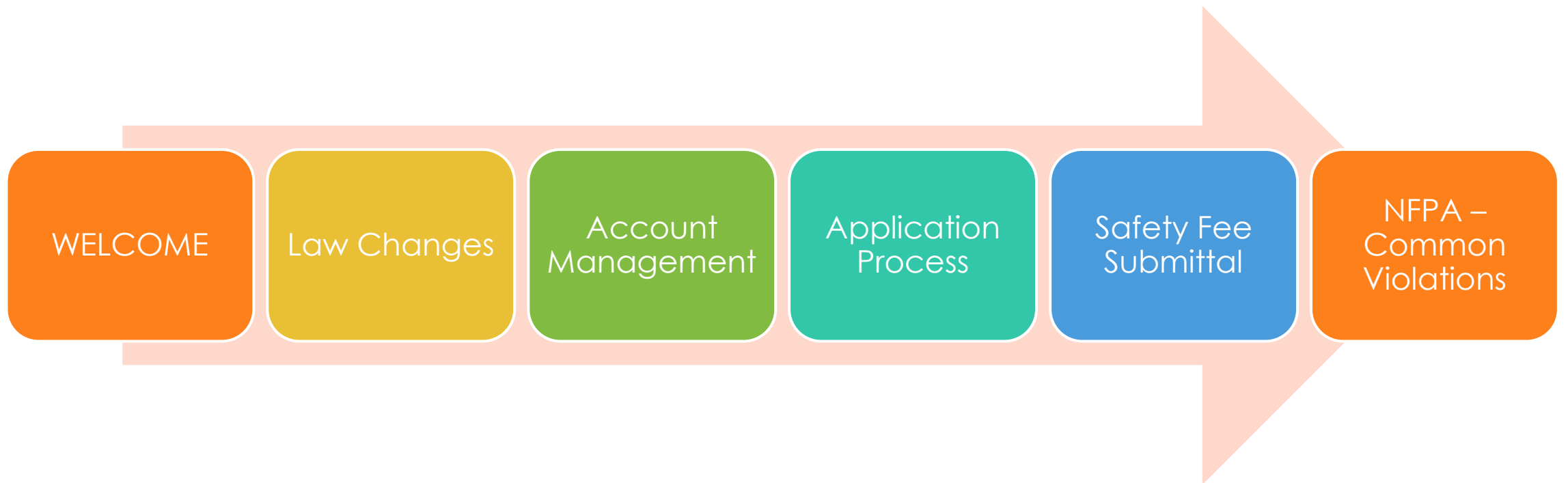


Changes in the Fireworks
Safety Act
PA 256 Amended Dec 31,
2018

MICHIGAN FIREWORKS SAFETY ACT PA 256

FIREWORKS PA 256



LAW CHANGES DEFINITION

- **Sec 2 (I) HOMEMADE FIREWORKS** – Means ANY composition or device for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.

LAW CHANGES

SEC 4(1) – CONSUMER FIREWORKS SALES

- **PA 256 Sec 4 (1) – A person shall not sell consumer fireworks unless the person annually obtains a consumer fireworks certificate from the department.**

LAW CHANGES

SEC 4(2) - CIVIL FINES

- SALES WITHOUT CERTIFICATE –
 - **(a) 1st Violation – not more than \$5,000.00**
 - **(b) 2nd Violation – not more than \$ 20,000.00**
 - **(c) 3rd Violation – not more than \$40,000.00**

LAW CHANGES

SEC 4 (3)

- Applicant for CONSUMER FIREWORKS shall do **ALL** of the following:
- (a) Submit application no later than APRIL 1st of each year in which the applicant will sell consumer fireworks. Application process will close at midnight on April 1st.
- (i) A **nonrefundable** consumer fireworks certificate fee of \$1,250.00 for each retail location that is a permanent building or structure or \$1,000.00 for each retail location that is not a permanent building or structure. If the application includes 10 or more retail locations that are not permanent buildings or structures, the fee described in this subdivision shall be \$700.00 for each of those locations.

