

ORDINANCE NO. 2023-2

AN ORDINANCE OF THE TOWNSHIP OF HOPEWELL, SITUATE IN BEAVER COUNTY, PENNSYLVANIA, REGULATING THE USE OF CONSUMER AND DISPLAY FIREWORKS WITHIN HOPEWELL TOWNSHIP PURSUANT TO ACT 74 OF 2022 KNOWN AS "THE FIREWORKS LAW"

WHEREAS, Act 74 of 2022, House Bill 2157, P.N. 3332 was adopted by the General Assembly on July 6, 2022, was signed by the Governor on July 11, 2022, amends Title 3 Pa.C.S. Chapter 11 (hereafter, "Fireworks Law" or "Law"), and became effective on September 9, 2022; and

WHEREAS, the Fireworks Law governs the sale, purchase and use of Consumer Fireworks and Display Fireworks in the Commonwealth; and

WHEREAS, the Fireworks Law authorizes Pennsylvania municipalities to prohibit or restrict certain uses of Consumer Fireworks as defined in the Law if the municipality determines that certain conditions are met; and

WHEREAS, the Fireworks Law authorizes the adoption of local rules and regulations by Hopewell Township that govern permit approvals; and

WHEREAS, Hopewell Township has determined that the some of the authority provided by the Fireworks Law should be exercised by the Township in the interests of public safety; and

WHEREAS, Hopewell Township desires to regulate the use of Display Fireworks and Consumer Fireworks within the Township limits.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Commissioners for the Township of Hopewell, Beaver County, Pennsylvania, a municipal corporation under the First Class Township Code and the legal authority contained therein, and the legal authority set forth in Pennsylvania Act 74 of 2022, and it is hereby ordained and enacted by the authority of the same as follows:

SECTION 1. DEFINITIONS

For purposes of this Ordinance, the definitions of "Consumer Fireworks" and "Display Fireworks" shall be that set forth in Section 1 of the Fireworks Law, appearing here as Attachment "A" to this Ordinance, and any successor legislation. As set forth therein, the term "Consumer Fireworks," shall not include devices such as "ground and hand-held sparkling devices," "novelties," or "toy caps."

SECTION 2. DISPLAY FIREWORKS

2.1 In accordance with the Fireworks Law, a permit is required before any use of Display Fireworks within the Township limits. Permit application forms are available through the Office of Township Manager during normal business hours. The application must include facts sufficient to establish that the Display Fireworks will not be ignited within 300 feet of sales locations for Consumer Fireworks and that the Display Fireworks will be handled by a competent operator at least 21 years of age who demonstrates evidence of fireworks handling and safety training, all in accordance with Sections 1102 and 1107 of the Fireworks Law. The application must include the approval of the chief of the fire department or other appropriate official as may be designated by the Commissioners and that the Display Fireworks will not be located, discharged or fired in such a manner as to be hazardous to property or an endangerment to any person. The application shall be accompanied by a certificate of insurance in accordance with Subsection 1102(d) of the Law. The applicant must acknowledge acceptance of the requirements otherwise established by state and federal law. Permit extensions shall be permitted in accordance with Subsection 1102(e), provided the extension sought receives a renewed approval by the designated official that the extended use would not be hazardous to property or an endangerment to any person.

2.2 In accordance with Section 1105(a) of the Law, the Township of Hopewell may under this Ordinance grant permits for the use of Display Fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage. The application for such a permit must meet the requirements of this Section. A permit under Section 1105 shall remain in effect for the calendar year in which it was issued. Sales, possession and use of Display Fireworks for the purpose stated in the permit shall be lawful for that purpose only.

2.3 Applications for use of Display Fireworks shall be submitted at least 2 weeks prior to the date of proposed use. Permits for the use of Display Fireworks may be granted by the Township Manager, or by such official or officials as are so designated by the Board of Commissioners upon approval of the application and payment of a fee of Fifty Dollars (\$50.00).

SECTION 3. CONSUMER FIREWORKS

3.1 A permit is not required before any use of Consumer Fireworks within the Township of Hopewell limits. However, the following restrictions and prohibitions apply to any use of Consumer Fireworks within the Township:

In accordance with Section 1104 of the Law, the following provisions relating to Consumer Fireworks shall not be violated: (1) that no one under the age of 18 will purchase, possess, or use Consumer Fireworks; (2) that Consumer Fireworks will not be used on private property or on public property, including, but not limited to, streets, parking lots, sidewalks and parks, without the express permission of the owner or entity that controls the property; (3) that the Consumer Fireworks will not be used within, directed at, or directed from a “vehicle” or “building” as those two terms are defined in the Law; (4) that the Consumer Fireworks will not be directed at another person; (5) that the Consumer Fireworks will not be used by a person who is under the influence of alcohol, a controlled substance, or another drug; and (6) that the Consumer Fireworks will not be used within 150 feet of a building or vehicle, whether or not the building or vehicle is owned by the user of the Consumer Fireworks.

