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PA Municipal League
Testimony Regarding the Legalization of Consumer Fireworks
Before a Joint Hearing of the
House and Senate Agriculture and Rural Affairs Committees
December 15, 2021

Chairs and members, thank you for holding today's hearing on consumer fireworks. The Pennsylvania Municipal League (The League) appreciates opportunity to provide our members' perspective on what has become a serious and unfortunately deadly, quality of life issue in our dense, urban communities.

The League is a non-profit, non-partisan organization representing like-minded urban and suburban townships, boroughs, cities and home rule communities. The League serves 119 members reaching nearly four million Pennsylvanians in our mission to strengthen, empower and advocate for effective local government. Since its formation in 1900, The League has been dedicated to providing the highest level of service to its members.

Very simply, legalizing the purchase and use of consumer fireworks has created havoc across the Commonwealth for the last three years. The broad authorization for anyone over 18 to use these fireworks has resulted in deaths, serious injuries and the destruction of homes, businesses and personal property. Neighborhoods are disrupted on a regular basis; while kids, seniors, veterans and animals are adversely impacted by the abrupt and loud noises created by consumer fireworks. We ask – is the relatively small amount of revenue to the state coffers worth the destruction and fear Act 43 has caused? The League's response to this is a resounding, No.

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In addition to these severe and arguably preventable outcomes, Act 43 also dropped the responsibility to enforce this unenforceable law squarely in the laps of local government. To add to this unwelcome and unfunded mandate, some legislators are blaming local government for not doing a better job with enforcement!

It is not for lack of effort that enforcement is a problem. The law is very broad, only prohibiting use on public property, by minors or those under the influence, and within 150 feet of an occupied structure. By its very nature, the evidence of igniting consumer fireworks is destroyed upon use as it is set on fire and flies through the air. To issue a citation, law enforcement must see the illegal use occur. The density of neighborhoods, the cover of night and backyard use hinder a clear view of where fireworks are being used and who is igniting them. Incidentally, the 150 feet setback rule makes consumer fireworks use illegal in many communities, but that does not stop their use. At the height of the summer holidays, multiple complaints across a municipality hinder enforcement. In the time it takes to arrive at a call and locate the source of the fireworks, the use is most likely over. Finally, the minuscule fine of not more than \$100 is in no way a deterrent to repeated illegal use.

From the League's perspective, the only true and absolute solution to this havoc is repeal of the law in its entirety. The costs to residents, their property, and public safety personal far outweighs any benefit. We call on the Legislature to repeal Act 43.

Thank you for holding today's hearing. Please contact Amy Sturges, Director of Governmental Affairs, at asturges@pml.org with any questions.

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PA State Association of Township Commissioners (PSATC)

Testimony Regarding the Legalization of Consumer Fireworks Before a Joint Hearing of the Senate and House Agriculture and Rural Affairs Committees December 15, 2021

Committee Chairs and members, thank you for holding today's hearing on consumer fireworks. We are pleased to be able to provide our members' perspective on the impact of the legalization and expansion of consumer fireworks in the Commonwealth since 2017. PSATC represents the townships of the first class which typically surround our urban centers. First Class Townships are densely populated, full-service communities of varying sizes and resources.

The illegal and irresponsible use of consumer fireworks has significantly disrupted the quality of life for many Pennsylvanians. It has also created a dangerous threat to life and property. Most unfortunately, localities have experienced deaths. Homes and business have also been destroyed and serious injuries abound. Throughout the summer months and on holidays, local governments field a multitude of complaints from residents concerned for their property, their pets and their own safety.

In addition to being on the receiving end of residents' complaints, the regulation of consumer fireworks is an unfunded mandate on local government. Enforcement is an added burden on public safety resources with no reimbursement of costs. Furthermore, the law preempts local regulations that could ease this burden. To be clear, the issues created by the onslaught of illegal and irresponsible consumer fireworks use is not the result of insufficient local enforcement. Act 43 is an unenforceable law that ties the hands of local officials to effectively manage the use of consumer fireworks in their communities.

