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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL OFFENSES -- EXPLOSIVES AND FIREWORKS; HEALTH
AND SAFETY -- FIREWORKS AND PYROTECHNICS

Introduced By: Representative JP O'Neill

Date Introduced: May 25, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-13-1 of the General Laws in Chapter 11-13 entitled "Explosives
2 and Fireworks" is hereby amended to read as follows:

3 **11-13-1. Sale, use or possession of fireworks.** -- (a) No person shall offer for sale at
4 retail or at wholesale, shall possess or have under his or her control, use or explode, or cause to
5 explode for exhibition or amusement, display fireworks or aerial consumer fireworks. Display
6 fireworks are defined in the American pyrotechnic association standard 87-1 (APA 87-1) section
7 2.7.2 and are classified as explosives 1.3G by the U.S. department of transportation (U.S. DOT),
8 UN0335. Aerial consumer fireworks are defined in APA 87-1 section 3.1.2. and are classified
9 1.4G U.S. DOT, UN 0336. any fireworks D.O.T. Class "B" or "C" (which term for the purposes
10 of this section is defined and declared to be any combustible or explosive composition, or any
11 substance or combination of substances or article prepared for the purpose of producing a visible
12 or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges,
13 balloons requiring fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman
14 candles, bombs, sparklers and other combustibles and explosives of like construction, articles
15 containing any explosive or flammable compound, and tablets and other devices containing an
16 explosive substance, but excluding Certain fireworks and devices that are exempt from the
17 definitions of display fireworks and aerial consumer fireworks shall include, but are not limited
18 to, the following: ground-based and hand-held sparkling devices (non-aerial fireworks) as defined

1 in APA 87-1 section 3.1.1, and include the following: fountains, illuminating torches, wheels,
2 ground spinners, flitter sparklers, sparkers; novelties, which are defined in the APA 87-1 section
3 3.2 and include the following: party poppers, snappers, toy smoke devices, snakes, glow worms,
4 wire sparklers and dipped sticks; paper caps containing not more than twenty-five hundredths
5 (0.025) grains of explosive mixture ammunition to be consumed by weapons used for sporting
6 and hunting purposes, and model rockets and model rocket engines, designed, sold and used for
7 the purpose of propelling recoverable aero models). The storage, possession, sale, transportation
8 and use of the items in the above reference section that are not included in the definition of
9 display fireworks and aerial consumer fireworks shall be allowed at all times throughout the state.
10 ~~except that permits~~ Permits for use of display fireworks and aerial consumer ~~D.O.T. Class "B"~~
11 ~~and "C"~~ fireworks for commercial display may be issued in accordance with provisions of the
12 Rhode Island Fire Safety Code, chapters 28.1 -- 28.39 of title 23. Fireworks display of display
13 and aerial consumer fireworks by any municipality, fair association, amusement park, or other
14 organization or group of individuals is permitted, on condition that the display shall be made by a
15 competent operator approved by the local fire authority and shall be of such character as in the
16 opinion of the fire authority will not be hazardous to persons or property; and, provided further,
17 that the foregoing shall not apply the use of display and aerial consumer fireworks by common
18 carriers for signal or illumination purposes, the use of blank cartridges in any show or theater, the
19 use of explosives for blasting, the use of display and aerial consumer fireworks as signals in any
20 athletic or sporting event, the use of display and aerial consumer fireworks for ceremonial or
21 military purposes, the sale of fireworks for shipment out of this state, or the sale of fireworks for
22 any use permitted pursuant to this section, provided the person who sells, stores or transports
23 ~~Class "C"~~ display and aerial consumer fireworks has a permit as required by the Rhode Island
24 Fire Safety Code, chapters 28.1 -- 28.39 of title 23.

25 (b) Any person violating the provisions of this section shall be guilty of a felony and
26 shall be fined not exceeding one thousand dollars (\$1,000) for each offense and/or imprisoned for
27 not more than one year for each offense; except that any person using or having in his or her
28 possession without a permit with intent to use ~~D.O.T. Class "C"~~ display and aerial consumer
29 fireworks with a value of under five hundred dollars (\$500) shall be guilty of a misdemeanor and
30 shall upon conviction be fined not exceeding five hundred dollars (\$500) for each offense and/or
31 imprisoned for not more than one year for each offense.

