

PENNSYLVANIA

Title 35. Health and Safety Chapter 13A. Fireworks and Explosives

1271. Definitions

The term "consumer fireworks" shall mean and include:

(1) Any combustible or explosive composition or any substance or combination of substances intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and which complies with the provisions for "consumer fireworks" as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard.

(2) The term does not include devices as "ground and hand-held sparkling devices," "novelties" and "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

The term "display fireworks" shall be defined as provided in 27 CFR § 555.11 (relating to meaning of terms).

The term "municipalities" shall include cities, boroughs, incorporated towns and townships.

1275. Sale, possession and use of fireworks

Nothing in this act shall be construed to prohibit any licensed facility from selling any consumer fireworks or the year-round sale of any kind of consumer fireworks to out-of-State residents whose status is verified to the licensee, provided the licensee retains proof of such status and produces it for review upon request of the Department of Agriculture and provided the same are to be transported directly out of state by the seller or purchaser. Consumer fireworks and display fireworks may be possessed and used by a person holding a permit from any municipality at the display covered by such permit, or when used as authorized by a permit for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage, or the use by railroads or other transportation agencies for signal purposes or illumination, or when used in quarrying or for blasting or other industrial use, or the sale or use of blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations or organizations composed of veterans of the United States Army or Navy. No such permit shall be issued to a person younger than eighteen (18) years of age.

1275.3. Consumer fireworks facilities; criteria for licensure

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

(1) The facility shall comply with the provisions of the act of November 10, 1999 (P.L. 491, No. 45), [FN1] known as the "Pennsylvania Construction Code Act."

(2) The facility shall be in a stand-alone building and shall be no larger than twelve thousand (12,000) square feet.

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

(4) The facility shall be located no closer than two hundred fifty (250) feet from any facility selling or dispensing gasoline, propane or other such flammable products.

(5) The facility shall be located at least two hundred fifty (250) feet from any other facility licensed to sell consumer fireworks.

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

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

1275.4. Consumer fireworks facilities; applications for licensure; inspections; renewals

Applications for licenses to sell consumer fireworks shall be submitted to the Department of Agriculture on forms prescribed and provided by the department. The license application shall be accompanied by an annual license fee of five thousand dollars (\$5,000) per location. Facilities in existence on the effective date of this section and new facilities shall be inspected by the Department of Agriculture within thirty (30) days of receipt of a complete application for a license. The Department of Agriculture shall issue a license, or deny a license, within fourteen (14) days of completing the inspection. A license shall be effective for one year from the date the license is issued, and

renewal of a license shall be automatic upon payment of the license fee, but each facility is subject to annual inspection by the Department of Agriculture, and at other times at its discretion, during normal business hours. No license shall be issued to any convicted felons or to any entities where a convicted felon owns any percentage of the equity interest in such entity.

1275.5. Operation of consumer fireworks facilities

A facility licensed by the Department of Agriculture shall be exclusively dedicated to the storage and sale of consumer fireworks and related items, and the facility shall operate in accordance with the following rules:

- (1) There shall be security personnel on the premises for the seven (7) days preceding and including July 4 and for the three (3) days preceding and including January 2.
- (2) No smoking shall be permitted in the facility.
- (3) No cigarettes or tobacco products, matches, lighters, or any other flame-producing devices shall be permitted to be taken into the facility.
- (4) No minors shall be permitted in the facility unless accompanied by an adult, and each minor shall stay with the adult in the facility.
- (5) All facilities shall carry at least two million dollars (\$2,000,000) in public and product liability insurance.
- (6) A licensee shall provide its employees with documented training in the area of operational safety of a facility. The licensee shall provide to the Department of Agriculture written documentation that each employee has received such training.
- (7) No display fireworks shall be stored or located at a facility.
- (8) No person who appears to be under the influence of intoxicating liquor or drugs shall be admitted to the facility, and no liquor, beer, or wine shall be permitted in the facility.
- (9) No consumer fireworks or display fireworks shall be ignited within three hundred (300) feet of a facility.
- (10) Emergency evacuation plans shall be conspicuously posted in appropriate locations within the facility.

1277. Penalties for illegal sales of fireworks

The following shall apply:

- (1) Any person, copartnership, association or corporation using consumer fireworks in violation of the provisions of this act commits a summary offense, and, upon conviction, shall be punished by a fine of not more than one hundred (\$100) dollars.
- (2) Any person, copartnership, association or corporation selling consumer fireworks in violation of the provisions of this act commits a misdemeanor of the second degree.
- (3) Any person, copartnership, association or corporation selling display fireworks in violation of the provisions of this act commits a felony of the third degree.
- (4) Any person, copartnership, association or corporation selling federally illegal explosives such as devices as described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved and labeled by the Federal Department of Transportation, including, but not limited to, those devices commonly referred to as "M-80," "M-100," "blockbuster," "cherry bomb" or "quarter or half stick" explosive devices, in violation of the provisions of this act commits a felony of the third degree.

1278. Confiscation

The Pennsylvania State Police, any sheriff or police officer shall take, remove or cause to be removed at the expense of the owner all stocks of consumer fireworks or display fireworks or combustibles offered or exposed for sale, stored or held in violation of this act. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.