3.2 In accordance with Section 1104 of the Fireworks Law, no Consumer Fireworks shall be used within 150 feet of an Animal Housing Facility as defined in the Law, or a fenced area designed to confine livestock owned or managed by another person.

3.3 Time Restrictions

In no event shall Consumer Fireworks be used between the hours of 10:00 P.M. and 10:00 A.M., provided however, that (1) on July 2, 3 and 4 and December 31, Consumer Fireworks may be used until 1:00 A.M. on the following day, and (2) when July 4 falls on a Tuesday, Wednesday, or Thursday, Consumer Fireworks may be used until 1:00 A.M. on the immediately preceding and following Friday and Saturday. Pursuant to Subsection 1106 (b) of the Law, the hours of use of Consumer Fireworks are not restricted on the Monday of Memorial Day and the immediately preceding Saturday and Sunday, and the Monday of Labor Day and the immediately preceding Saturday and Sunday.

3.4 No permission is granted to any person to ignite or discharge Consumer Fireworks on the streets or sidewalks in Hopewell Township or on any property owned or occupied by Hopewell Township including without limitation, all of the Township’s parks and buildings.

SECTION 4. NOTICE

Certified copies of this Ordinance shall be provided to the Judges of the Court of Common Pleas of Beaver County and the Magisterial District Judge having jurisdiction in Hopewell Township, posted on the Township’s website, and made available to the public at the Township Building.

SECTION 5. SALE

Nothing in this Ordinance governs the sale of Consumer Fireworks for the period of one year from the effective date of the Fireworks Law in accordance with Section 1106(a)(2) of the Law.

SECTION 6. VIOLATIONS AND PENALTIES

6.1 In accordance with the provisions of Section 1114(1) of the Law, any person using Consumer Fireworks in violation of the provisions of this Ordinance, for the first offense commits a summary offense, and upon conviction shall, in addition or any other penalty authorized by law, be punishable by a fine of not more than Five Hundred (\$500.00) Dollars. A subsequent offense under this Ordinance committed within three years of a prior conviction shall constitute a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable of a fine of not more than One Thousand (\$1,000.00) Dollars.

6.2 Any person selling Consumer Firework in violation of the Law is punishable in accordance with Section 1114(2) be punishable by a fine of not less than \$10,000.

6.3 Any person selling or using Display Fireworks in violation of the Law is punishable in accordance with Section 1114(3) by a fine of not less than \$10,000.

SECTION 7. REPEALER

All ordinances or resolutions or parts ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 8. SEVERABILITY

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not effect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Township that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 9. EFFECTIVE

This Ordinance shall take effect immediately upon passage.


ENACTED AND ORDAINED into law this 26th day of June, 2023.

ATTEST:

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF HOPEWELL



Jamie Yurcina, Manager

By: 

Richard Bufalini, President

AGRICULTURE CODE (3 PA.C.S.) - FIREWORKS AND A RELATED REPEAL
Act of Jul. 11, 2022, P.L. 762, No. 74 Cl. 03
Session of 2022
No. 2022-74

HB 2157

AN ACT

Amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, providing for fireworks; and making a related repeal.

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

Section 1. Title 3 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 11
FIREWORKS

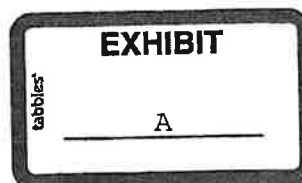
Sec.

- 1101. Definitions.
 - 1102. Use of display fireworks.
 - 1103. (Reserved).
 - 1104. Use of consumer fireworks.
 - 1105. Agricultural purposes.
 - 1106. Rules and regulations by municipality.
 - 1107. Sales locations.
 - 1108. Fees, granting of licenses and inspections.
 - 1108.1. Refusal, suspension or revocation of license.
 - 1109. Conditions for facilities.
 - 1110. (Reserved).
 - 1111. Attorney General.
 - 1112. Consumer fireworks tax.
 - 1113. Disposition of certain funds.
 - 1114. Penalties.
 - 1115. Removal, storage and destruction.
- § 1101. Definitions.

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

"Animal housing facility." A roofed structure or facility, or a portion of the facility, used for occupation by livestock or poultry.

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



of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition.

"Consumer fireworks."

