
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 854 Session of
2019

INTRODUCED BY TOMLINSON, MARTIN, KILLION, MENSCH, COLLETT,
BLAKE, SCAVELLO, BAKER, DINNIMAN, BREWSTER AND BROWNE,
SEPTEMBER 19, 2019

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, SEPTEMBER 19, 2019

AN ACT

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

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

6 Section 1. Title 3 of the Pennsylvania Consolidated Statutes
7 is amended by adding a chapter to read:

8 CHAPTER 9

9 FIREWORKS

10 Sec.

11 901. Definitions.

12 902. Use of display fireworks.

13 903. Request for extension.

14 904. Use of consumer fireworks.

15 905. Agricultural purposes.

16 906. Rules and regulations by municipality.

17 907. Sales locations.

18 908. Fees, granting of licenses and inspections.

- 1 909. Conditions for facilities.
- 2 910. (Reserved).
- 3 911. Attorney General.
- 4 912. Consumer fireworks tax.
- 5 913. Disposition of certain funds.
- 6 914. Penalties.
- 7 915. Removal, storage and destruction.
- 8 § 901. 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."

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

18 (i) Any combustible or explosive composition or any
19 substance or combination of substances which is intended
20 to produce visible or audible effects by combustion, is
21 suitable for use by the public, complies with the
22 construction, performance, composition and labeling
23 requirements promulgated by the Consumer Products Safety
24 Commission in 16 CFR (relating to commercial practices)
25 or any successor regulation and complies with the
26 provisions for "consumer fireworks" as defined in APA 87-
27 1, the sale, possession and use of which shall be
28 permitted throughout this Commonwealth.

29 (2) The term does not include devices as "ground and
30 hand-held sparkling devices," "novelties" or "toy caps" in

1 APA 87-1, the sale, possession and use of which shall be
2 permitted at all times throughout this Commonwealth.

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

5 "Municipality." A city, borough, incorporated town or
6 township.

7 "NFPA 1124." The National Fire Protection Association
8 Standard 1124, Code for the Manufacture, Transportation, Storage
9 and Retail Sales of Fireworks and Pyrotechnic Articles, 2006
10 edition.

11 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
12 known as the Tax Reform Code of 1971.

13 "Vehicle." Every device in, upon or by which any person or
14 property is or may be transported or drawn upon a highway,
15 except devices used exclusively upon rails or tracks. The term
16 does not include a self-propelled wheelchair or an electrical
17 mobility device operated by and designed for the exclusive use
18 of a person with a mobility-related disability.

19 § 902. Use of display fireworks.

20 (a) Prohibition.--No display fireworks shall be ignited
21 within 300 feet of a facility that meets the requirements of
22 section 907 (relating to sales locations).

23 (b) Permit.--Permission shall be given by the governing body
24 of a municipality under reasonable rules and regulations for
25 displays of display fireworks to be held within the
26 municipality. After permission is granted, purchase, possession
27 and use of display fireworks shall be lawful for the use
28 outlined in the permit only. Permits shall not be transferable.

29 (c) Limitations.--Each use of display fireworks shall be:

30 (1) handled by a competent operator at least 21 years of

1 age;

2 (2) of a character and so located, discharged or fired
3 as, in the opinion of the chief of the fire department or
4 other appropriate officer as may be designated by the
5 governing body of the municipality, after proper inspection,
6 to not be hazardous to property or endanger any person.

7 (d) Bond.--The governing body of the municipality shall
8 require a bond deemed adequate by it from the permittee in a sum
9 not less than \$1,000 conditioned for the payment of all damages
10 which may be caused to a person or property by reason of the use
11 of display fireworks and arising from an act of the permittee or
12 an agent, an employee or a subcontractor of the permittee.

13 § 903. Request for extension.

14 (a) Authorization.--If, because of unfavorable weather, the
15 fireworks display for which a permit has been granted does not
16 occur at the time authorized by the permit, the person to whom
17 the permit was issued may within 24 hours apply to the
18 municipality for an extension of a permit.

19 (b) Contents of request.--The request for extension shall
20 state under oath that the fireworks display was not made,
21 provide the reason that the display was not made and request a
22 continuance of the permit for a date designated within the
23 request.

24 (c) Determination.--Upon receiving the request for
25 extension, the municipality, if it believes that the facts
26 stated within the request are true, shall extend the provisions
27 of the permit to the date designated within the request.

28 (d) Conditions.--The extension of time shall be granted
29 without the payment of an additional fee and without requiring a
30 bond other than the bond given for the original permit, the

1 provisions of which shall extend to and cover all damages which
2 may be caused by reason of the fireworks display occurring at
3 the extended date and in the same manner and to the same extent
4 as if the display had occurred at the date originally designated
5 in the permit.

