

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

AGRICULTURE & RURAL AFFAIRS
HOUSE & SENATE JOINT PUBLIC HEARING

STATE CAPITOL
HARRISBURG, PA

MAIN CAPITOL BUILDING
ROOM 60

WEDNESDAY, DECEMBER 15, 2021
9:00 A.M.

JOINT PUBLIC HEARING ON FIREWORKS LAW

HOUSE COMMITTEE MEMBERS PRESENT:

HONORABLE DAN MOUL, MAJORITY CHAIRMAN
HONORABLE RUSS DIAMOND
HONORABLE MINDY FEE
HONORABLE MARK GILLEN
HONORABLE JAMES GREGORY
HONORABLE JONATHAN HERSEY
HONORABLE JOSEPH KERWIN
HONORABLE JOHN LAWRENCE
HONORABLE MARCI MUSTELLO
HONORABLE CLINT OWLETT
HONORABLE JASON SILVIS
HONORABLE DAVID ZIMMERMAN
HONORABLE JERRY KNOWLES

HONORABLE EDDIE PASHINSKI, MINORITY CHAIRMAN
HONORABLE DANILO BURGOS
HONORABLE NANCY GUENST
HONORABLE EMILY KINKEAD
HONORABLE DARISHA PARKER
HONORABLE PAM SNYDER

SENATE COMMITTEE MEMBERS PRESENT:

HONORABLE ELDER VOGEL, JR., MAJORITY CHAIRMAN
HONORABLE GENE YAW
HONORABLE KRISTIN PHILLIPS-HILL
HONORABLE DOUGLAS MASTRIANO

HONORABLE JUDITH SCHWANK, MINORITY CHAIROWMAN
HONORABLE CAROLYN COMITTA
HONORABLE SHARIF STREET

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*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

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TESTIFIERS

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SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

PROCEDINGS

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SENATE MAJORITY CHAIRMAN VOGEL: Good morning, everyone. I'd like to welcome everyone to our hearing this morning. If you could find a seat and -- so we can get going. We have a lot to try and cover in a short period of time. I'd like to welcome everyone this morning to the joint hearing of the House and Senate Ag and Rural Affairs Committees. Today we will receive testimony regarding consumer fireworks from local government representatives, law enforcement, fire services and the industry.

I should note that the Office of State Fire Commissioner was invited to testify today, however was unable to attend. However, we did receive the agency's written testimony. In light of the changes made to the law through Act 43 of 2017, the number of legislative proposals and the media attention that this topic receives, I am looking forward to the dialog today.

Before the other chairs make their opening remarks, a few housekeeping items. Interest of time, we would like to ask that for panels with multiple testifiers, one representative speak for the groups, and the remarks for each panel be summarized and limited to approximately five minutes. This will allow time for Q&A with members of the committee, since we have quite a few members as a joint

1 committee hearing.

2 If we -- if time does allow, we will ask -- if
3 you don't have enough time to get your questions answered,
4 members that do not get their questions asked, we would ask
5 that you send your questions to your committee executive
6 directors, and they can forward them to the panelists for
7 responses.

8 This time, I'd like to represent my -- recognize
9 my counterpart in the House, rep -- Chairman Moul.

10 HOUSE MAJORITY CHAIRMAN MOUL: Good morning,
11 everyone. Thank you all for attending. Looking forward to
12 some very spirited testimony on this very quiet issue that
13 none of us hear much about back in our districts.
14 Hopefully we -- this hearing will result in some direction
15 in which we can move here in Harrisburg in order to fix
16 this issue.

17 Also, like to welcome the local government
18 committee, the chairman and my co-chair of the Ag
19 Committee. To -- since this is a joint House and Senate Ag
20 and local government committee hearing -- it's the first
21 one I have ever sat in that involved four. So, without
22 further ado I would like to go ahead and get this hearing
23 underway. Thank you.

24 SENATE MAJORITY CHAIRMAN VOGEL: Senator Schwank,
25 do you have any opening remarks?

1 SENATE MINORITY CHAIRWOMAN SCHWANK: Thank you,
2 Senator Vogel, and good morning, everybody. I agree with
3 Representative Moul. This hearing is long overdue, and
4 it's really great that we have everybody together to really
5 discuss what -- you know, what some of the solutions are.

6 I have to say this: when we as a legislature hold
7 policy discussions or hearings, it's primarily on
8 legislation intended to, you know, enhance something, or
9 support needed changes in Pennsylvania law, or perhaps to
10 rectify or fix an issue that impacts the health and
11 wellbeing of our constituents. In this case however, we're
12 discussing how to fix a problem that we solely created when
13 we enacted the new fireworks law.

14 I represent the 11th Senatorial District, which
15 is wholly contained within the County of Berks. I have
16 the City of Reading, a sizeable suburban population, a
17 rural population as well, and the complaints about serious
18 problems caused by allowing consumers to access previously
19 outlawed, high-power fireworks comes from everyone, no
20 matter where they live. It has been a real issue for us.
21 Fire and police chiefs, mayors, township managers, council
22 people and more have described, you know, the difficult
23 task and high cost of enforcing the law, the physical
24 damage to public and private property, and the endangerment
25 to the public.

1 That's why I did introduce Senate Bill 757 which
2 would repeal the Fireworks Law of 2017. That's what I
3 think is the solution to this situation. But, I am here
4 today to hear what testifiers have to say, and I intend to,
5 you know, follow up on what we learn. Thank you.

6 SENATE MAJORITY CHAIRMAN VOGEL: Thank you,
7 Senator Schwank. Representative Pashinski for remarks?

8 HOUSE MINORITY CHAIRMAN PASHINSKI: Thank you
9 very much, Senator. And welcome, everyone. So many good
10 remarks were already stated. I am looking forward to the
11 testimony today which will help guide us in making sure
12 that we make the right decisions, going forward. So, I am
13 anxious to get everyone started so we can hear from the
14 experts, those that are working in the fields, to tell us
15 exactly what is transpiring in your communities. Thank
16 you, Mr. Chair.

17 HOUSE MAJORITY CHAIRMAN MOUL: All right, we're
18 going to get started with Joe Gerdes, Director of
19 Government Relations, Pennsylvania State Association,
20 Township Supervisors. Floor is yours.

21 MR. GERDES: Thank you, Mr. Chairman. Good
22 morning, everyone. My name is Joe Gerdes, Director of
23 Government Relations for PSATS. Thank you for the
24 opportunity to appear before you today on behalf of the
25 1,454 townships of the second class represented by the

1 association on a issue that's impacting many of our
2 members.

3 In 2017 the state made it legal for Pennsylvania
4 residents to purchase, possess and detonate consumer
5 fireworks. This change has brought significant challenges
6 to townships and municipalities across Pennsylvania, both
7 suburban and rural, primarily due to a disregard for public
8 safety and a lack of common sense among users.

9 These challenges cause local governments to have
10 some real concerns with the law and the difficulty
11 enforcing it with its narrow and seemingly inflexible
12 restrictions as it's currently written. In some townships
13 consumer fireworks are used seven days a week, day and
14 night, sometimes well into the early morning hours,
15 prompting a rash of complaints, and overwhelming local
16 authorities in their ability to respond and resolve
17 disputes.

18 On holidays, and the days and nights leading up
19 to and following them, the intensity of use increases to a
20 fever pitch. Although these seems -- these seem to be
21 dismissed by some as a nuisance, there is a real safety and
22 infringement of personal rights issues here. We realize
23 that consumer fireworks are now legal, and that that is not
24 likely to change any time soon. However, we believe there
25 are some areas where the legislature should reset the

1 parameters of the law and allow local government some
2 latitude in exercising local control.

3 Cleaning up the desperate and ambiguous language
4 of the law would be helpful to clarify where local
5 governments could regulate further without being in
6 conflict with the state law. Townships should have the
7 ability to reasonably regulate the frequency and length of
8 consumer firework displays, including limitations on the
9 hours they may take place. Several bills introduced this
10 session would set time windows and limitations when
11 consumer fireworks may be used, including expanded hours on
12 holidays.

13 While the existing statute currently requires the
14 use of consumer fireworks to be at least 150 feet from an
15 occupied structure, the state should extend this setback
16 with a cap, allowing townships to enact additional
17 reasonable regulations or restrictions based on the safety
18 and local conditions. This would include zones that would
19 prohibit the use of fireworks all together, such as near
20 schools, hospitals, veterans' facilities and homes.

21 Also addressing the fine structure, to increase
22 it from the current nominal \$100 to a tiered offense system
23 with caps where again local governments can decide what
24 best meets local condition and acts as a real deterrent to
25 the illegal use.

I would also be remiss if I didn't mention display or consume -- or commercial fireworks. We would suggest that some changes be made to the language authorizing municipalities to issue permits for the use of commercial-display fireworks, specifically the minimum criteria for permits should include that the operator has all required Federal licenses and is following applicable Federal law, not just that they are 21 years of age and competent, and with proper sight inspection, allowing the local municipality options of choosing the inspector, including their commercial inspector.

Also, the bonding amount of not less than \$1,000 seems inadequate considering the 1939 Act required a minimum bond of \$500. While municipalities may exceed this threshold, the floor certainly should be set higher.

In closing, PSATS is a strong proponent of local control, as well as partnering with the state and other local governments. We believe, however, the state law regarding fireworks needs to be updated so that townships of any class and other local governments have the ability to adopt safe and reasonable fireworks regulations within state-set guidelines allowing for adjustment of local conditions. Thank you, Mr. Chairman.

HOUSE MAJORITY CHAIRMAN MOUL: Thank you. And, Mr. Troxell and Ms. Sturges, do you have anything to add to

1 Joe's testimony? If -- now would be the time, and then
2 when you're done, we'll take questions from the members.

3 MR. TROXELL: Good morning, all. Can you hear
4 me? Great. We do have something to add, just briefly.
5 Good morning to the chairs and members of Senate and House
6 Agricultural & Rural Affairs Committees. Great to see you
7 all this morning. And, I am Ed Troxell. I represent the
8 Pennsylvania State Association of Boroughs since 1915. The
9 Boroughs Association which was created by a legislative act
10 -- 392 it is -- to serve our boroughs and their interests
11 in remedial legislation and other things of interest to our
12 boroughs.

13 One of the main items that's important to our
14 boroughs with the association is actually looking for
15 legislation that will provide and look out for their
16 health, safety and welfare. That's the key role. That's
17 the key term that you will hear; phrase used much. And, I
18 wanted to look at that in respect to Act 43, because since
19 the passage -- as Joe referred to, since we did Act 43 in
20 '17, there's been quite a clamor on exactly how can we
21 enforce this law, how do we get folks to comply, et cetera.
22 And, we need to know how we're going to enable folks to use
23 them safely as well.

24 Also, what's important to our communities to know
25 is, what are the police powers that we have regarding

1 enforcing this law? It's very vague at this point. I have
2 referred to in my testimony, there are five prohibitions in
3 Act 43 which are all kind of gray. They don't really work
4 for us at this point. And especially, as Joe mentioned
5 earlier though, 150 foot of an occupied structure, that's a
6 the fifth of the five. That's very difficult when you,
7 especially, look at my communities and also cities, larger
8 populations. That would more or less prohibit the use of
9 any consumer fireworks throughout the communities. Now,
10 you -- I know the argument is going to be, you just need to
11 enforce this law. You just need to -- well, actually, the
12 penalties behind enforcing this law are \$100 and a summary
13 offense. Now, for anyone who has actually dealt with those
14 types of penalties, you can actually challenge it. And,
15 you would tie up a police officer, and you would tie up our
16 legal cost for the borough to prosecute something like
17 that. So, we feel that that part of the law definitely is
18 not working for us, and so there is the hesitancy to enact.
19 We try.

20 Also the law doesn't give us the ability
21 and -- the possession aspect of it. So, there's a lot of
22 things in this law that are very gray that we need to dial
23 in on. And, that's one of the things that I want to go --
24 I mean, there's tons of accidents, property damage. You
25 know about the noise. You know about that. There's a

1 plethora of bills that give us a schedule of time and when
2 you can use these or not.

