
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 988 Session of
2021

INTRODUCED BY SCHWEYER, McNEILL, SCHLOSSBERG, FREEMAN, ROZZI,
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SIMS AND ZABEL, MARCH 19, 2021

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
MARCH 19, 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.

- 1 1102. Bond requirement.
- 2 1103. Permit extension.
- 3 1104. Consumer fireworks and display fireworks.
- 4 1105. Agricultural and display permits.
- 5 1106. Consumer fireworks sales.
- 6 1107. Applications for licenses to sell consumer fireworks.
- 7 1108. Licensed facility operations.
- 8 1109. Registration with Attorney General.
- 9 1110. Penalties.
- 10 1111. Removal of illegal fireworks.
- 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 "APA 87-1." The American Pyrotechnics Association Standard
16 87-1: Standard for Construction and Approval for Transportation
17 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001
18 edition.

19 "Consumer fireworks." As follows:

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

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

30 (ii) Aerial devices and audible ground devices.

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

5 "CPSC." The United States Consumer Product Safety
6 Commission.

7 "Department." The Department of Agriculture of the
8 Commonwealth.

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

11 "Municipality." A city, borough, incorporated town or
12 township.

13 § 1102. Bond requirement.

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

21 § 1103. Permit extension.

22 The following apply:

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

29 (2) The application under paragraph (1) shall attest
30 that the fireworks display did not occur, provide the reasons

1 why the display did not occur and request a continuance of
2 the permit for a day designated in the permit no later than
3 one week after the day fixed originally in the permit.

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

17 § 1104. Consumer fireworks and display fireworks.

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

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

1 (1) At a fireworks display.

2 (2) Agricultural purposes in connection with the raising
3 of crops and the protection of crops from bird and animal
4 damage.

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

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

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

11 (6) Signal or ceremonial purposes in athletics or
12 sports.

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

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

18 § 1105. Agricultural and display permits.

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

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

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

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

1 purpose only.

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

3 (1) The governing body of a municipality may, in
4 accordance with the reasonable rules or regulations adopted
5 by the governing body of the municipality, grant permits for
6 displays of consumer fireworks and display fireworks.

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

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

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

19 § 1106. Consumer fireworks sales.

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

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

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

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

30 (4) The facility shall be located no closer than 250

1 feet from any facility selling or dispensing gasoline,
2 propane or other such flammable products.

3 (5) The facility shall be located at least 250 feet from
4 any other facility licensed to sell consumer fireworks.

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

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

9 § 1107. Applications for licenses to sell consumer fireworks.

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

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

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

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

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

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

1 § 1108. Licensed facility operations.

2 (a) Operations.--A facility licensed under section 1107
3 (relating to applications for licenses to sell consumer
4 fireworks) shall be exclusively dedicated to the storage and
5 sale of consumer fireworks and related items and the licensed
6 facility shall operate in accordance with the following:

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

10 (2) No smoking shall be permitted in the licensed
11 facility.

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

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

19 (5) The licensed facility shall carry at least
20 \$2,000,000 in public and product liability insurance.

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

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

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

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

1 (b) Training.--A licensee shall provide the licensee's
2 employees with documented training in the area of operational
3 safety of a facility. The licensee shall provide written
4 documentation to the department showing that each employee has
5 received training under this subsection.

6 § 1109. Registration with Attorney General.

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

11 § 1110. Penalties.

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

17 (1) A person using consumer or display fireworks in
18 violation of the provisions of this chapter for a second or
19 subsequent offense shall be sentenced to pay a fine of
20 \$1,000.

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

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

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

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

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

9 (1) Illegal explosives as specified in 49 CFR 173.54
10 (relating to forbidden explosives).

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

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

17 § 1111. Removal of illegal fireworks.

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

29 Section 3. Repeals are as follows:

30 (1) The General Assembly declares that the repeal under

1 paragraph (2) is necessary to effectuate the addition of 3
2 Pa.C.S. Ch. 11.

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

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