       obviously, they should never have access to.

5               So, Chairman, you're not here to hear  
6       from me; you're here to hear from the  
7       testifiers. But I appreciate the opportunity  
8       and the opportunity for this bill to go  
9       through this process. And I look forward to  
10      it moving through the legislative process in  
11      the near future.

12             Thank you.

13             MAJORITY CHAIRMAN CAUSER: Thank you,  
14      Representative Farry.

15             We're certainly looking forward to  
16      the information presented today. We have an  
17      impressive list of testifiers, so we'll move  
18      forward with the testimony.

19             I also do want to say that there are  
20      numerous committee meetings going on in the  
21      building, so you'll see members coming and  
22      going this morning with all the meetings that  
23      are happening, but many have assured me that  
24      they'll return after their meeting. So, it's  
25      great to have everybody here.

1                   Our first panel is the Pennsylvania  
2                   Department of Agriculture, Mr. Walter Remmert,  
3                   the director of the Bureau of Weights and  
4                   Measures at the department, and Dwight-Jared  
5                   Smith, the assistant counsel.

6                   Welcome, gentlemen, and you may  
7                   proceed.

8                   MR. REMMERT:   Good morning,  
9                   Mr. Chairman, Mr. Chairman.

10                  Yes, I need reading glasses.

11                  MAJORITY CHAIRMAN CAUSER:  Is the  
12                  microphone on?

13                  MR. REMMERT:  I believe so.  Can you  
14                  hear me better?

15                  MAJORITY CHAIRMAN CAUSER:  You may  
16                  want to pull it closer.

17                  MR. REMMERT:  Better?

18                  MAJORITY CHAIRMAN CAUSER:  Better.

19                  MR. REMMERT:  Perfect.

20                  Good morning, Mr. Chairman, Chairman  
21                  Causer, Chairman Pashinski, and distinguished  
22                  members of the House Agriculture and Rural  
23                  Affairs Committee.

24                  Thank you for the invitation to  
25                  discuss House Bill 1687 today.  As the

1 chairman said, I am Walt Remmert. I'm the  
2 bureau director for the Bureau of Ride and  
3 Measurement Standards at the Department of  
4 Agriculture. And to my right here with me  
5 today is assistant counsel Dwight Smith.

6 The Pennsylvania Department of  
7 Agriculture is committed to consumer  
8 protection and in upholding the standards set  
9 forward in the fireworks law. The  
10 Department's regulatory role is solely as a  
11 licensing agent for consumer-grade fireworks  
12 facilities.

13 Consumer-grade fireworks are  
14 typically fireworks that fly in the air,  
15 self-propelled, such as bottle rockets and  
16 mortars, explode, such as firecrackers, or  
17 both. The primary difference between  
18 consumer-grade fireworks and other grades of  
19 fireworks is the maximum amount of pyrotechnic  
20 composition allowed to be contained in each,  
21 as defined by the Consumer Product Safety  
22 Commission.

23 For reference, there are two other  
24 grades of fireworks that are not regulated by  
25 PDA. The first is novelty fireworks, which

1 can be found at most retail locations,  
2 typically in prepackaged variety packs, and  
3 are limited to sparklers, ground fountains,  
4 smoke bombs and similar devices.

5 The second is display-grade  
6 fireworks, which are those that contain an  
7 amount of pyrotechnic composition above those  
8 allowed for consumer fireworks and are  
9 primarily intended for commercial displays  
10 such as those observed on the 4th of July.

11 The purchase, handling, and storage  
12 of display fireworks are restricted by  
13 licensures through the Pennsylvania Office of  
14 Attorney General, the Bureau of Alcohol,  
15 Tobacco, Firearms, and Explosives.

16 The Pennsylvania Department of  
17 Agriculture became responsible for licensing  
18 of permanent consumer-grade fireworks  
19 facilities as a result of Act 204 in 2004,  
20 signed into law on November 30th of 2004.  
21 This law amended Pennsylvania's existing  
22 fireworks and explosive law, and PDA began  
23 licensing permanent consumer-grade fireworks  
24 facilities in January of 2005. PDA began  
25 licensing with twenty-five permanent

1 consumer-grade fireworks facilities in 2005.

2 In 2017, the Pennsylvania Tax Code  
3 created a new fireworks law which required  
4 previous licensed facilities under the old act  
5 to reapply and be licensed under the new law,  
6 as well as changing certain standards for all  
7 facilities. At that time, a total of  
8 eighty-two permanent facilities were affected  
9 when the law changed in October of 2017.

10 Today, there are ninety-six permanent  
11 licensed facilities.

12 PDA offers eight proposed amendments,  
13 most of which are technical in nature. These  
14 proposed changes would not affect the intent  
15 of the law but would allow, greatly enhance  
16 our ability to perform licensing of facilities  
17 and remedy several challenges that occurred  
18 with the most recent change to the fireworks  
19 law in 2017.

20 A very significant change impacting  
21 several existing and new businesses is the  
22 increase in the allowable distance between  
23 existing permanent facilities from two hundred  
24 fifty feet to fifteen hundred feet. The  
25 distance change does not improve safety. For

1 example, both the current law and House Bill  
2 1687 would allow a licensed facility to be  
3 located within two hundred fifty feet of a gas  
4 station. The 2017 law increased the distance  
5 to fifteen hundred feet, even though there are  
6 existing facilities that, for all intent and  
7 purposes, have been continually licensed that  
8 violate the fifteen hundred-foot requirement.

9 Permanent facilities that were in  
10 compliance in the 2004 version of law are no  
11 longer in compliance and are unable to make  
12 corrective action because of the very nature  
13 of the permanent facilities.

14 Returning the requirement to two  
15 hundred fifty feet corrects the issue facing  
16 several Pennsylvania businesses without  
17 adversely impacting public safety.

18 My last point is the addition of NFPA  
19 1124 into the current law may have two  
20 unforeseen consequences. First, it may  
21 conflict with the current code enforcement  
22 requirements already spelled out in the law,  
23 as the 2006 version is not the current version  
24 of NFPA 1124.

25 Lastly, adding the additional

1 requirement NFPA 1124 in any version may  
2 affect some or all of the existing licensees  
3 because NFPA 1124 has building code  
4 requirements with respect to which PDA may not  
5 been qualified to enforce or provide  
6 oversight. The Department of Labor and  
7 Industry has this building code compliance and  
8 enforcement expertise.

9 Thank you for your attention, and  
10 I'll be happy to answer your questions.

11 MAJORITY CHAIRMAN CAUSER: Thank you,  
12 sir, for your testimony.

13 Are there any questions from members?

14 Seeing none, then your testimony will  
15 certainly be part of the record, and if we do  
16 have questions, we'll be in contact. So,  
17 thank you very much.

18 MR. REMMERT: Thank you.

19 MAJORITY CHAIRMAN CAUSER: Our next  
20 panel is our local government panel. The  
21 members of this panel are Mr. Joseph Gerdes,  
22 III, director of government relations for the  
23 Pennsylvania State Association of Township  
24 Supervisors; Mr. Edward Troxell, director of  
25 government affairs for the Pennsylvania

1 Association of Boroughs; and Amy Sturges, the  
2 director of government affairs for the  
3 Pennsylvania Municipal League.

4 Welcome, folks. And you may proceed.

5 MR. GERDES: Thank you, Mr. Chairman.  
6 Chairman Causer, Chairman Pashinski, and the  
7 House Agriculture --

8 MAJORITY CHAIRMAN CAUSER: You may  
9 want to pull it a little bit closer, also.

10 MR. GERDES: Is that better?

11 MAJORITY CHAIRMAN CAUSER: Yes.

12 MR. GERDES: Great.

13 Good morning. My name is Joe Gerdes.  
14 I'm the director of government relations for  
15 the Pennsylvania State Association of Township  
16 Supervisors. Thank you for the opportunity to  
17 appear before you today on behalf of the  
18 fourteen hundred and fifty-four townships in  
19 Pennsylvania represented by the association.

20 House Bill 1687, printer number 2287,  
21 provides for the regulation of fireworks in  
22 Pennsylvania and would codify and revise the  
23 most recent changes to fireworks regulations  
24 that were adopted in 2017, when the state made  
25 it legal for Pennsylvania residents eighteen



1 or older to purchase consumer fireworks.

2 Prior to the 2017 change, a  
3 Pennsylvania resident could only purchase and  
4 use consumer fireworks if they first obtained  
5 a permit for their use by their municipality.  
6 The reality is that consumer fireworks are now  
7 legal, which has brought challenges to our  
8 members, in part due to the lack of common  
9 sense among some of the users, but also due to  
10 the difficulty in enforcing some of the  
11 restrictions of the current law.

12 It has brought significant challenges  
13 to many townships, both suburban and rural.

14 In some townships, consumer fireworks  
15 are used night after night and even day after  
16 day, prompting a rash of complaints. On  
17 holidays, the night skies light up for hours  
18 over suburban neighborhood, as competing  
19 displays of consumer fireworks take place in  
20 nearly every development.

21 In many cases, these displays of  
22 consumer fireworks are taking place from  
23 porches or on lots too small to meet the  
24 current setback of one hundred fifty feet from  
25 an occupied structure or with disregard to the

1 direction which the consumer fireworks are  
2 shot.

3 While most would agree that a few  
4 nights a year is reasonable, there are those  
5 that have taken the use of consumer fireworks  
6 to a whole new level and insist on using them  
7 daily without regard to their neighbor's  
8 request to stop.

9 While PSATS members have not set  
10 specific policy on this issue, we are strong  
11 supporters of local control, and this is an  
12 issue where local officials need some  
13 discretion to set reasonable local rules for  
14 the peace and safety of our communities.  
15 These rules may differ based on local  
16 conditions and preference.

17 On consumer fireworks, House Bill  
18 1687 would clarify several current  
19 prohibitions on the use of consumer fireworks,  
20 including changing the term "occupied  
21 structure" to "building."

22 The bill would restrict the hours  
23 when fireworks could be used to between  
24 10:00 p.m. and 10:00 a.m., except on certain  
25 holidays. However, this doesn't restrict an

1 individual from choosing to set off displays  
2 every evening or day that could go on for  
3 hours, which the neighbors may consider to be  
4 a serious nuisance.

5 While we appreciate that Section 906  
6 would enable a municipality to, quote, enact  
7 conditions, prohibitions, and limitations, end  
8 quote, on the use of consumer fireworks that  
9 are not in conflict with this chapter, we do  
10 not believe that it is sufficiently clear  
11 exactly what a township could do to regulate  
12 and not be in conflict with that section.

13 We believe preferable language would  
14 list all the state minimums and specifically  
15 allow a municipality to adopt customized  
16 regulations for community safety that exceed  
17 those minimums.

18 Townships should have the ability to  
19 reasonably regulate the frequency and length  
20 of consumer firework displays, including how  
21 many times per week they may take place, as  
22 well as additional limitations on the hours  
23 that they may take place. The bill appears to  
24 grant this authority; however, it would be  
25 helpful if all the days that the public has

1 the right to use consumer fireworks were  
2 listed in one section.

3 While the existing statute currently  
4 requires the use of consumer fireworks to be  
5 at least one hundred fifty feet from an  
6 occupied structure, a township should be able  
7 to enact additional reasonable regulations,  
8 such as prohibiting the use in a certain  
9 zoning district or an entire municipality,  
10 based on lot sizes, which make meeting the  
11 one-hundred-fifty-foot setback impossible.

12 Township officials should be able to  
13 set larger setbacks or restrictions based on  
14 safety and local conditions.