3 But, what I want to propose to the community
4 today for a start, to really address Act 43 is, we look at
5 a scalable, comprehensive framework, something similar to
6 like what we do in the borough -- in the Uniform
7 Construction Code. Something that would actually give us
8 the capacity to establish a floor at the state level. Some
9 of the ideas that would actually provide broad provisions
10 in there, your general prohibitions, regulatory guidances
11 for those things like display fireworks, for the
12 agricultural application of fireworks which is actually
13 used for crows and things like that.

14 And so, what we want to actually -- what would be
15 sensible to add to the law also are some options for local
16 governments to opt out of the law and go above it,
17 establish ordinances that stay within a framework, or they
18 could go higher if they choose to do so.

19 One of the things I did talk about earlier with
20 Representative Fee was basically if we could establish a
21 ballot referendum at the local level. This is something we
22 already do for alcohol and bars, establishments and things
23 like that, that if you really want to get to the people and
24 give them the voice, a ballot question we could put
25 together about -- question -- as we work on this scalable

1 approach. We could put together the language and set that
2 into law. And so, there is options like that, that could
3 be helpful for us.

4 In closing though, all together I think what we
5 need is to repeal and reenact Act 43. It's vague, not
6 working at this point. If we get something that's similar
7 to developing a potential model ordinances that we work
8 with so much, or use it as similar to a building code,
9 builds a floor that we could go over and above, that could
10 give us options.

11 And so, we're excited today about the process
12 that can begin here today. We've kind of been having to
13 deal with this. And, you know, going into the holidays,
14 we're bound to get some local fireworks that are going to
15 be flying around. And so basically, that's what I have for
16 the committee today, and so I just want to thank you for
17 your time.

18 HOUSE MAJORITY CHAIRMAN MOUL: Thank you.

19 Ms. Sturges?

20 MS. STURGES: Thank you. Very quickly, my name
21 is Amy Sturges. I am the Director of Governmental Affairs
22 for the Pennsylvania Municipal League and the State
23 Association of Township Commissioners. I'd like to thank
24 the chairs and members of the committees today for holding
25 this hearing and for the great attendance today.

1 This is an issue that is very important for local
2 government, as you have heard. I submitted written
3 testimony, so very quickly, to summarize, the membership of
4 the Pennsylvania Municipal League strongly believes that
5 repeal is the only redress to consumer fireworks
6 legalization and expansion, because enforcement is nearly
7 impossible. And, illegal, irresponsible use is not slowing
8 down as we enter the fourth year of this unfunded mandate.

9 The township commissioners have a little bit
10 different perspective. They believe that stricter local
11 laws and the authority to enact stricter local standards
12 including a local band, if necessary, will address the
13 current concerns and help to manage the outcomes of this
14 law better.

15 You are hearing differences of opinions already
16 among us in local government as to how to address this
17 problem. I don't think that should be a surprise to
18 anyone, because municipalities across the Commonwealth are
19 so different. And we only need to look at the different
20 bills that have been enact -- or not enacted but introduced
21 this session to see that there are many different opinions
22 on how we should fix this law.

23 Two main points that I would like to leave you
24 with today. This is an impossible, unfunded mandate that
25 is wasting valuable public safety resources. The increased

1 illegal and irresponsible use of consumer fireworks is not
2 because of a lack of enforcement. The law itself is the
3 problem. And secondly, if repeal is not on the table,
4 local control is key to more effective management. The
5 one-size-fits-all approach of the current law is not
6 appropriate. Because of the makeup of municipalities --
7 because the makeup of municipalities varies considerably,
8 local officials need the flexibility to decide locally how
9 best to approach consumer fireworks in their communities.

10 Respectfully, I ask that this conversation
11 continue into the new year, so that we can work together to
12 find a suitable solution for all of our municipalities and
13 our -- the residents of Pennsylvania. And, I thank you
14 again for holding this hearing, and we'll be happy to
15 answer any questions.

16 SENATE MAJORITY CHAIRMAN VOGEL: Thank you.
17 Thank you all for your testimony this morning. First
18 question I have I guess is, do you have any data collected
19 regarding the number of fireworks complaints prior to the
20 '17 law and then since the '17 law? Is there any data? Do
21 you have -- like before the -- before 2017 and after 2017
22 until now?

23 MS. STURGES: I'll be happy to start with the
24 answer to this question: no. Data is a problem for this,
25 because there is nothing in the law that is requiring or

1 allowing for appropriate statewide data collection.
2 Obviously, there was no data prior to 2017, because
3 consumer fireworks were not legal, and -- the use was not
4 legal and expanded. So, since 2017 we don't have
5 appropriate methods in place for data collection. So that
6 would -- that is one of the things that we would be
7 requesting in any rewrite of this legislation, that there
8 be appropriate collection of incidence, law enforcement,
9 police, fire, emergency services incidence, as well as
10 incidence regarding the medical community. The emergency
11 room visits, deaths, all of that needs to be collected in a
12 good manner, so that we can really get a handle on the
13 impacts of this law.

14 MR. TROXELL: Additionally, if you look at
15 PennFIRS, which is Pennsylvania Fire Incident Reporting
16 System, looking under the details there, there was nothing
17 mentioned in PennFIRS regarding the incident and its --
18 what prompted it. So, there was nothing actually
19 accounting for if fireworks were used or not.

20 So, that's what makes the data so difficult.
21 What we can do right now is just look what we have
22 anecdotally. I could work with our staff and pool all the
23 complaints together that we got through the phone, and then
24 you go to the newspapers and things like that. That's
25 about all we have at this point.

1 But it's a good idea. If -- when we do
2 incorporate a good, new law, that we do have a -- we look
3 at those areas where we need to report something like this.
4 Because you've got property damage, you've got physical
5 damage. You've got a lot of items that need to be tracked.
6 That's a good question. Thank you, Senator.

7 SENATE MAJORITY CHAIRMAN VOGEL: Okay. Thank
8 you. Senator Schwank for a question?

9 SENATE MINORITY CHAIRWOMAN SCHWANK: Thank you,
10 Chairman Vogel. One quick comment, and then a question.
11 Somebody mentioned common sense, and I know that's sorely
12 lacking. I recognize how that this has -- you know, people
13 just are not making wise decisions in terms of detonating
14 these -- you know, these devices and things of that nature.

15 But one thing -- particularly for you, for the
16 township supervisors, one of the things we know is that
17 very many townships, second-class townships, do not have
18 their own police force. They rely on state police. So,
19 what would you consider in terms of enforcement that would
20 be effective? Have you talked about that among your
21 members? How are we going to -- how are you going to get
22 that done?

23 MR. GERDES: Well, that's a great question. And
24 it would be a state law, so the state police would be able
25 to police that. Where -- the state police does not enforce

1 municipal laws right now, when they do cover a local
2 township. So, that's an interesting point there. They
3 would have the ability -- my understanding right now -- to
4 enforce the law as it is, in those municipalities that
5 don't have their own police force.

6 As far as enforcement with those municipalities
7 that do have their own police force, again, enforcement is
8 the tough part here. I don't think anybody has an easy
9 answer. You know, fireworks are set off at night. The
10 evidence is gone by the time --

11 SENATE MINORITY CHAIRWOMAN SCHWANK: Right.

12 MR. GERDES: -- by the time local officials get
13 there. It's my understanding that even cellphone footage
14 may not be admissible. I'm not an attorney; may not be
15 admissible in a criminal proceeding. It's very tough to
16 enforce. But, making the deterrent more than \$100 fine
17 where people can spend hundreds of dollars on
18 consumer-grade fireworks might be a start.

19 SENATE MINORITY CHAIRWOMAN SCHWANK: Well, this
20 will be a good follow-up question when the state police
21 come forward to --

22 MR. GERDES: Sure.

23 SENATE MINORITY CHAIRWOMAN SCHWANK: -- to sit at
24 the panel as well, because this is the crux of the issue,
25 too.

1 MR. GERDES: Sure.

2 SENATE MINORITY CHAIRWOMAN SCHWANK: Thank you.

3 MR. GERDES: Thank you, Senator.

4 MR. TROXELL: Senator, if I can add to your
5 question also, as well, within the law, in Section 2450
6 [phonetic], it does cite the Pennsylvania State Police, and
7 a sheriff or police officer shall remove -- cause to
8 remove. It gets them involved with it.

9 So, one of your question, Senator Vogel,
10 regarding any data, anything there, may be something in the
11 state police force database on incidence, et cetera. How
12 they have enforced this would be helpful, something we
13 could look at as well. But --

14 HOUSE MAJORITY CHAIRMAN MOUL: Thank you. Just
15 one quick question from myself for any of you. Is there
16 anything that prohibits our local governments from adopting
17 their own ordinances regarding fireworks under current law?

18 MR. TROXELL: Well, yeah. I mean, basically, we
19 only have the authority to enforce what you have enacted in
20 law here. Going over and above, it could be challenged to
21 where we have the statutory authority to do that.

22 Unfortunately, now, I do have a clause within the
23 Borough Code, the Reserve Powers Clause, which I could use
24 to enact something. It's what we call -- lovingly call our
25 Tenth Amendment for the boroughs, okay? We had that put in

1 the new Borough Code. We could do that. However, many
2 other communities -- and on a practical sense, many other
3 boroughs and, I'm sure, other communities would be hesitant
4 to do that unless we had clear statutory authority.
5 Because, the last thing we want to do is face a challenge,
6 and all of the thousands of dollars that are equated with
7 that, the bad press and thee whole nine yards. So you're
8 more familiar, but --

9 MS. STURGES: I would agree with Ed's comments.
10 The -- we view this as a statewide law that's preempting
11 local government from individual laws individually that
12 would be in any way different from this law. And we
13 certainly, as an association, would not recommend to our
14 municipalities, our member municipalities, that they go
15 forth and, you know, put forward their own ordinance that's
16 different from this law. That's our feeling right now.

17 HOUSE MAJORITY CHAIRMAN MOUL: Could you adopt an
18 ordinance that says, within our borough, within our
19 township, fireworks are prohibited? Would you be legally
20 allowed to do that?

21 MS. STURGES: I don't think so, because
22 there's -- because the only prohibition -- the only thing
23 that really would fit that would be the distance rule. So,
24 I think you could go ahead and say that, you know,
25 the -- your ordinance is saying that there is a distance

1 regulation, 150 feet from a structure. But, I don't know
2 that you -- that -- I don't know that a municipality could
3 go as far as to say that it's -- that they are prohibited.

4 I mean, technically they might be by the 150-foot
5 rule, but I don't know that we should be recommending -- I
6 certainly would ask a municipal solicitor for advice before
7 recommending that.

8 HOUSE MAJORITY CHAIRMAN MOUL: It's just a
9 question, but thank you.

10 SENATE MAJORITY CHAIRMAN VOGEL: Senator Yaw for
11 a question.

12 SENATOR YAW: [inaudible].

13 MS. STURGES: Sure. I'll be happy to provide a
14 list. And again, it's anecdotal from newspaper accounts
15 and accounts. Just anecdotal evidence, but yes, I'll be
16 happy to provide that.

17 MR. TROXELL: Yes, I would -- Senator, I would
18 more than happily provide any information there. What I
19 would add is, I'd like to work with you and with that
20 information source that you have so we can acquire accurate
21 numbers, so what we do addresses working for --

22 SENATOR YAW: Yeah. Look, we beat around this.
23 I was probably one of the prime sponsors of changing the
24 law. Let me tell you why it was changed. We had a law in
25 Pennsylvania that said that if you were out of state, you

1 were an out-of-state resident, you could come to
2 Pennsylvania and buy consumer fireworks, right?

3 MR. TROXELL: Correct.

4 SENATOR YAW: But, you and I could not go in that
5 same store and buy fireworks. Now, it seemed to me that
6 that law just made no legal sense whatsoever. Now, you
7 know, if we want to totally get rid of all fireworks,
8 novelties, consumer, display, fine, but treat everybody the
9 same. And that's what generated the reason for the change.

