
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, T. DAVIS, GUENST, GUZMAN, QUINN AND
CONKLIN, DECEMBER 13, 2021

SENATOR VOGEL, AGRICULTURE AND RURAL AFFAIRS, IN SENATE, AS
AMENDED, JUNE 20, 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.

- 1 1106. Rules and regulations by municipality.
- 2 1107. Sales locations.
- 3 1108. Fees, granting of licenses and inspections.
- 4 1109. Conditions for facilities.
- 5 1110. (Reserved).
- 6 1111. Attorney General.
- 7 1112. Consumer fireworks tax.
- 8 1113. Disposition of certain funds.
- 9 1114. Penalties.
- 10 1115. Removal, storage and destruction.
- 11 § 1101. Definitions.

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

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

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

21 "APA 87-1." THE AMERICAN PYROTECHNICS ASSOCIATION STANDARD <--
22 87-1: STANDARD FOR CONSTRUCTION AND APPROVAL FOR TRANSPORTATION
23 OF FIREWORKS, NOVELTIES, AND THEATRICAL PYROTECHNICS, 2001
24 EDITION.

25 "Consumer fireworks."

26 (1) The term includes any combustible or explosive
27 composition or any substance or combination of substances
28 which is intended to produce visible or audible effects by
29 combustion, is suitable for use by the public, complies with
30 the construction, performance, composition and labeling

1 requirements promulgated by the Consumer Products Safety
2 Commission in 16 CFR (relating to commercial practices) or
3 any successor regulation and complies with the provisions for
4 "consumer fireworks" as defined in APA ~~87-1A~~ 87-1, the sale, <--
5 possession and use of which shall be permitted throughout
6 this Commonwealth.

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

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

13 "Municipality." A city, borough, incorporated town or
14 township.

15 "NFPA 1124." The National Fire Protection Association
16 Standard 1124, Code for the Manufacture, Transportation, Storage
17 and Retail Sales of Fireworks and Pyrotechnic Articles, 2006
18 edition.

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

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

27 § 1102. Use of display fireworks.

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

1 (b) Permit.--Permission shall be given by the governing body
2 of a municipality under reasonable rules and regulations for
3 displays of display fireworks to be held within the
4 municipality. After permission is granted, purchase, possession
5 and use of display fireworks shall be lawful for the use
6 outlined in the permit only. Permits shall not be transferable.

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

8 (1) handled by a competent operator at least 21 years of
9 age who demonstrates evidence of fireworks handling and
10 safety training;

11 (2) of a character and so located, discharged or fired
12 as, in the opinion of the chief of the fire department or
13 other appropriate officer as may be designated by the
14 governing body of the municipality, after proper inspection,
15 to not be hazardous to property or endanger any person.

16 (d) Insurance.--The governing body of the municipality shall
17 require a permittee to carry insurance in an amount not less
18 than \$1,000,000 conditioned for the payment of all damages which
19 may be caused to a person or property by reason of the use of
20 display fireworks and arising from an act of the permittee or an
21 agent, an employee or a subcontractor of the permittee.

22 (e) Permit extension.--A municipality may grant an extension
23 for a permit issued under this section to a new date for
24 displays canceled due to unfavorable weather or other
25 circumstances beyond the control of the permittee.

26 § 1103. (Reserved).

27 § 1104. Use of consumer fireworks.

28 (a) Conditions.--A person who is at least 18 years of age
29 may purchase, possess and use consumer fireworks.

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

1 consumer fireworks:

2 (1) On private property or on public property,
3 including, but not limited to, streets, parking lots,
4 sidewalks and parks, without the express permission of the
5 owner or entity that controls the property.

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

8 (3) Directed at another person.

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

11 (5) Within 150 feet of a building or vehicle, whether
12 the building or vehicle is owned by the user of the consumer
13 fireworks.

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

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

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

23 (c) Conditional use.--No person may use consumer fireworks
24 within 150 feet of an animal housing facility or a fenced area
25 designed to confine livestock owned or managed by another
26 person. If a person uses consumer fireworks at a distance of 150
27 to 300 feet from an animal housing facility or fenced area
28 designed to confine livestock owned or managed by another
29 person, the user of consumer fireworks shall notify in writing
30 the owner or manager of the livestock at least 72 hours in

1 advance of the use that consumer fireworks will be used in the
2 area.

3 § 1105. Agricultural purposes.

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

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

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

15 § 1106. Rules and regulations by municipality.

16 (a) Authorization.--

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

21 (1.1) Except for the limitations under subsection (b), a
22 municipality may require a permit for the use of consumer
23 fireworks. A fee for a permit shall be reasonable.

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

28 (2) Facilities with a valid license issued by the
29 department prior to or within one year following the
30 effective date of this section shall not be subject to

1 municipal conditions, prohibitions or limitations enacted
2 under paragraph (1) related to the sale of consumer
3 fireworks.

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

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

8 (2) Memorial Day, including the immediately preceding
9 Saturday and Sunday.

10 (3) Labor Day, including the immediately preceding
11 Saturday and Sunday.

12 § 1107. Sales locations.

13 Consumer fireworks shall be sold only from facilities which
14 are licensed by the Department of Agriculture and that meet the
15 following criteria:

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

19 (2) The facility shall be a stand-alone, permanent
20 structure.

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

24 (4) For facilities licensed after the effective date of
25 this section, the facility shall be located no closer than
26 300 feet from a facility selling or dispensing gasoline,
27 propane or other flammable products.

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

1 fireworks.

2 (6) The facility shall have a monitored burglar and fire
3 alarm system.

