

NEW HAMPSHIRE

CHAPTER 160-B FIREWORKS

160-B:1 Definitions.

As used in this chapter:

- I. "Fireworks" means fireworks as defined in 27 C.F.R. section 555.11.
- IV. "Commissioner" means the commissioner of the department of safety.
- V. "Display" means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
- VI. "Sale" or "sell" means to sell, give or transfer to another, with or without consideration.
- VII. "Retail" means the sale to any consumer or person not engaged in the business of making sales of fireworks.
- VIII. "Wholesale" means engaging in the business of making sales to any other person engaged in the business of making sales of fireworks. "Wholesale" shall not include any making of sales to consumers or persons not engaged in the business of making sales of fireworks. To constitute a wholesale sale a sale must be for a minimum amount of \$1,000. This minimum may be increased by the commissioner by rule adopted pursuant to RSA 541-A.
- IX. "Consumer fireworks" means consumer fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class C common fireworks.
- X. "Display fireworks" means display fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class B special fireworks.

160-B:2 Sale; Penalty.

- I. No person shall sell fireworks other than a person who meets all of the following requirements:
 - (a) Has a federal permit to sell fireworks issued in accordance with title 18 of the United States Code.
 - (b) Has a state license to sell display and consumer fireworks issued pursuant to RSA 160-B:6.
 - (c) Has a local permit to sell display and consumer fireworks issued pursuant to RSA 160-B:6.
- II. No person shall sell fireworks other than either:
 - (a) To a person who presents a certificate of competency issued pursuant to RSA 160-B:7 and RSA 158:9-f and leaves a copy of such certificate and who presents a permit to display issued pursuant to RSA 160-B:7 and leaves a copy of such permit; or
 - (b) To a person who possesses and shows a license for the storage of class B fireworks issued pursuant to RSA 158:9-f; or
 - (c) At wholesale to a person engaged in the sale of fireworks meeting all of the specifications in RSA 160-B:6, VII.
- III. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-B:4 Possession; Penalty.

- I. No person shall possess fireworks other than the following:
 - (a) A person who has in the person's possession a certificate of competency issued pursuant to RSA 158:9-f and a valid permit to display issued pursuant to RSA 160-B:7.
 - (b) A person who has a federal permit to sell display fireworks issued in accordance with title 18 of the United States Code, a state license issued pursuant to RSA 160-B:6, and a municipal permit issued in accordance with RSA 160-B:6, or an employee of such person. For the purposes of this subparagraph, "employee" shall be limited to a person who is reported as an employee for state and federal tax purposes and for unemployment compensation purposes.
 - (c) A common carrier which is in possession of a bill of lading indicating that fireworks are being shipped to or from a licensed and permitted seller or a person who has a certificate of competency and a permit to display.
 - (d) Any manufacturer or common carrier shipping fireworks in interstate commerce through the state of New Hampshire which are not being delivered or received in this state.
 - (e) A person who has a licensed facility for the storage of display fireworks pursuant to RSA 158:9-c.
- II. Any person who violates the provisions of this section shall be guilty of a violation unless the person possesses with intent to sell, in which case such person shall be guilty of a misdemeanor.

160-B:6 Requirements for Sale of Fireworks.

I. Any person who desires to sell display and consumer fireworks as limited by RSA 160-B:2 may apply to the municipality in which such person desires to sell fireworks. Such application shall be in a form prescribed by the commissioner. The licensing board of any municipality or, if one does not exist, the governing body may issue a permit to sell display and consumer fireworks to a person who applies, provided that the person has a valid permit for the sale of fireworks issued pursuant to Title 18 of the United States Code. No permit to sell fireworks shall be issued by the governing body without prior approval of the police chief and fire chief, if any, of the municipality. The municipality may charge a fee for the permit or application for permit under this section.

