

SENATE No. 1011

By Mr. Buell, petition (accompanied by bill, Senate, No. 1011) of Robert C. Buell and Gerald M. Cohen for legislation to regulate the sale and use of fireworks. Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Three.

AN ACT REGULATING THE SALE AND USE OF FIREWORKS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Application and enforcement.

- 2 This chapter shall be applied uniformly throughout the state.
3 Enforcement of this chapter shall remain with local law
4 enforcement departments and officials charged with the
5 enforcement of the laws of the state.

1 SECTION 2. Definitions.

- 2 1. "Distributor" means any person engaged in the business of
3 selling Safe & Sane Fireworks to a wholesaler.
4 2. "Manufacturer" means any person engaged in the business
5 of selling Safe & Sane Fireworks to a retailer.
6 3. "Wholesaler" means any person engaged in the business of
7 selling Safe & Sane Fireworks to a retailer.
8 4. "Retailer" means any person at a fixed place of business who
9 sells, transfers or gives Safe & Sane Fireworks to a consumer or
10 user. A retailer may only sell, transfer or give Safe & Sane
11 Fireworks to the user during the time period of June 28th midnight
12 thru July 4th midnight.
13 5. "Division" means the Division of the State Fire Marshal.
14 6. "Explosive compound" means any chemical compound,
15 mixture, or device the primary or common purpose of which is
16 to function by the substantially instantaneous release of gas and
17 heat.

18 7.A. "Non-Safe & Sane Fireworks" means and includes any
19 combustible or explosive composition or substance or combina-
20 tion of substances or, except as hereinafter provided, any article
21 prepared for the purpose of producing a visible or audible effect
22 by combustion, explosion, deflagration or detonation. The term
23 includes blank cartridges and toy cannons in which explosives are
24 used, the type of balloons which require fire underneath to propel
25 them, firecrackers, aerial devices, torpedoes, sky rockets, roman
26 candles, dago bombs, and any fireworks containing any explosives
27 or flammable compound or any tablets or other device containing
28 any explosives or flammable compound or any tablets or other
29 device containing any explosive substance.

30 7.B. "Non-Safe & Sane Fireworks" does not include the
31 following novelties and trick noisemakers:

32 1. A snake or glow worm, which is a pressed pellet of not more
33 than 10 grams of pyrotechnic composition that produces a large,
34 snakelike ash which expands in length as the pellet burns and that
35 does not contain mercuric theocyanate.

36 2. A smoke device, which is a tube or sphere containing not
37 more than 10 grams of pyrotechnic composition that, upon
38 burning, produces white or colored smoke as the primary effect.

39 3. A trick noisemaker, which is a device that produces a small
40 report intended to surprise the user and which includes:

41 a. A party popper, which is a small plastic or paper device
42 containing not more than 16 milligrams of explosive composition
43 that is friction sensitive, which is ignited by pulling a string
44 protruding from the device, and which expels a paper streamer
45 and produces a small report.

46 b. A snapper, which is a small, paper-wrapped device
47 containing not more than four milligrams of explosive
48 composition coated on small bits of sand, and which, when
49 dropped, explodes, producing a small report. A snapper may not
50 contain more than 250 milligrams of total sand and explosive
51 composition.

52 The sale and use of items listed in this paragraph are permitted
53 at all times.

54 8. "Safe & Sane Fireworks" means:

55 a. Dipped Stick; Sparkler. Stick or wire coated with
56 pyrotechnic composition that produces a shower of sparks upon

57 ignition. Total pyrotechnic composition may not exceed 100
58 grams per item. Those devices containing any perchlorate on
59 chlorate salts may not exceed 5 grams of pyrotechnic composition
60 per item.

61 b. Cylindrical Fountain. Cylindrical tube not more than 3/4"
62 (19mm) inside diameter, containing up to 75 grams of pyrotechnic
63 composition. Upon ignition, a shower of colored sparks, and
64 sometimes a whistling effect, is produced. This device may be
65 provided with a spike for insertion into the ground (spike
66 fountain), a wood or plastic base for placing on the ground (base
67 fountain), or a wood or cardboard handle, if intended to be
68 handheld (handle fountain). Multiple cylindrical tubes may be
69 grouped together into one device, but device may not exceed total
70 pyrotechnic composition of 200 grams.

71 c. Cone Fountain. Cardboard or heavy paper cone containing
72 up to 50 grams of pyrotechnic composition. The effect is the same
73 as that of a cylindrical fountain.

74 d. Ground Spinner. Small device similar to a wheel in design
75 and effect and placed on the ground and ignited. A shower of
76 sparks and color is produced by the rapidly spinning device.

77 e. Flitter Sparkler. Narrow paper tube filled with pyrotechnic
78 composition that produces color and sparks upon ignition. This
79 device does not have a fuse for ignition. The paper at one end
80 of the tube is ignited to make the device function.

1 SECTION 3. Testing and Approval of Safe & Sane Fireworks; 2 Penalties.

3 1. A person who wishes to sell Safe & Sane Fireworks must
4 submit 10 samples of his product to the division for testing to
5 determine whether it is a Safe & Sane item. Such samples must
6 be received by the division by September 1 to be considered for
7 approval the following year. On December 1 of each year the
8 division shall approve those products which it has tested and
9 found to meet the requirements for Safe & Sane Fireworks. All
10 approved products are legal for sale until November 30th of the
11 following year. The list (containing description and item I.D.
12 Number) of approved products shall be published and shall
13 prominently state the dates between which the products may be
14 sold. The division shall make copies of this list available to the

15 public. Once approved, they are automatically approved for
16 subsequent years. If at any time the performance of a particular
17 item becomes questionable by definition in Sec. 2 par. 8, it may
18 be retested.