(1) The term includes any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, 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 complies with the provisions for "consumer fireworks" as defined in APA 87-1, the sale, possession and use of which shall be permitted throughout this Commonwealth.

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

"Display fireworks." As defined in 27 CFR 555.11 (relating to meaning of terms).

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

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

"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

§ 1102. Use of display fireworks.

(a) Prohibition.--No display fireworks shall be ignited within 300 feet of a facility that meets the requirements of section 1107 (relating to sales locations).

(b) Permit.--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. After permission is granted, purchase, possession and use of display fireworks shall be lawful for the use outlined in the permit only. Permits shall not be transferable.

(c) Limitations.--Each use of display fireworks shall be:

(1) handled by a competent operator at least 21 years of age who demonstrates evidence of fireworks handling and safety training; and

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

(d) Insurance.--The governing body of the municipality shall require a permittee to carry insurance in an amount not less than \$1,000,000 conditioned for the payment of all damages which may be caused to a person or property by reason of the use of display fireworks and arising from an act of the permittee or an agent, an employee or a subcontractor of the permittee.

(e) Permit extension.--A municipality may grant an extension for a permit issued under this section to a new date for displays canceled due to unfavorable weather or other circumstances beyond the control of the permittee.

§ 1103. (Reserved).

§ 1104. Use of consumer fireworks.

(a) Conditions.--A person who is at least 18 years of age may purchase, possess and use consumer fireworks.

(b) Prohibitions.--A person may not intentionally use consumer fireworks:

(1) On private property or on public property, including, but not limited to, streets, parking lots, sidewalks and parks, without the express permission of the owner or entity that controls the property.

(2) Within, directed at or directed from a vehicle or building.

(3) Directed at another person.

(4) While the person is under the influence of alcohol, a controlled substance or another drug.

(5) Within 150 feet of a building or vehicle, whether or not the building or vehicle is owned by the user of the consumer fireworks.

(c) Conditional use.--No person may use consumer fireworks within 150 feet of an animal housing facility or a fenced area designed to confine livestock owned or managed by another person. If a person uses consumer fireworks at a distance of 150 to 300 feet from an animal housing facility or fenced area designed to confine livestock owned or managed by another person, the user of consumer fireworks shall notify in writing the owner or manager of the livestock at least 72 hours in advance of the use that consumer fireworks will be used in the area.

§ 1105. 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 display 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 display fireworks for the purpose mentioned in the permit shall be lawful for that purpose only.

§ 1106. Rules and regulations by municipality.

(a) Authorization.--

(1) Except for the limitations under subsection (b), a municipality may enact conditions, prohibitions and limitations on the use and sale of consumer fireworks that are not in conflict with this chapter.

(1.1) Except for the limitations under subsection (b), a municipality may require a permit for the use of consumer fireworks. A fee for a permit shall be reasonable.

(1.2) A municipality may prohibit the use of consumer fireworks if the use of the consumer fireworks within the municipality cannot comply with section 1104(b)(5) (relating to use of consumer fireworks).

(2) Facilities with a valid license issued by the department under section 1108(a) or (e) (relating to fees, granting of licenses and inspections) prior to or within one year following the effective date of this section shall not be subject to municipal conditions, prohibitions or limitations enacted under paragraph (1) related to the sale of consumer fireworks.

(3) Except for the limitations under subsection (b), a municipality may enact the following restrictions on the use of consumer fireworks: Consumer fireworks may not be used between the hours of 10:00 p.m. and 10:00 a.m., except:

(i) on July 2, 3 and 4 and December 31, when consumer fireworks may be used until 1:00 a.m. the following day; and

(ii) when July 4 falls on a Tuesday, Wednesday or Thursday, consumer fireworks may be used until 1:00 a.m. on the immediately preceding and following Friday and Saturday.

(b) Limitations.--Except for authority exercised under subsection (a)(1.2), no municipality shall restrict or regulate the use of consumer fireworks on the following days:

(1) The days listed in subsection (a)(3)(i) and (ii).

(2) Memorial Day, including the immediately preceding Saturday and Sunday.

(3) Labor Day, including the immediately preceding Saturday and Sunday.

§ 1107. Sales locations.

Consumer fireworks shall be sold only from facilities which 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), known as the Pennsylvania Construction Code Act.

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

(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) For a facility issued a license under section 1108(a) (relating to fees, granting of licenses and inspections), the facility shall be located no closer than 300 feet from a facility selling or dispensing gasoline, propane or other flammable products.

(5) For a facility issued a license under section 1108(a), the facility shall be located at least 2,500 feet from another 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.

(8) The facility shall comply with the requirements of NFPA 1124.

