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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2735 Session of  
2020

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INTRODUCED BY SCHWEYER, McNEILL, SCHLOSSBERG, FREEMAN, ROZZI,  
BARRAR, BOYLE, BULLOCK, COX, DALEY, A. DAVIS, T. DAVIS,  
DEASY, DeLUCA, DONATUCCI, HANBIDGE, HARRIS, HILL-EVANS,  
HOHENSTEIN, ISAACSON, KIM, KRUEGER, MADDEN, McCARTER,  
MENTZER, MERSKI, NEILSON, OTTEN, PASHINSKI, READSHAW,  
SAMUELSON, SANCHEZ, SAPPEY, SCHROEDER, SHUSTERMAN, STEPHENS,  
STURLA, ULLMAN, YOUNGBLOOD AND ZABEL, JULY 30, 2020

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
JULY 30, 2020

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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.

- 1 1101. Definitions.
- 2 1102. Bond requirement.
- 3 1103. Permit extension.
- 4 1104. Consumer fireworks and display fireworks.
- 5 1105. Agricultural and display permits.
- 6 1106. Consumer fireworks sales.
- 7 1107. Applications for licenses to sell consumer fireworks.
- 8 1108. Licensed facility operations.
- 9 1109. Registration with Attorney General.
- 10 1110. Penalties.
- 11 1111. Removal of illegal fireworks.
- 12 § 1101. Definitions.

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

16 "APA 87-1." The American Pyrotechnics Association Standard  
17 87-1: Standard for Construction and Approval for Transportation  
18 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001  
19 edition.

20 "Consumer fireworks." As follows:

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

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

1           (ii) Aerial devices and audible ground devices.

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

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

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

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

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

14          § 1102. Bond requirement.

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

22          § 1103. Permit extension.

23          The following apply:

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

30           (2) The application under paragraph (1) shall attest

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

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

18 § 1104. Consumer fireworks and display fireworks.

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

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

1 authorized in such permit:

2 (1) At a fireworks display.

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

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

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

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

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

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

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

19 § 1105. Agricultural and display permits.

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

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

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

29 (3) After a permit is granted under this subsection, the  
30 sale, possession and use of fireworks of the type and for the

1 purpose mentioned in the permit shall be lawful for that  
2 purpose only.

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

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

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

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

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

20 § 1106. Consumer fireworks sales.

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

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

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

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

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

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

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

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

10 § 1107. Applications for licenses to sell consumer fireworks.

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

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

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

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

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

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

1 interest in the entity.

2 § 1108. Licensed facility operations.

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

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

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

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

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

20 (5) The licensed facility shall carry at least  
21 \$2,000,000 in public and product liability insurance.

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

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

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

30 (9) Emergency evacuation plans shall be conspicuously



1 posted in appropriate locations within the licensed facility.

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

7 § 1109. Registration with Attorney General.

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

12 § 1110. Penalties.

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

18 (1) A person using consumer or display fireworks in  
19 violation of the provisions of this chapter for a second or  
20 subsequent offense shall be sentenced to pay a fine of  
21 \$1,000.

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

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

1 enforcement actions related to violations under this section.

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

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

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

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

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

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

18 § 1111. Removal of illegal fireworks.

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

30 Section 3. Repeals are as follows:

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

4           (2) Article XXIV of the act of March 4, 1971 (P.L.6,  
5 No.2), known as the Tax Reform Code of 1971, is repealed.  
6 Section 4. This act shall take effect in 60 days.