LAW CHANGES

SEC 4 (3)(C)

- (ii) For an applicant who applies for a consumer fireworks certificate for a retail location that is not a permanent building or structure and who does not hold a consumer fireworks certificate for a permanent building or structure, a bond in the amount of \$5,000.00 to secure the collection of estimated sales tax and fireworks safety fees.

LAW CHANGES

SEC 4 (3)(C)

- (iv) Any other document required by the department.
- NOTE: 30 day clock no longer starts until ALL required documents have been attached to the completed application.
- Requirements: Current valid sales tax license, plans if required, bond if required, payment at time of application.
- Also required to be current on prior safety fee reporting and outstanding citations not currently under appeal.

LAW CHANGES SEC 4 (5)

- Consumer fireworks certificate issued under this section is valid until April 30th of the following year.
- Forms (Accela) prescribed by the department shall be used.
- All prior safety fees shall be accurate and up to date.

LAW CHANGES

SEC 4 (6)

- (6) Not more than 30 days after an application and **all required supporting documentation and fees** are submitted to the department under this section, the department shall issue a consumer fireworks certificate to the applicant or deny the application. If the department denies the application, the department shall indicate to the applicant the reason for denial.

LAW CHANGES SEC 4 (8)

- A consumer fireworks certificate is transferable upon approval by the department and the payment of a \$250.00 transfer fee. The department shall approve the transfer of a consumer fireworks certificate unless the transferee does not satisfy the eligibility requirements for an original consumer fireworks certificate under this act. The department shall not process a request for a transfer of location between June 1 and July 31.

LAW CHANGES

SEC 4 (9)

- (9) The holder of a consumer fireworks certificate shall prominently display the original certificate or a copy of the certificate in the each retail location to which the certificate applies. A person that violates this subsection is responsible for a civil fine of \$200.00.

LAW CHANGES SEC 4 (10)

- (10) The department shall not issue a consumer fireworks certificate to either of the following:
 - (a) A person that is ineligible under this act.
 - **(b) A person that has an outstanding fine issued under this act not currently under appeal.**

LAW CHANGES

SEC 5 (1)

- (1) A person shall not sell consumer fireworks from a retail location unless all of the following conditions are met:
- (a) Except as provided in subdivision (b), the retail location **and any adjacent or directly associated retail storage** satisfies the applicable requirements of NFPA 101 and NFPA 1124 for **consumer and low-impact fireworks** that are not in conflict with this act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Any provision of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, that is inconsistent with the applicable requirements of NFPA 101 and NFPA 1124 is superseded to the extent of the inconsistency or conflict.

LAW CHANGES

SEC 5 (1)

- (1) (b) If the retail location is a permanent building or structure, the building or structure is equipped with a fire suppression system in compliance with NFPA 1124. Beginning on the effective date of the 2018 act that added this sentence and notwithstanding the NFPA 1124 requirements regarding automatic sprinkler systems, **if the retail location is in a permanent multitenant building or structure, the building or structure must be equipped with an automatic sprinkler system.** The requirement for an automatic sprinkler system described in this subdivision does not apply to the retail location of a person that held a consumer fireworks certificate for a retail location of the same address in a permanent building or structure during the calendar year before the effective date of the 2018 act that added this sentence.

LAW CHANGES

SEC 5 (2)

- (2) A person that fails or neglects to comply with subsection (1) is responsible for a civil fine of not more than \$2,500.00 for each violation. The department shall determine the amount of the fine imposed under this subsection by applying a scale, as developed by the department, that reflects the severity of the violation. Each day that a person is in noncompliance is a separate violation. NOTE: This applies primarily to NFPA 1124 violations.

LAW CHANGES

SEC 5 (3)

- (3) During any period of time in which a person is selling consumer fireworks, the person shall add as an additional insured, or obtain and maintain public liability and product liability insurance coverage for, each retail location at which the person is selling consumer fireworks, in an amount not less than \$10,000,000.00 per occurrence. If the department determines that a person has failed or neglected to comply with this subsection, the department shall order the person to immediately cease operations and pay a civil fine of not more than \$5,000.00.