10 We said -- I mean, stores used to have dual
11 paths. If you were from Pennsylvania, you went down this
12 side, and if you had an out-of-state driver's license -- it
13 was no different than people using fake drivers' licenses
14 to buy alcohol. So you go down this side, and that just
15 made no sense to me.

16 Now, it's already been -- and I think we all
17 agree, we cannot legislate common sense or against
18 stupidity. And if you want to read an interesting report,
19 read the Consumer Product Safety Commission about the
20 deaths caused this -- in the past year by fireworks. And,
21 the majority of them can only be classified in one word:
22 stupidity. Somebody that puts a mortar on top of their
23 head and sets it off? I wonder what's going to happen.

24 In any event, the law itself as it's written, 150
25 feet from an occupied structure, which includes vehicles.

1 If you think about that, there is very few occupied places
2 where, you know, in a borough or any confined space where
3 you can legally set off fireworks. You could do it at a
4 park, provided the municipality gave permission. You don't
5 give permission, it can't happen. Private landowners, if
6 you own enough land, could do it with permission or in --
7 under those circumstances.

8 I have no problem in working with you in change.
9 I don't know whether you realize it or not, but we've
10 already introduced a bill to solve one of the problems that
11 you mentioned, to significantly increase the fines. I
12 think our initial fine would be up to \$1,000, and then
13 after that it graduates. If you -- second offense, you
14 could be fined up to \$2,500, and third offense I think is
15 \$5,000. So we're serious about that.

16 But the other part -- just so you understand how
17 the law got changed, all we did is say, if you're a
18 Pennsylvanian, you can buy the same thing that we're
19 inviting people from out of the state to come here and buy.
20 Now, I don't know of -- and maybe you do. I don't know of
21 any other product that was sold in the state that it could
22 legally be sold, but not purchased by Pennsylvanians.

23 MS. STURGES: I --

24 SENATOR YAW: I mean, that's --

25 MS. STURGES: I guess I don't, either. But, I

1 would like to mention that in doing some research into the
2 states that surround Pennsylvania, we learned that even
3 though an out-of-state resident could come to Pennsylvania
4 and buy consumer fireworks, there was only -- there's only
5 one state where they could legally take it home and use
6 them, and that would be West Virginia. And even in West
7 Virginia, municipalities are allowed to say that consumer
8 fireworks are prohibited, or to have more strict --
9 stricter regulations than the state.

10 So, I don't think that we're -- you know, what
11 we're asking for in terms of stricter regulations is, you
12 know, out of the ordinary. It is something that is
13 being --

14 SENATOR YAW: Well, you --

15 MS. STURGES: -- done in another state.

16 SENATOR YAW: And I appreciate -- we can debate
17 this for, you know, a long time about the social
18 implications of all of this. Because, Maryland had just
19 the same rule that Pennsylvania had. You could go to
20 Maryland if we were -- you had a Pennsylvania driver's
21 license and buy all kind -- a truckload of fireworks and
22 bring them back to Pennsylvania. And they could come to
23 Pennsylvania and buy a truckload of fireworks and take them
24 back to Maryland.

25 I mean, you know, there's just some things that

1 didn't make any sense. So, you know, the fact that -- I
2 think that people use them, and have used them. And I know
3 that I had a fire chief that told me -- he said, well, this
4 will save me -- I don't have to drive to Ohio with my truck
5 every year and bring back fireworks.

6 Now, and -- you know, that -- whatever
7 you -- people were doing. But, you know, from my
8 perspective, I am certainly willing to work with anybody to
9 do it. But I -- you know, the elimination of them totally?
10 Well, I'm definitely not in favor of doing that. So
11 anyway, thank you. Thank you, Mr. Chairman.

12 HOUSE MAJORITY CHAIRMAN MOUL:

13 Chairman Pashinski?

14 HOUSE MINORITY CHAIRMAN PASHINSKI: Thank you
15 very much, Mr. Chairman. Thank you all for your testimony.
16 I personally feel that you can feel that there is a sense
17 of cooperation in the room. None of us want to see any of
18 our constituents get hurt. None of us want to see people
19 lose property, et cetera. I think it would help us as we
20 attempt to make the changes necessary to protect our
21 citizens if you could, within your actual organization --
22 you know, it's the state township supervisors. It's the
23 state commissioners, the boroughs. Within your state, just
24 to gather enough information to lay the basis for whatever
25 kind of changes are practical. And, that's what I would

1 ask, really.

2 When I talk to my local police, they'll tell me
3 how many incidences they had. They'll tell me who was
4 injured, whether there was a fire. And as you indicated,
5 you know, newspaper stories, et cetera. So, within your
6 own operation of township supervisors or of borough
7 supervisors, I would think you could have that
8 connectivity. Do you not? Just to ask them for a
9 general -- it doesn't have to be perfectly exact, but it
10 would lay the foundation for a reason for us to make a
11 particular legal change.

12 MR. GERDES: We do have a process where we can
13 solicit information and offer opinions, gather updates, run
14 online surveys and items like that that could be helpful.
15 So we're --

16 HOUSE MINORITY CHAIRMAN PASHINSKI: And actual
17 incidences that if --

18 MR. GERDES: And incidence --

19 HOUSE MINORITY CHAIRMAN PASHINSKI: -- occur, you
20 know, is --

21 MR. GERDES: -- the whole --

22 HOUSE MINORITY CHAIRMAN PASHINSKI: -- that's --

23 MR. GERDES: -- the whole nine yards. I mean,
24 we --

25 HOUSE MINORITY CHAIRMAN PASHINSKI: Yeah.

1 MR. GERDES: -- we've done things like this
2 before regarding other items. So yeah, we'd be happy to do
3 that.

4 HOUSE MINORITY CHAIRMAN PASHINSKI: And then the
5 other thing is consequences. You know?

6 MR. GERDES: Yeah.

7 HOUSE MINORITY CHAIRMAN PASHINSKI: Human beings
8 are very interesting. If there's no consequences, they
9 continue to do whatever they want. You know, so the \$100,
10 you know, obviously is not a deterring factor. And,
11 Senator Yaw has already said that they have increased, you
12 know, some of those liabilities, and as a result I think
13 that could maybe wake up a few of those folks. But, you
14 will always have those -- unfortunate -- that no matter
15 what, it's out there. They're going to do something really
16 dumb.

17 But, I think the atmosphere is positive here,
18 that we're all willing to work together for the benefit of
19 our constituents and for our state. Thank you. I look
20 forward to getting that information.

21 HOUSE MAJORITY CHAIRMAN MOUL: Thank you.
22 Senator Phillips to offer a question. And be brief if you
23 can. We have like five minutes left before this panel
24 ends. So --

25 SENATOR PHILLIPS: Thank you, Mr. Chairman. I

1 certainly will. And I've heard the need for better data,
2 heard the need for increased fines. But, I think perhaps
3 the most difficult challenge in fireworks enforcement is
4 our failure to identify, cite and punish violators of our
5 firearm -- or fire -- not firearm -- fireworks laws and
6 regulations.

7 So we need witnesses, but I think what I would
8 like to get at is, do you think that there are other
9 approaches that might be more productive in catching those
10 violators? And, I have quantified the rules and
11 regulations in a myriad of other states and municipalities.
12 There're some really innovative approaches. Some states
13 have host responsibility provisions in their laws. Others
14 have employed citizens' use of internet mapping technology
15 and mobile apps. And others have used similar internet
16 technology to permit citizens to report locations of
17 preplanned illegal fireworks to local authorities.

18 So, I would be interested in hearing from you
19 what approaches would assist in the enforcement, and, you
20 know, of those, what are you interested in us looking into?
21 Short of repeal, what can we do to assist you in
22 enforcement?

23 MS. STURGES: I'd be happy to start that answer,
24 Senator. Thank you. I think that the most -- the best
25 thing, first off, would be to allow municipalities to have

1 local regulations. That way there can be a curbing of when
2 fireworks will be allowed in that community. That will
3 help law enforcement to then be able to concentrate on a
4 smaller timeframe, a timeframe that fits the municipality.

5 Because, this is an unfunded mandate on local
6 government. We are pay -- they are paying for the cost of
7 this. The taxpayers of that community are paying for this
8 enforcement, so it should be curbed to the extent the
9 municipality would like to do that. And --

10 SENATOR PHILLIPS: I understand that, and I
11 appreciate that. However, as it was noted previously, we
12 already have a regulation on the books that says it cannot
13 be within 150 feet of an occupied structure. Now, I
14 represent a third-class city, as -- represent suburbs and
15 rural areas. There is no -- you -- there is nowhere in my
16 third-class city where you can set these off legally.
17 There is nowhere in any of my boroughs that you can set it
18 off legally, right? We have challenges in --

19 MS. STURGES: Yes.

20 SENATOR PHILLIPS: -- agricultural areas
21 with -- particularly -- you know, I chair the Animal
22 Protection Caucus in the Senate -- with our farm animals.
23 But, we already have that on the books. So --

24 MS. STURGES: Okay.

25 SENATOR PHILLIPS: -- how do you enforce that

1 better? That's what I want to get to.

2 MS. STURGES: Well, I think that we -- maybe we
3 put the revenue that the state is earning from the sales
4 toward public education to -- for safety purposes, so that
5 we are -- and -- in terms of the 150-foot rule or whatever
6 rule we end up with that we're educating the public to be
7 more aware of what the laws are.

8 And then at the local level, I think that once we
9 get a handle on when the use is going to be happening,
10 there can be, you know, hotlines and task forces and things
11 like that to help law enforcement to -- you know, to reach
12 those violators. But, I think there is always going to be
13 a difficulty in being able to -- in a concentrated period
14 of time like a holiday weekend or a holiday evening, be
15 able to go out and actually enforce every incident. That's
16 why I think, you know, education of the rules would
17 probably go a long way, plus the preventative measure of
18 high fines when they are able to cite someone. I'll let my
19 other -- my colleagues answer.

20 MR. TROXELL: It's a very thorny issue when it
21 comes to enforcement. We can talk about it in a general
22 way in law, but when it comes to the neighbor who watches
23 Sally across the street toss out a few consumer fire -- set
24 off bottle rockets or fireworks or anything like that,
25 there's that hesitancy. You know, we can't regulate -- as

1 has been said, you can't legislate common sense, and so
2 sometimes this is a very difficult part. However, creating
3 mechanisms, like some of the things that you did mention,
4 Senator, using Facebook, using electronics means for folks
5 to report to police, getting the borough councils involved
6 in a way that they can become -- you know, we have, like,
7 block watches. We have things like that that could
8 actually help to -- reporting these issues and areas. But
9 yeah, I mean, it's thorny. It's -- you know, I was told
10 many years ago over in the Senate that fireworks are fun.
11 You know what I mean? And it's very difficult. You know,
12 posting one neighbor -- I -- from the time that I served as
13 a commissioner years ago, okay? Well, neighbors would call
14 me instead of actually calling the police or something
15 about, hey, so and so is doing this, so and so is doing
16 that. So, that's part of the role you play too well with
17 the public. So --

18 SENATOR PHILLIPS: Well, and I appreciate that.
19 And people need to step up and --

20 MR. TROXELL: Yeah.

21 SENATOR PHILLIPS: -- be willing to sign those
22 reports if they want our law enforcement to be able to
23 manage this. And look, it's a real challenge when our law
24 enforcement is stretched, and they have a call for other
25 crimes that are being committed and this gets pushed down.

1 But, you know, I didn't vote for the bill that created this
2 law, and I'm frustrated at what we're going to do to
3 address this. And so, if we can't get repeal, we have to
4 figure out a way to make it better, and we need you to give
5 us those ideas and -- so that we can help you help our
6 constituents. So, thank you very much. Thank you,
7 Mr. Chairman.

8 HOUSE MAJORITY CHAIRMAN MOUL: Thank you,
9 Senator. In the interest time, we have time for one quick
10 question, and whoever is remaining, we'll keep you on the
11 list for the next panel. And, if you have questions for
12 this panel, please submit them in writing. We'll submit
13 them to this panel and get you your answers back. If not,
14 we will run out of time. So, Representative Fee?

