

# H. B. 2646

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**[BY REQUEST OF THE VETERANS AFFAIRS, DIVISION OF]**

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[Introduced February 6, 2015; referred to the  
Committee on Veterans' Affairs and Homeland Security; and  
then to the Committee on Finance.]

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A BILL to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to legalizing and regulating the sale and use of fireworks; eliminating the

prohibition on the sale, possession and explosion of fireworks; eliminating the requirement that the State Fire Marshal seize and destroy fireworks and combustibles illegally held; eliminating the prohibition on nonresidents without in-state legal counsel to obtain a permit for conducting of a pyrotechnic display; eliminating the sparkler and novelty registration fee; eliminating certain defined terms; eliminating exemptions; defining terms; creating standards for the production and transport of fireworks; establishing registration requirements for sales of sparklers, novelties and toy caps; creating a certification requirement for the sale of consumer fireworks; establishing permit requirements for public fireworks displays; creating the West Virginia Veterans Program Fund to be administered by the Department of Veterans' Assistance; imposing a twenty percent fee on each dollar of a sale for the sale of fireworks and providing for the allocation of the fee collections between the West Virginia Veterans Program Fund for veterans programs, the Fire Protection Fund for volunteer fire departments, and the Fire Marshal Fees Fund; providing for public fireworks displays; providing for rules; authorizing seizures by the State Fire Marshal; providing exemptions; and providing for criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

That §11-12-86 of the Code of West Virginia, 1931, as amended, be repealed; that §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code be repealed; that said code be amended by adding thereto a new section, designated §9A-1-11b; that said code be amended by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and that §61-3E-1 and §61-3E-11 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 9A. VETERANS' AFFAIRS.**

### **ARTICLE 1. DEPARTMENT OF VETERANS' AFFAIRS.**

#### **§9A-1-11b. Establishment of West Virginia Veterans Program Fund.**

1     There is hereby created in the State Treasury a special  
 2     revenue fund to be designated and known as the "West Virginia  
 3     Veterans Program Fund," which shall consist of revenues  
 4     derived from the assessment of the fireworks safety fee, as  
 5     provided in section seven, article three-e, chapter twenty-nine of  
 6     this code, to be administered by the Department of Veterans'

7 Affairs and used for funding veterans' programs. Funds may also  
8 be derived from any gift, grant, bequest, endowed fund or  
9 donation which may be received by any veterans' program  
10 created by statute or from any governmental entity or unit or any  
11 person, firm, foundation or corporation. Expenditures from the  
12 fund shall be for the purposes set forth in this article and are not  
13 authorized from collections but are to be made only in  
14 accordance with appropriation by the Legislature and in  
15 accordance with the provisions of article three, chapter twelve of  
16 this code and upon the fulfillment of the provisions set forth in  
17 article two, chapter eleven-b of this code: *Provided*, That for the  
18 fiscal year ending June 30, 2016, expenditures are authorized  
19 from collections rather than pursuant to an explicit appropriation  
20 by the Legislature. Any balance remaining in the fund at the end  
21 of any fiscal year shall be reappropriated to the next fiscal year.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 3E. FIREWORKS SAFETY.**

#### **§29-3E-1. Unlawful acts.**

1 It is unlawful for a person to manufacture, wholesale,  
2 distribute, import, sell or store for the purpose of resale,

3 consumer fireworks, sparkling devices, novelties or toy caps  
4 without a license, registration, certificate or permit from the  
5 State Fire Marshal.

**§29-3E-2. Definitions.**

1 As used in this article:

2 (1) “Agricultural and wildlife fireworks” means fireworks  
3 devices distributed to farmers, ranchers and growers through a  
4 wildlife management program administered by the United States  
5 Department of the Interior or the Department of Natural  
6 Resources of this state;

7 (2) “APA Standard 87-1” means the APA Standard 87-1  
8 published by the American Pyrotechnics Association, as  
9 amended, and incorporated by reference into Title 49 of the  
10 Code of Federal Regulations;

11 (3) “Articles pyrotechnic” means pyrotechnic devices for  
12 professional use that are similar to consumer fireworks in  
13 chemical composition and construction but not intended for  
14 consumer use, that meet the weight limits for consumer  
15 fireworks but are not labeled as such, and that are classified as  
16 UN0431 or UN0432 under 49 C.F.R. §172.101 (2014);