LAW CHANGES

SEC 5 (4)

- (4) A retailer shall provide with every purchase of consumer fireworks a notice listing the dates and times permitted under this act for the ignition, discharge, and use of consumer fireworks. The notice shall begin with the following statement: "State law permits, under MCL 28.457, the ignition, discharge, and use of consumer fireworks at the following times:". The retailer may provide the notice in a form and manner determined by the retailer, including, but not limited to, printing or stamping the notice on, or affixing the notice to, a receipt, bag, or the product being purchased, or a printed handout provided at the time of purchase. Posting the notice on a wall, window, display, or otherwise, at the retail location, does not satisfy the requirements of this subsection. A retailer who fails to provide the notice required by this subsection is responsible for a civil fine of \$100.00 for each day on which 1 or more violations occur. The department shall provide for the remittance of the fine collected under this subsection to the local law enforcement agency responsible for enforcing the notice requirement.

LAW CHANGES

SEC 5 (5)

- (5) A person shall not engage in the retail sale of consumer fireworks over the telephone, internet, or other like manner unless the consumer fireworks are picked up or shipped from a permanent location for which the person holds a valid consumer fireworks certificate.

LAW CHANGES

SEC 6 (2)

- (2) A person shall not sell low-impact fireworks unless that person registers with the low-impact fireworks retail registry not less than 10 days before selling the fireworks in each calendar year and pays a \$50.00 registry application fee for each retail location registered. For a person with multiple retail locations, the registry application fees in total shall not exceed \$1,000.00. A person that holds a valid consumer fireworks certificate issued under section 4 is not required to register with the low-impact fireworks retail registry.

LAW CHANGES

SEC 6 (3)

- (3) If the department determines that a person that sells low-impact fireworks at retail has failed to register as described in this section, the department shall order the person to immediately cease the sale of low-impact fireworks until the person complies with subsection (2) and pay a civil fine of not more than \$1,000.00. For a first violation of this section, if a person complies with subsection (2) within 30 days of receiving a notice of violation, the department shall waive the civil fine described in this subsection.

LAW CHANGES

SEC 7 (1,2)

- (1) Except as provided in this act, a local unit of government shall not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.
- (2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. If a local unit of government enacts an ordinance under this subsection, the ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:
 - (a) December 31 until 1 a.m. on January 1.
 - (b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - (c) June 29 to July 4 until 11:45 p.m. on each of those days.
 - (d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - (e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

LAW CHANGES

SEC 7 (3)

- (3) An ordinance under subsection (2) shall impose a civil fine of \$1,000.00 for each violation of the ordinance and no other fine or sanction. The ordinance must provide for the remittance of \$500.00 of the fine collected under the ordinance to the local law enforcement agency responsible for enforcing the ordinance.

LAW CHANGES

SEC 7 (4)

- (4) Beginning August 1, 2019, a local unit of government with a population of 100,000 or more or a local unit of government located in a county with a population of 750,000 or more may enact or enforce an ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may include, but is not limited to, a restriction on the number of permits issued for a temporary structure, regulation of the distance required between 2 or more temporary structures, or a zoning ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may not prohibit the temporary storage, transportation, or distribution of fireworks by a consumer fireworks certificate holder at a retail location that is a permanent building or structure. As used in this subsection, “temporary structure” means a movable structure that is used in the sale, display, storage, transportation, or distribution of fireworks, including, but not limited to, a tent or a stand.

LAW CHANGES

SEC 7A(1)

- (1) Subject to section 7d, if the state fire marshal or the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and directions of the commanding officer determines a dangerous condition exists, the state fire marshal, the commanding officer of the fire department of a city, village, township, or county, or the fire fighter in uniform acting under the orders and direction of the commanding officer upon finding an emergency condition dangerous to persons or property, may take all necessary steps and prescribe all necessary restrictions and requirements to protect persons and property until the dangerous condition is abated.

