

HOUSE BILL No. 1195

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-11-14.

Synopsis: Ban on sale of loud fireworks. Specifies that a retailer or wholesaler of consumer fireworks may not sell a consumer firework or certain other devices if the firework or device will produce a noise level that exceeds 120 decibels.

Effective: July 1, 2019.

Jackson

January 10, 2019, read first time and referred to Committee on Public Policy.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1195

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-11-14-1, AS AMENDED BY P.L.177-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1. As used in this chapter and IC 22-11-14.5:
4 "Auto burglar alarm" means a tube that contains pyrotechnic
5 composition that produces a loud whistle or smoke when ignited. A
6 small quantity of explosive, not exceeding fifty (50) milligrams, may
7 also be used to produce a small report. A squib is used to ignite the
8 device.
9 "Booby trap" means a small tube with string protruding from both
10 ends, similar to a party popper in design. The ends of the string are
11 pulled to ignite the friction sensitive composition, producing a small
12 report.
13 "Chaser" means a device, containing fifty (50) milligrams or less of
14 explosive composition, that consists of a small paper or cardboard tube
15 that travels along the ground upon ignition. A whistling effect is often
16 produced, and a small noise may be produced.
17 "Cigarette load" means a small wooden peg that has been coated



1 with a small quantity of explosive composition. Upon ignition of a
2 cigarette containing one (1) of the pegs, a small report is produced.

3 "Consumer firework" means a small firework that is designed
4 primarily to produce visible effects by combustion, **that does not**
5 **produce a noise level that exceeds one hundred twenty (120)**
6 **decibels (dB)**, and that is required to comply with the construction,
7 chemical composition, and labeling regulations promulgated by the
8 United States Consumer Product Safety Commission under 16 CFR
9 1507. The term also includes some small devices designed to produce
10 an audible effect, such as whistling devices, ground devices containing
11 fifty (50) milligrams or less of explosive composition, and aerial
12 devices containing one hundred thirty (130) milligrams or less of
13 explosive composition. Propelling or expelling charges consisting of a
14 mixture of charcoal, sulfur, and potassium nitrate are not considered as
15 designed to produce an audible effect. Consumer fireworks:

16 (1) include:

17 (A) aerial devices, which include sky rockets, missile type
18 rockets, helicopter or aerial spinners, roman candles, mines,
19 and shells;

20 (B) ground audible devices, which include firecrackers,
21 salutes, and chasers; and

22 (C) firework devices containing combinations of the effects
23 described in clauses (A) and (B); and

24 (2) do not include the items referenced in section 8(a) of this
25 chapter.

26 "Cone fountain" means a cardboard or heavy paper cone which
27 contains up to fifty (50) grams of pyrotechnic composition, and which
28 produces the same effect as a cylindrical fountain.

29 "Cylindrical fountain" means a cylindrical tube not exceeding
30 three-quarters (3/4) inch in inside diameter and containing up to
31 seventy-five (75) grams of pyrotechnic composition. Fountains produce
32 a shower of color and sparks upon ignition, and sometimes a whistling
33 effect. Cylindrical fountains may contain a spike to be inserted in the
34 ground (spike fountain), a wooden or plastic base to be placed on the
35 ground (base fountain), or a wooden handle or cardboard handle for
36 items designed to be hand held (handle fountain).

37 "Dipped stick" or "wire sparkler" means a stick or wire coated with
38 pyrotechnic composition that produces a shower of sparks upon
39 ignition. Total pyrotechnic composition does not exceed one hundred
40 (100) grams per item. Those devices containing chlorate or perchlorate
41 salts do not exceed five (5) grams in total composition per item. Wire
42 sparklers that contain no magnesium and that contain less than one



1 hundred (100) grams of composition per item are not included in the
2 category of consumer fireworks.

3 "Distributor" means a person who sells fireworks to wholesalers and
4 retailers for resale.

5 "Explosive composition" means a chemical or mixture of chemicals
6 that produces an audible effect by deflagration or detonation when
7 ignited.

8 "Firecracker" or "salute" is a device that consists of a small paper
9 wrapped or cardboard tube containing not more than fifty (50)
10 milligrams of pyrotechnic composition and that produces, upon
11 ignition, noise, accompanied by a flash of light.

