

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1227 Session of  
2020

INTRODUCED BY SCHWANK, STREET, COLLETT, TARTAGLIONE, MUTH,  
DINNIMAN AND IOVINO, JULY 13, 2020

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JULY 13, 2020

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act Relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," repealing provisions relating to fireworks.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Article XXIV of the act of March 4, 1971 (P.L.6,  
14 No.2), known as the Tax Reform Code of 1971, is repealed:

15 [ARTICLE XXIV

16 FIREWORKS

17 Section 2401. Definitions.

18 The following words and phrases when used in this article  
19 shall have the meanings given to them in this section unless the  
20 context clearly indicates otherwise:

21 "APA 87-1." The American Pyrotechnics Association Standard  
22 87-1: Standard for Construction and Approval for Transportation

1 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001  
2 edition, or any subsequent edition.

3 "Consumer fireworks."

4 (1) Any combustible or explosive composition or any  
5 substance or combination of substances which is intended to  
6 produce visible or audible effects by combustion, is suitable  
7 for use by the public, complies with the construction,  
8 performance, composition and labeling requirements  
9 promulgated by the Consumer Products Safety Commission in 16  
10 CFR (relating to commercial practices) or any successor  
11 regulation and complies with the provisions for "consumer  
12 fireworks" as defined in APA 87-1 or any successor standard,  
13 the sale, possession and use of which shall be permitted  
14 throughout this Commonwealth.

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

20 "Display fireworks." Large fireworks to be used solely by  
21 professional pyrotechnicians and designed primarily to produce  
22 visible or audible effects by combustion, deflagration or  
23 detonation. The term includes, but is not limited to:

24 (1) salutes that contain more than two grains or 130  
25 milligrams of explosive materials;

26 (2) aerial shells containing more than 60 grams of  
27 pyrotechnic compositions; and

28 (3) other display pieces that exceed the limits of  
29 explosive materials for classification as consumer fireworks  
30 and are classified as fireworks UN0333, UN0334 or UN0335

under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

"Municipality." A city, borough, incorporated town or township.

"NFPA 1124." The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

"Occupied structure." A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

"Outdoor storage unit." A consumer fireworks building, trailer, semitrailer, metal shipping container or magazine meeting the specifications of NFPA 1124.

"Temporary structure." A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of consumer fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell consumer fireworks under this article.

#### Section 2402. Permits.

(a) Permissible purposes.--Display fireworks may be possessed and used by a person holding a permit from a municipality at the display covered by the permit or when used as authorized by a permit for any of the following:

(1) For agricultural purposes in connection with the raising of crops and the protection of crops from bird and

1 animal damage.

2 (2) By railroads or other transportation agencies for  
3 signal purposes or illumination.

4 (3) In quarrying or for blasting or other industrial  
5 use.

6 (4) In the sale or use of blank cartridges for a show or  
7 theater.

8 (5) For signal or ceremonial purposes in athletics or  
9 sports.

10 (6) By military organizations or organizations composed  
11 of veterans of the armed forces of the United States.

12 (b) Age limitation.--A display fireworks permit may not be  
13 issued to a person under 21 years of age.

14 (c) Bond.--The governing body of the municipality shall  
15 require a bond deemed adequate by it from the permittee in a sum  
16 not less than \$50,000 conditioned for the payment of all damages  
17 which may be caused to a person or property by reason of the  
18 display and arising from an act of the permittee or an agent, an  
19 employee or a subcontractor of the permittee.

20 Section 2403. Request for extension.

21 (a) Authorization.--If, because of unfavorable weather, the  
22 display for which a permit has been granted does not occur at  
23 the time authorized by the permit, the person to whom the permit  
24 was issued may within 24 hours apply for a request for extension  
25 to the municipality which granted the permit.

26 (b) Contents of request.--The request for extension shall  
27 state under oath that the display was not made, provide the  
28 reason that the display was not made and request a continuance  
29 of the permit for a date designated within the request, which  
30 shall be not later than one week after the date originally

1 designated in the permit.