32 SECTION 2. Sections 23-28.11-3, 23-28.11-4, 23-28.11-7, 23-28.11-8, 23-28.11-9 and
33 23-28.11-10 of the General Laws in Chapter 23-28.11 entitled "Fireworks and Pyrotechnics" are
34 hereby amended to read as follows:

1 ~~23-28.11-3. Permits for storage, handling, transportation and display of fireworks~~
2 ~~and pyrotechnics~~ Permits for storage, handling, transportation and display of display
3 fireworks, aerial consumer fireworks, and pyrotechnics. -- (a) All storage, handling,
4 transportation and display of fireworks shall be in accordance with the National Fire Protection
5 Association (NFPA) Standard 1123 entitled "Code for Fireworks Display" 2006 Edition, and
6 NFPA Standard 1124 entitled "Code for the Manufacture, Transportation, Storage, and Retail
7 Sales of Fireworks and Pyrotechnic Articles" ~~2003~~ 2006 Edition, and the requirements of this
8 chapter. For purposes of this chapter, sections 28.11-3 through 28.11-10 of title 23 shall not apply
9 to the storage, handling, transportation, use and (display) sale of ground-based hand-held devices
10 (non-aerial consumer fireworks), novelties and other items exempted from the definition of
11 Display Fireworks and Aerial Consumer Fireworks in section 11-13-1 Rhode Island explosive
12 and fireworks code chapter 13 of title 11.

13 (b) All storage, handling, transportation and display of pyrotechnics shall be in
14 accordance with the National Fire Protection Association (NFPA) Standard 1126 entitled
15 "Standard for the Use of Pyrotechnics before a Proximate Audience" 2006 Edition, and NFPA
16 Standard 1124 entitled "Code for the Manufacture, Transportation, Storage, and Retail Sales of
17 Fireworks and Pyrotechnic Articles" ~~2003~~ 2006 Edition, and the requirements of this chapter.

18 (c) Permits to possess and display ~~commercial fireworks~~ Display Fireworks and Aerial
19 Consumer Fireworks or pyrotechnics shall be issued by the local fire authority on forms provided
20 by the state fire marshal. No permit shall be issued until the applicant's certificate of competency
21 and insurance coverage is verified as being current and the applicant has submitted a fifty dollar
22 (\$50.00) fee. Verification will be determined by the state fire marshal office.

23 (d) No permit to possess and display Display Fireworks and Aerial Consumer Fireworks
24 ~~fireworks~~ or pyrotechnics shall be issued by the local fire authority until the applicant has first
25 obtained a valid certificate of competency from the state fire marshal. For the purposes of this
26 chapter, "pyrotechnics" means a chemical mixture, including pyrotech-compositions, intended to
27 produce a visible and/or audible effect by combustion, deflagration or detonation before a
28 proximate audience closer than allowed for outdoor Display Fireworks and Aerial Consumer
29 Fireworks ~~fireworks~~ displays as permitted under this chapter. All pyrotechnics shall be in
30 accordance with the requirements of the National Fire Protection Association Standard 1126,
31 entitled "Use of Pyrotechnics Before A Proximate Audience", ~~1992~~ 2006 Edition, and the
32 requirements of this chapter. For purposes of this chapter, "display" means to ignite, set-off or
33 otherwise use.

34 (e) All fees collected pursuant to this section shall be deposited as general revenue.

1 **23-28.11-4. Certificate of competency.** -- (a) Every person desiring to obtain a
2 certificate of competency to possess and display [Display Fireworks and Aerial Consumer](#)
3 [Fireworks](#) ~~commercial fireworks~~ and/or pyrotechnics shall make application to the state fire
4 marshal. A fee of ten dollars (\$10.00) shall accompany each application and shall be for
5 processing the application and for examination to be given within ninety (90) days of receipt of
6 application to determine applicant's experience and ability to conduct [Display Fireworks and](#)
7 [Aerial Consumer Fireworks](#) ~~commercial fireworks~~ and/or pyrotechnics demonstrations. Separate
8 applications, examinations and certificates shall be issued by the state fire marshal for fireworks
9 and pyrotechnics and shall be in such form as the state fire marshal may require. The
10 examinations herein provided for shall require the applicant to demonstrate adequate
11 understanding of applicable NFPA requirements.