12 "Firework" means any composition or device designed for the
13 purpose of producing a visible or audible effect by combustion,
14 deflagration, or detonation. Fireworks consist of consumer fireworks,
15 items referenced in section 8(a) of this chapter, and special fireworks.
16 The following items are excluded from the definition of fireworks:

- 17 (1) Model rockets.
- 18 (2) Toy pistol caps.
- 19 (3) Emergency signal flares.
- 20 (4) Matches.
- 21 (5) Fixed ammunition for firearms.
- 22 (6) Ammunition components intended for use in firearms, muzzle
23 loading cannons, or small arms.
- 24 (7) Shells, cartridges, and primers for use in firearms, muzzle
25 loading cannons, or small arms.
- 26 (8) Indoor pyrotechnics special effects material.
- 27 (9) M-80s, cherry bombs, silver salutes, and any device banned by
28 the federal government.

29 "Flitter sparkler" means a narrow paper tube filled with pyrotechnic
30 composition that produces color and sparks upon ignition. These
31 devices do not use a fuse for ignition, but rather are ignited by igniting
32 the paper at one (1) end of the tube.

33 "Ground spinner" means a small spinning device that is similar to
34 wheels in design and effect when placed on the ground and ignited, and
35 that produces a shower of sparks and color when spinning.

36 "Helicopter" or "aerial spinner" is a spinning device:

- 37 (1) that consists of a tube up to one-half (1/2) inch in inside
38 diameter and that contains up to twenty (20) grams of pyrotechnic
39 composition;
- 40 (2) to which some type of propeller or blade device is attached;
41 and
- 42 (3) that lifts into the air upon ignition, producing a visible or



- 1 audible effect at the height of flight.
- 2 "Illuminating torch" means a cylindrical tube that:
- 3 (1) contains up to one hundred (100) grams of pyrotechnic
- 4 composition;
- 5 (2) produces, upon ignition, a colored fire; and
- 6 (3) is either a spike, base, or handle type device.
- 7 "Importer" means:
- 8 (1) a person who imports fireworks from a foreign country; or
- 9 (2) a person who brings or causes fireworks to be brought within
- 10 this state for subsequent sale.
- 11 "Indoor pyrotechnics special effects material" means a chemical
- 12 material that is clearly labeled by the manufacturer as suitable for
- 13 indoor use (as provided in National Fire Protection Association
- 14 Standard 1126 (2001 edition)).
- 15 "Interstate wholesaler" means a person who is engaged in interstate
- 16 commerce selling fireworks.
- 17 "Manufacturer" means a person engaged in the manufacture of
- 18 fireworks.
- 19 "Mine" or "shell" means a device that:
- 20 (1) consists of a heavy cardboard or paper tube up to two and
- 21 one-half (2 1/2) inches in inside diameter, to which a wooden or
- 22 plastic base is attached;
- 23 (2) contains up to forty (40) grams of pyrotechnic composition;
- 24 and
- 25 (3) propels, upon ignition, stars (pellets of pressed pyrotechnic
- 26 composition that burn with bright color), whistles, parachutes, or
- 27 combinations thereof, with the tube remaining on the ground.
- 28 "Missile-type rocket" means a device that is similar to a sky rocket
- 29 in size, composition, and effect, and that uses fins rather than a stick for
- 30 guidance and stability.
- 31 "Municipality" has the meaning set forth in IC 36-1-2-11.
- 32 "Party popper" means a small plastic or paper item containing not
- 33 more than sixteen (16) milligrams of explosive composition that is
- 34 friction sensitive. A string protruding from the device is pulled to ignite
- 35 it, expelling paper streamers and producing a small report.
- 36 "Person" means an individual, an association, an organization, a
- 37 limited liability company, or a corporation.
- 38 "Pyrotechnic composition" means a mixture of chemicals that
- 39 produces a visible or audible effect by combustion rather than
- 40 deflagration or detonation. Pyrotechnic compositions will not explode
- 41 upon ignition unless severely confined.
- 42 "Responding fire department" means the paid fire department or