17       (4) “Consumer fireworks” means small fireworks devices  
18 that are designed to produce visible effects by combustion and  
19 that are required to comply with the construction, chemical  
20 composition and labeling regulations promulgated by the United  
21 States Consumer Product Safety Commission under 16 C.F.R.  
22 Parts 1500 and 1507 (2014), and that are listed in APA Standard  
23 87-1. Consumer fireworks do not include sparkling devices,  
24 novelties and toy caps;

25       (5) “Consumer fireworks certificate” means a certificate  
26 issued under section five of this article;

27       (6) “Display fireworks” means large fireworks to be used  
28 solely by professional pyrotechnicians licensed by the State Fire  
29 Marshal and designed primarily to produce visible or audible  
30 effects by combustion, deflagration or detonation and includes,  
31 but is not limited to, salutes containing more than two grains  
32 (one hundred thirty milligrams) of explosive materials, aerial  
33 shells containing more than forty grams of pyrotechnic  
34 compositions and other display pieces that exceed the limits of  
35 explosive materials for classification as consumer fireworks and

36 are classified as fireworks UN0333, UN0334, or UN0335 under

37 49 C.F.R. §172.101 (2014);

38 (7) “Distributor” means a person who sells fireworks to

39 wholesalers and retailers for resale;

40 (8) “Division 1.3 explosive” means that term as defined in

41 49 C.F.R. §173.50 (2014);

42 (9) “Division 1.4 explosive” means that term as defined in

43 49 C.F.R. §173.50 (2014);

44 (10) “Explosive composition” means a chemical or mixture

45 of chemicals that produces an audible effect by deflagration or

46 detonation when ignited;

47 (11) “Fire Marshal” means the State Fire Marshal;

48 (12) “Firework” or “fireworks” means any composition or

49 device designed for the purpose of producing a visible or audible

50 effect by combustion, deflagration or detonation. Fireworks

51 include consumer fireworks, display fireworks and special

52 effects. Fireworks does not include sparkling devices, novelties

53 and toy caps;

54 (13) “Interstate wholesaler” means a person who is engaged

55 in interstate commerce selling fireworks;

56 (14) “New explosive” means that term as defined in 49

57 C.F.R. §173.56 (2014);

58 (15) “NFPA 1123” means that term as defined in National

59 Fire Protection Association Standard 1123, “Code for Fireworks

60 Display.”

61 (16) “NFPA 1124” means that term as defined in National

62 Fire Protection Association Standard 1124, “Code for the

63 Manufacture, Transportation, Storage, and Retail Sales of

64 Fireworks and Pyrotechnic Articles.”

65 (17) “NFPA 1126” means that term as defined in National

66 Fire Protection Association Standard 1126, “Standard for the

67 Use of Pyrotechnics Before a Proximate Audience.”

68 (18) “Novelties” means that term as defined under APA

69 standard 87-1, section 3.2;

70 (19) “Person” means an individual, or the responsible person

71 for an association, an organization, a partnership, a limited

72 partnership, a limited liability company, a corporation, or any

73 other group or combination acting as a unit;

74 (20) “Pyrotechnic composition” means a mixture of

75 chemicals that produces a visible or audible effect by



76 combustion rather than deflagration or detonation. A pyrotechnic  
77 composition will not explode upon ignition unless severely  
78 confined;

79 (21) “Retailer” means a person who purchases consumer  
80 fireworks for resale to consumers;

81 (22) “Sparkling devices” means “ground or handheld  
82 sparkling devices” as that phrase is defined under APA 87-1,  
83 sections 3.1.1 and 3.5;

84 (23) “Special effects” means a combination of chemical  
85 elements or chemical compounds capable of burning  
86 independently of the oxygen of the atmosphere and designed and  
87 intended to produce an audible, visual, mechanical, or thermal  
88 effect as an integral part of a motion picture, radio, television,  
89 theatrical, or opera production or live entertainment;

90 (24) “Toy caps” means that term as defined under APA 87-1,  
91 section 3.3; and

92 (25) “Wholesaler” means any person who sells consumer  
93 fireworks to a retailer or any other person for resale and any  
94 person who sells articles of pyrotechnics, display fireworks, and

95 special effects to a person licensed to possess and use those  
96 devices.

