

NEW JERSEY

21:2-1. Short title of act

This chapter may be cited as the "fireworks regulation law".

21:2-2. General definitions

As used in this chapter:

"Fireworks" include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation.

"Fireworks factory building" means any building or other structure in which the manufacture of fireworks, other than sparklers, or in which any processing involving fireworks other than sparklers, is carried on.

"Fireworks plant" means and includes all lands, with buildings thereon, used in connection with the manufacturing or processing of fireworks, as well as storehouses located thereon for the storage of finished fireworks.

"Highway" means any public street, public alley, public road, or navigable stream.

"Navigable streams" mean streams susceptible of being used, in their ordinary condition, as highways of commerce, over which trade and travel are or may be conducted in the customary modes, but shall not include streams which are not capable of navigation by barges, tugboats, and other large vessels.

"Railroad" means any steam, electric or other railroad which carries passengers for hire, but shall not include sidings or spur tracks installed primarily for the use of the fireworks plant.

21:2-3. "Dangerous fireworks" defined

"Dangerous fireworks" mean and include the following:

Toy torpedoes containing more than 5 grains of an explosive composition.

Paper caps containing more than .35 grain of explosive composition.

Firecrackers or salutes exceeding 5 inches in length or 3/4 inch in diameter.

Cannons, canes, pistols or other devices designed for use otherwise than with paper caps.

Any fireworks containing a compound or mixture of yellow or white phosphorous or mercury.

Any fireworks that contain a detonator or blasting cap.

Fireworks compositions that ignite spontaneously or undergo marked decomposition when subjected for 48 consecutive hours to a temperature of 167° Fahrenheit.

Fireworks that can be exploded en masse by a blasting cap placed in one of the units or by impact of a rifle bullet or otherwise.

Fireworks, such as sparklers or fuses, containing a match tip, or head, or similar igniting point or surface, unless each individual tip, head or igniting point or surface is thoroughly covered and securely protected from accidental contact or friction with any other surface.

Fireworks containing an ammonium salt and a chlorate.

21:2-4. Application of chapter

Nothing in this chapter shall be construed as applying to the transportation of any article or thing shipped in conformity with the regulations prescribed by the Interstate Commerce Commission, to the military or naval forces of the United States, to the duly authorized militia of the State, to the use and manufacture of signals and fuses necessary for the safe operation of railroads, steamboats or aircraft, or to the use of fireworks for agricultural purposes in connection with the raising of crops.

21:2-6. Dangerous fireworks prohibited

It shall be unlawful to manufacture, sell, transport or use dangerous fireworks within the state.

21:2-9. Storage buildings; location of

No building in a fireworks plant used for the storage of finished fireworks, other than those containing only sparklers, shall be situated nearer than three hundred feet from any building not used in connection with the manufacture of fireworks, nor from any highway, railroad or navigable stream, nor within three hundred feet of the property line of the fireworks plant. This section shall not apply to such storehouses existing on March twenty-fifth, one thousand nine hundred and thirty.

21:2-10. Fences, gates and watchmen

All fireworks plants shall be enclosed on all sides by substantial fences and all openings to such enclosures shall be fitted with suitable gates, which, when not locked, shall be in charge of a competent watchman who shall have charge of the fireworks plant when it is not in operation.

21:2-11. Fire protection

Fireworks plants and all buildings situated within fireworks plant enclosures, shall be equipped with suitable fire protection, commensurate with the hazard involved, to protect life and property from direct burning and exposure. Such fire protection shall be installed as directed by the Commissioner of Labor or by the agency in the municipality wherein a plant is located which is authorized to enforce the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.).

21:2-12. Precautions against fire

No stoves, exposed flame or electrical heating devices shall be used in any part of any fireworks plant, except in the boiler room or machine shop if no fireworks or chemicals are stored therein. All parts of the buildings in fireworks plants shall be kept clean, orderly and free from accumulations of dust or rubbish.