LAW CHANGES

SEC 7A(2,3)

- (2) Subject to section 7d, the state fire marshal, the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and directions of the commanding officer, responding to a fire or emergency call, who, upon arriving at the scene of a fire or emergency, finds a condition dangerous to persons or property, may take all necessary steps and requirements to protect persons and property until the dangerous condition is abated.
- (3) The state fire marshal or the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and direction of the commanding officer may investigate causes and effects related to dangerous conditions.

LAW CHANGES SEC 7D(1)

- (1) If the environmental concerns based on the department of natural resources fire division criteria are elevated to **extreme fire conditions** or if the environmental concerns based on the department of natural resources fire division criteria are elevated to **very high for 72 consecutive hours**, the commanding officer of the fire department of a city, village, township, or county, in consultation with the department of natural resources, **has the authority to enforce a no burning restriction** that includes a ban on the ignition, discharge, and use of consumer fireworks within a city.

LAW CHANGES

SEC 7D(2,3,4)

- (2) The governor, department of natural resources, or state fire marshal may enforce a statewide no burning restriction, including a ban on the ignition, discharge, and use of fireworks as provided under subsection (1).
- (3) Not more than 24 hours after the fire condition is downgraded from extreme or very high fire condition, the commanding officer of the fire department of a city, village, township, or county that enforced a no burning restriction under subsection (1) that included a ban on the ignition, discharge, and use of consumer fireworks shall lift the restriction and inform the public that the restriction has been lifted in the same manner that the restriction was announced or made known to the public.
- (4) As used in this section, “consumer fireworks” means that term as defined in section 2 of the Michigan fireworks safety act, 2011 PA 256, MCL 28.452.



LAW CHANGES
SEC 8 (4)
FIREWORK SAFETY FEE

- (4) A person that fails to collect a fireworks safety fee as required under this section is responsible for a civil fine as follows:
- (a) For a first violation, not more than \$5,000.00. If the person is a retailer of low-impact fireworks and, within 30 days of receiving a notice of violation, the person remits to the department the estimated equivalent of the amount the person should have collected under this section, the department shall waive the civil fine described in this subdivision.
- (b) For a second violation, not more than \$20,000.00.
- (c) For a third or subsequent violation, not more than \$40,000.00.



LAW CHANGES
SEC 12 (1)
USE ON PROPERTY OF OTHERS

- (1) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. Except as otherwise provided in this section, a person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.



LAW CHANGES
SEC12(2)
SALES TO A MINOR

- (2) A person shall not sell consumer fireworks to a minor. A person that violates this subsection shall be ordered to pay a civil fine of not more than \$1,000.00, or, for a second or subsequent violation of this subsection, a civil fine of not more than \$2,500.00. For a second or subsequent violation, the department shall suspend the person's consumer fireworks certificate for 90 days beginning on the date a civil fine is ordered. The age of an individual purchasing consumer fireworks shall be verified by any of the following:



LAW CHANGES
SEC 12 (3)
USE UNDER THE INFLUENCE

- (3) An individual shall not discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. A person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00. As used in this subsection:
 - (a) “Alcoholic liquor” means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.
 - (b) “Controlled substance” means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.



LAW CHANGES
SEC 12 (4)
SMOKING VIOLATION

- (4) An individual who violates the smoking prohibition described in NFPA 1124, 7.3.11.1, regardless of the type or quantity of consumer or low-impact fireworks present, is responsible for a civil fine of \$1,000.00.

LAW CHANGES SEC 12 (6) LIVESTOCK

- (6) – A Person shall not ignite, Discharge, or use consumer fireworks or Low-impact fireworks in a manner that is intended to harass, scare, or injure livestock. As used in this subsection “LIVESTOCK” means the term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705
 - LIVESTOCK MCL 287.705 Defined as- those Species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but not limited to, cattle, sheep, new worlds camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.