(9) The sale of consumer fireworks may be conducted through online, mail-order or other transaction, but delivery of consumer fireworks to a purchaser shall take place at a facility licensed under section 1108 and the sale shall be subject to the provisions of section 1112 (relating to consumer fireworks tax).

§ 1108. Fees, granting of licenses and inspections.

(a) Initial application fees.--

(1) An initial application for a license to sell consumer fireworks shall be submitted to the Department of Agriculture on forms prescribed and provided by the department with a nonrefundable application fee as follows:

(i) For a facility meeting the requirements of section 1107 (relating to sales locations), the application shall be submitted with a nonrefundable application fee of \$2,500.

(ii) (Reserved).

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

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

- (1) \$7,500 for a location up to 10,000 square feet;
- (2) \$10,000 for a location greater than 10,000 and up to 15,000 square feet; and
- (3) \$20,000 for a location greater than 15,000 square feet.

(c) Time limitations and inspections.--

(1) A facility meeting the requirements of section 1107 shall be inspected by the Department of Agriculture within 30 days of receipt of a complete application for a license. The Department of Agriculture shall issue or deny a license within 14 days of completing the inspection.

(2) (Reserved).

(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 submission of a renewal application, proof of insurance under section 1109(5) (relating to conditions for facilities) and 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. The department shall transmit an application for renewal to a licensee in such time to provide for submission within 30 days prior to the expiration of a license.

(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.

§ 1108.1. Refusal, suspension or revocation of license.

(a) Authority.--The department may refuse, suspend or revoke a license issued or renewed under section 1108 (relating to fees, granting of licenses and inspections) if the licensee is not in compliance with the provisions of this chapter.

(b) Appeals.--The department shall provide an opportunity for a hearing to a person appealing an action of the department under subsection (a). All appeals shall be taken and hearings conducted in accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action). A person shall have 15 days to

appeal an enforcement action of the department under subsection (a).

§ 1109. Conditions for facilities.

A facility licensed by the Department of Agriculture under section 1108 (relating to fees, granting of licenses and inspections) 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 on December 31.

(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 \$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 the training.

(7) No display fireworks or federally illegal explosives under 49 CFR 173.54 (relating to forbidden explosives) 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) Emergency evacuation plans shall be conspicuously posted in appropriate locations within the facility.

(10) Written notice shall be conspicuously posted or provided with each purchase of consumer fireworks that provides the conditions and prohibitions for use of consumer fireworks under section 1104 (relating to use of consumer fireworks) and that additional conditions, prohibitions and limitations may be implemented by a municipality.

§ 1110. (Reserved).

§ 1111. Attorney General.

An entity which performs, provides or supervises fireworks displays or exhibitions for profit shall register annually with the Attorney General in accordance with 37 Pa. Code Ch. 711 (relating to registration for fireworks displays).

§ 1112. Consumer fireworks tax.

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

(b) Rate.--The tax authorized under subsection (a) shall be imposed and collected at the rate of 12% of the purchase price per item sold. The purchase price shall not include State and local sales taxes.

(c) Collection and administration.--The provisions of Part VI of Article II of the Tax Reform Code shall apply to the tax authorized under subsection (a). No additional fee shall be charged for a license or license renewal other than the license or annual license fee required under section 1108 (relating to fees, granting of licenses and inspections) and the license or renewal fee authorized and imposed under Article II of the Tax Reform Code.

§ 1113. Disposition of certain funds.

(a) Transfer.--The tax collected under section 1112(b) (relating to consumer fireworks tax) in each fiscal year shall be transferred annually for use as follows:

(1) \$1,500,000 of the amount transferred under this subsection shall be used for the purpose of making grants under 35 Pa.C.S. Ch. 78 Subch. C (relating to Emergency Medical Services Grant Program).

(2) \$250,000 of the amount transferred under this subsection shall be deposited into a special account in the State Treasury designated as the Online Training Educator and Training Reimbursement Account for the purposes of developing, delivering and sustaining training programs for firefighters in this Commonwealth.

(3) \$1,000,000 of the amount transferred under this subsection shall be transferred to the Pennsylvania Higher Education Assistance Agency to provide loan forgiveness and tuition assistance to active volunteer firefighters and volunteer emergency medical services providers serving with volunteer organizations who are students at or graduates of approved trade and technical schools and institutions of higher learning.

(4) \$1,000,000 of the amount transferred under this subsection shall be transferred to the Department of Health for the purpose of training emergency medical services personnel.

(5) \$500,000 of the amount transferred under this subsection shall be transferred to the Office of the State Fire Commissioner for the purpose of providing emergency services training center capital grants.