21:2-15. Marking packages

The outside of each package of fireworks prepared by a manufacturer shall bear upon the outside thereof the words "Fireworks--Handle Carefully--Keep Fire Away" in letters not less than 7/16 inch in height, and in addition shall show the name of the fireworks manufacturer.

21:2-16. Uniforms of employees

All factory employees in fireworks plants employed in loading, filling or handling of charged fireworks in process of manufacture, or of explosive compositions, shall be clothed in suitable uniforms to be approved by the department of labor.

21:2-17. Matches, liquor and narcotics

No employee or other person shall enter or attempt to enter any fireworks plant with matches or other flame-producing devices, nor with liquor or narcotics in his or her possession or control, nor while under the influence of liquor or narcotics, nor partake of intoxicants or narcotics while in the plant.

21:2-18. Smoking and carrying matches in fireworks plant

No person shall smoke nor carry matches, a lighted cigar, cigarette or pipe within any room or enclosed place or upon any part of a fireworks plant.

21:2-19. Warning signs

All fireworks plants shall be properly posted with "Warning" and "No Smoking" signs.

21:2-20. Containers for matches at entrances

It shall be the duty of the superintendent, foreman or other person in charge of any fireworks plant to provide safety containers for matches at all main entrances of the plant, where all matches in the possession of all persons shall be deposited before entering the plant enclosure.

21:2-21. Inspection

On receipt of an application to operate a fireworks plant, the commissioner of labor shall cause an inspection to be made of the premises described in the application for the purpose of determining whether they conform to the provisions of this chapter.

21:2-22. Certificate of registration; posting

If the conditions in the fireworks plant conform to the provisions of this chapter, the commissioner of labor shall issue a certificate of registration which shall be protected under glass and posted in a conspicuous place near the entrance to the fireworks plant. The certificate shall continue in force until revoked.

21:2-23. Denial of certificate; reasons filed

If the commissioner denies an application for a certificate of registration, he shall file in his office a statement of the reasons therefor and furnish the applicant with a copy of the same.

21:2-24. Revocation of certificate

The commissioner may revoke a certificate of registration if the fireworks plant is not maintained in accordance with the provisions of this chapter applicable thereto.

21:2-25. Statement of reasons for revocation

If a certificate is revoked the commissioner shall file in his office a statement of the reasons therefor and furnish a copy of same to the owner and persons operating the fireworks plant. No fireworks plant shall be operated after revocation of its certificate of registration until such fireworks plant complies with this chapter, and a new certificate is issued.

21:2-26. Records and duplicates of certificates

A record of the certificates of registration issued and revoked shall be kept on file in the office of the commissioner, and a duplicate sent to the chief of the fire department of each community, in which a fireworks plant is located.

21:2-27. Indemnity bond

The owner or operator of any fireworks plant, within sixty days after demand therefor in writing by the commissioner of labor, unless exempted therefrom as hereinafter provided, shall file and keep on file with the department of banking and insurance of the state, an indemnity bond payable to the state of New Jersey in such sums as may be determined by the commissioner of labor and set forth in such demand, not in excess of fifty thousand dollars nor less than ten thousand dollars, with surety or sureties satisfactory to such department, conditioned for the payment of all final judgments that may be rendered against such owner or operator for damages caused to persons and property by reason of any explosion at such fireworks plant of the product or component part or parts thereof there manufactured, processed or handled.

21:2-28. Exemption from filing bond

Any fireworks plant owner or operator desiring to be exempted from filing such bond may make application to the state department of banking and insurance, showing his financial ability to discharge all such judgments to the amount of the bond required by the commissioner of labor that may be entered against him, whereupon such department, if satisfied with the financial ability of the applicant, shall, by written order, exempt the applicant from the filing of such bond, and the department of banking and insurance may from time to time require further statements from the applicant showing his financial ability and, if dissatisfied therewith, may in its discretion revoke such exemption, and require the filing of such bond.