2 (c) Determination.--Upon receiving the request for  
3 extension, the municipality, if it believes that the facts  
4 stated within the request are true, shall extend the provisions  
5 of the permit to the date designated within the request, which  
6 shall be not later than one week after the date originally  
7 designated in the permit.

8 (d) Conditions.--The extension of time shall be granted  
9 without the payment of an additional fee and without requiring a  
10 bond other than the bond given for the original permit, the  
11 provisions of which shall extend to and cover all damages which  
12 may be caused by reason of the display occurring at the extended  
13 date and in the same manner and to the same extent as if the  
14 display had occurred at the date originally designated in the  
15 permit.

16 Section 2404. Use of consumer fireworks.

17 (a) Conditions.--A person who is at least 18 years of age  
18 and meets the requirements of this article may purchase, possess  
19 and use consumer fireworks.

20 (b) Prohibitions.--A person may not intentionally ignite or  
21 discharge:

22 (1) Consumer fireworks on public or private property  
23 without the express permission of the owner.

24 (2) Consumer fireworks or sparkling devices within, or  
25 throw consumer fireworks or sparkling devices from, a motor  
26 vehicle or building.

27 (3) Consumer fireworks or sparkling devices into or at a  
28 motor vehicle or building or at another person.

29 (4) Consumer fireworks or sparkling devices while the  
30 person is under the influence of alcohol, a controlled

substance or another drug.

(5) Consumer fireworks within 150 feet of an occupied structure.

#### Section 2404.1. Use of display fireworks.

No display fireworks shall be ignited within 300 feet of a facility that meets the requirements of section 2407 or 2410.

#### Section 2405. Agricultural purposes.

(a) Authorization.--The governing body of a municipality may, under reasonable rules and regulations adopted by it, grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.

(b) Duration of permit.--A permit under this section shall remain in effect for the calendar year in which it was issued.

(c) Conditions.--After a permit under this section has been granted, sales, possession and use of fireworks of the type and for the purpose mentioned in the permit shall be lawful for that purpose only.

#### Section 2406. Rules and regulations by municipality.

(a) Authorization.--Permission shall be given by the governing body of a municipality under reasonable rules and regulations for displays of display fireworks to be held within the municipality.

(b) Conditions.--

(1) Each display shall be:

(i) handled by a competent operator; and

(ii) of a character and so located, discharged or fired as, in the opinion of the chief of the fire department or other appropriate officer as may be designated by the governing body of the municipality,

1 after proper inspection, to not be hazardous to property  
2 or endanger any person.

3 (2) After permission is granted under this section,  
4 possession and use of display fireworks for display shall be  
5 lawful for that purpose only.

6 (3) A permit shall be transferable.

7 Section 2407. Sales locations.

8 Except as provided in section 2410, consumer fireworks shall  
9 be sold only from facilities which are licensed by the  
10 Department of Agriculture and that meet the following criteria:

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

14 (2) The facility shall be a stand-alone, permanent  
15 structure.

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

19 (4) The facility shall be located no closer than 250  
20 feet from a facility selling or dispensing gasoline, propane  
21 or other flammable products.

22 (5) The facility shall be located at least 1,500 feet  
23 from another facility licensed to sell consumer fireworks.

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

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

28 Section 2408. Fees, granting of licenses and inspections.

29 (a) Initial application fees.--

30 (1) An initial application for a license to sell

1 consumer fireworks shall be submitted to the Department of  
2 Agriculture on forms prescribed and provided by the  
3 department with a nonrefundable application fee as follows:

4 (i) For a facility meeting the requirements of  
5 section 2407, the application shall be submitted with a  
6 nonrefundable application fee of \$2,500.

7 (ii) For a facility meeting the requirements of  
8 section 2410, the application shall be submitted with a  
9 nonrefundable application fee of \$1,000 no later than 60  
10 days prior to the first day of sale.

11 (2) An application under paragraph (1) shall also be  
12 accompanied by the appropriate annual license fee as provided  
13 in subsection (b).