II. After the person has obtained a municipal permit to sell display and consumer fireworks, such person may apply for a state license to sell display and consumer fireworks. Upon application of any person, the commissioner, or a person designated by the commissioner, may issue a license authorizing the applicant to sell or market display and consumer fireworks in this state, provided the person has first obtained a permit to sell display and consumer fireworks pursuant to RSA 160-B:6, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business. The license shall be issued within a reasonable time after application. The license shall be valid for not more than one year from the date of issue and may be renewed on May 1 of the following year. The initial licensing fee shall be pro-rated to correspond with the initial date of issue.

III. The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-B:6, I. No license shall be issued for the sale of display and consumer fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes, zoning codes, and the requirements of local ordinances. No license for the sale of display and consumer fireworks shall be issued to or held by any person who has been convicted of a felony if the felony has not been annulled by a court of record. No license shall be issued to any person under 21 years of age.

III-a. Buildings used for the sale or storage of display and consumer fireworks shall be dedicated solely to the sale or storage of display and consumer fireworks and items relating to the sale and promotion of fireworks provided for in rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.

III-b. Prior to the issuance of a state license, the department of safety may conduct a background investigation of the applicant and may conduct an inspection of the site, including all buildings, in which the display and consumer fireworks are to be sold or stored.

IV. If the application for a state license is denied, the reasons for such denial shall be stated in writing, in duplicate, the original of which shall be delivered to the applicant, and the copy thereof kept in the office of the department of safety.

V. The fee for a license for each location shall be \$1,500 per year, payable annually to the department of safety for deposit into the general fund.

VI. A person who has a federal permit issued in accordance with the provisions of title 18, United States Code, governing fireworks, a state license issued pursuant to this section, and a local permit issued pursuant to this section may sell display and consumer fireworks; however, such a person shall only sell display fireworks to a person who shows a certificate of competency issued pursuant to RSA 158:9-f, or who shows a license for the storage of display fireworks issued pursuant to RSA 158:9-c, or a license to sell display and consumer fireworks pursuant to this chapter. Any sale which the seller makes shall be recorded, and the record, at a minimum, shall contain a copy of the purchaser's certificate of competency and display permit and, in the case of a wholesale sale, the purchaser's retail number from the state of residence, IRS tax identification number or such other information as the commissioner shall specify by rule adopted pursuant to RSA 541-A.

VII. A wholesale sale shall not be made to a person or corporation which resides in New Hampshire other than to a person or corporation licensed to sell fireworks pursuant to paragraphs I-III of this section. Any wholesale sale shall be shipped by common carrier or by the wholesaler making the sale. For the purposes of this shipment the wholesaler shall not be authorized to make any person an agent for the limited purpose of transporting fireworks.

VIII. The only retail sale allowed shall be a sale to a person who possesses a certificate of competency and a display permit and leaves a copy of such certificate and display permit with the seller.

IX. No person under the age of 21 shall be engaged in the business of handling or selling any display or consumer fireworks; provided, however, that a person less than 21 years of age but at least 18 years of age may handle and sell display or consumer fireworks at a licensed sales or storage location or may handle display or consumer fireworks at a permitted display site if he or she is under the direct supervision of a person 21 years of age or older.

X. Any person who knowingly provides false information to the department of safety on an application for the sale of fireworks as provided in this section shall be guilty of a class A misdemeanor.

160-B:8 Rulemaking.

The commissioner shall adopt rules pursuant to RSA 541-A relative to:

- I. The procedure and reasons for suspending or revoking a license issued pursuant to RSA 160-B:6.
- II. Increasing the amount of sale necessary to constitute a wholesale sale, to account for inflation or other economic factors.
- III. Expanding the definition of fireworks to cover any other devices used for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation which are not covered by the federal regulations governing display and consumer fireworks but which are deemed by the commissioner to constitute a threat to public safety.
- IV. Insurance, bonding, or other evidence of financial responsibility to be required of any person licensed under this chapter.
- V. Forms for applications and local permits to sell fireworks and forms for applications and local permits to display fireworks.
- VI. All matters necessary to implement the provisions of RSA 160-B:12, relative to exceptions.
- VII. Forms for applications and state licenses to sell fireworks.
- VIII. Requirements for the safe use, handling, and storage of fireworks.