15 We appreciate the requirement for  
16 written notice of the state rules for consumer  
17 fireworks to be provided or posted at sales  
18 locations with the addition of local  
19 conditions. It would be helpful if this also  
20 listed the penalties for violating the state  
21 rules, which House Bill 1687 would  
22 appropriately increase, as well as best  
23 practices for the use and storage of  
24 fireworks.

25 On display fireworks, we suggest that

1       some changes be made to the language  
2       authorizing municipalities to issue permits  
3       for the use of display fireworks.  
4       Specifically, the minimum criteria for a  
5       permit should include that the operator has  
6       all the required federal licenses and is in  
7       compliance with federal law, not just that  
8       they are twenty-one years of age and, quote,  
9       competent.

10               While the bill designates the chief  
11       of the fire department or other appropriate  
12       official for site inspection, it may be more  
13       appropriate to eliminate the specific  
14       reference to the chief and leave this  
15       appointment to the discretion of the  
16       municipality, which may choose their  
17       commercial inspector.

18               The bonding amount of not less than  
19       one thousand dollars seems inadequate,  
20       considering that the 1939 act required a  
21       minimum bond of five hundred dollars for the  
22       use of consumer fireworks. While  
23       municipalities may exceed this threshold, the  
24       floor should be set higher.

25               In closing, PSATS is a strong

1       proponent of local control, and we believe the  
2       townships need the ability to adopt safe and  
3       reasonable fireworks regulations that exceed  
4       state minimums and provide for local  
5       conditions. We believe the bill's provisions  
6       for local control are a step in the right  
7       direction but that additional clarification is  
8       needed as to what areas are preempted and what  
9       specific authority the municipalities would  
10      have to exceed the provisions in House Bill  
11      1687.

12               Thank you for the opportunity to be  
13      before you today, and I can answer any  
14      questions as well.

15               MR. TROXELL: Okay. There we go.

16               Good morning, Chairman Pashinski,  
17      Chairman Causer, members of the House Ag  
18      Committee. I appreciate this ability to be  
19      able to testify before you.

20               I'm Ed Troxell. I am the director of  
21      government affairs for the boroughs'  
22      association. Our association represents the  
23      nine hundred and fifty-seven boroughs  
24      throughout the Commonwealth, roughly the home  
25      to about two and a half million residents.

1 And within our communities, there is a  
2 build-out nature, and so, when it comes to  
3 this issue of fireworks, it's become quite  
4 important to us.

5 I'd like to start off by saying,  
6 thank you, Joe, for presenting from PSATS'  
7 perspective. Joe's new to the local  
8 government conference with us here, but he  
9 brings a valued amount of information, which  
10 is so helpful. So, we're moving in a general  
11 direction which I think is good regarding  
12 1687.

13 Let me say first that, regarding  
14 1687, is that the boroughs' association is  
15 more than happy to participate in the crafting  
16 of effective language. I understand, at this  
17 point, we're just kind of like in the  
18 fundamental start, fundamental position.  
19 There's a lot of good ideas coming from many  
20 interests, so we just look forward. We want  
21 to be cooperative.

22 And, especially, I would just remark  
23 that Representative Farry has some very good  
24 input regarding some of the revenues that,  
25 unfortunately when this bill was put in place,

1 we're going another place, would be an  
2 excellent place to put something for our  
3 volunteer fire and emergency services. Always  
4 something with our membership.

5 We'd like to say that -- I could read  
6 the testimony, but I won't. I will just  
7 slowly go over some of the points maybe that I  
8 think are relevant, some things that Joe  
9 mentioned, which are real helpful that we also  
10 focused on.

11 But, basically, when it comes to Act  
12 43, as it was passed, we realize the  
13 environment it was passed within, and maybe it  
14 wasn't the most ideal shape of a piece of  
15 legislation that we'd like to see, but I'd  
16 like to say we face sometimes what we call  
17 this unintended consequences. Many times  
18 something gets done here in Harrisburg, finds  
19 its way down to the local levels, and my folks  
20 just kind of really are poised with a  
21 situation that they have to try to figure out  
22 how do I comply with this new law and  
23 at the same time do it in a reasonable fashion  
24 for my residents and all of the burdens that  
25 may have to it.



1           So, basically unintended consequences  
2       bring us here today. I think we're all on  
3       board on moving forward. Some of the areas in  
4       technical wise -- and I do have to say thank  
5       you to Miss Golden for correcting me in some  
6       of my observations, which is always helpful.  
7       I mean, because, I mean if you don't listen,  
8       you don't learn. And so this is one thing,  
9       moving forward, we look forward to.

10           Under 901, with the definitions,  
11       there's some areas in there. We had some  
12       short, kind of like subsequent additions of,  
13       say, fire codes, and what was this -- the  
14       national -- addition of the APA 87-1, and all  
15       those technical areas like that. That's a  
16       real simple add that we could, you know, throw  
17       in something like that.

18           The temporary structure aspect, we're  
19       going to step back at this point and kind of  
20       look at that, because I know our  
21       municipalities are able to really govern  
22       health, safety, and welfare in an overall  
23       umbrella-like fashion. Whether we want to  
24       start drilling into that whole industry --  
25       because, honestly, the tent issue has been a

1       municipality issue for decades, and so it's  
2       not really just relegated to this portion of  
3       the law.

4               One of the areas, though, I think  
5       that would be helpful to look at and -- is the  
6       actual language under 902 about permit, and  
7       the language moved from permitted to  
8       permission. And it's kind of like, how are  
9       you going to manifest an actual permit? It  
10      would be -- is it just permission and it's  
11      done verbally, or what should be the construct  
12      or the format for an actual permit itself?  
13      Within that -- you know, how do we want to  
14      print out, what kind of notices need to be  
15      included in that permit or whatnot? So,  
16      that's something we can work as we go through.

17             Within that permit, too, under 902,  
18      the bonding issue. And I think Joe mentioned  
19      this earlier, too. The numbers that are in  
20      there now, the existing -- what was it --  
21      thousand dollars bonding, et cetera, I mean,  
22      that needs to be increased, that -- to really  
23      cover anything that may occur or whatnot. So,  
24      that's something you might want to look at.

25             Under 903, when it comes to the

1 request for extensions, I believe the former  
2 law, before 43, may have given a one-week  
3 limit or whatever, but we need a reasonable  
4 time limit framework, something that would  
5 give us an idea when these are going to go  
6 off. I can't -- you know, secure a permit,  
7 and let's say it rains on July 4th, but, since  
8 I've still got the fireworks sitting the back  
9 shed or something, here I am, maybe the first  
10 day of school I set them off or -- you know  
11 what I mean? So, we need to somehow limit in  
12 a fashion how -- how that permit's going to --  
13 time limit's going to manifest itself.

14 The use of consumer fireworks, that's  
15 going to be the big ticket. I mean that is  
16 the one -- it's changed the entire -- that's  
17 what brought us here today. It's actually  
18 changed the entire framework for fireworks.

19 Under the -- if you go on to 905,  
20 after 904, tie in there the agricultural  
21 purposes, for years ag folks have been using  
22 fireworks. And so, there was language that  
23 used to be "suitable fireworks," instead of, I  
24 think the language that was replaced had said  
25 "display fireworks," if I'm not correct. And

1 I think we might want to go back to  
2 "suitable." I don't know. That's something  
3 we can talk about.

4 Moving over to clarity for when it  
5 comes to the -- let's see. This takes me back  
6 into Section of 907, two clean-up measures  
7 I'm putting in 907 regarding the primary fire  
8 department. If there's any way we can  
9 designate -- maybe the municipality would  
10 designate who is actually responsible for  
11 those fire drills and preplanning. I mean,  
12 when -- you know, I know we can address it  
13 generally, but, it may help. And since we're  
14 pulling in the observations of fire and  
15 emergency service folks, Representative Farry,  
16 whatever, maybe there's a good way to  
17 designate exactly who will be the provider of  
18 that training and those fire services.

19 Lastly, regarding conditions for  
20 facilities, we had a technical kind of change,  
21 which actually works with just the verbiage of  
22 when people are going to be staffing that  
23 facility for security purpose. So, we'll talk  
24 about that one later.

25 But not to belabor the point though,

1       it's moving in a good direction. We look  
2       forward to working with the committee, with  
3       all of the interest involved, in crafting  
4       language that will enable consumers to use  
5       consumer fireworks in a reasonable fashion and  
6       not -- really, it's all about your neighbor --  
7       and not in a way where they're keeping their  
8       neighbors up all night, but in a way where, as  
9       I've been quoted -- I've quoted before a  
10      senator who said to me, Ed, fireworks are fun.  
11      Why not?

12               Let's make fireworks fun here but  
13      also let's make them safe.

14               So, we appreciate this opportunity,  
15      and I'll be available for any questions.  
16      Thank you.

17               MS. STURGES: Good morning. I'm Amy  
18      Sturges. I'm the director of governmental  
19      affairs for a Pennsylvania Municipal League.  
20      And I appreciate the opportunity to be before  
21      you today to discuss the League's stance on  
22      consumer fireworks.

23               The League membership is made up of a  
24      hundred seven cities, boroughs, and townships.  
25      Our membership is more based on issues that it

1 is concerned with, rather than a form of  
2 government.

3 Excuse me.

4 Our members believe that consumer  
5 fireworks have created a dangerous scenario  
6 for life and property. They have also created  
7 an unfunded mandate on local government, while  
8 preempting local regulation. Essentially,  
9 local government's hands are tied when it  
10 comes to effectively managing and enforcing  
11 the proliferation of consumer fireworks across  
12 the Commonwealth. Primarily, this mandate is  
13 coming from enforcement costs.

14 Public safety personnel are needed  
15 more to be patrolling and answering complaints  
16 and answering fire and EMS calls related to  
17 consumer fireworks.

18 In addition, there's a need to  
19 gear-up, if you will, around holidays, when we  
20 know there's going to be more use of  
21 fireworks. And this most certainly will  
22 result in holiday pay and overtime pay for the  
23 extra personnel that are needed.

24 In addition, the mandate is also  
25 causing an expenditure of valuable public

1 safety resources.

2 Our membership would gladly see this  
3 law repealed, but we understand why it was put  
4 in place in the Commonwealth, so we are not  
5 expecting that. We are advocating for changes  
6 to be made to Act 43 that will allow for  
7 effective local government management, making  
8 this mandate less of a burden.

9 In 2018, the League's membership  
10 adopted policy supporting several amendments  
11 to Act 43, and we developed that policy with  
12 input and assistance from the Pennsylvania  
13 chiefs of police -- excuse me -- Pennsylvania  
14 Fire Chiefs Association and the PA Fire and  
15 Emergency Services Institute.

16 We think that House Bill 1687 is a  
17 step in the right direction, but amendments  
18 are needed and clarification is needed. And  
19 we need to make this law workable at the local  
20 level.

21 We believe that the state statute  
22 should provide a minimum for regulation and  
23 allow municipalities to impose their own  
24 stricter local rules and also have the option  
25 to prohibit consumer fireworks altogether by

1       opting out.

2               Why is this local regulation needed?  
3       Because local governments are charged with  
4       protecting the health, safety, and welfare of  
5       their residents. And local officials are best  
6       able to assess their municipality's ability to  
7       enforce consumer fireworks as well as the  
8       ability to pay for that enforcement.

9               Each local municipality should be  
10       able to decide if it wants to expend taxpayer  
11       dollars and how much on enforcing local --  
12       excuse me -- on enforcing consumer fireworks.