15 REPRESENATIVE FEE: Well, you -- Chairman, you
16 know you picked the right one. Short and sweet: that's me,
17 always. Listen, Ed, you and I had met with many of our
18 managers from Lancaster County, and I got to tell you, my
19 calls to my office are not necessarily -- well, certainly
20 not deaths and injuries, but what they are is the family
21 whose dog's going crazy, or the farmer who is concerned
22 about his horses in the field.

23 So, that's why I really like the opt out with the
24 referendum question. To -- instead of trying to do it
25 statewide, let a municipality -- let the people have a say

1 and vote on it. So just to be clear, they can or they
2 cannot do a referendum question right now to opt out?

3 MR. TROXELL: Right now they can't. They are
4 unable to; hesitant to do something like that. We're only
5 enabled to do it by law, to ask about to put ballot
6 questions on referenda on the ballot for folks. So, we
7 would need something in a reenacted version that would
8 phrase the question. So -- and --

9 REPRESENTATIVE FEE: Yeah. I mean, I just think
10 locally that sounds like a great solution to the folks who
11 don't want it in their areas.

12 MR. TROXELL: I would love to be able to put on
13 the ballot a unique, custom question for each municipality
14 that chooses to do so, but I know that's impossible,
15 because you can't do it with a broader state law. I mean
16 -- but you know what I mean? I mean, you want to get the
17 citizens involved.

18 If there is -- you know, if we're looking to put
19 together a Facebook page or a reporting way where I can
20 share discretely about my neighbor's son who has been
21 setting these things off every week -- and, you know? We
22 want to get them tied in and pulled in. It'd be great if
23 we can get them together. We'll be able to identify folks
24 with a ballot initiative, and that will make -- that will
25 bring the issue up for folks to talk about and debate it

1 amongst themselves. And then, maybe they want to customize
2 that. I don't know.

3 You know, now, I'm not really good with the law.
4 I -- because sometimes it just doesn't fit the spirit that
5 needs to be there. So basically, using these questions in
6 a way that our municipalities could foster interaction from
7 communities, and folks would feel -- I'm involved. They're
8 listening to me and what we have to say. So yeah,
9 something to consider as we look at, like I said, a
10 scalable, comprehensive approach to how we do consumer
11 fireworks, so -- as well as display fireworks in the
12 Commonwealth.

13 SENATE MAJORITY CHAIRMAN VOGEL: Thank you,
14 Representative. Thank you. Thank you, panel. I
15 appreciate your input this morning and your time.
16 Obviously we'll keep moving on here.

17 Next, our next panel this morning is
18 Sergeant Jerry Harper who is Supervisor of the Pennsylvania
19 State Police Fire Marshall Unit, and Scott Bond, Executive
20 Director to Pennsylvania Chiefs of Police Association.
21 Good morning, gentlemen. Thank you for being here.

22 SERGEANT HARPER: Good morning.

23 SENATE MAJORITY CHAIRMAN VOGEL: Whichever one of
24 you wants to start and summarize your remarks, why, go
25 ahead.

1 SERGEANT HARPER: Good morning, Chairs Vogel,
2 Schwank, Moul, Pashinski and members of the Senate & House
3 Agricultural and Rural Affairs Committees. I'm
4 Sergeant Jerry Harper. [inaudible] Supervisor [inaudible]
5 Fire Marshall [inaudible]. On behalf of the Pennsylvania
6 State Police Fire Marshall Unit, I would like to thank you
7 for engaging in discussions [inaudible] Pennsylvania's
8 fireworks laws.

9 In October of 2017, the General Assembly with Act
10 43 repealed the Fireworks Law of 1939 and replaced it with
11 legislation to be enforceable under Title 72 [inaudible]
12 1971. Act 43 provides for the ability of Pennsylvanians to
13 purchase and use consumer-grade fireworks such as
14 firecrackers, Roman candles or bottle rockets which are
15 sold only from facilities and temporary structures that are
16 licensed and meet all criteria previously contained within
17 Section 2407 of the Fireworks Law.

18 SENATE MAJORITY CHAIRMAN VOGEL: Is your
19 microphone on, sir? Is the green light on?

20 SERGEANT HARPER: It is not.

21 SENATE MAJORITY CHAIRMAN VOGEL: Okay.

22 SERGEANT HARPER: How is that?

23 SENATE MAJORITY CHAIRMAN VOGEL: That's better.
24 There you go.

25 SERGEANT HARPER: All right. Act 43 provides for

1 the ability of Pennsylvanians to purchase and use
2 consumer-grade fireworks such as firecrackers, Roman
3 candles or bottle rockets which are sold only from
4 facilities and temporary structures that are licensed and
5 meet all criteria previously contained within Section 2407
6 of the Fireworks Law.

7 Other items such as M-80s, quarter sticks, are
8 still illegal, and the purchase or use of display fireworks
9 are still only to be used by professionals with a permit
10 from the municipality where the display will take place.

11 For the purposes of my testimony, however, I
12 would like to discuss the provisions of the Fireworks Law
13 which would impact our agency the most, and that is around
14 the enforcement of consumer fireworks use as it pertains to
15 public safety.

16 PSP does not have information available on the
17 number of fireworks complaints or arrests since Act 43 was
18 enacted to the present. Our records management system does
19 not currently have a specific computer-aided dispatch
20 header in their RMS for fireworks complaints or incidents.

21 Anecdotally speaking, it is likely that our
22 troopers have charged individuals with -- for violations
23 related to fireworks under Unreasonable noise subsection
24 within Disorderly Conduct in Title 18.

25 The Administrative Office of Pennsylvania Courts,

1 AOPC, does not capture information from the remarks field
2 of the non-traffic citation in their databases, and as of
3 this date, we do not have the overall number of violations
4 charged of the Title 72 section available. It should be
5 noted that many local municipalities have enacted
6 ordinances to restrict commercial fireworks during certain
7 time periods, but PSP does not enforce local ordinances.

8 Police officers in Pennsylvania are largely
9 unaccustomed to charging individuals with custom -- with
10 violations related to the Tax Reform Act of 1971 or from
11 Title 72 due to the lack of familiarity in enforcing these
12 laws. Most criminal violations charged by police officers,
13 including the PSP, are from violations related to Title 18,
14 Crimes and Offenses. While the Passage of Act 43 has given
15 Pennsylvanians an expanded opportunity to enjoy the
16 fireworks, it should be noted that there are some inherent
17 dangers associated with their use.

18 A 2021 report by the United States Consumer
19 Products Safety Commission documented 18 nonoccupational
20 fireworks-related deaths during 2020. Additionally,
21 fireworks were involved in approximately 15,600 injuries
22 which were treated in emergency rooms across the country
23 last year. Of those injured, approximately 66% of the
24 incidents occurred between June 21st and July 21st of 2020.
25 In addition to the dangers associated with the consumer use

1 during celebratory and social events, consumer fireworks
2 have recently resulted in injury to first responders when
3 intentionally used as a weapon.

4 The Pennsylvania State Police offers the
5 following firework-related incidents witnessed throughout
6 the country between May of 2020 and August of 2021.
7 Washington D.C. and Portland, Oregon both experienced three
8 separate incidents where fireworks were used by protesters
9 as a weapon against police officers and secret service
10 agents, resulting in more than 60 injuries to the public
11 servants. Other states include Texas, Tennessee, New York,
12 Massachusetts, Virginia, Ohio, California, New Jersey,
13 Arkansas, Nevada, Georgia, North Carolina and Pennsylvania:
14 have all experienced recent civil disorder incidents where
15 fireworks were encountered at demonstrations, and in most
16 instances were fired or thrown by protesters, causing
17 injuries to law enforcement officers, other first
18 responders and citizens who were present.

19 In conclusion, the Pennsylvania State Police is
20 supportive of changes to current law that allows for
21 additional enforcement and penalties to protect public
22 safety. While this act provides citizens of the
23 Commonwealth the opportunity to celebrate with purchasing
24 fireworks from temporary and permanent structures,
25 consideration must also be given to the safety of the first

1 responders, citizens of the Commonwealth when fireworks are
2 deliberately used in unsafe or inappropriate ways, or for
3 non-intended purposes at public events.

4 Again, I would like to thank you for the
5 opportunity to permit the Pennsylvania State Police to
6 discuss the proposed changes to our existing fireworks
7 laws. I am happy to answer any questions you may have at
8 this time.

9 MR. BOHN: Thank you, Mr. Chairman and
10 Madame Chairman. I don't have a statement, but I am here
11 on behalf of the Pennsylvania Chiefs Association to answer
12 your questions. By way of background, I have been
13 doing -- or currently have served in the capacity I now
14 serve in as the Executive Director for the Pennsylvania
15 Chiefs for two years. But, I have 35 years plus municipal
16 experience, 20 of those as the Chief Law Enforcement
17 Executive, the Chief of Police in a municipality, and
18 certainly can attest to having dealt with this situation on
19 a regular and annual basis. And, back to a comment you
20 made, Senator Schwank, since the passage of this law in
21 2017. So, I think I am in a position to speak to a lot of
22 these issues.

23 SENATE MAJORITY CHAIRMAN VOGEL: Thank you, sir.
24 I have one quick question for Sergeant Harper. In your
25 remarks there, you just said you really have -- the state

1 police have no exact way, I guess, to trace who puts off
2 fireworks. That's something you're not familiar with?

3 SERGEANT HARPER: That's correct, sir.

4 SENATE MAJORITY CHAIRMAN VOGEL: And -- okay.
5 Then -- okay. My question is, in your opinion, what would
6 allow for a better enforcement for you? What tools could
7 we give you, I guess, to track or, when you do encounter
8 someone like that, be able to cite them a ticket or
9 something like that? What do we need to do to give you the
10 ability to do what you need to do?

11 SERGEANT HARPER: That's a very good question,
12 sir. I'd like to defer that question, probably, to our
13 Legislative Affairs office. That would be something,
14 probably with enforcement.

15 SENATE MAJORITY CHAIRMAN VOGEL: Okay, that's
16 fine. Yeah, if you can just get us a response in writing,
17 that would be fine. I appreciate that. Thank you.

18 SERGEANT HARPER: Sure. I'll be sure to get that
19 to you.

20 SENATE MAJORITY CHAIRMAN VOGEL: Sure. Thank
21 you. Senator? Senator Schwank for a question.

22 SENATE MINORITY CHAIRWOMAN SCHWANK: Thank you,
23 Senator. Sergeant Harper, so the question comes to you,
24 because I know that the state police have to enforce, not
25 local ordinances, but state law, correct?

1 SERGEANT HARPER: That's correct.

2 SENATE MINORITY CHAIRWOMAN SCHWANK: And,
3 municipalities that do not have their own state police --
4 or have their own community policing or force. So, what
5 has been the experience of your fellow officers in terms of
6 trying to address this? Correct me again if I'm wrong, but
7 most of these are used in the -- or night, right? When
8 it's dark? I believe in my area there are two state police
9 officers on duty at night, you know, directly on the road.
10 And there may be more engaged in law enforcement. That I
11 don't know, and I'll allow you to correct me on that. But,
12 how can you possibly get this job done?

13 And, you know, I have 43 different municipalities
14 in my county. I think only three of them have their own
15 police force, other than the city of Reading. How are you
16 going to do it?

17 SERGEANT HARPER: That's a great question. It's
18 horribly -- it's tough to enforce that. I -- it is,
19 especially as a state police agency, when we have such a
20 large territory to cover, as you mentioned. The majority
21 of those enforcement actions have been noise complaints, or
22 illegal use as -- with -- they're intoxicated, and it's
23 usually as a result of a neighbor complaint after the fact.
24 But usually, if there's something going on and there's a
25 noise complaint at the time that the state police or any

1 other police agency does arrive, then the person involved
2 with that action is usually gone.

3 SENATE MINORITY CHAIRWOMAN SCHWANK: You brought
4 up something I think that I never thought of before, the
5 use of fireworks as weapons. I never would have considered
6 that as, you know, something -- in our experiences in the
7 last year or so.