14 (b) Annual license fees.--The annual license fee for a  
15 facility licensed to sell consumer fireworks shall be as  
16 follows:

- 17 (1) \$7,500 for a location up to 10,000 square feet;  
18 (2) \$10,000 for a location greater than 10,000 and up to  
19 15,000 square feet;  
20 (3) \$20,000 for a location greater than 15,000 square  
21 feet; and  
22 (4) \$3,000 for a temporary structure.

23 (c) Time limitations and inspections.--

24 (1) A facility meeting the requirements of section 2407  
25 shall be inspected by the Department of Agriculture within 30  
26 days of receipt of a complete application for a license. The  
27 Department of Agriculture shall issue or deny a license  
28 within 14 days of completing the inspection.

29 (2) The Department of Agriculture shall issue or deny a  
30 license for a facility meeting the requirements of section



2410 no later than 10 days prior to the first day of sale.

The facility shall be available for inspection by the Department of Agriculture for compliance with NFPA 1124 at all times during the licensed selling period.

(d) Term of license.--A license issued for the sale of consumer fireworks shall be effective for one year from the date the license is issued.

(e) License renewal and inspections.--License renewal shall be automatic upon payment of the appropriate annual license fee under subsection (b), but each facility shall be subject to annual inspections by the Department of Agriculture and at other times as the department may deem appropriate.

(f) Condition.--No license may be issued to a convicted felon or to an entity in which a convicted felon owns a percentage of the equity interest.

#### Section 2409. Conditions for 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 days preceding and including July 4 and for the three 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.

1 (5) All facilities shall carry at least \$2,000,000 in  
2 public and product liability insurance.

3 (6) A licensee shall provide its employees with  
4 documented training in the area of operational safety of a  
5 facility. The licensee shall provide to the Department of  
6 Agriculture written documentation that each employee has  
7 received the training.

8 (7) No display fireworks shall be stored or located at a  
9 facility.

10 (8) No person who appears to be under the influence of  
11 intoxicating liquor or drugs shall be admitted to the  
12 facility, and no liquor, beer or wine shall be permitted in  
13 the facility.

14 (9) Emergency evacuation plans shall be conspicuously  
15 posted in appropriate locations within the facility.

16 Section 2410. Temporary structures.

17 (a) Conditions.--Notwithstanding section 2407 or any other  
18 provision of law, a temporary structure may be licensed by the  
19 Department of Agriculture to sell consumer fireworks if the  
20 temporary structure meets all of the following requirements:

21 (1) The temporary structure is located no closer than  
22 250 feet from a facility storing, selling or dispensing  
23 gasoline, propane or other flammable products.

24 (2) An evacuation plan is posted in a conspicuous  
25 location for a temporary structure in accordance with NFPA  
26 1124.

27 (3) The outdoor storage unit, if any, is separated from  
28 the wholesale or retail sales area to which a purchaser may  
29 be admitted by appropriately rated fire separation.

30 (4) The temporary structure complies with NFPA 1124 as

1 it relates to retail sales of consumer fireworks in temporary  
2 structures.

3 (5) The temporary structure is located one of the  
4 following distances from a permanent facility licensed to  
5 sell consumer fireworks under the former act of May 15, 1939  
6 (P.L.134, No.65), referred to as the Fireworks Law, at the  
7 time of the effective date of this article:

8 (i) Prior to January 1, 2023, at least five miles.

9 (ii) Beginning January 1, 2023, at least two miles.

10 (6) The temporary structure does not exceed 2,500 square  
11 feet.

12 (7) The temporary structure is secured at all times  
13 during which consumer fireworks are displayed within the  
14 structure.

15 (8) The temporary structure has a minimum of \$2,000,000  
16 in public and product liability insurance.

17 (9) The sales period is limited to June 15 through July  
18 8 and December 21 through January 2 of each year.

19 (10) Consumer fireworks not on display for retail sale  
20 are stored in an outdoor storage unit.

21 (b) Limitations.--The sale of consumer fireworks from the  
22 temporary structure is limited to the following:

23 (1) Helicopter, Aerial Spinner (APA 87-1, 3.1.2.3).