13              In terms of the bill itself, we  
14       believe that the distance provision in the  
15       legislation is -- is better worded at "one  
16       hundred fifty feet from a building or  
17       vehicle," rather than as it is currently  
18       stated, "one hundred fifty feet from an  
19       occupied structure." But still, we believe  
20       that local municipalities need to be able to  
21       make a decision for themselves if that  
22       distance is, in fact, enough, hence, the  
23       request for more local control.

24              In terms of hours and use, again, the  
25       bill does take a step forward in limiting use



1 to 10:00 a.m. to 10:00 p.m. on most days,  
2 except for the July 4th holiday and December  
3 31st. We do think that twelve hours a day and  
4 three hours extra on holidays is still too  
5 broad. There's a lot -- this is really a  
6 nuisance for neighbors who don't wish to hear  
7 the noise, have the smoke and the abrupt  
8 nature of fireworks anytime of the day from  
9 10:00 a.m. to 10:00 p.m. And so, again,  
10 municipalities need to be able to have -- be  
11 able to put parameters, stricter parameters,  
12 on use that best fit their municipality and  
13 their residents.

14 In terms of penalties and  
15 enforcement, the bill does open up the  
16 legislation for additional -- for more of a  
17 penalty. We still think that it should be set  
18 at -- instead of final -- a fine higher than  
19 one hundred, we think a thousand dollars  
20 should be the minimum fine. This will act as  
21 a deterrent to violators.

22 We also believe that, because local  
23 enforcement is so difficult, because one  
24 essentially needs to see the person violating  
25 the law in order to charge them, that the

1 private property owner should also be  
2 ultimately held responsible for action taking  
3 place on his or her property and receive the  
4 same fines and offenses as a person violating  
5 the law. We think that would be a much better  
6 deterrent and a much more helpful enforcement  
7 tool.

8 As PSATS stated earlier, the bill  
9 does state an allowance for local conditions,  
10 prohibitions, and limitations on the use of  
11 fireworks that does not conflict with the law,  
12 but, honestly, we really don't know what that  
13 could possibly be. So, if there's a wish to  
14 keep that language in the bill, then we need  
15 to have some idea of what -- what local  
16 governments would be allowed to do.

17 We believe that there needs to be an  
18 equal treatment of career fire departments in  
19 terms of receiving some of the revenue from  
20 the expansion of consumer fireworks in the  
21 Commonwealth. They are impacted just as much  
22 as volunteer forces and need to be receiving a  
23 portion of the revenue.

24 And also, we think that incident  
25 reports and medical reports need to provide --

1       need to be updated so that, in terms of  
2       reporting, it can be noted that the injury or  
3       damage to property was caused by fireworks  
4       itself. That's not something that apparently  
5       is able to be noted on forms. And that data  
6       should be collected by the state fire  
7       commissioner.

8               So, in conclusion, consumer fireworks  
9       are posing a dangerous threat to users,  
10      innocent bystanders, and first responders.  
11      And it's an expensive, unfunded mandate on  
12      local government. We need to give  
13      municipalities flexibility to manage this new  
14      activity.

15             And we appreciate the opportunity to  
16      testify. We look forward to some additional  
17      amendments being made to this legislation and  
18      stand ready to assist with that effort.

19             Thank you for your time.

20             MAJORITY CHAIRMAN CAUSER: Thank you  
21      very much.

22             Now, we'll turn to questions from the  
23      members and first go to Chairman Pashinski.

24             MINORITY CHAIRMAN PASHINSKI: Good  
25      morning. And thank you very much for your

1 testimony and your time here today.

2 As well noted, fireworks do play a  
3 role in our lives for celebrations and to  
4 recognize some of the great things that have  
5 happened in our country. Now, we've extended  
6 the opportunity for this joy and fun to be  
7 given to the regular citizen.

8 I live in the city of Wilkes-Barre,  
9 and I know that I've noticed an incredible  
10 change in the volume and the kind of violence  
11 to the actual sounds. Over the last couple  
12 years, there's been a big change in that.

13 The concern, obviously, is because  
14 they're more powerful, they're more dangerous.

15 So far, everything I've heard,  
16 everybody has great recommendations, and all  
17 we need to do is bring everybody into the room  
18 and begin taking one of your issues one at a  
19 time and digesting them and see whether we can  
20 come to an agreement on it.

21 I was wondering whether you had any  
22 statistics relative to the number of accidents  
23 that may have occurred, were there any  
24 injuries, any deaths? Because that was a  
25 concern that many of us have had because of

1 the power involved in some of these fireworks.

2 The traditional use that we've had  
3 for years, with lady fingers and sparklers and  
4 so on, it became obvious even to children that  
5 there was heat, very hot. So, you didn't have  
6 to figure it out too long. You get burned  
7 with it once and now you realize. But with  
8 some of these fireworks, it's a loss of a  
9 hand, fingers, life, and whatever.

10 So, do you have any statistics  
11 relative to what's transpired over the last  
12 few years since this law's been put in place?  
13 Whoever would like to answer that.

14 MS. STURGES: The League,  
15 specifically, has not collected data, but I  
16 believe your next panel may have more  
17 information about statistics from across the  
18 Commonwealth.

19 MINORITY CHAIRMAN PASHINSKI: Okay.

20 MR. TROXELL: At this point, we, at  
21 the boroughs, we haven't compiled those  
22 statistics.

23 MR. GERDES: Mr. Chairman, PSATS  
24 doesn't have statistics as well. We do have  
25 numerous members that call specifically around

1 the -- around the holiday season, when it's  
2 more prevalent, and local news reports where  
3 you see structure fires and injuries, but  
4 nothing of a statistical nature that I've seen  
5 just yet.

6 MINORITY CHAIRMAN PASHINSKI: Okay.  
7 I think the next panel then will help us out  
8 with that question. Yes.

9 The other thing, when we were talking  
10 about some of the things that need to take  
11 place, for example, before you buy these kinds  
12 of fireworks that there needs to be a list of  
13 consequences, there needs to be some  
14 identification regarding the dangers involved  
15 with those fireworks, certain rules, do we  
16 have that now, that they're not allowed to  
17 shoot them off at a certain time? Do we have  
18 the rule when they buy these fireworks that  
19 they have to be, you know, a hundred fifty  
20 feet away? Are all of those -- that  
21 information being placed before the person  
22 purchases the fireworks?

23 MR. TROXELL: I haven't -- now, this  
24 is just empirical. What I've seen,  
25 Mr. Chairman, is there hasn't been a lot of

1 pre -- you know, like existing conditions when  
2 we sell these things.

3 One thing I think that's in the  
4 bill -- and I might be mistaken -- but there's  
5 actually a disclaimer aspect that the, I  
6 think, bricks-and-mortar guys have to provide,  
7 that there may be other legislation at the  
8 local level regulating the use of these  
9 fireworks. So, I think that's a step in the  
10 right direction.

11 Actually, what I really appreciate  
12 like that is that they would -- whatever  
13 disclaimer they do give that's listed in the  
14 bill would be attached to the final receipt  
15 for the customer, you know, when it's given to  
16 them.

17 MINORITY CHAIRMAN PASHINSKI: I'm  
18 talking about now.

19 MR. TROXELL: Right now, not that I'm  
20 aware of.

21 MINORITY CHAIRMAN PASHINSKI: Okay.  
22 Again, that's basically the point.

23 So, if you're going to buy a stick of  
24 dynamite, there should be something there that  
25 tells you what danger and the damage that

1       could occur. It's a lot different than a box  
2       of sparklers.

3               MR. TROXELL: You make a good point,  
4       Mr. Chairman. One of the things that you  
5       could do with this, I mean, a disclaimer of  
6       some type that you recognize the local -- you  
7       know, the entity where you're going to be  
8       deploying this firework, whatever, that you're  
9       aware of it and that you are liable for  
10      anything that is the result of the use of  
11      that, may be something to strengthen up the  
12      bill.

13             MINORITY CHAIRMAN PASHINSKI: Okay.  
14      Thank you. Thank you very much.

15             MAJORITY CHAIRMAN CAUSER:  
16      Representative Hahn.

17             REPRESENTATIVE HAHN: Thank you,  
18      Chairman.

19             Good morning, panel. It's a little  
20      difficult to hear over here at times.

21             So, Amy, I just have a question in  
22      some of your recommendations. I have an  
23      incident in the municipality where I live.  
24      There's a vacant home and a resident right  
25      next to it. The garages are very close.



1       Someone shot off fireworks between those two  
2       garages. So, one, that was already illegal  
3       because they're about twenty feet apart, but,  
4       whoever was walking past and did that is not a  
5       resident of either of those properties. So,  
6       when you're saying the property owner should  
7       be responsible as well, I mean, that's a  
8       concern to me, because if the police come out,  
9       that -- the remnants are there on the  
10      property; they had nothing do with it.

11               So, I -- I think we have to be  
12      careful when we're looking at that.  
13      Obviously, there's reasons when someone is  
14      witnessed setting it off.

15               You know, the other thing, if you're  
16      having a 4th of July picnic or whatever or  
17      some other time and you have people coming to  
18      your home, you don't always know that their  
19      eighteen year old kids or whatever have  
20      fireworks with them. So, until they shoot  
21      them off, you know, you stop them, but, it's  
22      too late.

23               So, I'm just a little cautious when  
24      we're saying the property owner's responsible  
25      as well, because some times we're not always

1       aware of what's going on or it's happening  
2       without the knowledge of the property owner.

3               So, have you given any thought to  
4       that or how that would -- are there  
5       exemptions? I guess -- I mean, the property  
6       owner's always going to say, I had nothing to  
7       do with it.

8               So, how do we deal with that?

9               MS. STURGES: Well, it's certainly  
10       open for more discussion, but, I think,  
11       ultimately, we need to look for ways that  
12       we're assisting municipalities with  
13       enforcement, and if that is allowing more  
14       local control, maybe that will be enough. But  
15       the bottom line is that enforcement is very  
16       difficult at this point, and we need to make  
17       changes to the legislation.

18               So, we're open to other suggestions.  
19       I appreciate your comment.

20               REPRESENTATIVE HAHN: Thank you.  
21       It's always no good deed goes unpunished. So,  
22       I just don't want property owners to be, you  
23       know, getting a thousand-dollar fine when they  
24       had no knowledge that it was even happening,  
25       you know. So, when somebody sets that off at

1       2 o'clock in the morning and the residents are  
2       in bed, you know, they had nothing to do with  
3       it.

4               MR. TROXELL: That's a very  
5       legitimate concern, Representative.

6               Actually, in discussions yesterday we  
7       had with Representative Farry, one of the  
8       things that he was pointing out is that what  
9       happens if somebody purchases it in one  
10      municipality, okay, that has certain rules, et  
11      cetera, then comes and uses them in another  
12      municipality? It's the same type of thing.  
13      You know what I mean? There's some nexus  
14      there, is that it's not so much the property  
15      owner, okay, you know -- it's like the  
16      property owner, that's a static thing. The  
17      consumer or the purchaser is not always  
18      static, in one place. Responsibility can go  
19      from place to place. So, more or less, the  
20      responsibility for these have to go to the  
21      individual purchaser, you know. They have to  
22      maintain that liability.

23              But that's something to look at.  
24      It's a good dynamic to realize.

25              Thank you.

1 REPRESENTATIVE HAHN: Thank you.

2 Thank you, Chairman.

3 MAJORITY CHAIRMAN CAUSER:

4 Representative Zimmerman.

5 REPRESENTATIVE ZIMMERMAN: Thank you,  
6 Mr. Chairman.

7 Good morning. Thanks for your  
8 testimony.

9 So, from a municipality's point of  
10 view -- and, for example, in my district, we  
11 have several municipalities that actually put  
12 on some really nice fireworks displays and  
13 have done that for years. And I don't think  
14 they've changed a lot, maybe a few more  
15 high-powered ones than they use to, but nice  
16 displays and very controlled.