(6) \$500,000 of the amount transferred under this subsection shall be transferred to the Office of the State Fire Commissioner for the purpose of providing career fire department capital grants.

(7) \$250,000 of the amount transferred under this subsection shall be transferred to the Office of the State Fire Commissioner for the purpose of providing a public safety campaign on the precautions that should be taken when using fireworks.

(7.1) \$500,000 of the amount transferred under this subsection shall be transferred to the Office of the State Fire Commissioner for the purpose of providing reimbursement to a Pennsylvania bomb squad accredited by the Federal Bureau of Investigation and certified in hazardous devices training for costs associated with the removal, storage and destruction of consumer fireworks, display fireworks or combustibles under section 1115 (relating to removal, storage and destruction). Any money not used annually by September 10 for the purpose specified under this paragraph shall be subject to paragraph (8).

(8) Any remaining money shall be equally divided and transferred as follows:

(i) 50% of the amount shall be transferred in accordance with paragraph (1).

(ii) 50% of the amount shall be used for the purpose of making grants under 35 Pa.C.S. Ch. 78 Subch. B (relating to Fire Company Grant Program).

(9) The Office of the State Fire Commissioner shall establish guidelines for use of the money deposited or transferred under paragraphs (2), (5), (6) and (7). By December 31, 2022, and each December 31 thereafter, the Office of the State Fire Commissioner shall provide a written report detailing the use of the money received from the prior fiscal year to the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the Senate, the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the House of Representatives, the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives.

(b) Payments.--The transfer required under subsection (a) shall be made by September 15, 2022, and each September 15 thereafter.

(c) Limitation on certain transferred money.--Money transferred under subsection (a)(3), (4), (5), (6) or (7.1) shall not be expended until legislation is enacted providing for the expenditure of the money.

§ 1114. Penalties.

The following shall apply:

(1) A person using consumer fireworks in violation of the provisions of this chapter for the first offense commits a summary offense and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than \$500. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a summary offense and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than \$1,000.

(2) A person selling consumer fireworks in violation of the provisions of this chapter for the first offense commits a misdemeanor of the second degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a misdemeanor of the second degree and, upon conviction, in addition to any other penalty authorized by law, shall be punishable by a fine of not less than \$15,000 and a revocation of a license issued under section 1108 (relating to fees, granting of licenses and inspections).

(3) A person selling or using display fireworks in violation of the provisions of this chapter for the first offense commits a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$15,000.

(4) A person 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 United States Department of Transportation, including, but not limited to, those

devices commonly referred to as M-80, M-100, blockbuster, cherry bomb or quarter-stick or half-stick explosive devices, in violation of the provisions of this chapter for the first offense commits a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$15,000.

§ 1115. Removal, storage and destruction.

(a) Authority.--The Pennsylvania State Police, a municipal police officer as defined in 42 Pa.C.S. § 8951 (relating to definitions) who holds a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training), a sheriff or a deputy or a member of a Pennsylvania bomb squad accredited by the Federal Bureau of Investigation and certified in hazardous devices training 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, used, stored or held in violation of this chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

(b) Cost recovery.--A Pennsylvania bomb squad accredited by the Federal Bureau of Investigation and certified in hazardous devices training shall attempt to recover any costs associated with the removal, storage or destruction of consumer fireworks, display fireworks or combustibles under subsection (a) from the owner of the consumer fireworks. Reimbursement under subsection (c) shall only be available when the costs under this subsection cannot be recovered.

(c) Reimbursement.--If the costs under subsection (b) cannot be recovered, a Pennsylvania bomb squad accredited by the Federal Bureau of Investigation and certified in hazardous devices training may seek reimbursement from the Office of the State Fire Commissioner for the actual costs associated with the removal, storage or destruction of consumer fireworks, display fireworks or combustibles.

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 3 Pa.C.S. Ch. 11.

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

Section 3. The addition of 3 Pa.C.S. Ch. 11 is a continuation of Article XXIV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. Except as otherwise provided in 3 Pa.C.S. Ch. 11, all activities initiated under Article XXIV of the Tax Reform Code of 1971 shall continue and remain in full force and effect and may be completed under 3 Pa.C.S. Ch. 11. Orders, regulations, rules and decisions which were made under Article XXIV of the Tax Reform Code of 1971 and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 3 Pa.C.S. Ch. 11. Contracts, obligations and collective bargaining agreements entered into under Article XXIV of the Tax Reform Code of 1971 are not affected nor impaired by the repeal of Article XXIV of the Tax Reform Code of 1971.

Section 4. This act shall take effect in 60 days.

APPROVED--The 11th day of July, A.D. 2022.

TOM WOLF