

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2157 Session of 2021

INTRODUCED BY FARRY, HELM, POLINCHOCK, SCHLOSSBERG, LEWIS DELROSSO, KINSEY, EMRICK, HEFFLEY, STAATS, SAPPEY, HOHENSTEIN, PICKETT, McNEILL, MENTZER, SCHROEDER, PASHINSKI, DRISCOLL, O'MARA, DEASY, NEILSON, CIRESI, LAWRENCE, GILLEN, RADER, STRUZZI, STURLA AND T. DAVIS, DECEMBER 13, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 7, 2022

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, providing for fireworks; and making a related
3 repeal.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 3 of the Pennsylvania Consolidated Statutes
7 is amended by adding a chapter to read:

8 CHAPTER 11

9 FIREWORKS

10 Sec.

11 1101. Definitions.

12 1102. Use of display fireworks.

13 1103. (Reserved).

14 1104. Use of consumer fireworks.

15 1105. Agricultural purposes.

16 1106. Rules and regulations by municipality.

- 1 1107. Sales locations.
2 1108. Fees, granting of licenses and inspections.
3 1109. Conditions for facilities.
4 1110. (Reserved).
5 1111. Attorney General.
6 1112. Consumer fireworks tax.
7 1113. Disposition of certain funds.
8 1114. Penalties.
9 1115. Removal, storage and destruction.
10 § 1101. Definitions.

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

14 "Animal housing facility." A roofed structure or facility,
15 or a portion of the facility, used for occupation by livestock
16 or poultry.

17 "APA 87-1A." The American Pyrotechnics Association Standard
18 87-1A: Standard for the Construction, Classification, Approval,
19 and Transportation of Consumer Fireworks, 2018 edition.

20 "Consumer fireworks."

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

1 this Commonwealth.

2 (2) The term does not include devices such as "ground
3 and hand-held sparkling devices," "novelties" or "toy caps"
4 in APA 87-1A, the sale, possession and use of which shall be
5 permitted at all times throughout this Commonwealth.

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

8 "Municipality." A city, borough, incorporated town or
9 township.

10 "NFPA 1124." The National Fire Protection Association
11 Standard 1124, Code for the Manufacture, Transportation, Storage
12 and Retail Sales of Fireworks and Pyrotechnic Articles, 2006
13 edition.

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

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

22 § 1102. Use of display fireworks.

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

26 (b) Permit.--Permission shall be given by the governing body
27 of a municipality under reasonable rules and regulations for
28 displays of display fireworks to be held within the
29 municipality. After permission is granted, purchase, possession
30 and use of display fireworks shall be lawful for the use

1 outlined in the permit only. Permits shall not be transferable.

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

3 (1) handled by a competent operator at least 21 years of

4 age WHO DEMONSTRATES EVIDENCE OF FIREWORKS HANDLING AND <--

5 SAFETY TRAINING;

6 (2) of a character and so located, discharged or fired

7 as, in the opinion of the chief of the fire department or

8 other appropriate officer as may be designated by the

9 governing body of the municipality, after proper inspection,

10 to not be hazardous to property or endanger any person.

11 (d) Insurance.--The governing body of the municipality shall

12 require a permittee to carry insurance in an amount not less

13 than ~~\$2,000,000~~ \$1,000,000 conditioned for the payment of all <--

14 damages which may be caused to a person or property by reason of

15 the use of display fireworks and arising from an act of the

16 permittee or an agent, an employee or a subcontractor of the

17 permittee.

18 (e) Permit extension.--A municipality may grant an extension

19 for a permit issued under this section to a new date for

20 displays canceled due to unfavorable weather or other

21 circumstances beyond the control of the permittee.

22 § 1103. (Reserved).

23 § 1104. Use of consumer fireworks.

24 (a) Conditions.--A person who is at least 18 years of age

25 may purchase, possess and use consumer fireworks.

26 (b) Prohibitions.--A person may not intentionally use

27 consumer fireworks:

28 (1) On private property or on public property,

29 including, but not limited to, streets, parking lots,

30 sidewalks and parks, without the express permission of the

1 owner or entity that controls the property.

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

4 (3) Directed at another person.