8 SERGEANT HARPER: Sure.

9 SENATE MINORITY CHAIRWOMAN SCHWANK: Obviously
10 you've been able to get that kind of data. So, I think
11 that's important to note as well. And for Mr. Bohn, thank
12 you. You know, I spoke with our City of Reading Police
13 Chief, and he talked about, just in the last one holiday,
14 over July the 4th, a cost of about \$28,000 in terms of
15 overtime and, you know, trying to get officers, you know,
16 to respond to some of these incidences. And also, when
17 they confiscate the stuff, then they have to do something
18 with it as well, so there's cost associated with that, too.

19 Have you heard the same thing from other
20 third-class cities as well?

21 MR. BOHN: I have. And I think that's a shared
22 experience amongst many municipalities across the state.
23 One of the issues that -- certainly that we'd note as
24 well -- and I appreciate the Sergeant's testimony, because
25 it's actually accurate. You know, one, law enforcement is

1 going to prioritize the nature of calls. And certainly on
2 the July 4th, more often than not they are not going to know
3 the actual location or source of the fireworks. And again,
4 it is dark when they get there. To the Sergeant's point,
5 they may not be there. You may not even be able to
6 identify the location. There are numerous complaints
7 coming in the same thing. I know from my former -- you
8 know, I absolutely recognize -- the Honorable
9 Senator Comitta was my boss. You know, we started tracking
10 this within our RMS system, and the nature and number of
11 complaints, because many of those may have been written off
12 as noise complaints. Now, in the municipality that I
13 served, I believe it was impossible. I don't think it was
14 legal to set it off anywhere in the municipality, but in a
15 community with a significant number of young adults and a
16 university community, obviously we dealt with a lot of
17 complaints. And that just wasn't on the holidays. That
18 was throughout the year. And I know a number of other
19 urban locations that deal with that same issue. One, we
20 don't have the bandwidth to deal with those issues. And
21 more importantly, we don't have the ability. I think you
22 started -- and where you started with your original
23 statement is probably the most accurate statement. You
24 know, we've created, unintentionally, a piece of
25 legislation or law that has now generated an additional set

1 of problems and/or, as one of the esteemed senators had
2 noted, the consequences.

3 So in dealing with this, I certainly agree that
4 we need to disincentivize it in any way, shape or form that
5 I have, while when listening to the prior panel with the
6 boroughs, the townships and the League of Cities, I think
7 they're correct. I think you push this back to
8 municipalities and allow them to regulate it, because I'm
9 sure those issues vary from location to location. There's
10 inherent challenges with all of this. But notably, when
11 you're looking at these times of years, the availability of
12 the fireworks and the things that we're talking about, the
13 number of pop-up stands that I see, or storefront stores
14 when I drive from Harrisburg to Chester County, you know,
15 during that time of the year. And obviously, if they're
16 buying in bulk, they are going to have those throughout the
17 year. They may have them, additionally.

18 Neighbors sometimes are reluctant to call on
19 neighbors, and more often than not -- and I think that the
20 Senator could speak to this. Police departments sometimes
21 don't know until there's a city council meeting, and they
22 have a whole body of people coming to complain, and it's
23 impossible for municipalities. It puts, obviously, the
24 city council members in a very challenging position, but
25 more importantly the police departments who are then tasked

1 with dealing with this particular issue and don't
2 necessarily have the ability to do so.

3 SENATE MINORITY CHAIRWOMAN SCHWANK: Thank you.

4 HOUSE MAJORITY CHAIRMAN MOUL:
5 Chairman Pashinski?

6 HOUSE MINORITY CHAIRMAN PASHINSKI: Thank you,
7 Mr. Chair. And, thank you, gentlemen, for your testimony.
8 I'm going to ask the same thing of both of you, whatever
9 information you have prior to Act 43 and after Act 43.
10 Whatever incidences that have occurred within the state
11 would be valuable information as we attempt to make the
12 changes, going forward. And I'm assuming it's the
13 intensity of the new fireworks that is one of the main
14 concerns. Is that correct?

15 MR. BOHN: Yeah, I can. From a municipal
16 perspective, recognizing they're -- you know, just for the
17 panel's information. You perhaps know this. There are
18 1,067 municipal policing agencies that exist today in the
19 Commonwealth, and that doesn't include school police. That
20 doesn't include university police and their reporting.
21 They are not all using the same mechanism for reporting, or
22 even gathering information. And I know, having traveled
23 the state, their numbers aren't automated or computerized.
24 So, what information they're actually gathering, collating
25 is going to vary, obviously, from region to region, county

1 to county and agency to agency.

2 I can tell you anecdotally, and with a high
3 degree of, I think, probability, that post 2017 the number
4 of complaints we also had generated -- and many of them are
5 generated as noise complaints rather than fireworks -- were
6 coded in some other way. If you have another body of
7 people working, you know, at a different shift or some
8 other time; maybe inconsistent as well. And to my earlier
9 point, I don't think a lot of agencies are actually
10 tracking this data. I can tell you from my personal
11 experience, for having to deal with councils, and certainly
12 dealing with a -- with mayors, and certainly with personnel
13 on the street that I know that the number of complaints
14 have been on the rise and significantly greater.

15 HOUSE MINORITY CHAIRMAN PASHINSKI: Because, I
16 never got a complaint from a person that has PTSD before.
17 And, many of our veterans -- those were some of the phone
18 calls that I received. I was really quite astonished. So
19 again, whatever information you have is going to help guide
20 us as we move forward. And I appreciate your testimony
21 today. Thank you very much.

22 SENATE MAJORITY CHAIRMAN VOGEL: Thank you.

23 Senator Comitta for a question.

24 SENATOR COMITTA: Thank you, Mr. Chairman. Good
25 morning, Chief Bohn --

1 MR. BOHN: Good morning.

2 SENATOR COMITTA: -- and Sergeant Harper.

3 SERGEANT HARPER: Good morning.

4 SENATOR COMITTA: I know that you said that we
5 don't actually have statistics on incidence. But last
6 year, during the pandemic, the US Consumer Products Safety
7 Commission reported that emergency rooms saw an estimated
8 50% increase in fireworks injuries. So there is that data.

9 I'm wondering, from the data that you do have, could you
10 talk about how injuries, fires and accidents have increased
11 since these consumer-grade fireworks were legalized in
12 Pennsylvania? And, Scott, you just talked about that a
13 little bit, and Sergeant Harper. But, do we have access to
14 that? Is it anecdotal or, like the Consumer Products
15 Safety Commission, do we have those numbers for
16 Pennsylvania, as Representative Pashinski has also asking
17 for?

18 SERGEANT HARPER: Yeah. I don't have access to
19 those numbers in particular. I would just have to imagine
20 that the increase would be due to the availability of
21 consumer fireworks now in Pennsylvania that would increase
22 usage, and of course that would, in return, increase the
23 number of injuries as a result of their usage. But, I
24 could look into some statistics on my end to see if we
25 could find anything to share with you and share that at a

1 later time.

2 SENATOR COMITTA: Thank you. And, Chief Bohn,
3 you --

4 MR. BOHN: Oh, I certainly would disagree with
5 the Sergeant's comment, and I don't know what the variables
6 or where they gleaned their -- or what their source of
7 data --

8 SENATOR COMITTA: Yeah.

9 MR. BOHN: -- was. But, it stands to reason that
10 obviously with the proliferation or the availability of
11 these fireworks that it would increase.

12 SENATOR COMITTA: Uh-huh. Well, I would say -- I
13 mean, this is -- these are -- this is data from emergency
14 rooms, not from police calls, you know, as such. So, maybe
15 we can take a look at that. These would be accidents that
16 would rise to the level of someone needing care in an
17 emergency room. So, that's worth taking a look at.

18 Well, thank you so much, and thanks also for
19 underscoring the value of having local control on these
20 laws. Even though the enforcement is difficult, as we
21 know, with all of our local laws, it will help to give
22 municipalities the local option to regulate the fireworks.
23 So, thanks very much for weighing in on that as well.

24 HOUSE MAJORITY CHAIRMAN MOUL: Thank you.

25 Representative Gillen, you are on the list from the last

1 panel. I -- unfortunately we ran out of time. Do you have
2 a question for --

3 REPRESENTATIVE GILLEN: Yeah, yeah.

4 HOUSE MAJORITY CHAIRMAN MOUL: -- this panel?

5 REPRESENTATIVE GILLEN: Very briefly, and just a
6 comment first. I have a background in emergency medical
7 services for 30 years as a correctional officer, law
8 enforcement officer. But, let me speak to a different
9 pedigree. I was a borough councilman, and what I am
10 hearing in our communities is this is a quality-of-life
11 issue. People are deeply disturbed by the change in law.
12 They may not be people that come into this room or sit
13 around this table. I was a no-vote from the beginning. I
14 think there's a disconnect between what goes on in
15 Harrisburg and what happens in our local communities, and I
16 think it's exemplified in this law. The law -- rule of
17 unintended consequences which Senator Schwank has alluded
18 to, is in full blossom now. And I think additionally, the
19 opiate of tax revenues without measuring other costs,
20 particularly social costs, is a significant problem. I do
21 not see the answer as recalibration. It won't be
22 efficacious. Our ability and law enforcement I think is
23 overwhelmed responding to these complaints. Title 18 ought
24 to be the focus, crimes and offenses instead of fireworks.

25 My question is this, and I'm not sure if it will

1 be easy for the Sergeant to answer or not. I found the
2 most useful discussions back -- based on my history in law
3 enforcement and emergency medical services, were water
4 cooler discussions. Can you take us inside that window,
5 what rank-and-file are talking about relative to the change
6 in the law?

7 SERGEANT HARPER: You are absolutely correct,
8 sir. I have no information on that at all to share with
9 you this morning. Yeah, wish I could, but I have no
10 information at this time.

11 REPRESENTATIVE GILLEN: I appreciate that answer.
12 Thank you very much. It lends a lot -- a certain clarity
13 to the discussion. Thank you, Chairman.

14 SENATE MAJORITY CHAIRMAN VOGEL: Thank you.
15 Senator Street for a question, quickly.

16 SENATOR STREET: Thank you. This is an issue
17 that certainly has been a pretty big one in my area. I
18 have -- I represent -- have the -- Temple University in the
19 heart of my district. And, the 150-feet rule should, I
20 imagine, mean that there is no place in my district or the
21 City of Philadelphia where you could be able to lawfully
22 set off fireworks except for the -- except for a park. In
23 a average 150 -- the average dwelling in North Philadelphia
24 is a rowhouse that is eight -- is 16 feet wide, three
25 stories high and has three separate families on each floor.

1 So in 160 feet you have roughly 30 families living. But,
2 the Temple students seem to be not persuaded that fireworks
3 are not permitted, and they go off all summer. This causes
4 a number of issues, and I -- not the least of which is
5 potential fires if they land on rooves, because the streets
6 are only about 20 feet wide.

7 And, to Chairman Pashinski's point about PTSD in
8 a community that has lots of gunfire; sometimes results in
9 people shooting guns down the street, because they believe
10 someone is shooting at them, and no one is shooting at
11 them. They're just fireworks. So, fireworks start off to
12 -- starts off as fireworks and then turns into gunplay, and
13 so that is also a hazard.

14 I am interested in -- I think -- and I'm just
15 interested in the Police Chief reacting to some of the
16 provisions around the confiscation of the fireworks when
17 the police respond, I think would be extreme -- an
18 extremely helpful measure, as well -- in part because
19 people respond, writing \$100 ticket, I mean, it seems
20 that's going to be an exercise in futility to keep running
21 out. The more effective thing would seem, if they
22 responded, you can give them the \$100 ticket, but then take
23 the rest of the fireworks. Leaving the person -- the
24 offender with a pile of fireworks sitting there is -- I
25 think the more effective deterrent would be to allow them

1 to confiscate the fireworks. And certainly I agree with my
2 colleagues, the ability for local control, giving city
3 council the ability to regulate this seems to be a matter
4 of common sense.