LAW CHANGES
SEC 17(G)
PARKING FOR PERMANENT

- *(G) – Sec 17 Except as otherwise provided in this act, this act does not prohibit any of the following. A person from parking a motor vehicle , or trailer, that is not being used for the storage of consumer fireworks, within 10 feet of a permanent building or structure used in the retail sale of consumer fireworks*

LAW CHANGES SEC 17A (2)

- (2) The state fire marshal or the state fire marshal's designee shall issue the citation described in subsection (1) to the holder of the consumer fireworks certificate for, or to a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate at, the retail location that is the subject of the inspection or investigation. A holder of a consumer fireworks certificate, or a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate, as described in this subsection, is responsible for the acts or omissions of an individual under that person's employ or control.



LAW CHANGES

• QUESTIONS?



ACCOUNT MANAGEMENT

Accela



NFPA 1124 CHAPTER 7

Commonly issued violations.

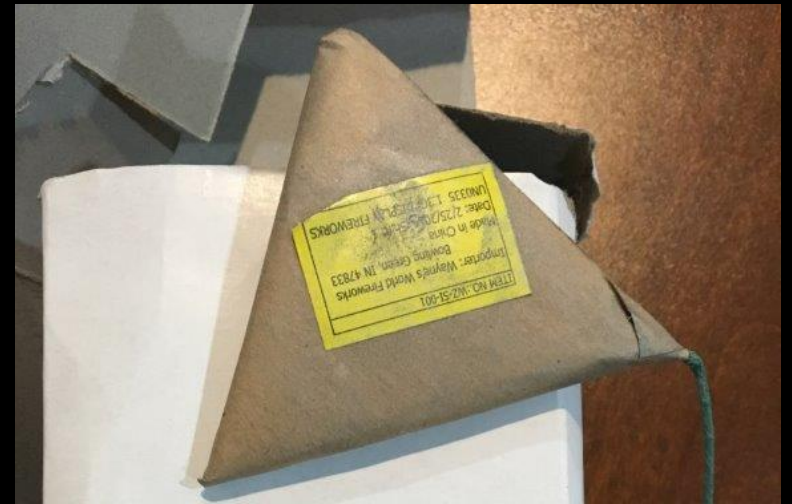
NFPA 7.2.4 DISPLAY FIREWORKS

- **7.2.4** Retail sales of display fireworks and pyrotechnic articles, including the related storage and display for sale of such fireworks and articles, shall be prohibited at a CFRS facility or store.