17 And so, having said that, do you see  
18 it as more of a -- the bigger problem is with  
19 individuals putting off fireworks kind of  
20 anywhere and everywhere? Or some of these  
21 organized displays, are they under control or  
22 not? And -- you know, from your  
23 municipalities?

24 MR. TROXELL: Representative, when it  
25 comes to the display fireworks, that industry

1 is highly regulated. We actually -- and  
2 that's a good thing. When it comes to -- I  
3 think, for this, what would be most helpful is  
4 that this is a consumer bill. I mean this is  
5 about consumer fireworks. This is about those  
6 items that get into the hands of the  
7 individuals that we can't track. We don't  
8 know where they're at. They could be building  
9 whole displays on their own with the ability  
10 to access the consumer fireworks.

11 But the display folks -- and even our  
12 association, we've used display people at  
13 conferences, et cetera, et cetera, and it's  
14 amazing the things that they have to go  
15 through in order to deploy these.

16 And so, it's fairly -- that's the  
17 display end. And it's really a consumer  
18 focus-type thing.

19 REPRESENTATIVE ZIMMERMAN: Okay.  
20 Thanks for that. I just want to clarify that,  
21 that we're talking about the consumers out  
22 there, kind of use them everywhere.

23 My family has horses, as I know  
24 Destiny's does, too.

25 MR. TROXELL: Wow.

1                   REPRESENTATIVE ZIMMERMAN: And that  
2 was actually a problem this past year.

3                   But thanks.

4                   Thanks, Mr. Chairman.

5                   MAJORITY CHAIRMAN CAUSER: Thank you,  
6 Representative Zimmerman.

7                   The one thing that struck me -- and I  
8 think that crosses all three of your  
9 testimony -- is the references to local  
10 control. And my reading of the bill is that  
11 it would give municipalities the authority to  
12 enact regulations to locally regulate  
13 fireworks. Your testimony indicates that you  
14 don't think that that's clear enough, so I  
15 guess my request to you is that, if you feel  
16 that way, would you be willing to provide  
17 additional language that this committee could  
18 consider that would tighten that up, as you  
19 referenced?

20                  MR. GERDES: Yeah.

21                  MS. STURGES: Sure.

22                  MR. TROXELL: More than happy to  
23 participate.

24                  MAJORITY CHAIRMAN CAUSER: Thank you.  
25 Thank you.

23 The Pennsylvania Fire and Emergency  
24 Services Institute is an advocacy and  
25 educational organization that represents

1 volunteer and career fire and emergency  
2 services and emergency medical services across  
3 the Commonwealth.

4 Our mission is to sustain and improve  
5 those services that are critical to the public  
6 safety of Pennsylvania. We advocate for those  
7 who provide critical public safety services.  
8 Every day, dedicated volunteer and career  
9 personnel respond to transportation crashes on  
10 our interstate highways and turnpike, chemical  
11 spills in our suburban and manufacturing  
12 facilities, to fires in large, inner city,  
13 target hazards. These incidents occur every  
14 day and require a variety of services to  
15 fires, technical rescues, and medical  
16 emergencies.

17 Today's fire department is called an  
18 all-hazard organization. We respond to  
19 anything from flooded basements to broken  
20 fingers to active shooter incidents to smoke  
21 detector batteries that are faulty.

22 The National Fire Academy and the  
23 National Fire Protection Association promotes  
24 the concept of community risk reduction, or  
25 CRR. Community risk reduction is defined as



1 programs, actions, and services used by a  
2 community which prevents or mitigates the loss  
3 of life, property, and resources associated  
4 with life, safety, fire, or other disasters in  
5 the community.

6 The greatest concern that we have in  
7 regards to the increased use of commercial  
8 fireworks is the impact of increased  
9 utilization directly contradicts the concepts  
10 of community risk reduction. Our mission is  
11 to reduce these type of incidents to, you  
12 know, save and make sure something doesn't  
13 happen. We prevent it from happening.

14 Additionally, as you know, SR 6  
15 Commission extensively studied and reported on  
16 what's happening across the Commonwealth to  
17 our fire and EMS organizations. Our  
18 organizations are struggling both financially  
19 and operationally due to decreased fire  
20 fighting members available to respond to  
21 calls.

22 The increased use of fireworks causes  
23 an increased demand for an already stressed  
24 system. We're certainly concerned by this.  
25 And we do appreciate Representative Farry's

1 bill and support that.

2 And, additionally, the concept of  
3 using the funds for this for additional grant  
4 programs for rural emergency services, career  
5 fire departments, and emergency medical  
6 services would be greatly appreciated.

7 Thank you very much.

8 MR. DELANEY: Good morning, Chairman  
9 Causer, Democratic Chair Eddie Day Pashinski,  
10 and members of the House Agriculture and Rural  
11 Affairs Committee.

12 Thank you very much for inviting me  
13 here today to discuss Representative Frank  
14 Farry's House Bill 1687.

15 I'm the fire chief of the city of  
16 Wilkes-Barre. I have been honored to serve  
17 the city in this role for over fourteen years  
18 and a total of thirty-nine years in emergency  
19 services. I'm also the emergency management  
20 coordinator for the city of Wilkes-Barre and a  
21 certified paramedic. In addition, I'm the  
22 president of the Pennsylvania Career Fire  
23 Chiefs Association, representing career and  
24 combination fire chiefs from across the  
25 Commonwealth.

1           The Pennsylvania Career Fire Chiefs  
2 Association has steadfastly opposed the  
3 expansion of consumer-grade fireworks back to  
4 Senate Bill 1055 of 2016.

5           When Act 43 of 2017 was passed as  
6 part of the tax code, the emergency response  
7 community had no way to voice any opposition  
8 through a public hearing. This new law poses  
9 a significant public safety and first  
10 responder safety risk.

11           Immediately after the expansion of  
12 consumer-grade fireworks became legal, several  
13 groups came together to map a plan to repeal  
14 or amend Act 43 of 2017. The Pennsylvania  
15 Career Fire Chiefs Association and the  
16 Pennsylvania Fire and Emergency Services  
17 Institute began discussions with the  
18 Pennsylvania Municipal League to address  
19 statewide municipal concerns with a new and  
20 legal use of aerial and other consumer  
21 fireworks.

22           The feedback we received from fire  
23 chiefs and municipal leaders from across the  
24 state was completely aligned for the new law  
25 to be repealed or amended.

1 Over the past two years, the support  
2 to repeal or amend Act 43 of 2017 has had  
3 strong support. In fact, the thirty-nine  
4 members of the Senate Resolution 6 committee,  
5 comprised of the major fire and emergency  
6 medical service organizations and leaders  
7 throughout the Commonwealth, voted unanimously  
8 for Recommendation 24, and that's: Reassess  
9 fireworks law adopted in 2017. This was the  
10 emergency response community speaking as one  
11 voice.

12 In the city of Reading this past 4th  
13 of July, there were ninety-two calls to police  
14 and eight fires directly related to fireworks.  
15 In Wilkes-Barre, like many cities and towns  
16 across the Commonwealth, our police  
17 departments could not keep up with the demand  
18 for calls regarding fireworks. The  
19 Pennsylvania Career Fire Chiefs Association  
20 membership reported their communities were  
21 like war zones on the 4th of July.

22 Keep in mind, the present law allows  
23 a person to ignite an aerial firework one  
24 hundred fifty feet from an occupied dwelling.  
25 Does anyone have any idea where the aerial

1 firework will go once it's ignited? Put  
2 simply, fireworks are dangerous and their  
3 expansion should not have been expanded.  
4 There are no safe fireworks. There's  
5 something wrong when an industry sells amateur  
6 pyrotechnic products that emit chemical-grade  
7 materials, that, when ignited, create enough  
8 heat to melt glass or maim a person for life.

9 If there is not support to repeal Act  
10 43 of 2017, we respectfully ask for the  
11 following considerations to be amended into  
12 Representative Farry's House Bill 1687.

13 The first thing is local option to  
14 set local regulations. And when I testified  
15 in front of Wilkes-Barre city council, they  
16 have a resolution, and that is the main thing  
17 that they have asked us to do, is to get some  
18 local autonomy for this new law.

19 The second thing is increase the  
20 distance from an occupied structure for using  
21 consumer fireworks to a minimum of five  
22 hundred feet from an occupied structure.

23 Next, increase the violation from one  
24 hundred to one thousand dollars and increase  
25 the offense to a misdemeanor.

1           The fourth thing -- recommendation is  
2           the reallocation of the tax revenue set aside  
3           for volunteer fire, EMS services to include  
4           municipal police and fire departments to  
5           receive a portion of the revenue as well.

6           And the last thing is mandated  
7           reporting of fireworks incidents to the state  
8           fire commissioner for collection in a database  
9           that can be referenced and utilized by all  
10          first responder disciplines.

11          I would like to thank Representative  
12          Farry for his concern with this issue and its  
13          impact on the fire, EMS, and police community,  
14          as well as my own state representative, Eddie  
15          Day Pashinski.

16          I'm grateful to the House Agriculture  
17          and Rural Affairs Committee for the  
18          opportunity to add my voice and that of the  
19          Pennsylvania Career Fire Chiefs Association  
20          membership.

21          Thank you.

22          MAJORITY CHAIRMAN CAUSER: Thank you,  
23          gentlemen.

24          Now we'll turn to question from the  
25          members and start with Chairman Pashinski.

1                   MINORITY CHAIRMAN PASHINSKI: Thank  
2                   you, Chairman Causer.

3                   And thank you, gentlemen, for the  
4                   good work that you do.

5                   Chief, you and I go way back, and I  
6                   recognize the importance of your work. I've  
7                   met with you and your men. You guys put your  
8                   life on the line every day, and we all  
9                   appreciate that in all our communities.

10                  You brought up several very important  
11                  concerns, and you heard my questions of the  
12                  last panel. You did indicate you want to have  
13                  a reporting of all these incidents throughout  
14                  the state. To what degree can you -- to what  
15                  degree can you, at this point, demonstrate the  
16                  increase of incidences compared to the way it  
17                  used to be before the act in 2017 and '16?

18                  MR. DELANEY: Well, I can tell you,  
19                  our organization, the career fire chiefs, went  
20                  to our membership, the chiefs from across the  
21                  state, and what we -- in our research, we  
22                  found that there is nothing on the emergency  
23                  reporting that's done by fire departments or  
24                  the patient care reports used by EMS to  
25                  transport someone to the hospital. If there's

1 a fireworks incident, there's no way, on the  
2 reporting, either on the EMS side or the fire  
3 side, so we had to extract raw data. And the  
4 only place we got it from was consulting our  
5 membership to say, Send us the data of what's  
6 happening.

7 And I can tell you, that is why we  
8 wrote in here -- and you, as a former school  
9 teacher, understand, you have to have a way to  
10 measure the results of what you're trying to  
11 accomplish.

12 Right now, the only thing we have is  
13 raw data from our membership. So, we would  
14 like to see some changes to our reporting so  
15 we can track this. But our raw data from  
16 across the state suggests a dramatic increase  
17 in medical emergency response and fires.

18 Again, now we say it's legal to shoot  
19 something up in the air that's fire and have  
20 no idea where it's going to land in our  
21 urbanized area. This is of great, great  
22 concern to us.