5 MR. BOHN: Thank you for your comments. I would
6 agree. I think, to Representative Gillen's point, that's
7 why he made the argument, making this part of Title 18.
8 Back to Rep Pashinski's statement, unless there is a
9 consequence in certain, you are not going to disincentivize
10 behavior. And, providing law enforcement that tool --
11 because we often had that issue as well, Senator.
12 The -- you know, many of these calls that come in, come in
13 as gunfire. And, you know -- which is a high-level
14 response. So you're sending people to those areas. You
15 can't determine, what was the nature of the call? More
16 often than not it was fireworks, but potentially could lead
17 to additional issues in some of our more urban
18 environments.

19 So again, having said that, I think all of these
20 are variables, including a relative degree of local control
21 to addressing this potential issue, short of repealing the
22 issue.

23 HOUSE MAJORITY CHAIRMAN MOUL: Thank you. One
24 last question for this panel, Representative Guenst.

25 REPRESENTATIVE GUENST: This is more of a

1 statement than a question. As a former mayor, as a former
2 borough councilperson, as a person who has an incredible
3 amount of colleagues that serve as town ship supervisors, I
4 will tell you that the most effective thing that you should
5 do here, that we should all consider doing here, is to give
6 the local levels control of this situation. They have
7 solicitors that are telling them, if they do additional
8 ordinances on their books that they could be sued, because
9 it's already on the state level, at a lower harm rate, you
10 know? So, the most important thing you can do.

11 And I bet you, if you ask, within your districts,
12 okay? Ask the townships individually, which I have done.
13 They want to have control of this. And mine are all
14 community-based police departments. But, unless they
15 arrive on the firework's backyard with someone holding
16 something in their hand, you know, then they can't press
17 charges with this.

18 It's a ridiculous part of the law, which is why
19 they turn it into a noise violation instead, you know,
20 which breaks down to next to nothing, okay? But, they want
21 this as a local thing that they can control, because they
22 can do it well if it's in the -- if it's in their hands to
23 do. Thank you.

24 HOUSE MAJORITY CHAIRMAN MOUL: Thank you,
25 Representative Guenst. I do believe that message we've

1 heard multiple times loud and clear, and I'm 100% sure
2 we'll be working in that direction when we come back in
3 January. But, thank you, gentlemen, both, for your
4 testimony. And, we will now bring up Jay Delaney, Fire
5 Chief, City of Wilkes-Barre, President, Pennsylvania Career
6 Firefighters -- Fire Chiefs Association. And, any time
7 you're ready, sir, you may proceed with your testimony.

8 CHIEF DELANEY: Thank you. Good morning,
9 Chairman Vogel, Chairman Moul, Minority Chairwoman Schwank,
10 and Representative Pashinski and members of the Senate and
11 House Agriculture & Rural Affairs Committee. Thank you for
12 inviting me here today to discuss consumer fireworks. I am
13 the Fire Chief for the City of Wilkes-Barre. I have been
14 honored to serve the city in this role for over 16 years; a
15 total of 40 years of emergency services. I am also the
16 Emergency Management Coordinator for the City of
17 Wilkes-Barre and a certified paramedic. In addition, I am
18 the President of the Pennsylvania Career Fire Chiefs
19 Association, representing career and combination fire
20 chiefs across the Commonwealth.

21 The Pennsylvania Career Fire Chiefs Association
22 has steadfastly opposed the expansion of consumer-grade
23 fireworks back to Senate Bill 1055 of 2016. When Act 43 of
24 2016 was passed as part of the tax code, the emergency
25 response community had no way to voice any opposition

1 through a public hearing. The new law poses a significant
2 public safety and first responder safety risk.

3 Immediately after the expansion of consumer-grade
4 fireworks became legal, several groups came together to map
5 a plan to repeal or amend Act 43 of 2017. The Pennsylvania
6 Career Fire Chiefs Association and the Pennsylvania Fire
7 and Emergency Services Institute began discussions with the
8 Pennsylvania Municipal League to address the statewide
9 municipal concerns with a new and legal use of aerial and
10 other consumer fireworks. The feedback we received from
11 fire chiefs and municipal leaders across the state was
12 completely aligned for the new law to be repealed or
13 amended.

14 Over the past four years, the support to repeal
15 or amend Act 43 of 2017 has had strong support. In fact,
16 the 39 members of the Senate Resolution 6 Committee,
17 comprised of the major fire and emergency medical service
18 organizations and leaders throughout the Commonwealth,
19 voted unanimously for Recommendation 24 to reassess the
20 fireworks law adopted in 2017. This was the emergency
21 response community speaking as one voice. Five pieces of
22 legislation have been proposed to repeal or limit the use
23 of consumer fireworks over the past three years.

24 Fireworks affect our densely populated
25 neighborhoods, some of our military veterans, our pets, our

1 health and our homes. The Pennsylvania State Law Act 43 of
2 2017 enacted by the state legislature allows for legal
3 sales of consumer-grade fireworks. Again, the law
4 possesses a significant public safety and first responder
5 safety risk. Fire chiefs and emergency service
6 organizations across the state continue ask -- to ask for
7 the law to be repealed or amended.

8 The Pennsylvania Career Fire Chiefs Association
9 membership reported their communities were like a warzone
10 on July the 4th. Keep in mind, the present law allows a
11 person to ignite an aerial firework 150 feet from an
12 occupied dwelling. Does anyone have any idea where that
13 firework will go once it's ignited? Put simply, fireworks
14 are dangerous, and their expansion should never have been
15 expanded. There are no safe fireworks. There is something
16 wrong when an industry sells amateur pyrotechnic products
17 that emit chemical-grade materials that when ignited create
18 enough heat to melt glass or maim a person for life.

19 On July 4th, 2021 there was a loss of life in York
20 County of an eight-year-old boy due to discarded fireworks.
21 In Wilkes-Barre, my own city, there was a family of eight
22 that was left homeless due to fireworks striking the house
23 and catching it on fire. And in Lower Marian Township,
24 although the cause is still under investigation by the
25 Bureau of Alcohol, Tobacco and Firearms, we do know that

1 electrical was ruled out as a cause, leaving the only
2 combustible material in the area of origin to be fireworks
3 involved in a firefighter death of Firefighter Dominic.

4 These are just a few examples.

5 If there is not support to repeal Act 43 of 2017,
6 we would respectfully ask for the following considerations
7 to be amended into House Bill 988. Local option to set
8 local regulations that we have heard over and over here
9 today. Increase the distance from an occupied structure
10 for using consumer fireworks to a minimum of 500 feet of an
11 occupied structure.

12 Increase the penalties for violation from 100 to
13 1,000, and increase the offense to a misdemeanor.

14 Reallocation of the tax revenue set aside for volunteer
15 fire and EMS services to include municipal fire and police
16 departments to receive a portion of the revenue as well.
17 And that would really -- to mitigate the effects of
18 fireworks.

19 And lastly -- this was brought up several times
20 today: mandated reporting of fireworks incidents to the
21 state fire commissioner for collection in a database that
22 can be referenced and utilized by all responder
23 disciplines.

24 I'd like to thank my own State Representative,
25 Eddie Day Pashinski, for his unwavering support to mitigate

1 the effects of Act 43 of 2017. We are grateful to the
2 Senate and House Agriculture and Rural Affairs Committee
3 for the opportunity to add my voice and that of the
4 Pennsylvania Career Fire Chiefs Association. Thank you.

5 SENATE MAJORITY CHAIRMAN VOGEL: Thank you, sir,
6 for your remarks. You sort of, kind of covered in your
7 remarks the basic part of my question I was going to ask, I
8 guess, as far as reporting requirements when a fire does
9 occur, and whether the data collected, whether it was a
10 novelty firework, or a smoke bomb, or some other consumer
11 firework was part of the reason for the fire that was
12 caused. So, I guess data collection is the biggest thing.
13 I've heard that several different times, or at least data
14 collection as far as what caused the fire and where it was
15 at and things like that I guess is probably the biggest
16 part of the equation right now that we need to really get
17 our hands on as far as knowing what happens when, where,
18 how and why, I guess.

19 CHIEF DELANEY: Yes, Senator. All of the data
20 that I present is just raw data from fire chiefs across the
21 state. And that's for two reasons. On the EMS side of it,
22 the patient care reports, there's no place to sign off
23 fireworks, all right? So, most fireworks injuries are
24 going to be soft-tissue damage or trauma, so that doesn't
25 reel in fireworks. The same thing with the emergency

1 reporting software systems fire departments use, okay? You
2 have to extrapolate the data from the narrative. You have
3 to go into a report to find that, but perhaps there is some
4 way that we can, on the fire and EMS side to write -- a
5 checkoff box or something. Because we agree, there's no
6 really good data source other than the raw data that we get
7 from the narratives of these reports.

8 SENATE MAJORITY CHAIRMAN VOGEL: Okay. Thank
9 you, sir.

10 HOUSE MAJORITY CHAIRMAN MOUL: Thank you for your
11 testimony, Chief. I am going to ask a rhetorical question,
12 but it's worth asking anyway. You're Chief in
13 Wilkes-Barre. Am I saying Wilkes-Barre right, or is it
14 Wilkes-Barre?

15 CHIEF DELANEY: Both ways. Wilkes-Barre --

16 HOUSE MAJORITY CHAIRMAN MOUL: Either way?

17 CHIEF DELANEY: -- or Wilkes-Barre.

18 HOUSE MAJORITY CHAIRMAN MOUL: Take it either
19 way?

20 CHIEF DELANEY: Yeah.

21 HOUSE MAJORITY CHAIRMAN: Okay. Then I can't be
22 wrong, which is very unusual for me. That was a great
23 answer. During the holidays, as Fire Chief in
24 Wilkes-Barre, do you notice a substantial increase in call
25 volume because of fireworks, with your fire department?

1 CHIEF DELANEY: Yes.

2 HOUSE MAJORITY CHAIRMAN MOUL: And what increase
3 would you say that was that's denoted just to fireworks?

4 CHIEF DELANEY: So, and I can tell you, from our
5 reporting, and just from my city alone, there were four
6 responses to fires, okay? One was a house that was on fire
7 because it was hit with fireworks. But, the same thing
8 with the three other calls that we had. Again, when you
9 light these fireworks off on the ground, none of us in this
10 room know where they're going to go to. And in the
11 urbanized areas, many of our rain gutters of our houses are
12 touching each other, and there's leaves in the rain
13 gutters. I mean, these are just things that we see. When
14 you shoot fire in the sky, it's got to come down. It
15 go -- it's going to go somewhere. So that's what we see,
16 and I could just talk about my own municipality.

17 HOUSE MAJORITY CHAIRMAN MOUL: Okay. Thank you
18 so much. Chairman Pashinski?

19 HOUSE MINORITY CHAIRMAN PASHINSKI: Thank you,
20 Mr. Chairman. Thank you, Chief. We've had many
21 conversations about this, for sure. Let's assume we're
22 able to make some amendments. The local option to set the
23 regulations, that seems to be one of the number-one
24 amendments that people would like to see if we're going to
25 make a change to this law. Let's say we do that. How do

1 you then enforce it? Aren't we under the same problem
2 where you don't have enough people in order to find the
3 perpetrator? And the reason I'm saying that is, you know,
4 the possibility of extra money for our communities is
5 drones, the use of drones, letting the public know that
6 there will be drones flying throughout the night, to know
7 exactly where you're going to shoot that fireworks off, to
8 prevent them to do that. Is the most important thing to go
9 back to the kinds of fireworks that we had before, where
10 you didn't get the kind of destruction that you're
11 experiencing now? We're not trying to eliminate fireworks
12 completely, I don't believe. And obviously the penalties;
13 the consequences have to be increased dramatically. Would
14 you say that the order that you put your suggestions, that
15 would be the top priority order?

16 CHIEF DELANEY: For the Pennsylvania Career Fire
17 Chiefs Association, yes. That local municipal option is
18 what we want at the -- but I do have to say,
19 Representative, too, you're probably aware of -- the mayors
20 of the largest communities in Northeastern Pennsylvania all
21 penned a letter together, and that was the key thing that
22 the mayors wanted also, was that local option to set our
23 own regulations.