**§29-3E-3. Production or transportation of fireworks.**

1 A person may produce or transport a firework that is a new  
2 explosive and that is either a division 1.3 explosive or division  
3 1.4 explosive if the person first meets the requirements of 49  
4 C.F.R. §173.56(2)(j) (2014).

**§29-3E-4. Sparkling devices, novelties and toy caps registration required.**

1 (a) A retailer may not sell sparkling devices, novelties or toy  
2 caps without being registered with the State Fire Marshal.  
3 (b) To be registered with the Fire Marshal, the retailer shall:  
4 (1) Submit an application to the Fire Marshal;  
5 (2) Provide a copy of his or her current business registration  
6 certificate;  
7 (3) Pay the required fee; and  
8 (4) Provide other information as the Fire Marshal may  
9 require by legislative rule.  
10 (c) A registration is valid for the calendar year or any  
11 fraction thereof and expires on December 31 of each year.

12 (d) A registration is not transferable.

13 (e) A retailer shall post the registration in a conspicuous  
14 place at the location of the business.

15 (f) A separate registration is required for each location.

16 (g) The requirements of NFPA 1124 do not apply to a  
17 retailer only selling sparkling devices, novelties or toy caps.

**§29-3E-5. Consumer fireworks certificate required.**

1 (a) A retailer may not sell consumer fireworks unless the  
2 retailer is certified under this article.

3 (b) To be certified to sell consumer fireworks a retailer shall:

4 (1) Submit an application to the Fire Marshal;

5 (2) Provide a copy of his or her current business registration  
6 certificate;

7 (3) Pay the required fee; and

8 (4) Provide other information as the Fire Marshal may  
9 require by legislative rule.

10 (c) A consumer fireworks certificate is valid from October  
11 1 through September 30 of the following year or any fraction  
12 thereof and expires on September 30 of each year.

13 (d) A consumer fireworks certificate is not transferable.

14 (e) A retailer shall post the certificate in a conspicuous place  
15 at the location of the business.

16 (f) A separate certificate is required for each location of the  
17 business.

18 (g) A certificate holder may also sell sparklers and novelties  
19 at the same location without additionally obtaining a sparklers  
20 and novelties registration.

21 (h) A retailer who sells consumer fireworks shall comply  
22 with the regulations provided in NFPA 1124. The State Fire  
23 Marshal may, by legislative rule, add to the regulations  
24 established in NFPA 1124.

**§29-3E-6. Required permit for public fireworks display.**

1 (a) A municipality, county, fair association, amusement  
2 park, and other organizations shall have a permit to present a  
3 supervised display of fireworks from the Fire Marshal.

4 (b) To receive a permit, a municipality, fair association,  
5 amusement park, and other organizations shall:

6 (1) Submit an application to the Fire Marshal;

7 (2) Pay the required fee;

8       (3) Furnish proof of financial responsibility to satisfy claims  
9 for damages to property or personal injuries arising out of any  
10 act or omission on the part of the person or an employee thereof,  
11 in the amount, character and form as the Fire Marshal determines  
12 to be necessary for the protection of the public; and

13       (4) Provide any other information as the Fire Marshal may  
14 require by legislative rule.

15       (c) The Fire Marshal may require approval of the local  
16 police and fire authorities of the community where the display is  
17 proposed to be held.

18       (d) A permit is not transferable.

19       (e) The display shall be handled by a competent operator  
20 licensed or certified as to competency by the Fire Marshal and  
21 shall be of such composition, character, and so located,  
22 discharged or fired so as to be safe in the opinion of the chief of  
23 the fire department serving the community or area where such  
24 display is to be held.

25       (f) The permittee shall require a bond from the licensee in a  
26 sum not less than \$1,000 conditioned on compliance with the

27 provisions of this article and the rules of the Fire Marshal except  
28 where the licensee is an insured government entity.

**§29-3E-7. Fireworks safety fee imposed; other fees.**

1 (a) In addition to the sales tax, a user fee of twenty percent  
2 of all sales, known as the fireworks safety fee, is levied on retail  
3 sales of consumer fireworks in this state. The fee shall be  
4 distributed pursuant to the provisions of this section. The fee  
5 computation under this section shall be carried to the third  
6 decimal place, and the fee rounded up to the next whole cent  
7 whenever the third decimal place is greater than four and  
8 rounded down to the lower whole cent whenever the third  
9 decimal place is four or less.

