
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 757 Session of
2021

INTRODUCED BY SCHWANK, JUNE 22, 2021

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JUNE 22, 2021

AN ACT

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

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

6 Section 1. Part II heading of Title 3 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 PART II

9 PRODUCTS IN GENERAL

10 [(Reserved)]

11 Section 2. Part II of Title 3 is amended by adding a chapter
12 to read:

13 CHAPTER 11

14 FIREWORKS

15 Sec.

16 1101. Definitions.

17 1102. Bond requirement.

18 1103. Permit extension.

19 1104. Consumer fireworks and display fireworks.

- 1 1105. Agricultural and display permits.
- 2 1106. Consumer fireworks sales.
- 3 1107. Applications for licenses to sell consumer fireworks.
- 4 1108. Licensed facility operations.
- 5 1109. Registration with Attorney General.
- 6 1110. Penalties.
- 7 1111. Removal of illegal fireworks.
- 8 § 1101. Definitions.

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

12 "APA 87-1." The American Pyrotechnics Association Standard
13 87-1: Standard for Construction and Approval for Transportation
14 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001
15 edition.

16 "Consumer fireworks." As follows:

17 (1) The term includes all of the following:

18 (i) Any combustible or explosive composition or any
19 substance or combination of substances intended to
20 produce visible or audible effects by combustion and
21 which is suitable for use by the public in accordance
22 with the construction, performance, composition and
23 labeling requirements promulgated by the CPSC in 16 CFR
24 (relating to commercial practices) or any successor
25 regulation and complies with the provisions for "consumer
26 fireworks" as defined in APA 87-1.

27 (ii) Aerial devices and audible ground devices.

28 (2) The term does not include "ground" and "handheld
29 sparkling devices," "novelties" and "toy caps" in APA 87-1,
30 which may be sold, possessed and used at all times in this

1 Commonwealth.

2 "CPSC." The United States Consumer Product Safety
3 Commission.

4 "Department." The Department of Agriculture of the
5 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 § 1102. Bond requirement.

11 The governing body of a municipality shall require a bond
12 from a person who holds a permit to use consumer fireworks or
13 display fireworks in a sum not less than \$500 conditioned for
14 the payment of all damages which may be caused to a person or
15 property by reason of the fireworks display and arising from any
16 acts of the permittee or the permittee's agents, employees or
17 subcontractors.

18 § 1103. Permit extension.

19 The following apply:

20 (1) If unfavorable weather causes a fireworks display
21 for which a permit has been granted not to take place at the
22 time authorized, the person who holds a permit for the
23 display may within 24 hours apply to the governing body of a
24 municipality which granted the permit for an extension of the
25 permit.

26 (2) The application under paragraph (1) shall attest
27 that the fireworks display did not occur, provide the reasons
28 why the display did not occur and request a continuance of
29 the permit for a day designated in the permit no later than
30 one week after the day fixed originally in the permit.

1 (3) Upon receiving an application under paragraph (1),
2 if the governing body of the municipality concludes that the
3 facts in the application are true, the governing body of the
4 municipality shall extend the provisions of the permit to the
5 day designated in the application. The extension of time
6 shall be granted without the payment of an additional fee and
7 without requiring a bond other than the bond under section
8 1102 (relating to bond requirement). The bond under section
9 1102 shall extend to and cover all damages which may be
10 caused by reason of the fireworks display taking place at the
11 extended date in the same manner and to the same extent as if
12 the display had taken place at the date originally fixed in
13 the permit.

14 § 1104. Consumer fireworks and display fireworks.

15 (a) Construction.--Nothing in this chapter shall be
16 construed to prohibit a facility licensed under this chapter
17 from selling consumer fireworks, including the year-round sale
18 of consumer fireworks, to an out-of-State resident whose status
19 is verified to the licensee if the licensee retains proof of the
20 verified status, produces proof of the verified status for
21 review upon request by the department and the consumer fireworks
22 are transported directly out of State by the seller or
23 purchaser.