24 HOUSE MINORITY CHAIRMAN PASHINSKI: Okay. All
25 right, and I appreciate that, Chief. And I thank you very

1 much.

2 CHIEF DELANEY: You're welcome.

3 HOUSE MINORITY CHAIRMAN PASHINSKI: Thank you,

4 Mr. Chair.

5 SENATE MAJORITY CHAIRMAN VOGEL: Thank you,
6 Chief, for your comments this morning. We appreciate you
7 coming, taking the time to be here with us this morning.
8 Our next panelist and final panelist is Danial Peart,
9 Director of Governmental Affairs for Phantom Fireworks.

10 MR. PEART: Good morning. Think I ran everyone
11 off by now. Morning Chairman Moul and Pashinski, Chairs
12 Vogel and Schwank, and members of the committees. I am
13 Danial Peart, Director of Government Affairs for Phantom
14 Fireworks, here today on behalf of the Pennsylvania
15 Pyrotechnic Association. Phantom has operated in the
16 Commonwealth for more than 25 years and currently has 13
17 retail showrooms across the state, employing hundreds of
18 Pennsylvanians each year. And, I appreciate the
19 opportunity to be before you today.

20 The Pennsylvania Pyrotechnic Association as well
21 as Phantom Fireworks was part of the conversation when the
22 law changed in 2017, and we are appreciative to be involved
23 again today. Since then, no shortage of bills seeking to
24 amend or repeal the fireworks law have been introduced,
25 some even garnering support from the fireworks industry.

1 Other bills have looked to codify local control over
2 fireworks use, an ability that's been proven to already
3 exist today. Just last month in Lancaster County, the
4 Manhattan Township Board of Commissioners passed an
5 ordinance providing for date and time limitations on the
6 use of consumer fireworks. Dozens of other municipalities
7 have already done the same. We've always viewed the
8 fireworks law as a state law that allows for local
9 adaptation, which is typically a recipe for success.

10 It seems clear that more guidance from the state
11 is wanted; however, we continue to believe that the
12 enforcement of fireworks use remains a local issue. With
13 the state providing some additional framework of
14 regulation, local government should have everything at
15 their disposal to form their position on the use of
16 consumer fireworks. As with most legislative issues, no
17 one will get everything they want, but hopefully we all get
18 enough to do our jobs adequately.

19 Our goal is simple. We want to continue to
20 expand and operate legally and safely in the Commonwealth
21 for another 25 years. Thank you for your time, and I am
22 happy to answer any questions from the committee.

23 SENATE MAJORITY CHAIRMAN VOGEL: Thank you, sir.
24 My question this morning I guess resolves -- revolves
25 around the efforts you currently use in your stores as far

1 as informing the consumers about the law, as far as 150
2 foot set back and things like that. Do you have signage in
3 your stores, or do you have anything like -- when a person
4 buys fireworks, you hand them a paper, or a notecard or
5 something, say these are 150 foot set back from buildings
6 and things like that? Do you have any regulations or
7 anything that you do in your stores along those lines, I
8 guess?

9 MR. PEART: Yeah. So you mentioned a couple of
10 different options that we might use for communication in
11 our stores. The answer to all of those is yes,
12 Mr. Chairman. So, we have floor staff that's there and
13 trained to deal with all the customers, and they are aware
14 of what the state laws are, what's legal and what isn't
15 legal, and how to communicate that effectively to all the
16 customers. In every one of our aisles -- I'm holding, you
17 know, something up in here. It's a little how-to card
18 which will show you how to use fireworks responsibly,
19 safely, what to expect when the fireworks actually
20 detonate, so it -- nothing is a surprise to you when it
21 happens.

22 And then we also do hand out safety pamphlets to
23 every single one of our customers that come in the store,
24 as well as having a lot of these safety information, safety
25 literature posted throughout the store, as well as at the

1 point of sale. So, we're doing our best to canvas the
2 consumer with some of this educational material, so they do
3 understand what the state laws are.

4 SENATE MAJORITY CHAIRMAN VOGEL: Thank you.

5 Senator Schwank for a question.

6 SENATE MINORITY CHAIRWOMAN SCHWANK: You asked
7 the exact same question that I wanted to ask,
8 Senator Vogel. I'm glad to hear that that's available.
9 I'd like to see that before you leave. I can't see this
10 far away. What --

11 MR. PEART: Absolutely.

12 SENATE MINORITY CHAIRWOMAN SCHWANK: What
13 information you have --

14 MR. PEART: And this is some of it. I can get
15 you the rest of it as well.

16 SENATE MINORITY CHAIRWOMAN SCHWANK: And, you
17 know, I understand where you're coming from. You want to
18 be able to sell these products. I get it. And, one of the
19 things that you noted in your testimony is that, you know,
20 if this is a -- local municipalities could do more, or
21 perhaps help to -- you know, to enforce the laws and ensure
22 safety in their communities. But, how do you expect them
23 to pay for it? That's part of the problem that I see with
24 this when I hear local control. Where are the resources
25 coming for something that they didn't anticipate that they

1 would have to deal with, on this level? We've always had
2 them, right? And people have gone -- as Senator Yaw
3 mentioned, go to New York or someplace else to buy them.
4 But the question becomes, how do we pay for the police and
5 fire services that we need to enforce this?

6 MR. PEART: Well, I think, Senator -- thank you
7 very much, Chairman. So, I think maybe the answer
8 relies -- as well as education. You know, as well as the
9 retailer doing their part to educate the consumer on, you
10 know, best practices, safety, things of that nature. There
11 have been a variety of options put forward over the years
12 that Phantom Fireworks thinks could help to
13 compartmentalize some of this issue of excessive use a
14 little bit.

15 Senator Yaw introduced a bill a couple of months
16 ago looking to localize fireworks use to a set number of
17 days. Representative Ferry has introduced -- in fact I
18 think he just introduced it again this week, a bill that
19 Phantom Fireworks supported; sought to do the same thing,
20 localized some of the use to these days.

21 Right now, the way the law stands is, you can use
22 fireworks in Pennsylvania all throughout the year. Does it
23 make sense to localize that? You know, listening some of
24 the people that have spoken here today, we can get behind
25 some of those proposals. And, if we can try to push

1 the -- corral the use into areas when we know it's going to
2 happen, therefore enforcement doesn't have to be separated
3 and spread out all throughout the year, but we make it like
4 a municipal shoot for a 4th of July parade that everyone
5 knows is coming. If the days of permitted consumer
6 fireworks use are planned and known ahead of time, and the
7 retailer is doing their part to make sure that consumers
8 understand that, the municipalities are going to have to do
9 their part, too. They're going to have to take on some of
10 this burden of education themselves, as well, and make sure
11 that their residents know when fireworks are legal and when
12 they're not legal to use. I think that solves a lot of the
13 problem and hopefully reins in some of the cost that some
14 of the people are mentioning.

15 HOUSE MAJORITY CHAIRMAN MOUL: Thank you. Just a
16 couple things that I took notice of. Obviously Phantom
17 Fireworks is not opposed to local control, which we have
18 heard multiple times today. We need something to give the
19 locals control over it, you know, which I'm glad to hear
20 that. Because, a full-set repeal of the law would probably
21 cause us more consternation than to change the law. So, I
22 am going to assume you're on board with that when we start
23 working through these bills, that you will be a part in
24 helping us, you know, get through that exercise.

25 One question that comes to mind with these

1 fireworks, the, now, grade that we're selling to the
2 public, in your opinion is 150 feet away from the nearest
3 building enough?

4 MR. PEART: I think it is. And I think if it's
5 being flaunted right now, I don't think changing it to 500
6 feet does anything. And, I also look at -- and I'm using
7 500 feet because it's been mentioned. You know, it's in
8 print in various places. If you have -- if you are going
9 to mandate 500 feet from an occupied structure for the
10 legal use of consumer fireworks, in my view, in Phantom's
11 view, that -- you're essentially banning fireworks.
12 Because you don't need 1,000 feet -- or 500 feet, do you?
13 You need 1,000 feet. You have to have 500 feet from your
14 occupied structure. You have to have 500 feet from the
15 next occupied structure over. So essentially --

16 HOUSE MAJORITY CHAIRMAN MOUL: But the 150 foot
17 now, I just was curious.

18 MR. PEART: Right.

19 HOUSE MAJORITY CHAIRMAN MOUL: Should it be 200
20 feet? Should it be 100 feet?

21 MR. PEART: Well --

22 HOUSE MAJORITY CHAIRMAN MOUL: I don't know. I'm
23 not a fireworks guy, so I'm trusting you as the expert, as
24 in your opinion what's the right number?

25 MR. PEART: When you're using an aerial firework,

1 our best practice -- our advice has always been you want to
2 make sure the audience is at least 150 feet away. You
3 know, going beyond that, you know, you're bringing in
4 distances, set back distances that would be indicative of
5 the professional display fireworks which you've heard some
6 people talk about. We don't sell that. That's nothing
7 that any of us can walk into a store and buy. So, you're
8 taking a bazooka to the fly, you know, type of analogy with
9 that. So, I don't think going beyond 150 feet helps.

10 HOUSE MAJORITY CHAIRMAN MOUL: Okay.

11 MR. PEART: Is effective.

12 HOUSE MAJORITY CHAIRMAN MOUL: I was just kind of
13 curious. Thank you. Chairman Pashinski?

14 HOUSE MINORITY CHAIRMAN PASHINSKI: Thank you,
15 Mr. Chairman. Thank you very much for your testimony.
16 Could you clarify exactly then what you are selling?
17 Because -- the display fireworks you don't sell in
18 Pennsylvania?

19 MR. PEART: No. No, the display fireworks are
20 professional-grade fireworks. So, that would be, the Town
21 of Harrisburg maybe puts on a July 4th show each year.
22 They're probably using display fireworks. They're much
23 bigger, much more potent. Anything that's a consumer
24 firework that you could walk into any of the stores in
25 Pennsylvania and buy, those are consumer products.

1 HOUSE MINORITY CHAIRMAN PASHINSKI: Okay. And
2 how high would those projectiles generally go?

3 MR. PEART: The highest would probably be roughly
4 150 feet.

5 HOUSE MINORITY CHAIRMAN PASHINSKI: Okay. It
6 seems to me we're working on a couple things here,
7 education --

8 MR. PEART: Yes.

9 HOUSE MINORITY CHAIRMAN PASHINSKI: --
10 enforcement, and then the intensity of the firework. So
11 when the law changed, how did the intensity, you know, the
12 grade of fireworks change from what it was to what it is?
13 What is that difference?

14 MR. PEART: So, before the law changed in 2017,
15 Pennsylvania permitted the use of ground-based consumer
16 fireworks. So nothing that went in the air. No
17 firecrackers, nothing that exploded. So, just little
18 fountains that would spray sparks ten, 15 feet off the
19 ground.

20 HOUSE MINORITY CHAIRMAN PASHINSKI: That's what
21 I'm used to. Sparklers -- got my first burn. Fountain of
22 Youth: those were really neat. I enjoyed them, and it was
23 a very special event if we had firecrackers. And then
24 there was always one guy that had a cherry bomb somewhere
25 down the street.

1 MR. PEART: Shame on him.

2 HOUSE MINORITY CHAIRMAN PASHINSKI: We've
3 advanced, thank God. But anyway, I'm sorry to interrupt.

4 MR. PEART: No. So, yes. So, what changed in
5 2017 is Pennsylvania allowed the use of aerial fireworks
6 and firecrackers. So that was the difference. Still
7 consumer. All consumer grade, all regulated by the CPSC,
8 but just aerial, from ground based to aerial fireworks.

9 HOUSE MINORITY CHAIRMAN PASHINSKI: The reason
10 why I'm saying that is because, you know, an automobile --
11 absolutely imperative in our lives. Fantastic. I love
12 driving. It's also one of the most dangerous things you
13 could do. So without enforcement, without education it
14 becomes a threat to anyone that's on the road. So, I'm
15 trying to figure out how we can educate better, to make
16 sure that our children -- because not all children today
17 have families that are actually educating them. In our
18 day, that might even give me that sparkler to say, it's
19 very hot. You can really burn yourself badly, and you can
20 hurt. A lot of folks don't get it. They buy it with a
21 couple buddies, and then all of a sudden they're out and
22 they're lighting them off.