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

7 (5) Within 150 feet of a building or vehicle, whether
8 the building or vehicle is owned by the user of the consumer
9 fireworks.

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

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

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

19 (c) Conditional use.--A NO person may use consumer <--
20 fireworks at a distance of no less than 150 feet from WITHIN 150 <--
21 FEET OF an animal housing facility or a fenced area designed to
22 confine livestock owned or managed by another person, when the <--
23 person using consumer fireworks has notified PERSON. IF A PERSON <--
24 USES CONSUMER FIREWORKS AT A DISTANCE OF 150 TO 300 FEET FROM AN
25 ANIMAL HOUSING FACILITY OR FENCED AREA DESIGNED TO CONFINE
26 LIVESTOCK OWNED OR MANAGED BY ANOTHER PERSON, THE USER OF
27 CONSUMER FIREWORKS SHALL NOTIFY in writing the owner or manager
28 of the livestock at least 72 hours in advance of the use that
29 consumer fireworks will be used in the area.

30 § 1105. Agricultural purposes.

1 (a) Authorization.--The governing body of a municipality
2 may, under reasonable rules and regulations adopted by it, grant
3 permits for the use of display fireworks for agricultural
4 purposes in connection with the raising of crops and the
5 protection of crops from bird and animal damage.

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

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

12 § 1106. Rules and regulations by municipality.

13 (a) Authorization.--

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

18 (1.1) Except for the limitations under subsection (b), a
19 municipality may require a permit for the use of consumer
20 fireworks. A fee for a permit shall be reasonable.

21 (1.2) A municipality may prohibit the use of consumer
22 fireworks if the use within the municipality cannot comply
23 with section 1104(b)(5) (relating to use of consumer
24 fireworks).

25 (2) Facilities with a valid license issued by the
26 department PRIOR TO OR WITHIN ONE YEAR FOLLOWING THE
27 EFFECTIVE DATE OF THIS SECTION shall not be subject to
28 municipal conditions, prohibitions or limitations enacted
29 under paragraph (1) related to the sale of consumer
30 fireworks.

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1 (b) Limitations.--Except for authority exercised under
2 subsection (a) (1.2), no municipality shall restrict or regulate
3 the use of consumer fireworks on the following days:

4 (1) The days listed in section 1104(b) (6).

5 (2) Memorial Day, including the immediately preceding
6 Saturday and Sunday.

7 (3) Labor Day, including the immediately preceding
8 Saturday and Sunday.

9 § 1107. Sales locations.

10 Consumer fireworks shall be sold only from facilities which
11 are licensed by the Department of Agriculture and that meet the
12 following criteria:

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

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

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

21 (4) ~~The~~ FOR FACILITIES LICENSED AFTER THE EFFECTIVE DATE <--
22 OF THIS SECTION, THE facility shall be located no closer than
23 300 feet from a facility selling or dispensing gasoline,
24 propane or other flammable products.

25 (5) For facilities licensed after the effective date of
26 this section, the facility shall be located at least 2,500
27 feet from another facility licensed to sell consumer
28 fireworks.

29 (6) The facility shall have a monitored burglar and fire
30 alarm system.

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

3 (8) The facility shall comply with the requirements of
4 NFPA 1124.

5 (9) The sale of consumer fireworks may be conducted
6 through online, mail-order or other transaction, but delivery
7 OF CONSUMER FIREWORKS to a purchaser shall take place at a <--
8 facility licensed under section 1108 (relating to fees,
9 granting of licenses and inspections) and the sale shall be
10 subject to the provisions of section 1112 (relating to
11 consumer fireworks tax).

12 § 1108. Fees, granting of licenses and inspections.

13 (a) Initial application fees.--

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

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

22 (ii) (Reserved).

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

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

29 (1) \$7,500 for a location up to 10,000 square feet;

30 (2) \$10,000 for a location greater than 10,000 and up to

1 15,000 square feet; and

2 (3) \$20,000 for a location greater than 15,000 square
3 feet.

4 (c) Time limitations and inspections.--

5 (1) A facility meeting the requirements of section 1107
6 shall be inspected by the Department of Agriculture within 30
7 days of receipt of a complete application for a license. The
8 Department of Agriculture shall issue or deny a license
9 within 14 days of completing the inspection.

10 (2) (Reserved).

