

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 4611

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[Originating in the Committee on Finance, February 4, 2020.]

1 A BILL to amend and reenact §29-3E-5 and §29-3E-8 of the Code of West Virginia, 1931, as
2 amended, all relating generally to fireworks; reducing certification fees for both temporary
3 and permanent retail sales locations for fireworks and requiring the State Fire Marshal to
4 establish a procedure that allows a fireworks retailer to combine and pay all applicable
5 fees in a single payment.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3E. FIREWORKS SAFETY.

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

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

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

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

5 (2) Submit with the application a copy of his or her current business registration certificate;

6 (3) Pay a fee of ~~\$500.00~~ \$300 for each temporary retail sales location and ~~\$1000.00~~ \$750
7 for each permanent retail sales location to the State Fire Marshal;

8 (4) Provide the State Fire Marshal proof that the retailer maintains at all times public liability
9 and product liability insurance with minimum coverage limits of \$1 million ~~dollars~~ to cover losses,
10 damages or injuries that might result from selling consumer fireworks; and

11 (5) Provide other information as the State Fire Marshal may require by legislative rule.

12 (c) A consumer fireworks certificate is valid from April 1 through March 31 of the next
13 calendar year.

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

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

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

(g) A certificate holder may also sell sparkling devices and novelties at the same location without additionally obtaining a sparkling devices and novelties registration.

(h) A retailer who sells consumer fireworks shall comply with the regulations provided in NFPA 1124.

(i) A retailer who sells consumer fireworks shall comply with all regulations provided in NFPA 1124. The State Fire Marshal may by legislative rule, promulgate rules to supplement those rules established in NFPA 1124.

(j) A retailer shall sell the consumer fireworks only from a permanent building or structure that meets the specifications in NFPA 1124 or a temporary facility or structure that meets the specifications of NFPA 1124.7.3.5.

(k) Any fees collected pursuant to this section shall be deposited in the State Fire Marshal Fees Fund established by the provisions of §29-3-12b of this code.

(l) Notwithstanding any provision of this article to the contrary, no retailer may offer consumer fireworks for sale before June 1, 2016.

§29-3E-8. State Fire Marshal's Rule-making Authority.

~~(a)~~ The State Fire Marshal may promulgate emergency rules and shall propose legislative rules for promulgation, in accordance with ~~the provisions of §29A-3-1 et seq.~~ of this code, to implement ~~the provisions of~~ this article, including:

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

(2) Adopting by reference the most recent edition of NFPA 1123, Code for Fireworks Display;

(3) Adopting by reference NFPA 1124, code for the manufacture, transportation, storage and retail sales of fireworks and pyrotechnic articles;

(4) Adopting by reference the most recent edition of NFPA 1126, standard for the use of pyrotechnics before a proximate audience;

(5) Procedures for the issuance and renewal of a registration, certificate and permit;

- 12 (6) A fee schedule;
- 13 (7) Establishing insurance or bond requirements;
- 14 (8) Establishing additional criteria for the granting of a registration, certificate, or permit
- 15 under this article; ~~and~~
- 16 (9) Registration of manufacturers, wholesalers and distributors; and
- 17 (10) Establishing a procedure that allows a retailer to combine and pay all applicable fees
- 18 in a single payment.

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