160-B:9 Enforcement.

Upon application, the superior court or district court is authorized to permit the law enforcement officials or certified fire citation officers of the state, counties, or any city or town to seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored or held in violation of this chapter. Nothing in this section shall be construed to restrict or limit any other authority granted by law to law enforcement officials or certified fire citation officers.

160-B:10 Local Option.

Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to the extent authorized under RSA 160-B:6 and 160-B:7. If the municipality has voted to prohibit the issuance of permits or the display of fireworks prior to March 1, 1992, such decision shall remain in effect unless subsequent action is taken under this section.

160-B:11 Civil Liability.

In addition to any other penalties imposed under this chapter, any person who violates the provisions of this chapter shall be liable, in any civil action, to any person for damages resulting from the illegal sale or use of fireworks, and neither assumption of risk nor contributory negligence shall be a defense for such violator.

160-B:12 Exceptions.

The commissioner may issue permits granting exceptions to the provisions of this chapter to persons who intend to use fireworks for agricultural, railroad, or military purposes, provided that the type of fireworks to be used are designed in such a way as to accomplish the purpose for which the permit is sought and provided that the person who applies for the exception has first received approval by the appropriate local official.

160-B:13 Appeal.

Any person aggrieved by a decision of the commissioner pursuant to this chapter may appeal pursuant to RSA 541.

160-B:14 Immediate Suspension Authority.

Notwithstanding any other provision of law to the contrary, the commissioner may immediately suspend a license issued pursuant to RSA 160-B:6 if the commissioner has evidence that the licensee is selling fireworks contrary to any of the provisions of RSA 160-B or any rules adopted under this chapter. Any person whose license is suspended pursuant to this section shall be given the opportunity for a hearing within 10 days of the suspension. Any person found to be selling fireworks after the person's license has been suspended pursuant to this section shall not have the license reinstated for a minimum of one year from the date of suspension.

160-B:15 Advertising.

I. No person shall advertise fireworks by means of radio, television, newspaper, flyer, catalog, billboard, mobile or stationary sign, or any other means in such a way as to confuse or mislead the public about:

(a) The conditions under which fireworks may be purchased.

(b) The conditions under which fireworks may be used.

(c) The requirements contained in RSA 160-B, RSA 160-C, or any other provision of state or federal law or regulations.

II. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-B:16 Certain Sparklers Prohibited; Penalties.

I. Notwithstanding any law to the contrary, the sale, possession or display of class "C" sparklers or those sparklers consisting of a wire or stick which contain chlorates or perchlorates is prohibited.

II. Any person who sells or possesses with intent to sell class "C" sparklers or sparklers consisting of a wire or stick which contain chlorates or perchlorates shall be guilty of a misdemeanor.

III. Any person who displays or possesses without intent to sell class "C" sparklers or sparklers consisting of a wire or stick which contain chlorates or perchlorates shall be guilty of a violation.

160-B:16-b Retail Sale of Firecrackers Prohibited; Penalty.

The retail sale of firecrackers is prohibited. In this section, "firecracker" means a ground device firecracker as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.3.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-B:16-c Retail Sale of Bottle Rockets Prohibited; Penalty.

The retail sale of bottle rockets is prohibited. In this section, "bottle rocket" means a bottle rocket as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.2.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-B:19-a Emergency Removal From Sale or Use of Unsafe Devices.

I. The commissioner may, upon the recommendation of the state fire marshal or the director of state police, prohibit the sale or use of any display or consumer fireworks that pose an imminent threat to life and property.

II. Upon notification by the commissioner or designee that a display or consumer firework is prohibited for sale or use, a person licensed to sell display or consumer fireworks shall remove the item from the sales area and shall not sell the item to any person.