10 (b) A person who acquires consumer fireworks in a retail  
11 transaction shall pay to the vendor the amount of the fee levied  
12 by this section which is added to and constitutes a part of the  
13 sales price, and is collectible by the vendor who shall account to  
14 the state for all fees paid by the purchaser. If such retailer fails  
15 to collect the fee, or fails to account to the state for the fees paid  
16 by the purchaser, the retailer is personally liable for the payment  
17 of the fee to the state.

18       (c) A retailer or person shall remit the fee to the Tax  
19       Commissioner no later than twenty days after the end of each  
20       preceding month on forms and in the manner prescribed by the  
21       Tax Commissioner.

22       (d) Each and every provision of the West Virginia Tax  
23       Procedure and Administration Act set forth in article ten, chapter  
24       eleven of this code applies to the fees imposed pursuant to this  
25       article, with like effect as if that act were applicable only to the  
26       fees imposed by this article and were set forth in extensor in this  
27       article.

28       (e) Each and every provision of the West Virginia Tax  
29       Crimes and Penalties Act set forth in article nine, chapter eleven  
30       of this code applies to the fees imposed pursuant to this article,  
31       with like effect as if that act were applicable only to the fees  
32       imposed by this article and were set forth *in extenso* in this  
33       article.

34       (f) The Tax Commissioner shall pay all proceeds of the  
35       fireworks safety fee into the State Treasury each month in the  
36       following manner:

37       (1) Fifty percent of the fireworks safety fee shall be  
38 deposited in the West Virginia Veterans Program Fund  
39 established in section eleven-b, article one, chapter nine-a of this  
40 code for expenditure pursuant to the provisions of that section.

41       (2) Twenty-five percent of the fireworks safety fee shall be  
42 deposited into the Fire Protection Fund established in section  
43 thirty-three, article three, chapter thirty-three of this code and  
44 distributed in accordance with that section to each volunteer fire  
45 company or department on an equal share basis by the State  
46 Treasurer.

47       (3) Twenty-five percent of the fireworks safety fee shall be  
48 deposited in the Fire Marshal Fees Fund established in  
49 subsection (c), section twelve-b, article three of this chapter for  
50 expenditure pursuant to the provisions of that subsection.

51       (g) The Tax Commissioner may make all needful rules and  
52 regulations for the fees to which this article applies as provided  
53 in the State Administrative Procedures Act in chapter  
54 twenty-nine-a of this code.

55       (h) Notwithstanding any other provision of this code to the  
56 contrary, the Tax Commissioner shall deduct and retain for the



57 benefit of his or her office for expenditure pursuant to  
58 appropriation of the Legislature from each payment into the  
59 State Treasury, as provided in subsection (d) of this section, one  
60 percent thereof and shall be deposited by the Tax Commissioner  
61 into the fund described in subsection (d), section two-a, article  
62 nine of chapter eleven.

**§29-3E-8. Rule-making Authority.**

1       (a) The Fire Marshal may propose emergency rules and shall  
2 propose legislative rules for promulgation, in accordance with  
3 the provisions of article three, chapter twenty-nine-a of this code,  
4 to implement the provisions of this article, including:

5       (1) Adopting by reference the most recent edition of APA  
6 Standard 87-1;

7       (2) Adopting by reference the most recent edition of NFPA  
8 1123, code for fireworks display;

9       (3) Adopting by reference the most recent edition of NFPA  
10 1124, code for the manufacture, transportation, storage and retail  
11 sales of fireworks and pyrotechnic articles;

12       (4) Adopting by reference the most recent edition of NFPA  
13 1126, standard for the use of pyrotechnics before a proximate  
14 audience, as promulgated by the State Fire Commission;

- 15       (5) Procedures for the issuance and renewal of a registration,  
16 certificate and permit;
- 17       (6) A fee schedule;
- 18       (7) Establishing insurance or bond requirements;
- 19       (8) Establishing additional criteria for the granting of a  
20 registration, certificate, or permit under this article; and
- 21       (9) Registration of manufacturers, wholesalers and  
22 distributors.