11 (d) Term of license.--A license issued for the sale of
12 consumer fireworks shall be effective for one year from the date
13 the license is issued.

14 (e) License renewal and inspections.--License renewal shall
15 be automatic upon payment of the appropriate annual license fee
16 under subsection (b), but each facility shall be subject to
17 annual inspections by the Department of Agriculture and at other
18 times as the department may deem appropriate.

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

22 § 1109. Conditions for facilities.

23 A facility licensed by the Department of Agriculture under
24 section 1108 (relating to fees, granting of licenses and
25 inspections) shall be exclusively dedicated to the storage and
26 sale of consumer fireworks and related items, and the facility
27 shall operate in accordance with the following rules:

28 (1) There shall be security personnel on the premises
29 for the seven days preceding and including July 4 and on
30 December 31.

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

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

5 (4) No minors shall be permitted in the facility unless
6 accompanied by an adult, and each minor shall stay with the
7 adult in the facility.

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

10 (6) A licensee shall provide its employees with
11 documented training in the area of operational safety of a
12 facility. The licensee shall provide to the Department of
13 Agriculture written documentation that each employee has
14 received the training.

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

18 (8) No person who appears to be under the influence of
19 intoxicating liquor or drugs shall be admitted to the
20 facility, and no liquor, beer or wine shall be permitted in
21 the facility.

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

24 (10) Written notice shall be conspicuously posted or
25 provided with each purchase of consumer fireworks that
26 provides the conditions and prohibitions for use of consumer
27 fireworks under section 1104 (relating to use of consumer
28 fireworks), and that additional conditions, prohibitions and
29 limitations may be implemented by a municipality.

30 § 1110. (Reserved).

1 § 1111. Attorney General.

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

6 § 1112. Consumer fireworks tax.

7 (a) Imposition.--In addition to any other tax imposed by
8 law, a tax is imposed on each separate sale at retail of
9 consumer fireworks, which tax shall be collected by the retailer
10 from the purchaser at the time of sale and shall be paid over to
11 the Commonwealth as provided in this section. A tax imposed
12 under this subsection on each separate sale at retail shall be
13 paid to and received by the Department of Revenue and, along
14 with interest and penalties, shall be deposited into the General
15 Fund.

16 (b) Rate.--The tax authorized under subsection (a) shall be
17 imposed and collected at the rate of 12% of the purchase price
18 per item sold. The purchase price shall not include State and
19 local sales taxes.

20 (c) Collection and administration.--The provisions of Part
21 VI of Article II of the Tax Reform Code shall apply to the tax
22 authorized under subsection (a). No additional fee shall be
23 charged for a license or license renewal other than the license
24 or annual license fee required under section 1108 (relating to
25 fees, granting of licenses and inspections) and the license or
26 renewal fee authorized and imposed under Article II of the Tax
27 Reform Code.

28 § 1113. Disposition of certain funds.

29 (a) Transfer.--The tax collected under section 1112(b)
30 (relating to consumer fireworks tax) in each fiscal year shall

1 be transferred annually for use as follows:

2 (1) \$1,500,000 of the amount transferred under this
3 subsection shall be used for the purpose of making grants
4 under 35 Pa.C.S. Ch. 78 Subch. C (relating to Emergency
5 Medical Services Grant Program).

6 (2) \$250,000 of the amount transferred under this
7 subsection shall be deposited into a special account in the
8 State Treasury designated as the Online Training Educator and
9 Training Reimbursement Account for the purposes of
10 developing, delivering and sustaining training programs for
11 firefighters in this Commonwealth.

12 (3) \$1,000,000 of the amount transferred under this
13 subsection shall be transferred to the Pennsylvania Higher
14 Education Assistance Agency to provide loan forgiveness and
15 tuition assistance to active ~~volunteers~~ VOLUNTEER <--
16 FIREFIGHTERS AND VOLUNTEER EMERGENCY MEDICAL SERVICES
17 PROVIDERS SERVING with volunteer organizations who are
18 students at or graduates of approved trade and technical
19 schools and institutions of higher learning.

20 (4) \$1,000,000 of the amount transferred under this
21 subsection shall be transferred to the Department of Health
22 for the purpose of training emergency medical services
23 personnel.

