
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 696 Session of
2019

INTRODUCED BY YAW, VOGEL, DiSANTO, K. WARD AND STEFANO,
MAY 31, 2019

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, MAY 31, 2019

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in fireworks, further providing for definitions,
11 for use of display fireworks, for sales locations and for
12 fees, granting of licenses and inspections, repealing
13 provisions relating to temporary structures and providing for
14 short-term structures.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Sections 2401, 2404.1, 2407 and 2408 of the act
18 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
19 1971, are amended to read:

20 Section 2401. Definitions.

21 The following words and phrases when used in this article
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "APA 87-1." The American Pyrotechnics Association Standard

1 87-1: Standard for Construction and Approval for Transportation
2 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001
3 edition, or any subsequent edition.

4 "Consumer fireworks."

5 (1) Any combustible or explosive composition or any
6 substance or combination of substances which is intended to
7 produce visible or audible effects by combustion, is suitable
8 for use by the public, complies with the construction,
9 performance, composition and labeling requirements
10 promulgated by the Consumer Products Safety Commission in 16
11 CFR (relating to commercial practices) or any successor
12 regulation and complies with the provisions for "consumer
13 fireworks" as defined in APA 87-1 or any successor standard,
14 the sale, possession and use of which shall be permitted
15 throughout this Commonwealth.

16 (2) The term does not include devices as "ground and
17 hand-held sparkling devices," "novelties" or "toy caps" in
18 APA 87-1 or any successor standard, the sale, possession and
19 use of which shall be permitted at all times throughout this
20 Commonwealth.

21 "Display fireworks." Large fireworks to be used solely by
22 professional pyrotechnicians and designed primarily to produce
23 visible or audible effects by combustion, deflagration or
24 detonation. The term includes, but is not limited to:

25 (1) salutes that contain more than two grains or 130
26 milligrams of explosive materials;

27 (2) aerial shells containing more than 60 grams of
28 pyrotechnic compositions; and

29 (3) other display pieces that exceed the limits of
30 explosive materials for classification as consumer fireworks

1 and are classified as fireworks UN0333, UN0334 or UN0335
2 under 49 CFR 172.101 (relating to purpose and use of
3 hazardous materials table).

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

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

10 "Occupied structure." A structure, vehicle or place adapted
11 for overnight accommodation of persons or for conducting
12 business whether or not a person is actually present.

13 "Outdoor storage unit." A consumer fireworks building,
14 trailer, semitrailer, metal shipping container or magazine
15 meeting the specifications of NFPA 1124.

16 ["Temporary structure." A structure, other than a permanent
17 facility with fixed utility connections, which is in use or in
18 place for a period of 20 consecutive calendar days or less and
19 is dedicated to the storage and sale of consumer fireworks and
20 related items. The term includes temporary retail sales stands,
21 tents, canopies and membrane structures meeting the
22 specifications of NFPA 1124. The term shall not include a
23 facility that is not licensed to sell consumer fireworks under
24 this article.]

25 "Short-term structure." A structure, other than a permanent
26 facility with fixed utility connections, which is in use or in
27 place for a period of 20 consecutive calendar days or less and
28 is dedicated to the storage and sale of consumer fireworks and
29 related items. The term includes temporary retail sales stands,
30 tents, canopies and membrane structures. The term shall not

1 include a facility that is not licensed to sell consumer
2 fireworks under this article.

3 Section 2404.1. Use of display fireworks.

4 No display fireworks shall be ignited within 300 feet of a
5 facility that meets the requirements of section 2407 or [2410]
6 2410.1.

7 Section 2407. Sales locations.

8 [Except as provided in section 2410] Subject to section
9 2410.1, consumer fireworks shall be sold only from facilities
10 which are licensed by the Department of Agriculture and that
11 meet the following criteria:

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

15 (2) The facility shall be a stand-alone, permanent
16 structure.

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

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

23 (5) The facility shall be located at least 1,500 feet
24 from another facility licensed to sell consumer fireworks.

25 (6) The facility shall have a monitored burglar and fire
26 alarm system.

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

29 Section 2408. Fees, granting of licenses and inspections.

30 (a) Initial application fees.--

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

5 (i) For a facility meeting the requirements of
6 section 2407, the application shall be submitted with a
7 nonrefundable application fee of \$2,500.

8 [(ii) For a facility meeting the requirements of
9 section 2410, the application shall be submitted with a
10 nonrefundable application fee of \$1,000 no later than 60
11 days prior to the first day of sale.]

12 (iii) For a facility meeting the requirements of
13 section 2410.1, the application shall be submitted with a
14 nonrefundable application fee of \$1,000 on or before 60
15 days prior to the first day of sale.

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

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

22 (1) \$7,500 for a location up to 10,000 square feet;

23 (2) \$10,000 for a location greater than 10,000 and up to
24 15,000 square feet;

25 (3) \$20,000 for a location greater than 15,000 square
26 feet; and

27 [(4) \$3,000 for a temporary structure.]

28 (5) \$3,000 for a short-term structure.

29 (c) Time limitations and inspections.--

30 (1) A facility meeting the requirements of section 2407

1 shall be inspected by the Department of Agriculture within 30
2 days of receipt of a complete application for a license. The
3 Department of Agriculture shall issue or deny a license
4 within 14 days of completing the inspection.