While the problems caused by consumer fireworks may never be fully resolved because enforcement is so difficult, PSATC is advocating for changes to Act 43 that will curb illegal use and restore the quality of life and ability to peacefully enjoy one's own property.

Authorize Stricter Local Regulations

Act 43 must be amended to set a minimum state regulation while allowing municipalities to impose their own stricter local rules, including the ability to prohibit consumer fireworks use altogether. This is the only way to legalize consumer fireworks and have any chance of effectively managing their impact.

Municipalities are charged with protecting the health, safety and welfare of residents. Unfortunately, the enforcement of consumer fireworks was foisted upon local government with no useful tools. Therefore, the authorization for stricter local regulations is essential to managing the local impacts. Local officials are best able to assess what their municipality's approach to consumer fireworks should be based on density and other factors. Each locality must have the ability decide if the state law is sufficient or if stricter local rules are needed. Again, the state law should be the minimum allowing municipalities the flexibility to implement their own stricter regulations.

Increase Distance from Structures

The current 150 feet rule from an unoccupied structure is far too close for comfort. Even responsible fireworks users have no control over where the airborne devices and debris will land. Neighbors should not have to worry about damage to property or personal injury from fiery debris landing on their property. In addition to an increase in distance, the term unoccupied structures must be amended to include *any* structures – occupied or unoccupied.

Limit Hours of Use

Remarkably, consumer fireworks are allowed anytime of the day or night. This is unacceptable from both a quality of life and enforcement standpoint. The noise, smoke and abrupt nature of fireworks is at the very least a nuisance for those in the vicinity of the activity. And for those sensitive to noise, such as small children, veterans, seniors and animals, the constant noise can result in physical affects. Hours

of use must be shortened to clear, reasonable and predictable timeframes with again, the flexibility for local regulations to curb hours further.

Increase Penalties

The \$100 fine for illegal use is ridiculously low. It must be increased significantly in order to be an effective deterrent to violations and repeated violations. A \$1,000 minimum fine is more appropriate and would be an effective deterrent. Second offenses with higher penalties should also be added to the law. Finally, when law enforcement is able to issue a citation, they should also be authorized to confiscate any unused consumer fireworks.

Require Statewide Incident Reporting/Data Collection

There is nothing in the law requiring the collection of data. Therefore, when asked for data, we are limited to anecdotal information of individual incidents. A statewide data collection system must be put in place. Data of all emergency medical incidents and property damage caused by consumer fireworks should be recorded and made available to assess the impact. This will require emergency incident reports and medical reports to be updated to include consumer fireworks as a reason for a police, fire or EMS call, a death or injury. Data should be collected by an appropriate agency or office, such as the State Fire Commissioner.

Consumer Fireworks Use in Surrounding States

It is important to note that our research into the laws of our surrounding states revealed that only in West Virginia are consumer fireworks legal. And, even there, the municipalities in West Virginia have been given the discretion and local control to decide for themselves if consumer fireworks are appropriate in their communities. There is no reason Pennsylvania municipalities should not have the same local control and decision making authority.

Conclusion

The events over the last three years demonstrate that consumer fireworks are dangerous and pose a significant threat to users, innocent bystanders and first responders. They also impose an expensive

unfunded mandate on local governments. The legalization and expansion of consumer fireworks in Pennsylvania has created the “wild west” from a public safety and enforcement aspect. This is certainly at odds with on-going legislative efforts to offer support to public safety personnel, improve the delivery of public safety services and use our limited public safety resources wisely. In order to effectively manage this mandate, municipalities must be given the flexibility to set stricter local laws, as well as the authority to prohibit the use of consumer fireworks altogether. PSATC appreciates the opportunity to submit testimony and answer questions today. We stand ready to work with you to find an acceptable solution. Please contact Amy Sturges, Director of Governmental Affairs, at asturges@pml.org with any questions or comments. Thank you.