24 (b) Authorization.--Consumer fireworks and display fireworks
25 may be purchased and possessed by a person holding a permit from
26 a municipality for use in any of the following circumstances, as
27 authorized in such permit:

28 (1) At a fireworks display.

29 (2) Agricultural purposes in connection with the raising
30 of crops and the protection of crops from bird and animal

1 damage.

2 (3) By railroads or other transportation agencies for
3 signal purposes or illumination.

4 (4) In quarrying or for blasting or other industrial
5 use.

6 (5) Blank cartridges for a show or theater, including
7 the sale of blank cartridges for a show or theater.

8 (6) Signal or ceremonial purposes in athletics or
9 sports.

10 (7) By military organizations or organizations composed
11 of veterans of the United States Armed Forces.

12 (c) Prohibition.--A permit for use of consumer fireworks and
13 display fireworks may not be issued to an individual under 18
14 years of age.

15 § 1105. Agricultural and display permits.

16 (a) Agricultural permits.--The following apply:

17 (1) The governing body of a municipality may, in
18 accordance with the reasonable rules or regulations adopted
19 by the governing body of the municipality, grant permits for
20 the use of suitable fireworks for agricultural purposes in
21 connection with the raising of crops and the protection of
22 crops from bird and animal damage.

23 (2) A permit granted under this subsection shall be
24 valid for the calendar year when the permit was issued.

25 (3) After a permit is granted under this subsection, the
26 sale, possession and use of fireworks of the type and for the
27 purpose mentioned in the permit shall be lawful for that
28 purpose only.

29 (b) Display permits.--The following apply:

30 (1) The governing body of a municipality may, in

1 accordance with the reasonable rules or regulations adopted
2 by the governing body of the municipality, grant permits for
3 displays of consumer fireworks and display fireworks.

4 (2) A fireworks display under this subsection shall be
5 handled by a competent operator.

6 (3) In the determination of the chief of the fire
7 department or other officer as may be designated by the
8 governing body of the municipality and after proper
9 inspection, a fireworks display under this subsection shall
10 be located, discharged or fired as not to be hazardous to a
11 property or endanger a person.

12 (4) After a permit is granted under this subsection, the
13 purchase, possession and use of consumer fireworks and
14 display fireworks for the fireworks display shall be lawful
15 for that purpose only. The permit shall not be transferable.

16 § 1106. Consumer fireworks sales.

17 Consumer fireworks shall be sold only from a facility which
18 is licensed by the department and meets the following criteria:

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

22 (2) The facility shall be in a stand-alone building and
23 shall be no larger than 12,000 square feet.

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

27 (4) The facility shall be located no closer than 250
28 feet from any facility selling or dispensing gasoline,
29 propane or other such flammable products.

30 (5) The facility shall be located at least 250 feet from

1 any other facility licensed to sell consumer 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 § 1107. Applications for licenses to sell consumer fireworks.

7 (a) Applications.--An application for a license to sell
8 consumer fireworks must be submitted to the department on forms
9 prescribed and provided by the department. The application shall
10 be accompanied by an annual license fee of \$5,000 per location.

11 (b) Inspection.--The following apply:

12 (1) A facility in existence on the effective date of
13 this section and a new facility shall be inspected by the
14 department within 30 days of receipt of a complete
15 application for a license. The department shall issue a
16 license or deny a license within 14 days of completing the
17 inspection.

18 (2) A license shall be effective for one year from the
19 date the license is issued, and renewal of a license shall be
20 automatic upon payment of the license fee.

21 (3) Each licensed facility shall be subject to an annual
22 inspection by the department and at other times in the
23 discretion of the department during normal business hours.

24 (c) Prohibition.--No license for the sale of consumer
25 fireworks shall be issued to a convicted felon or to an entity
26 where a convicted felon owns any percentage of the equity
27 interest in the entity.