III. Any person who sells a display or consumer firework after being notified by the commissioner or designee that the item is prohibited for sale or use shall be guilty of a class A misdemeanor for the first offense and a class B felony for the second offense. In addition, the commissioner may revoke the violator's license for a minimum period of 30 consecutive days.

IV. Any person who uses a display or consumer firework after being notified by the commissioner or designee, or by a law enforcement officer or fire official that the item is prohibited for sale or use shall be guilty of a class A misdemeanor for the first offense and a class B felony for the second offense. In addition, the commissioner may revoke the violator's certificate of competency for a minimum period of 30 consecutive days.

V. Any license holder or certificate holder aggrieved by the action of the commissioner pursuant to this section may appeal pursuant to RSA 541.

CHAPTER 160-C PERMISSIBLE FIREWORKS

160-C:1 Definitions.

In this chapter:

I. "Commissioner" means the commissioner of the department of safety.

II. "Consumer fireworks" means consumer fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class C common fireworks.

III. "Display fireworks" means display fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class B special fireworks.

IV. "Fireworks" means fireworks as defined in 27 C.F.R. section 555.11.

V. "Permissible fireworks" means consumer fireworks, except for those items that are prohibited pursuant to RSA 160-B:16, 160-B:16-b, and 160-B:16-c.

VI. "Retail" means the sale to any consumer or person not engaged in the business of making sales of fireworks.

VII. "Sale" or "sell" means to sell, give, or transfer to another, with or without consideration.

160-C:2 Sale of Permissible Fireworks; Penalty.

I. No person shall sell fireworks other than a person who meets all of the following requirements:

(a) Has a federal permit to sell display fireworks issued in accordance with Title 18 of the United States Code.

(b) Has a state license to sell permissible fireworks issued pursuant to RSA 160-C:3.

(c) Has a local permit to sell permissible fireworks issued pursuant to RSA 160-C:3.

II. No person shall sell permissible fireworks:

(a) To any person less than 21 years of age, unless the person is between 18 and 21 years of age and is on active duty with the United States armed forces or has been called to active service as a member of the state guard; or

(b) To any person who appears to be under the influence of alcohol or drugs.

III. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-C:3 Requirements for the Sale of Permissible Fireworks.

I. Any person who desires to sell permissible fireworks shall apply to the municipality in which the permissible fireworks are to be sold. Such application shall be in a form prescribed by the commissioner. The licensing board of any municipality or, if one does not exist, the governing body may issue a permit to sell permissible fireworks to a person who applies, provided that the person has a valid permit for the sale of fireworks issued pursuant to Title 18 of the United States Code. No permit to sell permissible fireworks shall be issued by the governing body without the prior approval of the police chief, fire chief, and building inspector, if any, of the municipality. The municipality may charge a fee for the permit or application for permit under this section.

II. After the person has obtained a municipal permit to sell permissible fireworks, the person may apply for a state license to sell permissible fireworks. Upon application of any person, the commissioner or designee may issue a license authorizing the applicant to sell or market permissible fireworks in this state, provided the person has first obtained a permit to sell fireworks pursuant to RSA 160-C:3, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business. The license shall be valid for not more than one year from the date of issue and may be renewed on May 1 of the following year. The initial license fee shall be pro-rated to correspond with the initial date of issue.

II-a. Persons seeking a state license shall file an application with the commissioner which is in such form and contains such information as the commissioner may establish by rule, consistent with the purposes of this chapter.

II-b. Only individuals lawfully residing in the United States, or partnerships or limited liability companies organized under the laws of this state or authorized to transact business within the state, or corporations organized under the laws of one of the United States and currently registered to do business in New Hampshire shall be licensed under this chapter.

II-c. All license applications shall be made in the name of the proposed licensee and shall be signed and sworn to by the proposed licensee. In the case of a partnership, limited liability company, or corporate applicant, the application shall be signed and sworn to by all partners or an officer of the proposed licensee, or in the case of a limited liability company by each member if a natural person, or by a duly appointed representative of the membership if any other person, or by the manager of the limited liability company who must submit a copy of the written authorization of the limited liability company membership to sign the application.

