

MONTANA

50-37-101. FIREWORKS DEFINED

The term "fireworks" means any combustible or explosive composition or any substance, combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and includes sky rockets, roman candles, daygo bombs, blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sparklers or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

50-37-102. WHERE CHAPTER NOT TO APPLY

(1) Nothing in this chapter shall be construed to prohibit the sale of any kind of fireworks to a person holding a permit issued under 50-37-107 at the display covered by such permits, the use of fireworks by railroads or other transportation agencies for signal purposes or illumination or when used in quarrying or blasting or other industrial use, or the sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations or organizations composed of veterans of the United States armed forces.

(2) This chapter does not apply to toy paper caps containing less than one-fourth of a grain of explosive composition per cap, to the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, to the military or naval forces of the United States or this state, to peace officers, or to the sale or use of blank cartridges for ceremonial, theatrical, or athletic events.

(3) Nothing in this chapter authorizes the sale of fireworks in a city or town that has banned the sale of fireworks within the city or town as authorized in 7-33-4206.

50-37-103. UNLAWFUL SALE, TRANSPORTATION, OR USE OF FIREWORKS

(1) It is unlawful to possess, sell, transport, or use any fireworks within the state except as provided in this chapter.

(2) It is unlawful for an individual under the age of 18 to possess for sale, sell, or offer for sale within the state permissible fireworks enumerated in 50-37-105.

(3) It is unlawful for a wholesaler to sell or offer for sale within the state fireworks without a current fireworks wholesaler permit or in violation of 50-37-105. It is lawful for a wholesaler, however, to transport fireworks within Montana for sale outside of the state.

(4) It is unlawful to sell or offer for sale fireworks as defined in 50-37-101 or permissible fireworks as enumerated in 50-37-105 by mail order solicitation.

(5) It is unlawful to sell or offer for sale fireworks as defined in 50-37-101 or permissible fireworks as enumerated in 50-37-105 within 300 feet of a hospital or church.

(6) It is unlawful for an individual, firm, partnership, or corporation to discharge or cause to be discharged any pyrotechnics, fireworks as defined in 50-37-101, or permissible fireworks as enumerated in 50-37-105:

(a) within the exterior boundaries of a state forest, state park, or state recreation area;

(b) within 100 feet of a fireworks retail sales location;

(c) from, inside, or toward a motor vehicle; or

(d) in the vicinity of another person or group of people or any animal in a manner likely to expose them to the risk of injury.

50-37-104. LAWFUL SALES OR USES OF FIREWORKS, -NO SMOKING SIGN-WHOLESALE'S PERMIT

(1) Subject to subsection (2), it is lawful for an individual, firm, partnership, corporation, or association to possess for sale, sell or offer for sale at retail, or use within the state the permissible fireworks enumerated in 50-37-105. At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted in letters at least 4 inches in height where customers are most likely to read it.

(2) Before a fireworks wholesaler may lawfully possess for sale, offer for sale, or sell within the state the permissible fireworks enumerated in 50-37-105, the wholesaler shall obtain a fireworks wholesaler permit from the department of labor and industry.

(3) A person making application for a fireworks wholesaler permit shall:

(a) pay an application fee to the department of labor and industry, which must be set by the department of labor and industry commensurate with costs; and

- (b) furnish proof under oath, on a form provided by the department, that person:
 - (i) is at least 18 years of age;
 - (ii) is of good moral character; and
 - (iii) has not been convicted of a crime involving the use, possession, or sale of fireworks.
- (4) The department of labor and industry shall adopt rules implementing this section.

50-37-105. PERMISSIBLE FIREWORKS

Permissible fireworks, excluding sky rockets, roman candles, and bottle rockets, include and are limited to those that meet the definition of "common fireworks" as set forth in the U.S. department of transportation's Hazardous Materials Regulations, 49 CFR, parts 173.88 and 173.100, as they read on January 1, 1985, and that comply with the construction, chemical composition, and labeling regulations of the U.S. consumer product safety commission, as set forth in 16 CFR, part 1507, as it read on January 1, 1985.

50-37-106. SALE OF FIREWORKS RESTRICTED TO CERTAIN DATES

A person, firm, or corporation may offer permissible fireworks, as defined in 50-37-105, of any kind for sale at retail only during the following periods:

- (1) June 24 through July 5; and
- (2) December 29 through December 31.

50-37-109. CONFISCATION

A representative of the state fire prevention and investigation section or any sheriff, police officer, constable, officer of a governmental fire agency organized under Title 7, chapter 33, or firewarden shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter.

50-37-110. PENALTIES

Any person, firm, partnership, association, or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 or more than \$500 or, in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, by imprisonment in the county jail for a period of not less than 30 days or more than 6 months or by both such fine and imprisonment.