5 [(2) The Department of Agriculture shall issue or deny a
6 license for a facility meeting the requirements of section
7 2410 no later than 10 days prior to the first day of sale.
8 The facility shall be available for inspection by the
9 Department of Agriculture for compliance with NFPA 1124 at
10 all times during the licensed selling period.]

11 (3) The Department of Agriculture shall issue or deny a
12 license for a facility meeting the requirements of section
13 2410.1 no later than 10 days prior to the first day of sale.
14 The facility shall be available for inspection by the
15 Department of Agriculture or a designee for compliance with
16 applicable regulations at all times during the licensed
17 selling period.

18 (d) Term of license.--A license issued for the sale of
19 consumer fireworks shall be effective for one year from the date
20 the license is issued.

21 (e) License renewal and inspections.--License renewal shall
22 be automatic upon payment of the appropriate annual license fee
23 under subsection (b), but each facility shall be subject to
24 annual inspections by the Department of Agriculture and at other
25 times as the department may deem appropriate.

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

29 Section 2. Section 2410 of the act is repealed:

30 [Section 2410. Temporary structures.]

1 (a) Conditions.--Notwithstanding section 2407 or any other
2 provision of law, a temporary structure may be licensed by the
3 Department of Agriculture to sell consumer fireworks if the
4 temporary structure meets all of the following requirements:

5 (1) The temporary structure is located no closer than
6 250 feet from a facility storing, selling or dispensing
7 gasoline, propane or other flammable products.

8 (2) An evacuation plan is posted in a conspicuous
9 location for a temporary structure in accordance with NFPA
10 1124.

11 (3) The outdoor storage unit, if any, is separated from
12 the wholesale or retail sales area to which a purchaser may
13 be admitted by appropriately rated fire separation.

14 (4) The temporary structure complies with NFPA 1124 as
15 it relates to retail sales of consumer fireworks in temporary
16 structures.

17 (5) The temporary structure is located one of the
18 following distances from a permanent facility licensed to
19 sell consumer fireworks under the former act of May 15, 1939
20 (P.L.134, No.65), referred to as the Fireworks Law, at the
21 time of the effective date of this article:

22 (i) Prior to January 1, 2023, at least five miles.

23 (ii) Beginning January 1, 2023, at least two miles.

24 (6) The temporary structure does not exceed 2,500 square
25 feet.

26 (7) The temporary structure is secured at all times
27 during which consumer fireworks are displayed within the
28 structure.

29 (8) The temporary structure has a minimum of \$2,000,000
30 in public and product liability insurance.

1 (9) The sales period is limited to June 15 through July
2 8 and December 21 through January 2 of each year.

3 (10) Consumer fireworks not on display for retail sale
4 are stored in an outdoor storage unit.

5 (b) Limitations.--The sale of consumer fireworks from the
6 temporary structure is limited to the following:

7 (1) Helicopter, Aerial Spinner (APA 87-1, 3.1.2.3).

8 (2) Roman Candle (APA 87-1, 3.1.2.4).

9 (3) Mine and shell devices not exceeding 500 grams.]

10 Section 3. The act is amended by adding a section to read:
11 Section 2410.1. Short-term structures.

12 (a) Conditions.--Notwithstanding section 2407 or any other
13 provision of law, a short-term structure may be licensed by the
14 Department of Agriculture to sell consumer fireworks if the
15 short-term structure meets all of the following requirements:

16 (1) The short-term structure is located no closer than
17 250 feet from a facility storing, selling or dispensing
18 gasoline, propane or other flammable products.

19 (2) An evacuation plan is posted in a conspicuous
20 location for a short-term structure in accordance with
21 regulations of the Department of Agriculture.

22 (3) The outdoor storage unit, if any, is separated from
23 the wholesale or retail sales area to which a purchaser may
24 be admitted by appropriately rated fire separation.

25 (4) The short-term structure is located one of the
26 following distances from a permanent facility licensed to
27 sell consumer fireworks under the former act of May 15, 1939
28 (P.L.134, No.65), referred to as the Fireworks Law, as of
29 October 30, 2017:

30 (i) Prior to January 1, 2023, at least five miles.

1 (ii) Beginning January 1, 2023, at least two miles.

2 (5) The short-term structure does not exceed 2,500
3 square feet.

4 (6) The short-term structure is secured at all times
5 during which consumer fireworks are displayed within the
6 short-term structure.

7 (7) The short-term structure has a minimum of \$2,000,000
8 in public and product liability insurance.

9 (8) The sales period is limited to June 15 through July
10 8 and December 21 through January 2 of each year.

11 (9) Consumer fireworks not on display for retail sale
12 are stored in an outdoor storage unit.

13 (b) Limitations.--The sale of consumer fireworks from the
14 short-term structure is limited to the following:

15 (1) Helicopter, Aerial Spinner (APA 87-1, 3.1.2.3).

16 (2) Roman Candle (APA 87-1, 3.1.2.4).

17 (3) Mine and shell devices not exceeding 500 grams.

18 Section 4. This act shall take effect immediately.