II-d. An applicant intending to employ a trade name in the proposed business shall submit evidence with its application which demonstrates that the trade name is currently registered in New Hampshire.

II-e. A separate license application shall be filed with respect to each place of business sought by a single licensee.

II-f. The commissioner shall receive and evaluate sufficient information to identify and to evaluate the qualification of all persons with the de jure or de facto right to control the operations and policies of the proposed licensee. Among other things, license applications shall disclose fully and accurately:

(a) The applicant's identity, the applicant's permanent residence address in the case of an individual, and the applicant's principal place of business.

(b) The names and addresses of any persons who own or have the right to control an interest in the proposed licensee.

(c) Any agency agreement or other contract between the applicant and third persons intended to affect the operation of the proposed business, and the identity of the third party involved.

(d) The applicant's other business interests.

(e) The name, location, physical layout, and nature of the proposed business.

(f) All licenses issued to and all other license applications filed by the applicant and its principal owners pursuant to this chapter during the previous 5 years.

(g) The name and address of the actual manager of the proposed business and his or her qualifications to perform such work.

II-g. Corporate applicants shall disclose the names and permanent addresses of all directors, officers, and shareholders, except that corporations with more than 20 shareholders may disclose only those persons owning or controlling 5 percent or more of the outstanding shares. Limited liability company applicants shall disclose the names and permanent addresses of all members. Partnership applicants shall disclose the names and addresses of all partners, except that partnerships with more than 20 partners may disclose only those persons who are managing partners and those persons who own or control a partnership share of 5 percent or more. If the principal controlling shareholders, members, or partners are themselves owned or controlled by other persons, then the information required by this paragraph shall also be furnished for each such person until the person or persons with the ultimate legal right to control the applicant's proposed business have been fully identified. No license shall be issued under this section to any person who has been convicted of a felony, or to any partnership, limited liability company, or corporation when a partner, director, officer, member, or any other person with a controlling interest in the operation of the business has been convicted of a felony.

II-h. The commissioner shall not issue a license under this section unless the commissioner is satisfied that:

(a) The application is complete in all respects.

(b) The applicant, and any principal controlling owners, directors, or natural persons who are members of any business entity, or officers disclosed pursuant to paragraphs II-f and II-g, are at least 21 years of age.

(c) In the case of corporate, limited liability company, or partnership applicants controlled by persons who do not reside in the United States, the proposed business would not be managed in a manner which would unduly hinder the commissioner from exercising the commissioner's regulatory responsibilities. Inaccessibility of relevant records or unresponsiveness to inquiries which result from foreign control shall be grounds for revoking or suspending a license which has already been granted.

III. The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of Title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-C:3, I. No license shall be issued for the sale of permissible fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes, zoning codes, and the requirements of local ordinances. No license for the sale of permissible fireworks shall be issued to any person who has been convicted of any offense involving fireworks or explosives within the 2-years prior to the application or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the 2 years prior to the application. No license shall be issued to any person under 21 years of age.

IV. Buildings used for the sale of permissible fireworks shall be dedicated solely to the sale and storage of permissible fireworks and items relating to the sale and promotion of fireworks provided for in rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.

V. Prior to the issuance of a state license, the department of safety may conduct a background investigation of the applicant and may conduct an inspection of the site, including all buildings, at which the permissible fireworks are to be sold or stored.

VI. If the application for a state license is denied, the reasons for such denial shall be stated in writing, in duplicate, the original of which shall be delivered to the applicant, and the copy thereof kept in the office of the department of safety.

VI-a. Any applicant denied a license under this chapter shall be granted a hearing by the commissioner, upon the applicant's request.

VII. The fee for a license for each location shall be \$1,500 per year, payable annually to the department of safety for deposit into the fire standards and training and emergency medical services fund established in RSA 21-P:12-d for the purpose of funding the fireworks inspection program.