NFPA 7.2.4 DISPLAY FIREWORKS/ ARTICLES PYROTECHNIC

- 1.3G UN0335
1.4G UN0431



NFPA 7.2.4
1.3G DISPLAY

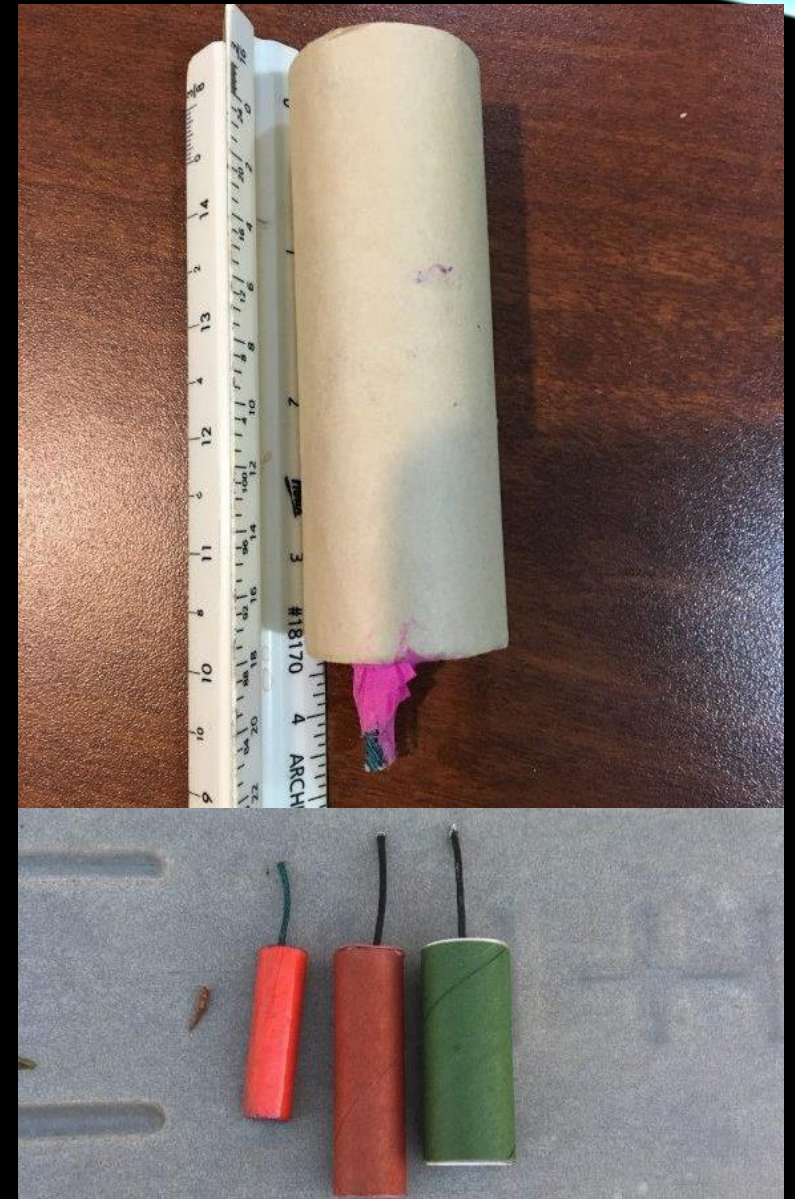


NFPA 7.2.4
1.3G / HOMEMADE
DEVICES



NFPA 7.2.5 PROHIBITED DEVICES

- 7.2.5 – Retail sales of certain explosive devices prohibited by the Child Safety Act of 1966 including the related storage and display for sale of such devices shall be prohibited at a CFRS facility or Store.



7.2.7

CONSUMER FIREWORKS DEFINITION

- “Consumer fireworks” means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

NFPA 7.2.7

CONSUMER PRODUCT SAFETY COMMISSION

- 7.2.7 – The retail sales of fireworks that do not comply with the regulations of the U.S Consumer Product Safety Commission as set forth in 16 CFR 1500 and 1507 and the regulations of the US Dept of Transportation as set forth in 49 CFR 100 to 178 including their related storage and display for sale shall be prohibited.



NFPA 7.2.7



- **C.3.1.3.1 Firecracker.** Small, paper-wrapped or cardboard tube containing not more than 50 mg of explosive composition, those used in aerial devices may contain not more than 130 mg of explosive composition per report. Upon ignition, noise and a flash of light are produced. [†]
- Note: Firecrackers are not subject to the requirements of fuse in [C.3.5.1](#) and chemicals in [C.3.6.1](#) of this annex.

NFPA 7.2.7 CPSC LABELING VIOLATION

- **C.3.7.3 Forbidden Devices.** Any device intended for sale to the public that produces an audible effect (other than a whistle) by a charge of more than 130 mg (2 grains) of explosive composition per report. Devices obtained for bonafide pest control purposes in accordance with regulations promulgated by CPSC in Title 16, CFR are not forbidden if approved in accordance with Title 49, CFR, 173.56. [†]



NFPA 7.2.7 CPSC LABELING VIOLATION

- **C.4.1.2 Salute.** Paper-wrapped, cardboard tube, or sphere containing explosive composition in excess of 130 mg (2 grains.) Upon ignition, noise and a flash of light are produced. The maximum quantity of explosive composition in a salute shell, or in a salute component of a multi-effect shell, shall not exceed 2.5 oz (71 g) for approval under this Standard as a 1.3G article. Salutes or articles with salute components containing more than 2.5 oz (71 g) of explosive composition per salute or per component may be approved under this Standard as Fireworks, UN0333 1.1G. [†]