21:2-29. Prohibited places of storage or sale

It shall be unlawful to store or sell fireworks:

- a. In any building where paints, oils or varnishes are manufactured or kept for use or sale, unless paints, oils and varnishes are in original unbroken containers;
- b. In any building where matches (other than approved safety matches), rosin, turpentine, gasoline, or other highly inflammable substances, or substances which may generate inflammable vapors are used, stored or kept for sale;
- c. In any building where stoves or exposed flame are used in the part of the building where fireworks are stored or offered for sale.

21:2-30. Smoking not allowed in place of sale

No smoking shall be allowed in any building where fireworks are offered for sale. Over each entrance to such a store a sign in large letters shall be displayed reading "Fireworks for Sale--No Smoking Allowed".

21:2-35. Violations; crime of fourth degree

Any person who fails to comply with or violates any of the provisions of this chapter shall be guilty of a crime of the fourth degree.

21:2-36. Delivery of fireworks prohibited; exceptions

a. A person shall not knowingly deliver fireworks to a person within this State unless the person to whom delivery is to be made is named on a valid permit obtained pursuant to R.S.21:3-1 et seq. as the person authorized to receive fireworks or unless the person is the owner, manager, or designated employee acting as the agent of the owner or manager, of a legally operated commercial enterprise registered pursuant to section 10 of P.L.1991, c.55 (C.21:2-37). At the time of delivery, the person receiving the fireworks shall make the permit or registration available to the person making delivery for review and the number of the permit or registration held by the receiver shall be recorded on each bill of lading, manifest or invoice issued to cover the sale and shipment of the fireworks. A record of the bill of lading, manifest, or invoice shall be retained by the person making delivery for a period of three years and shall be available for inspection by municipal enforcement authorities, the Department of Labor, or other law enforcement authorities.

A package to be delivered to a person who does not have a valid permit or registration shall be turned over to the local municipal law enforcement authority who in turn shall notify the Office of Safety Compliance in the Department of Labor.

b. A package containing fireworks prepared by a manufacturer, supplier or seller for shipment or transportation into or within this State to a purchaser or receiver shall be labeled in accordance with the requirements of State and federal law, and the rules and regulations promulgated pursuant to those laws, concerning the transportation of hazardous materials.

Notwithstanding the penalty set forth in R.S.21:2-35, a violation of this section is a disorderly persons offense.

21:2-37. Registration of fireworks manufacturers, dealers

A person who is the owner or manager of a legally operated commercial enterprise involving the manufacture, distribution, storage, or sale of fireworks shall, in addition to the certificate of registration issued pursuant to R.S.21:2-22 or a permit issued pursuant to section 2 of P.L.1954, c.52 (C.21:2-29.1), annually register with the municipality in which the main office of the enterprise is located and with any municipality in which the enterprise stores fireworks, if fireworks are stored in a municipality other than the municipality in which the main office is located. The registration shall be filed with the agency authorized to enforce the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) by submitting a letter of registration or by completing a form supplied by the agency.

An identification number for the registration shall be issued and a certified copy of the registration shall be returned to the owner or manager. The registration shall be available upon request for inspection by any person during normal business hours. A copy of each registration shall be forwarded to the Office of Safety Compliance in the Department of Labor.

The agency with which a registration is filed may deny the registration if it finds that the enterprise is not a legally operated commercial enterprise. Denial shall be in writing with the reasons for denial clearly stated. A copy of the letter of the denial shall immediately be forwarded to the Office of Safety Compliance in the Department of Labor.

21:3-1. Sale, use, etc., declared against public health, safety and welfare

The sale, exposure for sale, use, distribution or possession of fireworks or pyrotechnics in the state of New Jersey, except as hereinafter provided, is hereby declared by the legislature to be against the public health, safety and welfare of the people of the state of New Jersey.