23 MINORITY CHAIRMAN PASHINSKI: Well,  
24 as I pointed out -- and thank you for that  
25 comment -- I have noted a tremendous



1 difference in the volume and also the  
2 intensity of the sound.

3 Now, we've all done things as kids  
4 with fireworks for many years. And we know  
5 that if you're going to light anything off  
6 that's an aerial thing, depends on the base by  
7 which you're lighting it, because if the angle  
8 isn't right or the apparatus fails or if it  
9 falls slightly one way or to the other, it's  
10 not going up. It's across or into something  
11 that definitely would ignite the material.

12 When you -- it's alarming. I didn't  
13 realize this, that the intensity of the heat  
14 actually could melt glass. So, that tells  
15 you, you know, how hot it is.

16 You know, and we also have a business  
17 that provides stuff that's -- once again,  
18 recognizes some wonderful things in our  
19 nation's history. So, we're looking for that  
20 balance.

21 And the information that we're  
22 receiving today and the information we're  
23 going to hear from the industry is going to  
24 help us as we work with Representative Farry  
25 to try to make this a workable work of

1 operation.

2 So, I want to thank you very much for  
3 your testimony. And I certainly appreciate  
4 all the good work that you guys do.

5 Thank you.

6 MAJORITY CHAIRMAN CAUSER:

7 Representative Keller.

8 REPRESENTATIVE KELLER: Thank you,  
9 Mr. Chairman.

10 Chief, on your testimony, you make a  
11 statement in here that police departments  
12 could not keep up with the demand for calls  
13 regarding fireworks. Were those calls in  
14 relationship to fires or things that happened  
15 to people, that emergency call's needed that  
16 somebody was injured? Or was it just that  
17 individuals were making calls because they  
18 didn't like somebody setting off fireworks?

19 MR. DELANEY: Thank you for the  
20 question.

21 All of the information and testimony  
22 I presented, again, came from feedback from  
23 municipal fire chiefs, after consultation with  
24 their police chiefs. I spoke directly to my  
25 police chief, Joseph Coffay, the police chief

1       in Wilkes-Barre, and he simply just said, We  
2       are just so overwhelmed with fireworks calls.  
3       We have haven't gotten to most of them because  
4       there's so many.

5               So, I can't accurately say it's  
6       because of the illegal use of fireworks or the  
7       use of fireworks in general.

8               REPRESENTATIVE KELLER: So, your  
9       statement in your testimony really is a little  
10      bit disingenuous in the fact that, you know,  
11      it came from illegal use or, you know, it  
12      could have been an individual who had a  
13      neighbor that was setting off fireworks that  
14      were causing no issues other than sound, I'll  
15      say, you know, the bangs or whatever takes  
16      place, and some individual called in and said,  
17      Hey, my neighbor's setting off fireworks.

18              MR. DELANEY: Well, I can tell you,  
19      there's been a substantial increase -- since  
20      we made these legal, a substantial increase to  
21      the amount of police calls, based on the  
22      testimony received.

23              The Reading fire chief is who told me  
24      there were ninety-two calls for fireworks in  
25      Reading. He was able to tell me that eight

1 fires were directly correlated to use of  
2 fireworks. I can't sit here and testify  
3 whether they were illegal or legal. I can --  
4 my testimony I support from my membership all  
5 across the Commonwealth.

6 REPRESENTATIVE KELLER: All right.  
7 Thank you very much. Thank you for your  
8 testimony.

9 Thank you, Mr. Chairman.

10 MAJORITY CHAIRMAN CAUSER: Thank you,  
11 Representative Keller.

12 An observation, you know, we're  
13 talking about setbacks and things of that  
14 nature. And my concern is with enforcement.  
15 You know, the current law says that you can't  
16 shoot off these fireworks within a hundred  
17 fifty feet of an occupied structure I guess is  
18 the language that's in the current law. But  
19 I'm hearing from members that say, even under  
20 that current requirement, that it's still an  
21 issue in that it's not -- even that  
22 requirement's not being enforced in many  
23 areas, because there are places in the state  
24 where you can't get a hundred fifty feet from  
25 an occupied structure, and, yet, that

1 provision is still not being enforced.

2 So, the concern is, putting another  
3 layer onto that, is that's still not going to  
4 be enforced is concern for me. And I guess  
5 that's something we're going to have to  
6 evaluate.

7 You know, in the bigger picture,  
8 looking at fireworks in general, I think many  
9 people feel that our fireworks law, for many  
10 years, seemed outdated, needed to be  
11 modernized. I will concede that the language  
12 that was put in the tax code, that was not the  
13 place for it. The way that it was put in  
14 there, that was not the way to do it. There  
15 needed to be more -- you know, more thought  
16 into that. But I will also concede that it  
17 needed to be modernized.

18 In an area that I'm from, people were  
19 coming across the border from New York and  
20 buying it at facilities in Pennsylvania,  
21 because they could buy it and our own  
22 residents couldn't. So, people were coming to  
23 my office saying, This is screwed up, when  
24 out-of-state residents can come here and buy  
25 it but we can't, you know. And, so, that was

1 a problem.

2 And the other fact that -- that  
3 people were going to get it wherever they  
4 could find it. They'll drive to another state  
5 and buy it and bring it back into Pennsylvania  
6 so that they could shoot it off.

7 So, I guess my point is, the law  
8 needed to be modernized, but I think more  
9 thought needs to go into it. There's no  
10 question. And the information that you've  
11 provided today is helpful to the committee.

12 So, thank you so much for being here  
13 with us and for your testimony.

14 MR. OZOG: Thank you.

15 MR. DELANEY: Thank you.

16 MAJORITY CHAIRMAN CAUSER: Our next  
17 panel is novelty fireworks sales: Mr. Jack  
18 May, the managing director of Keystone  
19 Novelties Distributors; and Eric Turner,  
20 government affairs director the TNT Fireworks.

21 I guess Mr. Turner is not here with  
22 us yet.

23 MR. MAY: I'm all alone.

24 MAJORITY CHAIRMAN CAUSER: So, you're  
25 solo.

1                   Welcome, sir. And I guess he's still  
2                   traveling here to get with us.

3                   MR. MAY: I understand that Eric had  
4                   to provide similar testimony in another state  
5                   and was to come in today this morning and got  
6                   waylaid a bit. So --

7                   MAJORITY CHAIRMAN CAUSER: We'll  
8                   welcome his testimony, and you may proceed  
9                   with yours.

10                  MR. MAY: Thank you.

11                  Good morning, Chairman Causer,  
12                  Chairman Pashinski, and members of the  
13                  committee. Thank you for providing Keystone  
14                  Novelties Distributors with the opportunity to  
15                  provide testimony on Representative Farry's HB  
16                  1687.

17                  My name's Jack May. I'm managing  
18                  director of the Keystone Novelties.

19                  Keystone supports statewide  
20                  regulations limiting the dates and hours that  
21                  fireworks can be used and supports tougher  
22                  enforcement and penalties for bad actors who  
23                  violate the sales and use provisions of  
24                  consumer fireworks.

25                  However, we do not support the

1 provision in HB 1687 that limits the sale of  
2 consumer fireworks to only fixed retail  
3 locations.

4 By way of background, Keystone is  
5 headquartered in Lancaster County. We operate  
6 out of two thirty-thousand-square-foot  
7 facilities in the county. We employ or  
8 contract with nearly two hundred fifty  
9 full-time, part-time, and seasonal workers at  
10 the warehouses and one hundred fifty temporary  
11 retail tent locations spread across fifty-nine  
12 counties in Pennsylvania. We have no fixed  
13 store operations in Pennsylvania. All of our  
14 revenue is generated through temporary retail  
15 locations.

16 This model's been proven to be  
17 efficient for the customer, given the hyper  
18 seasonal nature of the fireworks business.  
19 We've been operating in Pennsylvania for  
20 nearly twenty years and believe we're the  
21 largest retailer of fireworks that's  
22 headquartered in the state.

23 Over the two decades of operating in  
24 Pennsylvania, we've built positive  
25 relationships with two hundred fifty local



1 municipalities who are generally responsible  
2 for issuing the permits and licenses required  
3 for seasonal retailers. Act 43 of 2017  
4 finally gave Pennsylvania residents the same  
5 right to buy and use consumer fireworks that  
6 non-Pennsylvania residents within the  
7 Commonwealth's borders enjoyed for years.

8 I think I now have company. Eric.

9 Keystone supported this legislation  
10 of Act 43 in 2017 wholeheartedly. In fact,  
11 retail locations could sell the full line of  
12 consumer fireworks three hundred sixty-five  
13 days a year, while temporary retail  
14 relocations, or tents, could sell a limited  
15 line of these products for no more than twenty  
16 days of the year around 4th of July. So,  
17 tents had the right to sell or the  
18 authorization to sell consumer fireworks, but  
19 we could only sell a small subset of the  
20 consumer fireworks in Act 43 of 2017.

21 The system was in place for only one  
22 year before a ruling from the Commonwealth  
23 Court of Pennsylvania struck down sections of  
24 the new law concerning sales of temporary  
25 locations. In the Court's view, the

1 legislature unconstitutionally delegated its  
2 responsibility for ensuring consumer fireworks  
3 are sold safely by relying solely on National  
4 Fireworks Protection Association safety  
5 standards.

6 This ruling has placed my business  
7 and other sellers through temporary structures  
8 in an untenable position, by mandating that we  
9 can only sell novelty fireworks like  
10 sparklers, fountains, and hand-held devices.  
11 This subset of product represents only 40 to  
12 45 percent of the market when consumer  
13 fireworks can be sold.

14 If forcing temporary structures to  
15 compete on this uneven playing field  
16 continues, it could very well lead to most  
17 temporary structures going out of business in  
18 the state. We are currently working on  
19 legislation in the Senate to prevent this from  
20 happening. This legislation would address the  
21 court's concerns and give temporary structures  
22 the ability to sell consumer fireworks again.

23 For reference, over the past two  
24 years, Act 43 legislation, combined with the  
25 court ruling and the uneven playing field it

1 has created, resulted in our company  
2 eliminating a hundred and twenty of the two  
3 hundred and seventy Pennsylvania retail  
4 locations. That reduction in the number of  
5 locations cost PA landowners about a half a  
6 million dollars in lease income in 2018 and  
7 2019.

8 The legislative and court actions  
9 also resulted in our elimination of a hundred  
10 fifty seasonal hiring opportunities in  
11 Pennsylvania, which are typically filled by  
12 teachers, college students, and school bus  
13 drivers. This represents another half a  
14 million in lost income over the two-year  
15 period to these groups relying on seasonal  
16 income.

17 Excluding temporary retail locations  
18 from HB 1687 will have several important  
19 ramifications that must be considered. It  
20 threatens unemployment for thousands of summer  
21 seasonal workers, the groups that I just  
22 mentioned.

23 The limitation of sales to fixed  
24 stores restricts potential increased license  
25 and sales tax revenue to the state. In the

1 one year that we operated, for reference, we  
2 provided to the state five hundred and  
3 twenty-five thousand dollars in lease revenue  
4 as a result of the locations we operated.  
5 That represented about 80 percent of our  
6 increase in sales as a result of the  
7 legislation. So, pretty much, the increase --  
8 the business opportunity that was created by  
9 our ability, in temporary structures, to sell  
10 consumer fireworks was given over to the  
11 state.