6 (e) Nonapplicability.--This section shall not apply to
7 permits issued for agricultural purposes.

8 § 904. Use of consumer fireworks.

9 (a) Conditions.--A person who is at least 18 years of age
10 may purchase, possess and use consumer fireworks.

11 (b) Prohibitions.--A person may not intentionally use
12 consumer fireworks:

13 (1) On public or private property without the express
14 permission of the owner or entity that controls the property.

15 (2) Within, directed at or directed from a vehicle or
16 building.

17 (3) Directed at another person.

18 (4) While the person is under the influence of alcohol,
19 a controlled substance or another drug.

20 (5) Within 150 feet of a building or vehicle.

21 (6) Between the hours of 10:00 p.m. and 10:00 a.m.,

22 except:

23 (i) on July 2, 3 and 4 and December 31, when
24 consumer fireworks may be used until 1:00 a.m. the
25 following day; and

26 (ii) when July 4 falls on a Tuesday, Wednesday or
27 Thursday, consumer fireworks may be used until 1:00 A.M.
28 on the immediately preceding and following Friday and
29 Saturday.

30 § 905. Agricultural purposes.

1 (a) Authorization.--The governing body of a municipality
2 may, under reasonable rules and regulations adopted by it, grant
3 permits for the use of display fireworks for agricultural
4 purposes in connection with the raising of crops and the
5 protection of crops from bird and animal damage.

6 (b) Duration of permit.--A permit under this section shall
7 remain in effect for the calendar year in which it was issued.

8 (c) Conditions.--After a permit under this section has been
9 granted, sales, possession and use of display fireworks for the
10 purpose mentioned in the permit shall be lawful for that purpose
11 only.

12 § 906. Rules and regulations by municipality.

13 (a) Authorization.--

14 (1) Except for the limitations under subsection (b), a
15 municipality may enact conditions, prohibitions and
16 limitations on the use of consumer fireworks that are not in
17 conflict with this chapter.

18 (2) Notwithstanding a valid license issued by the
19 department on the effective date of this section, a
20 municipality may enact conditions, prohibitions and
21 limitations on the sale of consumer fireworks that are not in
22 conflict with this chapter.

23 (b) Limitations.--No municipality shall restrict or regulate
24 the use of consumer fireworks on the following days:

25 (1) The days listed in section 904(b)(6) (relating to
26 use of consumer fireworks).

27 (2) Memorial Day, including the immediately preceding
28 Saturday and Sunday.

29 (3) Labor Day, including the immediately preceding
30 Saturday and Sunday.

1 § 907. Sales locations.

2 Consumer fireworks shall be sold only from facilities which
3 are licensed by the Department of Agriculture and that meet the
4 following criteria:

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

8 (2) The facility shall be a stand-alone, permanent
9 structure.

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

13 (4) The facility shall be located no closer than 250
14 feet from a facility selling or dispensing gasoline, propane
15 or other flammable products.

16 (5) For facilities licensed after the effective date of
17 this section, the facility shall be located at least 1,500
18 feet from another facility licensed to sell consumer
19 fireworks.

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

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

24 (8) The facility shall comply with the requirements of
25 NFPA 1124.

26 § 908. Fees, granting of licenses and inspections.

27 (a) Initial application fees.--

28 (1) An initial application for a license to sell
29 consumer fireworks shall be submitted to the Department of
30 Agriculture on forms prescribed and provided by the

1 department with a nonrefundable application fee as follows:

2 (i) For a facility meeting the requirements of
3 section 907 (relating to sales locations), the
4 application shall be submitted with a nonrefundable
5 application fee of \$2,500.

6 (ii) (Reserved).

7 (2) An application under paragraph (1) shall also be
8 accompanied by the appropriate annual license fee as provided
9 in subsection (b).

10 (b) Annual license fees.--The annual license fee for a
11 facility licensed to sell consumer fireworks shall be as
12 follows:

13 (1) \$7,500 for a location up to 10,000 square feet;

14 (2) \$10,000 for a location greater than 10,000 and up to
15 15,000 square feet; and

16 (3) \$20,000 for a location greater than 15,000 square
17 feet.

18 (c) Time limitations and inspections.--

19 (1) A facility meeting the requirements of section 907
20 (relating to sales locations) shall be inspected by the
21 Department of Agriculture within 30 days of receipt of a
22 complete application for a license. The Department of
23 Agriculture shall issue or deny a license within 14 days of
24 completing the inspection.

25 (2) (Reserved).