21:3-2. Sale, possession or use prohibited; exceptions

It shall be unlawful for any person to offer for sale, expose for sale, sell, possess or use, or explode any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used; the type of balloon which requires fire underneath to propel the same; firecrackers; torpedoes; skyrockets, Roman candles, bombs, sparklers or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other than aviation and railroad signal light flares, except (a) that it shall be lawful for any person to offer for sale, expose for sale, sell, possess or use, or explode any toy pistol, toy cane, toy gun, or other device in which paper or plastic caps containing .25 grain or less of explosive compound per cap are used, providing they are so constructed that the hand cannot come in

contact with the cap when in place for use, and toy pistol paper or plastic caps which contain less than .20 grain of explosive mixture per cap and (b) as in this chapter further provided.

Except as otherwise may be provided in this chapter, it shall be lawful to sell fireworks to a person only if that person is named as the authorized purchaser in a valid permit issued pursuant to R.S.21:3-3 or that person is the owner, manager, or designated employee acting as the agent of the owner or manager, of a legally operated commercial enterprise registered pursuant to section 10 of P.L.1991, c.55 (C.21:2-37), and the permit is presented to the manufacturer, seller or distributor at the time of purchase. If the manufacturer, seller or distributor is located in a state other than this State, a purchase shall be by mail order form and a photocopy of the valid permit or registration shall be submitted with the form to satisfy the requirement in this paragraph.

21:3-4. Contents of applications for permits; approval of storage place; permit not transferable

All such applications for permits shall set forth the name of the person authorized to purchase, or otherwise order, and receive delivery of any fireworks, the specific types or kinds of fireworks to be obtained and used, the date, the hour, place of making such display, and place of storing fireworks prior to the display and, further, the name or names of the person, persons, firm, partnership, corporation, association or group of individuals making the display; the name of the person, or persons, in charge of the igniting, firing, setting-off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the chief of the fire department of the municipality. No permit granted hereunder shall be transferable.

21:3-5. Surety by licensee

The governing body of the municipality shall require surety which may be cash, government bonds, personal bond, or other form of insurance in a sum of not less than twenty-five hundred dollars (\$2,500.00), conditioned for the payment of all damages, which may be caused either to a person or persons or to property, by reason of the display so as aforesaid licensed, and arising from any acts of the licensee, his agents, employees or subcontractors. Such surety shall run to the municipality in which the license is granted, and shall be for the use and benefit of any person, persons, or the owner or owners of any property so damaged, who is or are authorized to maintain an action thereon, or his or their heirs, executors, administrators, successors or assigns.

21:3-6. Copy of application and permit forwarded to Department of Labor

A duplicate copy of the application and of the permit granted shall be forwarded to the Office of Safety Compliance in the Department of Labor by the governing body granting such permit and such copies shall be kept on file in the department, subject to public inspection.

21:3-7. Effect on existing laws; exceptions

Nothing in this chapter contained shall be construed to interfere with the provisions of chapter 2 of this title (s. 21:2-1 et seq.) where the provisions thereof are not inconsistent with the provisions of this chapter, nor shall anything in this chapter contained be construed to prohibit any manufacturer, wholesaler, dealer or jobber from selling at wholesale such fireworks to municipalities, religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals authorized to possess and use fireworks under this chapter; or the sale of any kind of fireworks, provided the same are to be shipped directly out of the state; or the sale or use of blank cartridges for a show or theater, or for signal purposes in athletic sports, or by railroads for signal purposes, or for the use by the militia, or construed to prohibit the manufacture and sale of aviation and railroad light flares. Any provision of any law in this state inconsistent with any provision of this chapter is hereby repealed.

21:3-8. Penalties for violations

Any person who sells, offers or exposes for sale, or possesses with intent to sell any fireworks as herein mentioned is guilty of a crime of the fourth degree. Any person who purchases, uses, discharges, causes to be discharged, ignites, fires, or otherwise sets in action, or possesses any fireworks is guilty of a petty disorderly persons offense.

21:3-9. Enforcement by municipalities

The municipalities of this State, and the Department of Labor and Industry, are hereby charged with the enforcement of all of the provisions of this chapter.