12           Despite these concerns, we support  
13 the spirit of the legislation to restrict use  
14 of consumer fireworks to ensure the safety and  
15 quality of life for residents of the  
16 Commonwealth. However, we believe the  
17 legislation should go further in this regard  
18 by mandating at the state level a period of  
19 use that would just be limited to the dates  
20 and time of day during July 4th holiday  
21 period, as described in the draft, along with  
22 New Year's Eve, also as described in the  
23 current draft. So, consumer fireworks would  
24 be limited to those two periods at the state  
25 level.

1                   We believe that this approach  
2           limiting the use of the state level, rather  
3           than relying on inconsistent local legislative  
4           activity, improves on the current draft by  
5           pleasing the most discriminating local  
6           officials seeking to implement limits on use,  
7           again, limiting the use to just the period  
8           around July 4th and New Year's.

9                   It would also eliminate the  
10          hodgepodge of local laws resulting from the  
11          current approach. It would eliminate conflict  
12          along local borders that would surely result  
13          from the current approach and the consumer  
14          confusion and compliance and enforcement that  
15          goes along with that.

16                  Prior to Act 43, fixed store  
17          operators in Pennsylvania resided primarily in  
18          the Commonwealth's borders, selling consumer  
19          fireworks to residents outside the state. Our  
20          tents and those who operated other tents  
21          around the state sold only novelty fireworks  
22          and did everything possible to serve the  
23          residents of Pennsylvania, while maintaining  
24          the highest standards of safety and  
25          convenience for our citizens.

1           To again ban the sale of consumer  
2       fireworks from temporary structures makes no  
3       sense and was clearly not the will of the  
4       legislature when members voted on the  
5       legislation that became Act 43.

6           We want to continue this service and  
7       convenience to Pennsylvania residents,  
8       allowing fireworks to be sold from temporary  
9       structure.

10          Act 43's underlying legislation -- as  
11       Act 43's underlying legislation was being  
12       debated, Keystone strongly advocated for  
13       stringent restrictions, permitting and license  
14       fees, and operating requirements for temporary  
15       structures. Essentially, all of the  
16       restrictions placed on fixed stores should be  
17       placed on temporary structures.

18          We do not want special consideration  
19       because of the limited days we're in operation  
20       or the limited line of consumer fireworks we  
21       are allowed to sell. We wanted an even  
22       playing field, allowing the consumer to  
23       determine where they would like to purchase.

24          It should also be mentioned that  
25       those who opposed consumer fireworks sales at

1 temporary locations have also tried to  
2 perpetuate several myths about temporary  
3 retail sales. These include the myth that  
4 selling consumer fireworks from temporary  
5 locations is not safe or that operators of  
6 temporary locations are not professional.  
7 This is simply untrue.

8           Keystone requires our operators to  
9 provide twenty-four-hour security at all  
10 retail locations and has operated over two  
11 thousand five hundred temporary sales in  
12 Pennsylvania over the past twenty years with  
13 zero safety incidents related to the method of  
14 sale through tents.

15           Further, twenty states, or an  
16 overwhelming majority of states, that permit  
17 the sale of consumer fireworks to their  
18 residents include temporary structures as  
19 authorized retailers. In these twenty states,  
20 we're not aware of any safety incidents that  
21 occurred due to the method of sale through  
22 temporary structures.

23           A second myth is the transient nature  
24 of tents and operators running that presents  
25 risk for accountability and control. Again,

1 Keystone believes these claims are baseless.  
2 We proposed and advocated for the language in  
3 Act 43 to require all operators of temporary  
4 structures who want to sell consumer fireworks  
5 to complete the above-mentioned requirements.

6 For reference, most jurisdictions in  
7 Pennsylvania already require operating  
8 permits, and, in most cases, inspections to  
9 ensure the temporary structures meet all local  
10 building and zoning code requirements. This  
11 local oversight will continue.

12 Local jurisdictions are logistically  
13 aware of and vigilant in shutting down rogue  
14 operators. Townships will continue to have  
15 the authority to approve or disprove of  
16 transient retailers and temporary structures  
17 in their jurisdictions.

18 Most temporary structure operators,  
19 in fact, are well trained and experienced.  
20 For example, all of our operators must pass a  
21 1.5 hour online training course, including the  
22 need to score 80 percent or better in the  
23 course exam. And we're prepared to share that  
24 with regulating authorities.

25 Approximately 60 percent of our



1 operators return each year, including  
2 teachers, students, school bus drivers, and  
3 other responsible individuals, seeking to  
4 supplement their primary means of income.

5 In many cases, Pennsylvania -- excuse  
6 me. In many cases in Pennsylvania, operators  
7 of temporary structures are nonprofit  
8 organizations seeking to raise funds for  
9 churches, schools, and youth activities. And  
10 our colleagues here at TNT do a very good job  
11 of that.

12 Again Keystone Novelties Distributors  
13 supports the underlying goal of HB1687, which  
14 is to provide stronger enforcement of  
15 Pennsylvania's fireworks laws for both the  
16 sales and use of fireworks. We do not,  
17 however, agree that this goal can be achieved  
18 by requiring consumer fireworks to be sold  
19 only at permanent retail structures.

20 The current language restrains trade,  
21 with no evidence supporting the claim that  
22 temporary structures are inherently dangerous  
23 for these types of sales. This is supported  
24 by the fact that most other states which  
25 permit the sale of consumer fireworks also

1 permit those sales at temporary structures.

2 Keystone and other temporary  
3 structure retailers have a proven record of  
4 safely and responsibly providing fireworks to  
5 residents across the Pennsylvania.

6 Pennsylvania legislature voted in  
7 2017 to allow temporary structures to sell a  
8 limited line of consumer fireworks to  
9 Pennsylvania residents. And we believe  
10 temporary structures should again have this  
11 opportunity.

12 Thank you.

13 MAJORITY CHAIRMAN CAUSER: Thank you,  
14 sir.

15 We've also been joined by Mr. Eric  
16 Turner, the government affairs director at TNT  
17 Fireworks.

18 Welcome, sir.

19 MR. TURNER: Thank you very much.

20 MAJORITY CHAIRMAN CAUSER: And we're  
21 glad that you're here with us also. And you  
22 may proceed with your comments.

23 MR. TURNER: Thank you.

24 Chairman Causer, Chairman Pashinski,  
25 members of the committee, appreciate the

1 opportunity to come and testify before you. I  
2 had the pleasure of getting up at 3:00 a.m.  
3 this morning from Indiana and traveling  
4 through Philadelphia to get here. And here I  
5 am.

6 Before I begin, let me take a moment  
7 to greet you as a colleague. I served for  
8 twenty-five years in the Indiana general  
9 assembly and six of those years I was a  
10 speaker pro tem. And I always enjoy coming to  
11 another state house, interacting with  
12 legislators from around the country. So, I  
13 appreciate this opportunity to interact with  
14 you.

15 I'm here today representing American  
16 Promotional Events, doing business as TNT  
17 Fireworks, based in Florence, Alabama. TNT  
18 Fireworks services over forty-five thousand  
19 retailers and fifty-six hundred temporary  
20 tents and stands throughout the U.S. 2020  
21 will be the 100th anniversary of TNT Fireworks  
22 in the fireworks business.

23 Pennsylvania is one of the top seven  
24 markets for our company. And we are very  
25 proud of that, and Pennsylvania's very

1       important to us.

2               You may not be aware, but we chose to  
3       locate a regional distribution center in  
4       Mechanicsburg. And that facility services not  
5       only Pennsylvania but West Virginia and  
6       Virginia and all of the northeast. We  
7       employee fifty in that location and have  
8       another two hundred and fifty staff in related  
9       businesses throughout the state.

10              Now, I have to say, before we go any  
11       further, Americans and Pennsylvanians enjoy  
12       celebrating the 4th of July. And the vast  
13       majority enjoy celebrating with fireworks.  
14       And that's the reason why you have a fireworks  
15       law, to permit that.

16              Back in 2004, I was here, with Mark  
17       Single and others, working on legislation that  
18       allowed that to be sold, the sparklers and  
19       fountains and novelties to be sold, not only  
20       in retailers but in tents throughout the  
21       Commonwealth. So, we know Pennsylvanians are  
22       going to have fireworks, whether it's legal or  
23       not. They're going to have them in their back  
24       yards. And, you know, we know that and I know  
25       that from going to states where it hadn't been

1 sold legally for fifty years.

2 And you ask a legislator, and they  
3 will say -- you know, if I say, Do you  
4 celebrate with fireworks? They'll say, Of  
5 course.

6 But they don't know where they get  
7 them. Somebody -- somebody knows where to get  
8 them. Right? And that's the way  
9 Pennsylvanians were prior to 2004.

10 But as you know, you all passed an  
11 overhaul of the state's fireworks laws,  
12 allowing consumer-grade fireworks to be sold  
13 and used by Pennsylvanians. And with that  
14 change in the law, it allowed tents to be able  
15 to sell a limited amount of consumer-grade,  
16 and not the full -- the full boat, but  
17 something that would allow tents to compete,  
18 because tents with Keystone and TNT and others  
19 have been competing in the marketplace for a  
20 number of years. Retailers continue to sell  
21 sparklers, fountains, and novelties.

22 And in the packet I sent to the  
23 committee, there is a sheet that looks just  
24 like this. And it sort of breaks down, what's  
25 at the top is what can be sold by retailers.

1 In the middle is what can be sold by tents.  
2 And then at the bottom is what can be sold by  
3 a bricks-and-mortar or fireworks-only store.  
4 And that's the compromise that was made when  
5 the bill was passed.

6 And then also in that same packet, I  
7 have a U.S. map, so you can kind of see where  
8 Pennsylvania stacks up among other states.

9 But, unfortunately, there was a court  
10 case, as you all know, and it referenced a  
11 portion of the law that required retail sales  
12 to be -- to follow NFPA, or National Fire  
13 Protection Association, 2006 edition. And  
14 then there was inserted in there "or any  
15 subsequent edition." And that became the  
16 problem. And that's where the Court said it  
17 was unlawful to delegate legislative authority  
18 to a private agency like NFPA.

19 And that caused a problem, as Jack  
20 said, for tents to be able to compete in the  
21 marketplace.

22 We believe that the court decision  
23 ignored the intent of the Pennsylvania general  
24 assembly, which was to strike a balance  
25 between what types of products can be sold in

1       which venues. The unintended consequence is,  
2       it put the tent portion of the industry at a  
3       very competitive disadvantage, which will  
4       likely put tent sales out of business  
5       potential as early as next year.

6               And this has consequences for the  
7       state, too, because, if we're not selling in  
8       tents, you're not getting sales tax revenue  
9       and tax revenue.

10              But it also puts the court in an  
11       unusual position of picking winners and losers  
12       in the marketplace. We believe that the  
13       market works. And some consumers will choose  
14       to go to a retail store, a Walmart or a Target  
15       or Giant Eagle or any of those kind of stores.  
16       Some will go to a tent, because they like  
17       doing that, on a parking lot. And some will  
18       go to a fireworks store. And that's the  
19       marketplace. And the consumers will decide.

20              At its heights, Pennsylvania had  
21       three hundred fifty, four hundred tent  
22       location. And you would see those  
23       red-and-white striped tents every year, around  
24       the 4th of July, most often in parking lots of  
25       retailers. And until the change, all those

1       tents sold sparklers, fountains, and  
2       novelties.

3               Now, our business plan, TNT, is we  
4       partner with not-for-profit organizations.  
5       These are church groups, civic organizations,  
6       like Kiwanis, Lions Club, band boosters,  
7       soccer clubs, boy scouts, and, yes, even some  
8       volunteer fire companies, who sell fireworks  
9       as their major fund raiser of the year. And  
10      they generate money for their cause, putting  
11      million of dollars back into the communities  
12      where they're located. And without that  
13      ability to sell the limited range of  
14      consumer-grade fireworks, tents simply cannot  
15      compete in the marketplace. These  
16      organizations are now without their most  
17      successful fundraiser of the year.