26 (d) Term of license.--A license issued for the sale of
27 consumer fireworks shall be effective for one year from the date
28 the license is issued.

29 (e) License renewal and inspections.--License renewal shall
30 be automatic upon payment of the appropriate annual license fee

1 under subsection (b), but each facility shall be subject to
2 annual inspections by the Department of Agriculture and at other
3 times as the department may deem appropriate.

4 (f) Condition.--No license may be issued to a convicted
5 felon or to an entity in which a convicted felon owns a
6 percentage of the equity interest.

7 § 909. Conditions for facilities.

8 A facility licensed by the Department of Agriculture under
9 section 908 (relating to fees, granting of licenses and
10 inspections) shall be exclusively dedicated to the storage and
11 sale of consumer fireworks and related items, and the facility
12 shall operate in accordance with the following rules:

13 (1) There shall be security personnel on the premises
14 for the seven days preceding and including July 4 and on
15 December 31.

16 (2) No smoking shall be permitted in the facility.

17 (3) No cigarettes or tobacco products, matches, lighters
18 or any other flame-producing devices shall be permitted to be
19 taken into the facility.

20 (4) No minors shall be permitted in the facility unless
21 accompanied by an adult, and each minor shall stay with the
22 adult in the facility.

23 (5) All facilities shall carry at least \$2,000,000 in
24 public and product liability insurance.

25 (6) A licensee shall provide its employees with
26 documented training in the area of operational safety of a
27 facility. The licensee shall provide to the Department of
28 Agriculture written documentation that each employee has
29 received the training.

30 (7) No display fireworks or federally illegal explosives

1 under 49 CFR 173.54 (relating to forbidden explosives) shall
2 be stored or located at a facility.

3 (8) No person who appears to be under the influence of
4 intoxicating liquor or drugs shall be admitted to the
5 facility, and no liquor, beer or wine shall be permitted in
6 the facility.

7 (9) Emergency evacuation plans shall be conspicuously
8 posted in appropriate locations within the facility.

9 (10) Written notice shall be conspicuously posted or
10 provided with each purchase of consumer fireworks that
11 provides the conditions and prohibitions for use of consumer
12 fireworks under section 904 (relating to use of consumer
13 fireworks), and that additional conditions, prohibitions and
14 limitations may be implemented by a municipality.

15 § 910. (Reserved).

16 § 911. Attorney General.

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

21 § 912. Consumer fireworks tax.

22 (a) Imposition.--In addition to any other tax imposed by
23 law, a tax is imposed on each separate sale at retail of
24 consumer fireworks, which tax shall be collected by the retailer
25 from the purchaser at the time of sale and shall be paid over to
26 the Commonwealth as provided in this section. A tax imposed
27 under this subsection on each separate sale at retail shall be
28 paid to and received by the Department of Revenue and, along
29 with interest and penalties, shall be deposited into the General
30 Fund.

1 (b) Rate.--The tax authorized under subsection (a) shall be
2 imposed and collected at the rate of 12% of the purchase price
3 per item sold. The purchase price shall not include State and
4 local sales taxes.

5 (c) Collection and administration.--The provisions of Part
6 VI of Article II of the Tax Reform Code shall apply to the tax
7 authorized under subsection (a). No additional fee shall be
8 charged for a license or license renewal other than the license
9 or annual license fee required under section 908 (relating to
10 fees, granting of licenses and inspections) and the license or
11 renewal fee authorized and imposed under Article II of the Tax
12 Reform Code.

13 § 913. Disposition of certain funds.

14 (a) Transfer.--One-sixth of the tax collected under this
15 chapter in a fiscal year, not to exceed \$2,000,000, shall be
16 transferred annually for use as follows:

17 (1) Seventy-five percent of the amount transferred under
18 this subsection shall be used for the purpose of making
19 grants under 35 Pa.C.S. Ch. 78 Subch. C (relating to
20 Emergency Medical Services Grant Program).

21 (2) Twenty-five percent of the amount transferred under
22 this subsection shall be deposited into a special account in
23 the State Treasury designated as the Online Training Educator
24 and Training Reimbursement Account for the purposes of
25 developing, delivering and sustaining training programs for
26 volunteer firefighters in this Commonwealth.

27 (3) The Office of the State Fire Commissioner shall
28 establish guidelines for use of the money deposited under
29 paragraph (2). By December 31, 2018, and each December 31
30 thereafter, the Office of the State Fire Commissioner shall

1 provide a written report detailing the use of the money
2 received from the prior fiscal year to the chairperson and
3 minority chairperson of the Agriculture and Rural Affairs
4 Committee of the Senate, the chairperson and minority
5 chairperson of the Veterans Affairs and Emergency
6 Preparedness Committee of the Senate, the chairperson and
7 minority chairperson of the Agriculture and Rural Affairs
8 Committee of the House of Representatives and the Veterans
9 Affairs and Emergency Preparedness Committee of the House of
10 Representatives.