**§29-3E-9. Exemptions from article.**

- 1       This article does not prohibit any of the following:
- 2       (1) The use of fireworks by railroads or other transportation  
3 agencies for signal purposes or illumination;
- 4       (2) The use of agricultural and wildlife fireworks;
- 5       (3) The sale or use of blank cartridges for a theatrical  
6 performance, use by military organizations or signal or  
7 ceremonial purposes in athletics or sports; or
- 8       (4) The possession, sale, or disposal of fireworks incidental  
9 to the public display of fireworks by wholesalers or other  
10 persons who have a permit to possess, store, and sell explosives

11 from the Bureau of Alcohol, Tobacco, Firearms, and Explosives  
12 of the United States Department of Justice and the Fire Marshal.

**§29-3E-10. Local municipalities' regulation of consumer fireworks.**

1 This article does not affect the right of the governing body  
2 of a municipality to prohibit the use of consumer fireworks  
3 within its boundaries.

**§29-3E-11. Violations of this article.**

1 (a) A person may not intentionally ignite, discharge or use  
2 consumer fireworks on public property or private property  
3 without the express permission of the owner to do so.

4 (b) A person may not intentionally ignite or discharge any  
5 consumer fireworks or sparkling devices within or throw the  
6 same from a motor vehicle or building.

7 (c) A person may not intentionally ignite or discharge any  
8 consumer fireworks or sparkling devices into or at a motor  
9 vehicle or building, or at any person or group of people.

10 (d) A person may not intentionally ignite or discharge any  
11 consumer fireworks or sparkling devices while the person:

12 (1) Is under the influence of alcohol;

13 (2) Is under the influence of any controlled substance;

14       (3) Is under the influence of any other drug;

15       (4) Is under the combined influence of alcohol and any  
16 controlled substance or any other drug; or

17       (5) Has an alcohol concentration in his or her blood of eight  
18 hundredths of one percent or more by weight.

19       (e) A person who is less than sixteen years of age may not  
20 purchase, nor offer for sale, consumer fireworks.

**§29-3E-12. Criminal penalties.**

1       Any person who violates this article or any rules  
2 promulgated pursuant to section eight of this article is guilty of  
3 a misdemeanor and, upon conviction thereof, shall be fined not  
4 less than \$100 nor more than \$500.

**§29-3E-13. Seizures by the Fire Marshal; enforcement of law.**

1       (a) The Fire Marshal shall seize, take, remove and dispose  
2 of at public auction or destroy, or cause to be seized, taken or  
3 removed and disposed of at public auction, or destroyed at the  
4 expense of the owner, all stocks of fireworks or combustibles  
5 offered or exposed for sale, stored or held in violation of this  
6 article or legislative rule.

7        (b) The West Virginia State Police, sheriffs, municipal  
8        police officers and other law-enforcement officers shall assist in  
9        the enforcement of this article.

## **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

### **ARTICLE 3E. OFFENSES INVOLVING EXPLOSIVES.**

#### **§61-3E-1. Definitions.**

2        As used in this article, unless the context otherwise requires:

3        (a) “Destructive device” means any bomb, grenade, mine,  
4        rocket, missile, pipebomb or similar device containing an  
5        explosive, incendiary, explosive gas or expanding gas which is  
6        designed or so constructed as to explode by such filler and is  
7        capable of causing bodily harm or property damage; any  
8        combination of parts, either designed or intended for use in  
9        converting any device into a destructive device and from which  
10       a destructive device may be readily assembled.

11       “Destructive device” does not include a firearm as such is  
12       defined in section two, article seven of this chapter or model  
13       rockets and their components as defined in this section  
14       ~~twenty-three, article three, chapter twenty-nine of this code~~ or  
15       fireworks as defined in section two, article three-e, chapter

16 twenty-nine of this code, or high power rockets, as defined in  
17 this section, and their components.