18             We think it's important to correct  
19      the situation and to restore the law to the  
20      legislatures original intent. And as was  
21      mentioned, there's a Senate bill, Senator Yaw  
22      has this Bill 696 to do just that, and we  
23      strongly support it.

24             Now, we do support measures in  
25      Representative Farry's bill, House Bill 1687,



1       that address safety and use. However, we  
2       cannot support complete elimination of tent  
3       sales. Tent sales have been around for a long  
4       time in Pennsylvania. And in our case, these  
5       charitable organizations have gotten used to  
6       that being their major fundraiser.

7               Well, tent sales, Jack mentioned,  
8       also generate revenue for the local economy  
9       through short-term lease agreements on those  
10      parking lots. They're not free. We don't  
11      just set up overnight. We have to go through  
12      a lease process, and that would be lost as  
13      well.

14             So, we believe, if you want to  
15      control fireworks -- and I know -- we've seen  
16      people complain about people shooting  
17      fireworks off at 1 o'clock in the morning and  
18      at odd times of year. We believe it can be  
19      done in a measured and responsible way by  
20      limiting use. And, frankly, we believe that  
21      should be done at the state level, so that  
22      maybe you can use it three days before,  
23      including the 4th of July, or whatever. And  
24      limit the time.

25             We don't think it should be done by

1 limiting sales.

2 Our company, TNT, could not have  
3 stayed in business for a hundred years if we  
4 did not insist on and encourage the safe use  
5 of our products. We do support -- and we've  
6 done this in many states -- public service  
7 announcements on the proper use of the  
8 product, safety pamphlets, safety and  
9 education coloring books in the schools and so  
10 on.

11 I have to say that tent sales in  
12 Pennsylvania have operated for many years  
13 without incident or very few incidents and has  
14 been a tradition for Pennsylvanians to give an  
15 option to how they're going to purchase  
16 fireworks for the 4th of July.

17 And as I said, we do support  
18 municipalities trying to control the use. But  
19 we would caution giving further authority to  
20 municipalities on further regulation or  
21 further ability to impose restrictions on  
22 tents or retail stores.

23 So, we just think the legislature  
24 needs to move in the direction of going back  
25 to its original intent and let the marketplace

1 work.

2 I appreciate your time. And I thank  
3 you for giving me the time to share with you.  
4 And I'd be open to answer any questions.

5 MAJORITY CHAIRMAN CAUSER: Thank you  
6 very much.

7 Thank you to both of you gentlemen.  
8 And I didn't realize you were a legislator for  
9 twenty-five years, so --

10 MR. TURNER: I can tell you there's  
11 life after the legislature.

12 MAJORITY CHAIRMAN CAUSER: That's  
13 good to hear.

14 It's great to have you with us and  
15 thank you for traveling all that distance.

16 I do have one question, and maybe  
17 this is for Jack. I'm interested in your  
18 sales comparison between -- in 2017-'18, you  
19 were able to sell consumer fireworks from your  
20 facilities. But then after the court case,  
21 you were not able to and had to sell  
22 novelties.

23 Can you tell us how your sales went  
24 from that switch from the court case? How did  
25 that affect you?

1           MR. MAY: Yeah. I want to be  
2 cautious sharing proprietary information with  
3 a room full of competitors. But it went down  
4 significantly.

5           Essentially, I mentioned during my  
6 testimony that the sales increase, when we  
7 added -- when we were permitted to sell  
8 consumer fireworks, was at a certain level.  
9 And 80 percent of that increase was funds that  
10 I just took and gave to the state in license  
11 fees. So, the actual financial impact of our  
12 ability to sell was almost neutral relative to  
13 prior to the legislation, as a result of the  
14 significant license fees that were imposed on  
15 us.

16           However, it's important that we be  
17 able to compete. As I also mentioned in my  
18 testimony, when you're in a market -- for  
19 instance, West Virginia, where tents can sell  
20 both novelties items and consumer fireworks,  
21 the novelty items represent 40 to 45 percent  
22 of overall sales. The majority of sales is  
23 consumer fireworks. So, it's an important  
24 product element that we be able to sell in  
25 order to compete.

1 MAJORITY CHAIRMAN CAUSER: I was  
2 trying to figure out the comparison, because,  
3 you know, you're at one level selling novelty  
4 fireworks, then all of a sudden you're able to  
5 sell both. And then you're back to novelty  
6 fireworks. So, I was trying to figure out --

7 MR. MAY: You know, there are so many  
8 factors that go into it. And, again, I'm  
9 sensitive to sharing proprietary information.  
10 But when the legislation allowed us to sell it  
11 was a Wednesday, July 4th, which is, of the  
12 daily cycles of July 4th, it's the lowest  
13 sales opportunity. So -- and then, last year,  
14 in '19, it was a Thursday. So, that was a  
15 better sales opportunity.

16 Our sales in Pennsylvania went down  
17 dramatically when we were not able to sell  
18 consumer fireworks. Perhaps after the  
19 meeting, be glad to share specific information  
20 on sales volume for each of our locations. Be  
21 glad to do that.

22 MR. TURNER: I might add, sales did  
23 go down, but what we anticipate, they'll go  
24 down even further because people who came into  
25 the tent this year expected to see what they

1 purchased last year, and while they were  
2 there, they went ahead and bought some  
3 product, but they -- it wasn't what they were  
4 looking for, because they had gotten used to  
5 it. So --

6 MAJORITY CHAIRMAN CAUSER: So, you  
7 think they're not coming back.

8 MR. TURNER: Yeah. That's what we  
9 think. And they'll continue to -- it will go  
10 down. And then, in our case, the  
11 not-for-profits say, you know, It's not worth  
12 it anymore, the cost of the license.

13 And I will say, Pennsylvania, for a  
14 license for a tent, is maybe the highest in  
15 the country, at least among the highest in the  
16 country. So, it's -- it's problematic.

17 MAJORITY CHAIRMAN CAUSER: Thank you.  
18 Chairman Pashinski.

19 MINORITY CHAIRMAN PASHINSKI: Thank  
20 you very much for your testimony today. And,  
21 again, congratulations on your years of  
22 service. So, you know exactly what we're  
23 going to have to go through now. We have to  
24 figure all this stuff out.

25 And a hundred years is terrific. So,

1 I'm trying to calculate in my mind. How did  
2 you last a hundred years without all of this  
3 consumer fireworks?

4 MR. TURNER: Well, the company  
5 started in Alabama and it was actually by the  
6 president's grandfather who started the  
7 company. And he was in the news business and  
8 started selling sparklers as a beginning.  
9 And, of course, in the very beginning, he sold  
10 only in Alabama. And they've expanded into  
11 other states. And, interestingly enough, TNT  
12 Fireworks acquired my company twenty-one years  
13 ago. And we were in the business of selling  
14 to retailers, chain retailers. And we sold  
15 companies like Walmart and Target, and they  
16 acquired our company. That's how I'm involved  
17 with them.

18 MINORITY CHAIRMAN PASHINSKI: And  
19 you're still selling to the large  
20 corporations.

21 MR. TURNER: Correct.

22 MINORITY CHAIRMAN PASHINSKI: But  
23 just the fantasy stuff.

24 MR. TURNER: Pardon me?

25 MINORITY CHAIRMAN PASHINSKI: Just

1 the fantasy? Or is it novelties?

2 MR. TURNER: It depends on what  
3 state. In some states, they can sell  
4 consumer-grade fireworks in retailers. They  
5 don't all do. But, typically, those would be  
6 sold in a Sam's Club or a Costco. But every  
7 state's different.

8 I will say that you can buy some type  
9 of fireworks in forty-nine of the fifty  
10 states. There's only one left.

11 MINORITY CHAIRMAN PASHINSKI: Which  
12 one's that?

13 MR. TURNER: Massachusetts. They're  
14 next. In fact, ironically, there's a hearing  
15 today.

16 MINORITY CHAIRMAN PASHINSKI: How  
17 about that.

18 All right. I see the map.

19 All right. Well, once again, we're  
20 going to try to work together to make sure  
21 that you all can stay in the business but also  
22 to help our police and fire protect the  
23 community and try to make it a safe process.

24 I can also, you know, relate back to  
25 when I was a kid. You know, the sparklers



1       were neat. And then you had a few fountains.  
2       And then you had the little fingers -- what do  
3       you call them? The little one-inch  
4       firecrackers.

5               But, boy, if you could get a cherry  
6       bomb, that was really neat, you know. So, if  
7       you knew -- if the neighborhood knew you had a  
8       cherry bomb, that meant that everybody was  
9       coming over.

10              The only thing is, you know, when I  
11       find out that the heat involved in some of  
12       these new fireworks, you know, can melt glass,  
13       you pretty much can burn anything then. So,  
14       we'll find some kind of reasonable solution  
15       here. We'll all work together on it.

16              But thank you very much for your  
17       testimony.

18              MR. TURNER: We appreciate that very  
19       much. Thank you.

20              MAJORITY CHAIRMAN CAUSER: Thank you  
21       very much for your testimony. Thank you for  
22       joining us.

23              MR. TURNER: Thank you.

24              MR. MAY: Thank you.

25              MAJORITY CHAIRMAN CAUSER: And our

1       final panel is Pennsylvania licensed consumer  
2       fireworks sale facilities: Mr. Daniel Peart,  
3       director of government affairs at Phantom  
4       Fireworks; and also Bob Kellner, president of  
5       Kellner's Fireworks.

6               Welcome, gentlemen. Thank you for  
7       being here with us. Look forward to your  
8       testimony.

9               You may proceed.

10              MR. KELLNER: Good morning. My name  
11       is Bob Kellner, and I'm president of Kellner's  
12       Fireworks, Incorporated, of Irwin Township,  
13       Venango County, PA. And I'm on the board of  
14       directors of the National Fireworks  
15       Association and the Pennsylvania Pyrotechnics  
16       Association. And I'm a past director of the  
17       American Pyrotechnics Association.

18              And first I'd like to thank the House  
19       Agriculture and Rural Affairs Committee for  
20       this opportunity to speak to you.

21              Now, my company was founded by my  
22       parents over seventy years ago in Oil City.  
23       And, today, we are Pennsylvania's largest  
24       distributor of consumer fireworks,  
25       professional display fireworks, and proximate

1       pyrotechnics. But even so, we are still a  
2       small, family-run company that my wife, my  
3       daughters, and even my ninety-seven-year-old  
4       mother are still involved with.

5               Now, my family came here to  
6       Pennsylvania a long time ago. In fact, two of  
7       my tenth great grandfathers came from Sweden  
8       to what would become Pennsylvania in 1640, and  
9       both were used as interpreters for  
10      negotiations between William Penn and the  
11      natives, the Indians.

12             Now, Pennsylvania -- fireworks have  
13      been part of Pennsylvania for almost as long  
14      as my family has. In fact, it was from  
15      Philadelphia that John Adams wrote to his wife  
16      Abigail, stating that our Independence Day  
17      ought to be celebrated with pomp and parade,  
18      bonfires, and illuminations from one end of  
19      the continent to the other from this time  
20      forward forever more.

21             Now, when my father got into the  
22      fireworks business in 1947, Pennsylvania was  
23      the largest producer of fireworks in the  
24      world. Keystone Fireworks, of Dunbar, Fayette  
25      County, Pennsylvania, had two hundred and

1       fifty full-time employees making  
2       professional-class and backyard fireworks.  
3       Pennsylvania was full of family-run fireworks  
4       factories.