24 (2) Roman Candle (APA 87-1, 3.1.2.4).

25 (3) Mine and shell devices not exceeding 500 grams.

26 Section 2411. Attorney General.

27 (a) Registration.--Any business entity which performs,  
28 provides or supervises fireworks displays or exhibitions for  
29 profit shall register annually with the Attorney General.

30 (b) Rules.--The Attorney General shall promulgate rules to

1 implement this section.

2 Section 2412. Consumer fireworks tax.

3 (a) Imposition.--In addition to any other tax imposed by  
4 law, a tax is imposed on each separate sale at retail of  
5 consumer fireworks, which tax shall be collected by the retailer  
6 from the purchaser at the time of sale and shall be paid over to  
7 the Commonwealth as provided in this section. A tax imposed  
8 under this subsection on each separate sale at retail shall be  
9 paid to and received by the Department of Revenue and, along  
10 with interest and penalties, shall be deposited into the General  
11 Fund.

12 (b) Rate.--The tax authorized under subsection (a) shall be  
13 imposed and collected at the rate of 12% of the purchase price  
14 per item sold. The purchase price shall include State and local  
15 sales taxes.

16 (c) Collection and administration.--The provisions of Part  
17 VI of Article II shall apply to the tax authorized under  
18 subsection (a). No additional fee shall be charged for a license  
19 or license renewal other than the license or annual license fee  
20 required under section 2408 and the license or renewal fee  
21 authorized and imposed under Article II.

22 Section 2413. Disposition of certain funds.

23 (a) Transfer.--One-sixth of the tax collected under this  
24 article in a fiscal year, not to exceed \$2,000,000, shall be  
25 transferred annually for use as follows:

26 (1) Seventy-five percent of the amount transferred under  
27 this subsection shall be used for the purpose of making  
28 grants under 35 Pa.C.S. Ch. 78 Subch. C (relating to  
29 Emergency Medical Services Grant Program).

30 (2) Twenty-five percent of the amount transferred under

1 this subsection shall be deposited into a special account in  
2 the State Treasury designated as the Online Training Educator  
3 and Training Reimbursement Account for the purposes of  
4 developing, delivering and sustaining training programs for  
5 volunteer firefighters in this Commonwealth.

6 (b) Payments.--The transfer required under subsection (a)  
7 shall be made by September 15, 2018, and each September 15  
8 thereafter.

9 Section 2414. Penalties.

10 The following shall apply:

11 (1) A person using consumer fireworks in violation of  
12 the provisions of this article commits a summary offense and,  
13 upon conviction, shall be punished by a fine of not more than  
14 \$100.

15 (2) A person selling consumer fireworks in violation of  
16 the provisions of this act commits a misdemeanor of the  
17 second degree.

18 (3) A person selling display fireworks in violation of  
19 the provisions of this act commits a felony of the third  
20 degree.

21 (4) A person selling federally illegal explosives such  
22 as devices as described in 49 CFR 173.54 (relating to  
23 forbidden explosives) or those devices that have not been  
24 tested, approved and labeled by the United States Department  
25 of Transportation, including, but not limited to, those  
26 devices commonly referred to as M-80, M-100, blockbuster,  
27 cherry bomb or quarter or half stick explosive devices, in  
28 violation of the provisions of this act commits a felony of  
29 the third degree.

30 Section 2415. Removal, storage and destruction.

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

8       Section 2416. Transition.

9       A person who, on the effective date of this section, holds a  
10 license under the former act of May 15, 1939 (P.L.134, No.65),  
11 referred to as the Fireworks Law, may continue the activity  
12 permitted by the license for a period of 90 days following the  
13 effective date of this section or the date the license expires  
14 by the terms of the license, whichever is sooner. After the  
15 expiration of the 90-day period or the license, whichever is  
16 sooner, the person must obtain the license required under this  
17 article to continue the permitted activity, if applicable.]

18       Section 2. This act shall take effect in 60 days.