VIII. No person under the age of 21 shall be engaged in the business of handling or selling any permissible fireworks; provided, however, that a person less than 21 years of age but at least 18 years of age may handle and sell permissible fireworks at a licensed sales location if he or she is under the direct supervision of a person 21 years of age or older.

IX. Any person who knowingly provides false information to the department on an application for the sale of permissible fireworks as provided in this section shall be guilty of a misdemeanor.

X. No licensee shall employ a person to handle or sell fireworks who has been convicted of any offense involving fireworks or explosives within the past 2 years or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the past 2 years.

XI. Nothing in this section shall preclude the sale of permissible fireworks to any other person engaged in the business of selling permissible fireworks.

160-C:4 Rulemaking.

The commissioner shall adopt rules pursuant to RSA 541-A relative to:

I. The procedure and reasons for denying, suspending, or revoking an application or a license issued pursuant to RSA 160-C:3.

II. Insurance or other evidence of financial responsibility to be required of any person licensed under this chapter, except that no bonding requirement shall be imposed on retail sellers of permissible fireworks.

III. Forms for applications and local permits to sell permissible fireworks.

IV. Forms for applications and state licenses to sell permissible fireworks.

V. Requirements for the safe use, handling, and storage of permissible fireworks.

160-C:5 Enforcement.

Upon application, the superior court or district court is authorized to permit the law enforcement officials or certified fire citation officers of the state, counties, or any city or town to seize, take, remove, or cause to be removed at the expense of the owner all stocks of permissible fireworks offered or exposed for sale, stored, or held in violation of this chapter. Nothing in this section shall be construed to restrict or limit any other authority granted by law to law enforcement officials or certified fire citation officers.

160-C:6 Local Option.

Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

160-C:7 Civil Liability.

In addition to any other penalties imposed under this chapter, any person who violates the provisions of this chapter shall be liable, in any civil action, to any person for damages resulting from the illegal sale or use of permissible fireworks, and neither assumption of risk nor contributory negligence shall be a defense for such violator.

160-C:8 Immediate Suspension Authority.

Notwithstanding any other provision of law to the contrary, the commissioner may immediately suspend a license issued pursuant to RSA 160-C:3 if the commissioner has evidence that the licensee is selling fireworks contrary to any of the provisions of RSA 160-C or any rules adopted under this chapter. Any person whose license is suspended pursuant to this section shall be given the opportunity for a hearing within 10 days of the suspension. Any person found to be selling permissible fireworks after the person's license has been suspended pursuant to this section shall not have the license reinstated for a minimum of one year from the date of suspension.

160-C:9 Advertising.

I. No person shall advertise permissible fireworks by means of radio, television, newspaper, flyer, catalog, billboard, mobile or stationary sign, or any other means in such a way as to confuse or mislead the public about:

(a) The conditions under which fireworks may be purchased.

(b) The conditions under which fireworks may be used.

(c) The requirements contained in RSA 160-B, 160-C, or any other provision of state or federal law or regulations.

II. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

III. Any advertisement for the sale of permissible fireworks shall at a minimum contain the words: "Check with your local fire department to see if permissible fireworks are allowed in your community."

160-C:10 Sales of Permissible Fireworks Allowed; Penalty.

I. Any person who sells permissible fireworks shall post in a conspicuous place on the sales premises a list, prepared by the commissioner, of all municipalities in the state where the display or possession of permissible fireworks is prohibited.

IV. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

160-C:11 Possession and Display of Permissible Fireworks; Penalty.

I. Notwithstanding RSA 160-B:4, a person who is 21 years of age or older may possess permissible fireworks except in a municipality which has voted to prohibit possession pursuant to RSA 160-C:6. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, except in a municipality which has voted to prohibit display of permissible fireworks pursuant to RSA 160-C:6.

II. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

160-C:12 Distribution of Pamphlet Required.

Any person engaged in selling permissible fireworks shall make available to the purchaser a pamphlet, approved by the commissioner, detailing the appropriate and safe use of the permissible fireworks being sold.