5               Now, today, these factories are  
6       virtually all gone, but the love of fireworks,  
7       both watching them and using them, still is  
8       strong within the citizens of the  
9       Commonwealth.

10              When the fireworks law changed in  
11       2017, I gave dozens of seminars on the changes  
12       throughout western Pennsylvania to government  
13       officials, fire departments, police  
14       departments, bomb squads, arson investigators  
15       and practically anyone else that was  
16       interested. And the surprising feedback that  
17       I got was: It's about time that we can  
18       legally celebrate the 4th of July with  
19       fireworks in Pennsylvania.

20              Now, there were some concerns  
21       expressed about when and what time of day  
22       these celebrations could occur, and, in fact,  
23       I had the same concerns. But I believe that  
24       House Bill 1687 goes a long ways towards  
25       alleviating these concerns, and, hopefully,

1       Pennsylvania residents can use the fireworks  
2       that they love safely forever more.

3               Thank you.

4               MAJORITY CHAIRMAN CAUSER:   You can  
5       proceed, sir.

6               MR. PEART:   Thank you.

7               Chairmen Causer and Pashinski,  
8       members of the committee, remaining members,  
9       my name is Daniel Peart, director of  
10      government affairs for Phantom Fireworks, the  
11      country's leading retailer of consumer  
12      fireworks.

13              Phantom has operated in the  
14      Commonwealth for nearly thirty years and has  
15      eleven permanent retail locations, with more  
16      than four hundred full- and part-time  
17      employees.

18              Phantom Fireworks is a member in good  
19      standing of the Pennsylvania Pyrotechnics  
20      Association, along with dozens of other state  
21      and national fireworks trade and related  
22      member associations.

23              Thank you for the opportunity today  
24      to speak in support of House Bill 1687.

25              Since the use of consumer fireworks

1 was legalized in 2017, Pennsylvanians have  
2 done just that. They've celebrated our great  
3 nation's independence en masse and, at times,  
4 at the unfortunate expense of those  
5 surrounding them. This is not uncommon to the  
6 experiences of other states after fireworks  
7 legalization occurs. There's a honeymoon  
8 period, if you will, where people are eager to  
9 exercise their newfound freedom during the  
10 greatest holiday of the year.

11           Unfortunately, this honeymoon period  
12 can also give way to a more frequent or  
13 excessive use of fireworks not in line with  
14 the original indent.

15           History tells us that the novelty of  
16 legal use will dissipate after a few years,  
17 and a more orderly, respectful reality of  
18 consumer fireworks use will settle in. That  
19 being said, we understand the reasoning behind  
20 creating a statutory framework to encourage  
21 citizens to use fireworks in a responsible,  
22 legal manner, as well as giving the municipal  
23 and enforcement community something they can  
24 point to to compel such behavior.

25           Phantom believes that House Bill 1687

1 achieves this, in creating a reasonable set of  
2 parameters around the use of consumer  
3 fireworks and affirming local control that is  
4 consistent with what other states have  
5 successfully done with their consumer  
6 fireworks laws.

7 In closing, Phantom would like to  
8 thank Representative Farry and the sponsors  
9 for their hard work in drafting a  
10 comprehensive bill that addresses the issues  
11 requiring attention and the House Ag Committee  
12 for their efforts and willingness to provide  
13 this venue to discuss the bill.

14 I urge you to vote yes for House Bill  
15 1687. And I'm happy to answer any questions.

16 MAJORITY CHAIRMAN CAUSER: Thank you  
17 very much for your testimony.

18 And, obviously, you both have  
19 indicated support for the legislation, but in  
20 hearing the other testimony that we've had  
21 here today talking about more local control by  
22 local governments. Can you tell me what your  
23 thoughts are on that particular topic?  
24 Because that seems to be a theme that we're  
25 hearing from different groups.

1                   MR. PEART: I'd be happy to. Thank  
2                   you.

3                   I think that the element of local  
4                   control already provided for in House Bill  
5                   1687 achieves what some of the other folks  
6                   have mentioned. It gives some of the  
7                   municipal communities the ability to enact  
8                   regulations or restrictions around the sale  
9                   and use of consumer fireworks.

10                  Asking for more teeth to be put in  
11                  it, to me, is a bit confounding because I  
12                  would, in turn, then ask for how the  
13                  regulation of consumer fireworks outside of  
14                  the act has gone in these municipalities for  
15                  the last two year, as it's been legal. How  
16                  many citations are being issued, and what  
17                  element of local control that already exists,  
18                  in terms of enforcement, has been exercised up  
19                  to that point, before asking the state to do  
20                  more.

21                  You know, I think 1687 is already  
22                  doing more on behalf of the state, and, at  
23                  times, some of this falls on the shoulders of  
24                  the locals, and it's an enforcement issue.

25                  MAJORITY CHAIRMAN CAUSER: Do you



1 have any comments, sir?

2 MR. KELLNER: Yes. I'd just like to  
3 add that local control -- or maybe lack of  
4 local regulation kind of led to the changes of  
5 the law both in 2004 and in 2017, that people  
6 that wanted to have a family reunion, a  
7 birthday party, they were just not allowed,  
8 period, to be able to use the fireworks,  
9 consumer-grade fireworks, for their event,  
10 which led to frustration, led to people  
11 breaking the law. And we would rather have a  
12 reasonable law that people can enjoy their  
13 event with.

14 MAJORITY CHAIRMAN CAUSER: Thank you.

15 Yeah, I think in the past, it wasn't  
16 totally workable, you know. Years ago, I was  
17 a rural township supervisor, and, you know,  
18 for people to be able to come and buy items,  
19 they had to go to a municipal official and get  
20 that permit signed. I was a township  
21 supervisor in a township with eight hundred  
22 people. And people would show up at my house  
23 saying, Hey, will you sign this permit?

24 I didn't know if they were able to  
25 really shoot off fireworks safely or not, and,

1 of course, if -- I wouldn't sign their permit.  
2 But I know that a lot of times those permits  
3 did get signed, and then they were able to  
4 purchase them. But were they really able to  
5 shoot them off safely was a huge question at  
6 that time.

7 So, that particular provision wasn't  
8 workable back then. And it's, you know,  
9 something that I think we need to consider  
10 going forward.

11 So, Chairman Pashinski.

12 MINORITY CHAIRMAN PASHINSKI: Sure.

13 And thank you very much for your  
14 testimony.

15 Thank you, Chairman.

16 And how about it, ninety-seven-year-  
17 old mom. That's incredible. That's really  
18 terrific.

19 MR. KELLNER: Actually, she's  
20 watching on the Internet right now.

21 MINORITY CHAIRMAN PASHINSKI: Well,  
22 let's everybody say hello to her. What's her  
23 name?

24 MR. KELLNER: Wilma.

25 MINORITY CHAIRMAN PASHINSKI: Hi,

1 Wilma. Your son did a good job.

2 I was wondering, could you tell me  
3 what percentages of your profit or -- yeah,  
4 what percentages of your profit go to just  
5 professional sales?

6 So, in other words, if we break it  
7 down, some of you sell to retailers --  
8 Walmart, Sam's, whatever -- and then you also  
9 have your professional companies that put on  
10 the large displays for major events, fairs,  
11 and 4th of July, et cetera. And then you have  
12 the tents.

13 Is it broken down in a way that we  
14 might be able to understand where the dollars  
15 are? What's your base? How much of the tents  
16 contribute to your sales?

17 MR. PEART: As far as the  
18 professional municipal displays that you  
19 alluded to, Phantom is a consumer-driven  
20 business. So, I suppose that part just isn't  
21 applicable to us.

22 But, as existed in -- as I mentioned,  
23 Phantom has operated in Pennsylvania for  
24 nearly thirty years. And in that time, the  
25 sale of the full scope of consumer fireworks

1 has existed in the permanent brick-and-mortar  
2 facilities. So, in terms of consumer  
3 fireworks sales, for all but one of those  
4 thirty years, is 100 percent. That's how the  
5 landscape has existed for -- since its birth.  
6 So, hopefully that answers your question.

7 MINORITY CHAIRMAN PASHINSKI: It  
8 does. It does.

9 MR. KELLNER: For our company, we're  
10 an importer and wholesale distributor, so we  
11 sell to different states for different kinds  
12 of places that they can sell from. And on the  
13 display fireworks, they're all federally  
14 regulated. And probably half of our business  
15 is to sell to groups and licensed  
16 organizations that shoot the display  
17 fireworks. But we do both the display and the  
18 consumer from our business.

19 MINORITY CHAIRMAN PASHINSKI: Thank  
20 you. Thank you very much.

21 Thank you, Mr. Chairman.

22 MAJORITY CHAIRMAN CAUSER: I was  
23 interested in your testimony talking about  
24 how, you know, back in -- you've been in  
25 business since 1947, and Pennsylvania was the

1 largest producer of fireworks in the world.  
2 And then now those factories are basically  
3 gone, you testified.

4 What -- what precipitated that? Was  
5 it the enactment of the fireworks laws that we  
6 had in the past that restricted it so far that  
7 put a crimp on the production in Pennsylvania?  
8 Or -- interested in the history of that.

9 MR. KELLNER: Well, we probably don't  
10 have enough time here today to go into all the  
11 factors, but some of the factors are trade  
12 with China. Definitely that is a big factor.  
13 Because all the display and consumer fireworks  
14 today in the marketplace virtually all come  
15 from China.

16 But there were so many different  
17 factors that -- environmental regulations. A  
18 lot of these were small, family-run companies.  
19 They weren't big corporations. And with --  
20 and a lot of times they were manufacturing  
21 under recipes that had been passed down, for  
22 lack of a better word, passed down for  
23 generations. And a lot of -- they didn't have  
24 the knowledge of the pollution controls, the  
25 manufacturing considerations that go into big

1 companies today, and they just folded with,  
2 you know, more regulation.

3 MAJORITY CHAIRMAN CAUSER: So, a  
4 myriad of factors.

5 MR. KELLNER: Many.

6 MAJORITY CHAIRMAN CAUSER: Are there  
7 any questions from any of the members?

8 Thank you very much for being here  
9 with us today. Thank you for your testimony,  
10 and that will be very helpful for the  
11 committee as we further consider this  
12 legislation.

13 So, thank you for being here with us.

14 MR. KELLNER: Thank you for your  
15 time.

16 MR. PEART: Thank you very much.

17 MAJORITY CHAIRMAN CAUSER: I do want  
18 to note that we've received testimony, written  
19 testimony, from some other organizations, from  
20 the Fraternal Order of Police, from the  
21 Pennsylvania State Police, from the  
22 Pennsylvania Chapter of the American Academy  
23 of Pediatrics, and from a number of  
24 individuals. So, all of that testimony will  
25 be submitted for the record and kept with the

1 transcript of this hearing and will be  
2 provided to the members for their information  
3 as we consider this issue.

4 So, I do want to thank everyone for  
5 their participation.

6 Thank you for the information that we  
7 received today. As I said, it's very helpful  
8 for us.

9 Thank Representative Farry. And look  
10 forward to working with everyone on this  
11 issue.

12 So, this meeting is adjourned. Thank you.

13 (Whereupon, the hearing concluded at  
14 10:52 a.m.)

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the foregoing is a  
true and accurate transcript, to the best of my  
ability, produced from audio on the said  
proceedings.

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BRENDA J. PARDUN, RPR  
Court Reporter  
Notary Public