- 1 volunteer fire department that renders fire protection services to a
2 political subdivision.
- 3 "Retail sales stand" means a temporary business site or location
4 where goods are to be sold.
- 5 "Retailer" means a person who purchases fireworks for resale to
6 consumers.
- 7 "Roman candle" means a device that consists of a heavy paper or
8 cardboard tube not exceeding three-eighths (3/8) inch in inside
9 diameter and that contains up to twenty (20) grams of pyrotechnic
10 composition. Upon ignition, up to ten (10) stars (pellets of pressed
11 pyrotechnic composition that burn with bright color) are individually
12 expelled at several second intervals.
- 13 "Sky rocket" means a device that:
14 (1) consists of a tube that contains pyrotechnic composition;
15 (2) contains a stick for guidance and stability; and
16 (3) rises into the air upon ignition, producing a burst of color or
17 noise at the height of flight.
- 18 "Smoke device" means a tube or sphere containing pyrotechnic
19 composition that produces white or colored smoke upon ignition as the
20 primary effect.
- 21 "Snake" or "glow worm" means a pressed pellet of pyrotechnic
22 composition that produces a large, snake-like ash upon burning. The
23 ash expands in length as the pellet burns. These devices do not contain
24 mercuric thiocyanate.
- 25 "Snapper" means a small, paper wrapped item containing a minute
26 quantity of explosive composition coated on small bits of sand. When
27 dropped, the device explodes, producing a small report.
- 28 "Special discharge location" means a location designated for the
29 discharge of consumer fireworks by individuals in accordance with
30 rules adopted under section 3.5 of this chapter.
- 31 "Special fireworks" means fireworks designed primarily to produce
32 visible or audible effects by combustion, deflagration, or detonation,
33 including firecrackers containing more than one hundred thirty (130)
34 milligrams of explosive composition, aerial shells containing more than
35 forty (40) grams of pyrotechnic composition, and other exhibition
36 display items that exceed the limits for classification as consumer
37 fireworks.
- 38 "Trick match" means a kitchen or book match that has been coated
39 with a small quantity of explosive or pyrotechnic composition. Upon
40 ignition of the match, a small report or a shower of sparks is produced.
- 41 "Trick noisemaker" means an item that produces a small report
42 intended to surprise the user.



- 1 "Wheel" means a pyrotechnic device that:
- 2 (1) is attached to a post or tree by means of a nail or string;
- 3 (2) contains up to six (6) driver units (tubes not exceeding
- 4 one-half (1/2) inch in inside diameter) containing up to sixty (60)
- 5 grams of composition per driver unit; and
- 6 (3) revolves, upon ignition, producing a shower of color and
- 7 sparks and sometimes a whistling effect.
- 8 "Wholesaler" means a person who purchases fireworks for resale to
- 9 retailers.
- 10 SECTION 2. IC 22-11-14-8, AS AMENDED BY P.L.187-2006,
- 11 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2019]: Sec. 8. (a) A person shall not sell at retail, offer for sale
- 13 at retail, or deliver the following items to a person less than eighteen
- 14 (18) years of age:
- 15 (1) Dipped sticks or wire sparklers. However, total pyrotechnic
- 16 composition may not exceed one hundred (100) grams per item.
- 17 Devices containing chlorate or perchlorate salts may not exceed
- 18 five (5) grams in total composition per item.
- 19 (2) Cylindrical fountains.
- 20 (3) Cone fountains.
- 21 (4) Illuminating torches.
- 22 (5) Wheels.
- 23 (6) Ground spinners.
- 24 (7) Flitter sparklers.
- 25 (8) Snakes or glow worms.
- 26 (9) Smoke devices.
- 27 (10) Trick noisemakers, which include:
- 28 (A) Party poppers.
- 29 (B) Booby traps.
- 30 (C) Snappers.
- 31 (D) Trick matches.
- 32 (E) Cigarette loads.
- 33 (F) Auto burglar alarms.
- 34 (b) A retailer or wholesaler of consumer fireworks may sell
- 35 consumer fireworks to a person at least eighteen (18) years of age.
- 36 (c) An individual who sells consumer fireworks must be at least
- 37 eighteen (18) years of age.
- 38 (d) An individual who sells an item set forth in subsection (a) must
- 39 be at least sixteen (16) years of age.
- 40 **(e) A retailer or wholesaler of consumer fireworks may not sell**
- 41 **an item set forth in subsection (a) if the item will produce a noise**
- 42 **level that would exceed one hundred twenty (120) decibels (dB).**



- 1 ~~(e)~~ **(f)** The fire prevention and building safety commission may
- 2 adopt rules under IC 4-22-2 establishing procedures to ensure
- 3 compliance with the age limitations set forth in this section.

