

NEW YORK

Penal Law §270.00 Unlawfully dealing with fireworks and dangerous fireworks.

1. Definition of "fireworks" and "dangerous fireworks".

The term "fireworks," as used in this section, is defined and declared to be and to include any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, sparklers or other combustible or explosive of like construction, or any preparation 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, or other device containing any explosive substance and the term "dangerous fireworks" means any fireworks capable of causing serious physical injury and which are: firecrackers containing more than fifty milligrams of any explosive substance, torpedoes, skyrockets and rockets including all devices which employ any combustible or explosive substance and which rise in the air during discharge, Roman candles, bombs, sparklers more than ten inches in length or one-fourth of one inch in diameter, or chasers including all devices which dart or travel about the surface of the ground during discharge. "Fireworks" and "dangerous fireworks" shall not be deemed to include (1) flares of the type used by railroads or any warning lights commonly known as red flares, or marine distress signals of a type approved by the United States coast guard or (2) toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound 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 caps which contain less than twenty-hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times, or (3) bank security devices which contain not more than fifty grams of any compound or substance or any combination thereof, together with an igniter not exceeding 0.2 gram, capable of producing a lachrymating and/or visible or audible effect, where such device is stored or used only by banks, national banking associations, trust companies, savings banks, savings and loan associations, industrial banks, or credit unions, or by any manufacturer, wholesaler, dealer, jobber or common carrier for such devices and where the total storage on any one premises does not exceed one hundred devices.

2. Offense.

(a) Except as herein otherwise provided, or except where a permit is obtained pursuant to section 405.00;

(i) any person who shall offer or expose for sale, sell or furnish, any fireworks or dangerous fireworks is guilty of a class B misdemeanor;

(ii) any person who shall offer or expose for sale, sell or furnish any fireworks or dangerous fireworks valued at five hundred dollars or more shall be guilty of a class A misdemeanor;

(b) (i) Except as herein otherwise stated, or except where a permit is obtained pursuant to section 405.00, any person who shall possess, use, explode or cause to explode any fireworks or dangerous fireworks is guilty of a violation.

(ii) A person who shall offer or expose for sale, sell or furnish, any dangerous fireworks to any person who is under the age of eighteen is guilty of a class A misdemeanor.

(iii) A person who has previously been convicted of a violation of subparagraph (ii) of this paragraph within the preceding five years and who shall offer or expose for sale, sell or furnish, any dangerous fireworks to any person who is under the age of eighteen, shall be guilty of a class E felony.

(c) Possession of fireworks or dangerous fireworks valued at fifty dollars or more shall be a presumption that such fireworks were intended to be offered or exposed for sale.

3. The provisions of this section shall not apply to articles of the kind and nature herein mentioned, while in possession of railroads and transportation agencies for the purpose of transportation to points without the state, the shipment of which is not prohibited by the interstate commerce commission regulations as formulated and published from time to time, unless the same be held voluntarily by such railroads or transportation companies as warehousemen for delivery to points within the state; provided, that none of the provisions of this section shall apply to signaling devices used by railroad companies or motor vehicles referred to in subdivision seventeen of section three hundred seventy-five of the vehicle and traffic law, or to high explosives for blasting or similar purposes; provided that none of the provisions of this section shall apply to fireworks or dangerous fireworks and the use thereof by the army and navy departments of the state and federal government; nor shall anything in this act contained be construed to prohibit any manufacturer, wholesaler, dealer or jobber from manufacturing, possessing or selling at wholesale such fireworks or dangerous fireworks to municipalities, religious or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals authorized to possess and use

fireworks or dangerous fireworks under this act, or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports, or for dog trials or dog training, or the use, or the storage, transportation or sale for use of fireworks or dangerous fireworks in the preparation for or in connection with television broadcasts; nor shall anything in this act contained be construed to prohibit the manufacture of fireworks or dangerous fireworks, nor the sale of any kind of fireworks or dangerous fireworks, provided the same are to be shipped directly out of the state.

4. Sales of ammunition not prohibited. Nothing contained in this section shall be construed to prevent, or interfere in any way with, the sale of ammunition for revolvers or pistols of any kind, or for rifles, shot guns, or other arms, belonging or which may belong to any persons whether as sporting or hunting weapons or for the purpose of protection to them in their homes, or, as they may go abroad; and manufacturers are authorized to continue to manufacture, and wholesalers and dealers to continue to deal in and freely to sell ammunition to all such persons for such purposes.

5. Notwithstanding the provisions of subdivision four of this section, it shall be unlawful for any dealer in firearms to sell any ammunition designed exclusively for use in a pistol or revolver to any person, not authorized to possess a pistol or revolver. The violation of this section shall constitute a class B misdemeanor.

Penal Law §405.05 Seizure and destruction of fireworks.

Fireworks possessed unlawfully may be seized by any peace officer, acting pursuant to his special duties, or police officer, who must deliver the same to the magistrate before whom the person arrested is required to be taken. The magistrate must, upon the examination of the defendant, or if such examination is delayed or prevented, without awaiting such examination, determine whether the fireworks had been possessed by the defendant in violation of the provisions of section 270.00; and if he finds that the fireworks had been so possessed by the defendant, he must cause such fireworks to be destroyed, in a way safe for the particular type of such fireworks, or to be delivered to the district attorney of the county in which the defendant is liable to indictment or trial, as the interests of justice and public safety may, in his opinion, require. Upon the conviction of the defendant, the district attorney must cause to be destroyed, in a way safe for the particular type of such fireworks, the fireworks in respect whereof the defendant stands convicted, and which remain in the possession or under the control of the district attorney.