24 (5) \$500,000 of the amount transferred under this
25 subsection shall be transferred to the Office of the State
26 Fire Commissioner for the purpose of providing emergency
27 services training center capital grants.

28 (6) \$500,000 of the amount transferred under this
29 subsection shall be transferred to the Office of the State
30 Fire Commissioner for the purpose of providing career fire

1 department capital grants.

2 (7) \$250,000 of the amount transferred under this
3 subsection shall be transferred to the Office of the State
4 Fire Commissioner for the purpose of providing a public
5 safety campaign on the precautions that should be taken when
6 using fireworks.

7 (8) Any remaining money shall be equally divided and
8 transferred as follows:

9 (i) 50% of the amount shall be transferred in
10 accordance with paragraph (1).

11 (ii) 50% of the amount shall be used for the purpose
12 of making grants under 35 Pa.C.S. Ch. 78 Subch. B
13 (relating to Fire Company Grant Program).

14 (9) The Office of the State Fire Commissioner shall
15 establish guidelines for use of the money deposited or
16 transferred under paragraphs (2), (5), (6) and (7). By
17 December 31, 2022, and each December 31 thereafter, the
18 Office of the State Fire Commissioner shall provide a written
19 report detailing the use of the money received from the prior
20 fiscal year to the chairperson and minority chairperson of
21 the Agriculture and Rural Affairs Committee of the Senate,
22 the chairperson and minority chairperson of the Agriculture
23 and Rural Affairs Committee of the House of Representatives,
24 the chairperson and minority chairperson of the Veterans
25 Affairs and Emergency Preparedness Committee of the Senate
26 and the chairperson and minority chairperson of the Veterans
27 Affairs and Emergency Preparedness Committee of the House of
28 Representatives.

29 (b) Payments.--The transfer required under subsection (a)
30 shall be made by September 15, 2022, and each September 15

1 thereafter.

2 § 1114. Penalties.

3 The following shall apply:

4 (1) A person using consumer fireworks in violation of
5 the provisions of this chapter for the first offense commits
6 a summary offense and, upon conviction, shall, in addition to
7 any other penalty authorized by law, be punishable by a fine
8 of not more than \$500. A subsequent offense under this
9 paragraph committed within three years of a prior conviction
10 under this paragraph shall constitute a misdemeanor of the
11 third degree and, upon conviction, shall, in addition to any
12 other penalty authorized by law, be punishable by a fine of
13 not more than \$1,000.

14 (2) A person selling consumer fireworks in violation of
15 the provisions of this chapter for the first offense commits
16 a misdemeanor of the first degree and, upon conviction,
17 shall, in addition to any other penalty authorized by law, be
18 punishable by a fine of not less than \$10,000. A subsequent
19 offense under this paragraph committed within three years of
20 a prior conviction under this paragraph shall constitute a
21 felony of the third degree and, upon conviction, in addition
22 to any other penalty authorized by law, shall be punishable
23 by a fine of not less than \$15,000 and a revocation of a
24 license issued under section 1108 (relating to fees, granting
25 of licenses and inspections).

26 (3) A person selling or using display fireworks in
27 violation of the provisions of this chapter for the first
28 offense commits a felony of the third degree and, upon
29 conviction, shall, in addition to any other penalty
30 authorized by law, be punishable by a fine of not less than

1 \$10,000. A subsequent offense under this paragraph committed
2 within three years of a prior conviction under this paragraph
3 shall constitute a felony of the second degree and, upon
4 conviction, shall, in addition to any other penalty
5 authorized by law, be punishable by a fine of not less than
6 \$15,000.

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

24 § 1115. Removal, storage and destruction.

25 The Pennsylvania State Police, a municipal police officer as
26 defined in 42 Pa.C.S. § 8951 (relating to definitions) who holds
27 a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating
28 to municipal police education and training), a sheriff or a
29 deputy shall take, remove or cause to be removed at the expense
30 of the owner all stocks of consumer fireworks or display

1 fireworks or combustibles offered or exposed for sale, used,
2 stored or held in violation of this chapter. The owner shall
3 also be responsible for the storage and, if deemed necessary,
4 the destruction of these fireworks.

5 Section 2. Repeals are as follows:

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

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

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

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