18 (b) "Explosive material" means any chemical compound,  
19 mechanical mixture or device that is commonly used or can be  
20 used for the purpose of producing an explosion and which  
21 contains any oxidizing and combustive units or other ingredients  
22 in such proportions, quantities or packaging that an ignition by  
23 fire, by friction, by concussion, by percussion, by detonator or by  
24 any part of the compound or mixture may cause a sudden  
25 generation of highly heated gases. These materials include, but  
26 are not limited to, powders for blasting, high or low explosives,  
27 blasting materials, blasting agents, blasting emulsions, blasting  
28 fuses other than electric circuit breakers, detonators, blasting  
29 caps and other detonating agents and black or smokeless  
30 powders not manufactured or used for lawful sporting purposes.  
31 ~~or fireworks defined in section twenty-three, article three,~~  
32 ~~chapter twenty-nine of this code which are not used in violation~~  
33 ~~of this article.~~ Also included are all explosive materials listed  
34 annually by the office of the State Fire Marshal and published in  
35 the State Register, said publication being hereby mandated.

36       (c) “High power rocket” means the term as defined in  
37 National Fire Protection Association Standard 1127, “Code for  
38 High Power Rocketry.”

39       ~~(c)~~ (d) “Hoax bomb” means any device or object that by its  
40 design, construction, content or characteristics appears to be, or  
41 is represented to be or to contain a destructive device, explosive  
42 material or incendiary device as defined in this section, but is, in  
43 fact, an inoperative facsimile or imitation of such a destructive  
44 device, explosive material or incendiary device.

45       ~~(d)~~ (e) “Incendiary device” means a container containing  
46 gasoline, kerosene, fuel oil, or derivative thereof, or other  
47 flammable or combustible material, having a wick or other  
48 substance or device which, if set or ignited, is capable of igniting  
49 such gasoline, kerosene, fuel oil, or derivative thereof, or other  
50 flammable or combustible material: *Provided*, That no similar  
51 device commercially manufactured and used solely for the  
52 purpose of illumination shall be deemed to be an incendiary  
53 device.

54       ~~(e)~~ (f) “Legal authority” means that right as expressly stated  
55 by statute or law.

56       (g) “Model rocket” means the term as defined in National  
57 Fire Protection Association Standard 1122, “Code for Model  
58 Rocketry.”

59       (f) ~~(h)~~ “Person” shall mean means an individual, corporation,  
60 company, association, firm, partnership, society or joint stock  
61 company.

62       ~~(g)~~ (i) “Storage magazine” is defined to mean any building  
63 or structure, other than an explosives manufacturing building,  
64 approved by the legal authority for the storage of explosive  
65 materials.

### **§61-3E-11. Exemptions.**

1       (a) Unless specifically prohibited by any provision of this  
2 code or the laws of the United States, nothing in this article ~~shall~~  
3 ~~prohibit~~ prohibits the authorized manufacture, sale,  
4 transportation, distribution, use or possession of any explosive  
5 material by any person holding a permit for such issued by the  
6 office of the State Fire Marshal. Any person performing a lawful  
7 activity pursuant to or regulated by the terms of a permit issued  
8 by the Division of Environmental Protection, or any office  
9 thereof, ~~shall be~~ is exempt from the provisions of this article.



10 (b) Unless specifically prohibited by any other provision of  
11 this code or the laws of the United States, nothing in this section  
12 ~~shall prohibit~~ prohibits the authorized manufacture,  
13 transportation, distribution, use or possession of any explosive,  
14 destructive device or incendiary device by a member of the  
15 Armed Forces or law-enforcement officers whenever such  
16 persons are acting lawfully and in the line of duty; nor shall it  
17 prohibit the manufacture, transportation, distribution, use or  
18 possession of any explosive material, destructive device or  
19 incendiary device to be used solely for lawful scientific research  
20 or lawful educational purposes. Any person engaged in  
21 otherwise lawful blasting activities failing to obtain a permit or  
22 in possession of an expired permit issued by the office of the  
23 State Fire Marshal ~~shall not be construed to be~~ is not in violation  
24 of the article.

25 (c) Nothing contained in this article applies to the sale,  
26 purchase, possession, use, transportation or storage of fireworks  
27 as regulated in article three-e, chapter twenty-nine of this code.

NOTE: The purpose of this bill is to legalize and regulate the selling of fireworks, to create the West Virginia Veterans Program Fund, to impose a special fee on the sale of fireworks, and to use the proceeds for the Veterans Program Fund.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

Article 3E and §9A-1-11b are new; therefore, they have been completely underscored.