19 2. Any person who alters an approved product, so that it is no
20 longer a Safe & Sane Firework and subsequently sells the product
21 as if it were approved is guilty of a misdemeanor of the first degree.

22 3. For purposes of the testing requirement by this section, the
23 division shall perform such tests as are necessary to determine
24 compliance with the performance standards in the definition of
25 Safe & Sane Fireworks. A person who submits a product for
26 testing by the division shall also submit a United States
27 Department of Transportation identifying "EX" number for each
28 product. A product has been submitted with the United States
29 Department of Transportation letter of approval with an "EX"
30 number. The division shall dispose of any samples which remain
31 after testing.

1 SECTION 4. Registration of Manufacturers, Distributors,
2 Wholesalers and Retailers of Safe & Sane Fireworks.

3 1. Registration requirements — Any manufacturer, distribu-
4 tor, wholesaler, retailer of Safe & Sane Fireworks who wishes to
5 do business in this state or to otherwise sell, ship, or assign for
6 sale its products in this state must register annually with the
7 division on forms prescribed by the division.

8 2. Registration Form — The registration form filed with the
9 division must be notarized and must include the following infor-
10 mation: business name; address; telephone number; officers, if the
11 business is a corporation; and individual designated as a contact
12 person; and a certificate of insurance in a minimum amount of
13 \$1,000,000 for public liability and property damage.

14 3. Fees.

15 A. Each manufacturer, distributor, or wholesaler must pay an
16 annual registration fee to be set by the division not to exceed
17 \$200.00 (50% of the retail registration fee charged by the state will
18 be made payable to the city, county or municipality where the Safe
19 & Sane Fireworks are sold. No city or municipality will charge
20 any additional fees).

21 B. Deadline for registration is May 15th.

22 C. To qualify for retail registration a retailer must be a state
23 of Massachusetts recognized non-profit, charitable, religious or
24 eleemosynary corporation or association organized and existing
25 primarily for veteran, patriotic, religious, charitable or civic
26 betterment purposes. A minimum of 50% of the proceeds from
27 the sale of fireworks by retailer must be donated in the city, county
28 or municipality where the fireworks are sold.

1 SECTION 5. Sale of Non-safe & Sane Fireworks Regulated;
2 Rules and Regulations.

3 1. Except as hereinafter provided it is unlawful for any person,
4 firm, copartnership, or corporation to offer for sale, expose for
5 sale, sell at retail, or use or explode any Non-safe & Sane
6 Fireworks; provided that the board of county commissioners shall
7 have power to adopt reasonable rules and regulations for the
8 granting of permits for supervised public display of Non-safe &
9 Sane Fireworks by fair associations, amusement parks, and other
10 organizations or groups of individuals when such public display
11 is to take place outside of any municipality; provided, further, that
12 the governing body of any municipality shall have power to adopt
13 reasonable rules and regulations for the granting of permits for
14 supervised public display of Non-safe & Sane Fireworks within
15 the boundaries of any municipality. Every such display shall be
16 handled by a competent operator to be approved by the chiefs
17 of the police and fire departments of the municipality in which
18 the display is to be held, and shall be of such a character, and
19 so located, discharged, or fired as in the opinion of the chief of
20 the fire department, after proper inspection, shall not be
21 hazardous to property or endanger any person. Application for
22 permits shall be made in writing at least 15 days in advance of
23 the date of the display. After such privilege shall have been
24 granted, sales, possession, use and distribution of Non-safe &
25 Sane Fireworks for such display shall be lawful for that purpose
26 only. No permit granted hereunder shall be transferable.

27 2. A Safe & Sane Firework or other product authorized for
28 sale under this chapter may not be sold by a retailer unless the
29 product was obtained from a wholesaler registered with the
30 division pursuant to Sec. 4 Par. 3. Each retailer shall keep, at every
31 location where Safe & Sane Fireworks are sold, a copy of an

32 invoice or other evidence of purchase from the wholesaler, which
33 states the registration certificate number for the particular
34 wholesaler and the specific items covered by the invoice. Each
35 retailer shall, in addition, exhibit a copy of his registration certifi-
36 cate at each retail location.

1 SECTION 6. Seizure of Non-safe & Sane Fireworks.

2 Each sheriff, or his appointee, or any other police officer, shall
3 seize, take remove or cause to be removed at the expense of the
4 owner, all stocks of Non-safe & Sane Fireworks or combustibles
5 offered or exposed for sale, stored or held in violation of this
6 chapter.

1 SECTION 7. The state fire marshal shall promulgate regula-
2 tions necessary to carry out the provisions of this act.

1 SECTION 8. Regulations.

2 1. All Safe & Sane Fireworks and accompanying equipment
3 shall be removed from the temporary location by 4:00 p.m., on
4 the 6th day of July and the stand shall be removed from the
5 temporary location by 5:00 p.m. of the seventh (3rd) day
6 following July 4th (i.e. July 7th). Failure to remove the stand prior
7 to the above-mentioned date will result in the assessment of a
8 penalty of one hundred dollars (\$100) per day or portion thereof
9 that the stand is still on site.