160-C:13 Permissible Fireworks Advisory Committee.

I. There is hereby established a permissible fireworks advisory committee. The composition of this committee shall be as follows: one senator, appointed by the senate president; one representative, appointed by the speaker of the house of representatives; the state fire marshal, or designee; the director of the division of state police, or designee; and 3 public members, 2 of whom shall be engaged in the retail sale of consumer fireworks in New Hampshire and one of whom shall be a regular purchaser of consumer fireworks, appointed by the governor. No vote of the committee shall take place unless 3 members of the committee are present. The term of office of each member appointed by the governor shall be 2 years and until a successor is appointed and qualified. The other members of the committee shall serve terms coterminous with their terms in office. Vacancies shall be filled in the same manner for the unexpired terms. Members shall serve without compensation, except that the legislative members shall receive mileage at the legislative rate. The committee shall elect a chairperson annually.

II. The committee shall meet at least once per calendar year, prior to October 1, and within 30 days of any emergency removal from retail sale of permissible fireworks pursuant to RSA 160-C:16. The purpose of the meeting following the emergency removal of permissible fireworks shall be to review the basis for the commissioner's decision and to make a recommendation to the commissioner as to whether the items are properly classified pursuant to 27 C.F.R. section 555.11.

III. The committee shall review the rules and standards of the Consumer Product Safety Commission regarding consumer fireworks so as to provide information and advice to the commissioner on the application and enforcement of the state's fireworks laws.

IV. On or before December 1, 2011, and each December 1 thereafter the committee shall make a report of the committee's activities and any recommendations for legislation to the commissioner, the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, and the state library.

160-C:14 Transportation.

It shall not be unlawful for a person who has legally purchased permissible fireworks to transport them from the point of purchase to a municipality that has not prohibited the possession of permissible fireworks pursuant to RSA 160-C:6.

160-C:16 Emergency Removal from Retail Sale of Permissible Fireworks.

I. (a) The commissioner may, upon the recommendation of the state fire marshal or the director of state police, at any time and with notice to the permissible fireworks advisory committee, suspend from retail sale or otherwise order the removal from retail sale of any permissible firework item that poses an imminent threat to life and property.

(b) The commissioner shall, within 15 days of action taken pursuant to this paragraph, file a report and request a finding from the federal Consumer Product Safety Commission, a determination on the legal status of the permissible consumer firework item being suspended or removed by the commissioner from retail sale.

(c) The commissioner's suspension or removal of any such firework items shall continue in force and effect until such time as a determination can be made and shall not supersede any finding by the Consumer Product Safety Commission pursuant to the commissioner's report and request.

II. Upon notification by the commissioner or designee that a permissible firework is prohibited from being sold, a person licensed to sell permissible fireworks shall remove the item from the public sales area and shall not sell the item to any person.

III. Any person who sells a permissible firework item after being notified by the commissioner or designee that the item is prohibited from being sold shall be guilty of a class B misdemeanor. In addition, the commissioner may revoke the violator's license for a minimum period of 10 consecutive days, but not to exceed 30 days. On the third violation of this section, the commissioner shall revoke the license for the remainder of the licensure term.

IV. Any license holder aggrieved by the action of the commissioner pursuant to this section may appeal pursuant to RSA 541.

160-C:17 Fireworks Inspector.

There is hereby established in the office of the state fire marshal the full-time classified position of fireworks inspector. The fireworks inspector shall be under the direction and supervision of the state fire marshal and shall:

I. Inspect fireworks sales outlets.

I-a. Inspect sites and facilities for the display or storage of display fireworks, as defined in RSA 160-B:1,

X.

I-b. Coordinate enforcement activities relative to illegal sales, including the disposal or proper storage of illegal fireworks.

IV. Develop an informational booklet on fireworks to be issued to police and fire agencies throughout the state.

V. Coordinate media releases and public education efforts concerning fireworks.