23 And then I'm still struggling with the
24 enforcement, how we can help our fire and our police either
25 have enough, or the equipment or whatever. And, I do like

1 the idea of taking some of that money and helping subsidize
2 the cost of enforcement. So, I -- again, I appreciate it,
3 and I would -- and I thank you very much for your
4 participation. Your information is also very critical in
5 helping guide us as how we may be able to amend so that
6 we'll reconcile the problems that we have. So I thank you.

7 MR. PEART: Mr. Chairman, may I respond for one
8 second?

9 HOUSE MINORITY CHAIRMAN PASHINSKI: Yeah.

10 MR. PEART: You focused on education. And again,
11 I think that education is the lynchpin to the success of
12 any change that's going to be made with the fireworks law.
13 The retailers will do their part. We've -- operating in
14 the Commonwealth for a number of years. We want to
15 continue operating. We want to be a good corporate
16 citizen. We don't want to get in trouble. We'll do
17 whatever we're tasked with to do.

18 When it comes to education, it's going to require
19 the municipalities to get involved. They're going to have
20 to. They're going to have to divert some sort of effort,
21 or some sort of asset into education of what is appropriate
22 use, what isn't appropriate use. If we had an ordinance,
23 what you can do, what you can't do. When people come into
24 our stores they're very excited. You know, they come in
25 typically once or twice a year. They plan -- when we start

1 having the technical conversations about the laws and the
2 rules, some backup would be helpful on that.

3 HOUSE MINORITY CHAIRMAN PASHINSKI: Yeah. Well,
4 you make a great point. I come from a public education. I
5 was a former public school teacher, and we've always
6 utilized the schools as a major area to teach children
7 about things that are without -- you know, out of the realm
8 of the textbook, whether it's about drugs, you know,
9 smoking, whatever it might. And, this may be one of these
10 other issues that should be a part of, you know, curriculum
11 that's coming at a particular time throughout the year. So
12 in any case, I made this statement earlier. I believe
13 everybody that's involved here wants to do the right thing.
14 We want to make sure we can still enjoy the independence of
15 July 4th and New Year's Eve. It's a time to celebrate. We
16 just want to try to do it safely so none of our folks get
17 hurt. So, I thank you.

18 HOUSE MAJORITY CHAIRMAN MOUL: Thank you,
19 Mr. Chairman.

20 SENATE MAJORITY CHAIRMAN VOGEL: Thank you.
21 Senator Yaw for a question.

22 SENATOR YAW: Thank you, Mr. Chairman. One of
23 the things that you mentioned in -- I -- just a comment
24 about it. Two things you mentioned. Number one, the use
25 is known -- that -- when it's going to be used. I mean,

1 I'll disclose to everybody, July 4th is coming next year. I
2 guarantee it. It will be here. You know, New Year's Day
3 is coming shortly. It will be here. Many people have
4 called me at various times complaining, oh, we have to do
5 something, we have to do something. My question to them
6 has been, what have you done? What have you done to
7 prepare for July 4th? And in most cases the answer is
8 nothing. It's Groundhog Day all over again. In my opinion
9 the Pennsylvania State Police have done a good job and know
10 how to keep people within the parameters, generally, of the
11 law.

12 For example, you -- before holidays you will see
13 all kind of public announcements about increased
14 enforcement. Whether there is or isn't, I don't know. Or
15 you will see a car parked along the road, a state trooper's
16 car just parked there, just to remind people that they're
17 around. And I think that -- the same thing. You hit -- I
18 think that you -- your comment about the local
19 municipalities need to get involved, you're right, they do.
20 They need to get involved and do a little bit of planning.

21 I know that there's cost involved, but I also
22 think that what people do -- if they use so many of these
23 fireworks, there is a demand out there. For some reason
24 people want to do it. I mean, I think it's been part of
25 our culture since 1776, frankly. But, and that's why it's

1 so attractive. But I think that, you know, the idea of
2 getting the community involved in the education and saying,
3 like the bill that I mentioned earlier. We've
4 significantly increased the fines. Maybe that's what --
5 you know, you need to start talking that hey, you can go
6 violate the law, but you're at a significant risk this
7 year, and here is what we're going to do. We are going to
8 enforce it. And there's probably other tweaks we can do.

9 Here is my question to you. I don't know whether
10 it's to you as part of the association or Phantom. I don't
11 want you to disclose any secret information or anything.
12 But, when the law changed and Pennsylvanians were allowed
13 to go in the store just like non-residents and buy
14 fireworks, how much did the sales increase?

15 MR. PEART: Yes.

16 SENATOR YAW: How much?

17 MR. PEART: Yes.

18 SENATOR YAW: You can't tell me from the
19 association's point of view.

20 MR. PEART: It -- well --

21 SENATOR YAW: Not from Phantom. I don't want to
22 know what Phantom --

23 MR. PEART: Even in the association, we keep
24 things pretty tight. Nobody --

25 SENATOR YAW: Okay.

1 MR. PEART: -- is tipping their hand. But yeah.
2 No, of course. There was a noticeable increase in
3 business. Sure.

4 SENATOR YAW: Okay. All right, thank you.

5 HOUSE MAJORITY CHAIRMAN MOUL: Okay. Our last
6 question, but certainly not lease, comes from
7 Representative Gillen.

8 REPRESENTATIVE GILLEN: Yeah. I'm representing
9 this end of the room. Thank you for your support, John,
10 and coming in. Is the two-for-one sale still on? I was
11 just check -- no, I'm only kidding. No. Yeah.

12 We heard a little bit about local planning, and I
13 was a municipal official, a borough councilman. A very
14 tiny community, 3,000 people. There's a secretary that
15 sits in the office. There's no borough manager. There's a
16 part-time police force. So, from the educational
17 perspective, how would you see a borough in that situation
18 operating to communicate the nuance of the law?

19 MR. PEART: So, I think it depends on what the
20 change is. But I think whatever it takes to educate -- a
21 lot of this seems to be focused on days and times of use.
22 You know, if we're talking about a different ordinance,
23 we're talking about a municipality writing an ordinance
24 that is either restricting or regulating the days and times
25 of use, then there's got to be some communication of that.

1 Whether it's a billboard, whether it's small PSAs, whether
2 it's a radio ad, whether it's talked about in briefs, press
3 conferences, whether it's a placement in the local
4 newspaper. The same way they're notifying people not to
5 drink and drive around the same holiday every year, the 4th
6 of July. Municipalities certainly don't need my expertise
7 on how to communicate to their residents, so I would
8 encourage them to use the exact same methods that they are.

9 REPRESENTATIVE GILLEN: Well, and I was looking
10 for suggestions. I assure you there won't be any press
11 conferences. There's no billboards in the borough. And a
12 lot of it depends on the appetite of the individuals to be
13 educated. You go to the pediatrician's office, the
14 pharmacy -- I recently was installing, you know, a doorknob
15 and a lock. There's a litany of information out there, but
16 I think primarily, when somebody comes under the tent and
17 leaves, they're interested in where are the matches, and
18 where is the fuse at. And so I think we've got corporate
19 responsibility here, and to lean back on a smaller
20 municipality, whether from an enforcement mechanism or
21 education mechanism, from my vantage point as a former
22 local official I think is wholly unrealistic.

23 Relative to what you heard from law enforcement,
24 the firefighters, the emergency medical services community,
25 are you at variance with anything you've heard? And

1 collaterally, how do you see the industry cooperating with
2 those concerns? Thank you, Mr. Chairman.

3 HOUSE MAJORITY CHAIRMAN MOUL: Okay, thank you.

4 Closing statement from Chairman Pashinski?

5 HOUSE MINORITY CHAIRMAN PASHINSKI: Thank you,
6 Mr. Chair. And once again, I thank everybody that came
7 here today and testified. I thank all the visitors that
8 are listening. Our doors are open for any kinds of
9 suggestions that you may want to offer as we continue to
10 try to find ways in order to improve the situation and
11 address the concerns. Always a pleasure sharing the
12 microphone with my other Chair, Senator Schwank and of
13 course Senator Vogel, and of course the big guy on the
14 floor, Chairman Moul.

15 HOUSE MAJORITY CHAIRMAN MOUL: I've never been
16 called the big guy at 5'7", but I'll take it.

17 HOUSE MINORITY CHAIRMAN PASHINSKI: No, it's not
18 necessarily the height.

19 HOUSE MAJORITY CHAIRMAN MOUL: Okay. On that
20 note, I would like to say thank you to all the testifiers
21 for coming together to help us. We have a job in front of
22 us now. We certainly know that there is work to be done.
23 We realize that. I am very appreciative that the fireworks
24 industry is willing to work with us on this. Sometimes
25 people dig their heels in. They don't want any changes,

1 because it might affect their bottom line. It's a breath
2 of fresh air when we hear that an industry is saying, yes,
3 we realize that we need to make changes. Might cost us a
4 couple bucks in sales, but we need the changes. That, sir,
5 was a breath of fresh air.

6 I want to make note for those that are live
7 streaming -- watching live stream that there were several
8 additional submissions of testimony for the hearing, and
9 they are part of the record, the transcript, and they were
10 shared with all of the members of the committee. And with
11 that, I say thank you and turn it over to Senator Vogel.

12 SENATE MAJORITY CHAIRMAN VOGEL: Thank you.
13 Senator Schwank for a closing comment.

14 SENATE MINORITY CHAIRWOMAN SCHWANK: Ditto on all
15 of the thanks. This was great testimony today, and I
16 really appreciated hearing from everyone. Look, I know
17 where I stand on this. I wouldn't have introduced the bill
18 that I did to repeal this if I hadn't heard for a couple of
19 years how difficult this has made life for not only our
20 municipal officials and our, you know, law enforcement and
21 our fire chiefs, but for average citizens as well. This
22 has really been problematic, and I have to ask, is consumer
23 convenience and \$11 million in revenue -- nobody's said
24 this yet today -- since enacted in April 2020, has this
25 been worth it? I don't think so. However, I recognize

1 where this is going, and we need to act quickly if
2 something is going to happen.

3 Some of you talked about specific holidays when
4 fireworks are -- let me tell you, every day is a day to
5 celebrate, depending upon where you live and what -- you
6 know, what the atmosphere in the community is. So, this
7 isn't just a holiday phenomenon. This happens quite often.
8 And yes, the holidays are coming up, New Year's, and, you
9 know, maybe people will stay inside if it ever gets cold
10 and snows or whatever, but we -- I'm not depending upon
11 that.

12 But let me say this. We've heard very
13 significantly that the local option, letting communities do
14 what they need to do, is important. I would agree with
15 that, but they need the resources to be able to deal with
16 the problem as they see it. So, when it comes to looking
17 at how we're going to either amend this or whatever -- or a
18 new legislation as I think Senator Yaw has introduced.
19 It's new -- yeah. It's a new bill, correct? So if that's
20 what the case is, get the people who are the experts to the
21 table now, so that we can help to deal with this.

22 It was also unnecessary in my opinion. I never
23 voted for it, either, Rep Gillen. We both represent the
24 same area, as a matter of fact. But, I recognize that it's
25 here. And my job isn't just to be the person of no, but

the person or the legislator that works towards a solution. And that's what I would truly like to see happen, sooner rather than later. We've got to get this fixed. So, count me on board to help, but I want the people that are the true experts there to really have the voice in what this should look like. Thank you.

SENATE MAJORITY CHAIRMAN VOGEL: Thank you, Senator Schwank. And I would also like to thank all our testifiers today for coming, obviously taking time out of your busy schedules to be with us and giving us a lot of insight and a lot of information that we can share today and work -- as we work towards fixing the issue I guess at some point here with another piece of legislation or however it ends up being. But at this time I would like to have Senate Ag and Rural Affairs Committee recess to the call of the chair. So, committee hearing is over, and thank you everyone for being here, and have a Merry Christmas and Happy New Year.

(The hearing concluded at 10:50 a.m.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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