28 § 1108. Licensed facility operations.

29 (a) Operations.--A facility licensed under section 1107
30 (relating to applications for licenses to sell consumer

1 fireworks) shall be exclusively dedicated to the storage and
2 sale of consumer fireworks and related items and the licensed
3 facility shall operate in accordance with the following:

4 (1) There shall be security personnel on the premises of
5 the licensed facility from June 28 through July 4 of each
6 year and from December 30 through January 2 of each year.

7 (2) No smoking shall be permitted in the licensed
8 facility.

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

12 (4) No individual under 18 years of age shall be
13 permitted in the licensed facility unless accompanied by an
14 adult and an individual under 18 years of age shall stay with
15 an adult in the licensed facility.

16 (5) The licensed facility shall carry at least
17 \$2,000,000 in public and product liability insurance.

18 (6) No display fireworks shall be stored or located at a
19 licensed facility.

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

24 (8) No consumer fireworks or display fireworks shall be
25 ignited within 300 feet of the licensed facility.

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

28 (b) Training.--A licensee shall provide the licensee's
29 employees with documented training in the area of operational
30 safety of a facility. The licensee shall provide written

1 documentation to the department showing that each employee has
2 received training under this subsection.

3 § 1109. Registration with Attorney General.

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

8 § 1110. Penalties.

9 (a) Use of consumer fireworks.--A person who uses consumer
10 fireworks in violation of the provisions of this chapter
11 commits a summary offense and, upon conviction, shall be
12 sentenced to pay a fine of not more than \$500 and the following
13 shall apply:

14 (1) A person using consumer or display fireworks in
15 violation of the provisions of this chapter for a second or
16 subsequent offense shall be sentenced to pay a fine of
17 \$1,000.

18 (2) In addition to the penalty under paragraph (1), each
19 firework in the possession of a person using fireworks in
20 violation of the provisions of this chapter for a second or
21 subsequent offense shall be confiscated and disposed of by
22 law enforcement.

23 (3) Notwithstanding any other provision of law to the
24 contrary, money collected from fines under this section shall
25 be retained by the municipality in which the violation
26 occurred and shall be used by law enforcement to increase
27 enforcement actions related to violations under this section.

28 (b) Sale of consumer fireworks.--A person who sells consumer
29 fireworks in violation of the provisions of this chapter commits
30 a misdemeanor of the second degree.

1 (c) Sale of display fireworks.--A person who sells display
2 fireworks in violation of the provisions of this chapter commits
3 a felony of the third degree.

4 (d) Sale of illegal explosives.--A person commits a felony
5 of the third degree if the person sells any of the following:

6 (1) Illegal explosives as specified in 49 CFR 173.54
7 (relating to forbidden explosives).

8 (2) Illegal explosives in violation of any Federal law.

9 (3) Any explosive devices which have not been tested,
10 approved and labeled by the United States Department of
11 Transportation, including, but not limited to, those devices
12 commonly referred to as "M-80," "M-100," "blockbuster,"
13 "cherry bomb," "quarter stick" or "half stick."

14 § 1111. Removal of illegal fireworks.

15 The Pennsylvania State Police, an individual employed as a
16 municipal police officer as defined in 42 Pa.C.S. § 8951
17 (relating to definitions) who holds a current certificate under
18 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police
19 education and training), a sheriff or a deputy sheriff shall
20 take, remove or cause to be removed at the expense of the owner
21 all stocks of consumer fireworks or display fireworks or
22 combustibles used, offered or exposed for sale, stored or held
23 in violation of this chapter. The owner shall be responsible for
24 the storage and, if deemed necessary, the destruction of the
25 illegal fireworks.

26 Section 3. Repeals are as follows:

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

30 (2) Article XXIV of the act of March 4, 1971 (P.L.6,

1 No.2), known as the Tax Reform Code of 1971, is repealed.

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