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

6 (8) The facility shall comply with the requirements of
7 NFPA 1124.

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

15 § 1108. Fees, granting of licenses and inspections.

16 (a) Initial application fees.--

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

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

25 (ii) (Reserved).

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

29 (b) Annual license fees.--The annual license fee for a
30 facility licensed to sell consumer fireworks shall be as

1 follows:

2 (1) \$7,500 for a location up to 10,000 square feet;

3 (2) \$10,000 for a location greater than 10,000 and up to
4 15,000 square feet; and

5 (3) \$20,000 for a location greater than 15,000 square
6 feet.

7 (c) Time limitations and inspections.--

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

13 (2) (Reserved).

14 (d) Term of license.--A license issued for the sale of
15 consumer fireworks shall be effective for one year from the date
16 the license is issued.

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

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

25 § 1109. Conditions for facilities.

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

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

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

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

8 (4) No minors shall be permitted in the facility unless
9 accompanied by an adult, and each minor shall stay with the
10 adult in the facility.

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

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

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

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

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

27 (10) Written notice shall be conspicuously posted or
28 provided with each purchase of consumer fireworks that
29 provides the conditions and prohibitions for use of consumer
30 fireworks under section 1104 (relating to use of consumer

1 fireworks), and that additional conditions, prohibitions and
2 limitations may be implemented by a municipality.

3 § 1110. (Reserved).

4 § 1111. Attorney General.

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

9 § 1112. Consumer fireworks tax.

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

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

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

1 § 1113. Disposition of certain funds.

2 (a) Transfer.--The tax collected under section 1112(b)
3 (relating to consumer fireworks tax) in each fiscal year shall
4 be transferred annually for use as follows:

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

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

15 (3) \$1,000,000 of the amount transferred under this
16 subsection shall be transferred to the Pennsylvania Higher
17 Education Assistance Agency to provide loan forgiveness and
18 tuition assistance to active volunteer firefighters and
19 volunteer emergency medical services providers serving with
20 volunteer organizations who are students at or graduates of
21 approved trade and technical schools and institutions of
22 higher learning.

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

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

1 (6) \$500,000 of the amount transferred under this
2 subsection shall be transferred to the Office of the State
3 Fire Commissioner for the purpose of providing career fire
4 department capital grants.

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

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

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

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

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

1 Representatives.

2 (b) Payments.--The transfer required under subsection (a)
3 shall be made by September 15, 2022, and each September 15
4 thereafter.

5 (C) LIMITATION ON CERTAIN TRANSFERRED MONEY.--MONEY <--
6 TRANSFERRED UNDER SUBSECTION (A) (3), (4), (5) OR (6) SHALL NOT
7 BE EXPENDED UNTIL LEGISLATION IS ENACTED PROVIDING FOR THE
8 EXPENDITURE OF THE MONEY.

9 § 1114. Penalties.

10 The following shall apply:

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

21 (2) A person selling consumer fireworks in violation of
22 the provisions of this chapter for the first offense commits
23 a misdemeanor of the first degree and, upon conviction,
24 shall, in addition to any other penalty authorized by law, be
25 punishable by a fine of not less than \$10,000. A subsequent
26 offense under this paragraph committed within three years of
27 a prior conviction under this paragraph shall constitute a
28 felony of the third degree and, upon conviction, in addition
29 to any other penalty authorized by law, shall be punishable
30 by a fine of not less than \$15,000 and a revocation of a

1 license issued under section 1108 (relating to fees, granting
2 of licenses and inspections).

3 (3) A person selling or using display fireworks in
4 violation of the provisions of this chapter for the first
5 offense commits a felony of the third degree and, upon
6 conviction, shall, in addition to any other penalty
7 authorized by law, be punishable by a fine of not less than
8 \$10,000. A subsequent offense under this paragraph committed
9 within three years of a prior conviction under this paragraph
10 shall constitute a felony of the second degree and, upon
11 conviction, shall, in addition to any other penalty
12 authorized by law, be punishable by a fine of not less than
13 \$15,000.

14 (4) A person selling federally illegal explosives such
15 as devices as described in 49 CFR 173.54 (relating to
16 forbidden explosives) or those devices that have not been
17 tested, approved and labeled by the United States Department
18 of Transportation, including, but not limited to, those
19 devices commonly referred to as M-80, M-100, blockbuster,
20 cherry bomb or quarter-stick or half-stick explosive devices,
21 in violation of the provisions of this chapter for the first
22 offense commits a felony of the third degree and, upon
23 conviction, shall, in addition to any other penalty
24 authorized by law, be punishable by a fine of not less than
25 \$10,000. A subsequent offense under this paragraph committed
26 within three years of a prior conviction under this paragraph
27 shall constitute a felony of the second degree and, upon
28 conviction, shall, in addition to any other penalty
29 authorized by law, be punishable by a fine of not less than
30 \$15,000.

1 § 1115. Removal, storage and destruction.

2 The Pennsylvania State Police, a municipal police officer as
3 defined in 42 Pa.C.S. § 8951 (relating to definitions) who holds
4 a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating
5 to municipal police education and training), a sheriff or a
6 deputy shall take, remove or cause to be removed at the expense
7 of the owner all stocks of consumer fireworks or display
8 fireworks or combustibles offered or exposed for sale, used,
9 stored or held in violation of this chapter. The owner shall
10 also be responsible for the storage and, if deemed necessary,
11 the destruction of these fireworks.

12 Section 2. Repeals are as follows:

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

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

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

1 the repeal of Article XXIV of the Tax Reform Code of 1971.

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