11 (b) Payments.--The transfer required under subsection (a)
12 shall be made by September 15, 2018, and each September 15
13 thereafter.

14 § 914. Penalties.

15 The following shall apply:

16 (1) A person using consumer fireworks in violation of
17 the provisions of this chapter for the first offense commits
18 a summary offense and, upon conviction, shall, in addition to
19 any other penalty authorized by law, be punishable by a fine
20 of not less than \$100. A subsequent offense under this
21 paragraph committed within one year of a prior conviction
22 under this paragraph shall constitute a misdemeanor of the
23 third degree and, upon conviction, shall, in addition to any
24 other penalty authorized by law, be punishable by a fine of
25 not less than \$500.

26 (2) A person selling consumer fireworks in violation of
27 the provisions of this chapter for the first offense commits
28 a misdemeanor of the second degree and, upon conviction,
29 shall, in addition to any other penalty authorized by law, be
30 punishable by a fine of not less than \$5,000. A subsequent

1 offense under this paragraph committed within one year of a
2 prior conviction under this paragraph shall constitute a
3 misdemeanor of the first degree and, upon conviction, in
4 addition to any other penalty authorized by law, shall be
5 punishable by a fine of not less than \$10,000.

6 (3) A person selling display fireworks in violation of
7 the provisions of this chapter for the first offense commits
8 a felony of the third degree and, upon conviction, shall, in
9 addition to any other penalty authorized by law, be
10 punishable by a fine of not less than \$10,000. A subsequent
11 offense under this paragraph committed within one year of a
12 prior conviction under this paragraph shall constitute a
13 felony of the second degree and, upon conviction, shall, in
14 addition to any other penalty authorized by law, be
15 punishable by a fine of not less than \$15,000.

16 (4) A person selling federally illegal explosives such
17 as devices as described in 49 CFR 173.54 (relating to
18 forbidden explosives) or those devices that have not been
19 tested, approved and labeled by the United States Department
20 of Transportation, including, but not limited to, those
21 devices commonly referred to as M-80, M-100, blockbuster,
22 cherry bomb or quarter or half stick explosive devices, in
23 violation of the provisions of this chapter for the first
24 offense commits a felony of the third degree and, upon
25 conviction, shall, in addition to any other penalty
26 authorized by law, be punishable by a fine of not less than
27 \$10,000. A subsequent offense under this paragraph committed
28 within one year of a prior conviction under this paragraph
29 shall constitute a felony of the second degree and, upon
30 conviction, shall, in addition to any other penalty

1 authorized by law, be punishable by a fine of not less than
2 \$15,000.

3 § 915. Removal, storage and destruction.

4 The Pennsylvania State Police, a municipal police officer as
5 defined in 42 Pa.C.S. § 8951 (relating to definitions) who holds
6 a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating
7 to municipal police education and training), a sheriff or a
8 deputy shall take, remove or cause to be removed at the expense
9 of the owner all stocks of consumer fireworks or display
10 fireworks or combustibles offered or exposed for sale, stored or
11 held in violation of this chapter. The owner shall also be
12 responsible for the storage and, if deemed necessary, the
13 destruction of these fireworks.

14 Section 2. Repeals are as follows:

15 (1) The General Assembly declares that the repeal under
16 paragraph (2) is necessary to effectuate the addition of 3
17 Pa.C.S. Ch. 9.

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

20 Section 3. The addition of 3 Pa.C.S. Ch. 9 is a continuation
21 of Article XXIV of the act of March 4, 1971 (P.L.6, No.2), known
22 as the Tax Reform Code of 1971. Except as otherwise provided in
23 3 Pa.C.S. Ch. 9, all activities initiated under Article XXIV of
24 the Tax Reform Code of 1971 shall continue and remain in full
25 force and effect and may be completed under 3 Pa.C.S. Ch. 9.
26 Orders, regulations, rules and decisions which were made under
27 Article XXIV of the Tax Reform Code of 1971 and which are in
28 effect on the effective date of section 2 of this act shall
29 remain in full force and effect until revoked, vacated or
30 modified under 3 Pa.C.S. Ch. 9. Contracts, obligations and

1 collective bargaining agreements entered into under Article XXIV
2 of the Tax Reform Code of 1971 are not affected nor impaired by
3 the repeal of Article XXIV of the Tax Reform Code of 1971.

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