12 (b) Each applicant found to be qualified by examination shall forthwith be issued a
13 certificate of competency upon payment of fifty dollars (\$50.00) and submission of certification
14 indicating satisfactory completion of psychiatric examination administered by a qualified
15 physician within the previous year. All fees collected pursuant to this section shall be deposited as
16 general revenue.

17 **23-28.11-7. Financial responsibility.** -- No permit shall be issued to any applicant
18 desiring to possess and display [Display Fireworks and Aerial Consumer Fireworks](#) ~~fireworks~~
19 and/or pyrotechnics until the applicant furnishes to the local fire authority satisfactory proof of
20 financial responsibility in an amount not less than one million dollars (\$1,000,000) to satisfy
21 claims for damage to property or persons resulting from the possession or use of [Display](#)
22 [Fireworks and Aerial Consumer Fireworks](#) ~~fireworks~~ and/or pyrotechnics. The local fire authority
23 may require additional financial responsibility as he or she may deem necessary due to existing
24 conditions.

25 **23-28.11-8. Nonresident.** -- No permit shall be issued under the provisions of this
26 chapter to a nonresident person to conduct a [Display Fireworks and Aerial Consumer Fireworks](#)
27 ~~fireworks~~ and/or pyrotechnics display in this state, until that person shall have appointed in
28 writing a member of the Rhode Island bar association to be his or her attorney upon whom all
29 processes in any action or proceeding against the person may be served.

30 **23-28.11-9. Violations.** -- (a) Any person found to be in violation of the provisions of
31 this chapter relating to possession of [Display Fireworks and Aerial Consumer Fireworks](#)
32 ~~commercial fireworks~~ or pyrotechnics shall be fined not less than one hundred (\$100) nor more
33 than five hundred dollars (\$500) or imprisoned for not more than one year. Any person found to
34 be in violation of the provisions of this chapter relating to use or display of [Display Fireworks](#)

1 and Aerial Consumer Fireworks ~~commercial fireworks~~ or pyrotechnics shall be guilty of a felony,
2 and shall be fined not less than one thousand dollars (\$1,000), or imprisoned for not more than
3 five (5) years, or both.

4 (b) The state fire marshal or the fire marshal's deputies or any officer qualified to serve
5 criminal process may arrest without a warrant any person found in violation of this chapter and
6 shall seize immediately any and all of the Display Fireworks and Aerial Consumer Fireworks
7 ~~fireworks~~ and/or pyrotechnics in illegal use, possession, or under that person's control, and the
8 Display Fireworks and Aerial Consumer Fireworks ~~fireworks~~ seized shall upon conviction of the
9 person be forfeited to the state.

10 (c) Notice of the seizure of the Display Fireworks and Aerial Consumer Fireworks
11 ~~fireworks~~ and/or pyrotechnics shall immediately be sent to the marshal by the officer making the
12 seizure and the fireworks and/or pyrotechnics seized shall be held and securely stored by that
13 department until the marshal or the marshal's authorized explosives technician takes them into his
14 or her possession for disposal.

15 **23-28.11-10. Rules and regulations.** -- The state fire marshal is hereby authorized and
16 directed to promulgate reasonable rules and regulations governing the possession, sale wholesale
17 and retail, and use of Display Fireworks and Aerial Consumer Fireworks ~~fireworks~~ and
18 pyrotechnics in the state.

19 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES -- EXPLOSIVES AND FIREWORKS; HEALTH
AND SAFETY -- FIREWORKS AND PYROTECHNICS

1 This act would amend certain provisions of the Rhode Island general laws to adopt and
2 conform to federal designations of fireworks types and would provide for the regulation, storage,
3 handling and transportation of Display Fireworks and Aerial Consumer Fireworks.

4 This act would take effect upon passage.

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