NFPA 7.2.7 CPSC LABELING VIOLATION

- **Consumer Product Safety Commission (CPSC) Testing and Investigation**
- Testing conducted November 2018 using samples seized by BFS Enforcement Staff
- **Devices are prohibited from having more than 130MG (milligrams) or 2 Grains of Flash Powder.**

- 500G Cake Average Sample 12,249mg 94 Times Overloaded
- 500G Cake Average Sample 3,939mg 30 Times Overloaded
- 500G Cake Average Sample 6,275mg 48 Times Overloaded
- Aerial Shell Average Sample 10,153mg 78 Times Overloaded
- Aerial Shell Average Sample 4739mg 36 Times Overloaded

- **7.3.1.1** The requirements of this chapter shall not apply to CFRS facilities or stores where the consumer fireworks are in packages and where the total quantity of consumer fireworks on hand does not exceed 125 lb (net) [56.8 kg] of pyrotechnic composition or, in a building protected throughout with an approved automatic sprinkler system installed in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems, 250 lb (net) [113.6 kg] of pyrotechnic composition.
 - Now includes Low-Impact weights as required by Sec 5(1)(a) of PA 256.

NFPA COMPLIANCE
7.3
GENERAL REQUIREMENTS

- 7.3.9 Manual Fire Alarm Requirements if greater than 30,000 SqFt.
- **7.3.11.1** Smoking shall not be permitted inside or within 50 ft (15.5 m) of the CFRS area.
- 28.462 – Prohibited Conduct NFPA 1124, 7.3.11.1, regardless of the type or quantity of consumer or low-impact fireworks present.



REQUIREMENTS

- **7.3.14.1.1** The minimum number of exits provided from the retail sales area shall be not less than three or as determined in accordance with NFPA 101, Life Safety Code, whichever number is greater.
Egress shall be open at all time during sales.
Example – Weather related closures, closing for the night, or for security.
- **7.3.15.2* Height of Sales Displays.** To provide for visual access of the retail sales area by the employees and customers, partitions, counters, shelving, cases, and similar space dividers shall not exceed 6 ft (1.8 m) in height above the floor surface inside the perimeter of the retail sales area. Includes Low-Impact.

Covered Fuses.

- **7.3.15.5.1** Only consumer fireworks meeting the criteria for covered fuses as defined in 3.3.22 or as described in 7.3.15.5.2 shall be permitted where the retail sales of consumer fireworks are conducted. Low-Impact fireworks now included.

- **7.3.19.2 Distances from Entrances and Exits.**
- **7.3.19.2.1** No consumer fireworks shall be displayed for sale or stored within 5 ft (1.5 m) of any public entrance in an enclosed building or structure.
- **7.3.19.2.2** No consumer fireworks shall be displayed for sale or stored within 2 ft (0.6 m) of any exit or private entrance in an enclosed building or structure.
- Now to include Low-Impact.



NFPA COMPLIANCE
7.3
GENERAL REQUIREMENTS

- **7.3.20 Display and Handling.** Not less than 50 percent of the available floor area within the retail sales area shall be open space that is unoccupied by retail displays and used only for aisles and cross-aisles.

- **7.4.6.1 Clearance to Combustibles.** The area located within 30 ft (9 m) of a CFRS facility shall be kept free of accumulated dry grass, dry brush, and combustible debris.

COMBUSTIBLE DEBRIS



- **7.4.6.2 Parking.** No motor vehicle or trailer used for the storage of consumer fireworks shall be parked within 10 ft (3 m) of a CFRS facility, except when delivering, loading, or unloading fireworks or other merchandise and materials used, stored, or displayed for sale in the facility.
- Sec. 17 (G) Now allowable by statute as long as motor vehicle or trailer is not being used for storage of consumer fireworks.
- Only applies to permanent CFRS.



QUESTIONS ?

Bureau of Fire Services