

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 28, L.D. 29)
2 (New Title)
3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 755

8
9 H.P. 543

House of Representatives, February 28, 1985

10 Reported by Representative Warren from the Committee on Legal Affairs
11 and printed under Joint Rule 2. Original bill sponsored by Representative
12 Paul of Sanford. Cosponsored by Representative Greenlaw of Standish,
Representative Foss of Yarmouth and Representative Simpson of Casco.

EDWIN H. PERT, Clerk

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FIVE
18

19 AN ACT Clarifying the Laws Relating to
20 Fireworks.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 Sec. 1. 8 MRSA c. 9, as amended, is repealed.

25 Sec. 2. 8 MRSA c. 9-A is enacted to read:

26 CHAPTER 9-A

27 FIREWORKS

28 §221. Definitions

29 As used in this chapter, the following words have
30 the following meanings.

1 1. Fireworks. "Fireworks" means: Any combusti-
2 ble or explosive composition or substance; any combi-
3 nation of such compositions or substances; any other
4 article, which was prepared for the purpose of pro-
5 ducing a visible or audible effect by combustion, ex-
6 pllosion, deflagration or detonation, including blank
7 cartridges or toy cannons in which explosives are
8 used, the type of balloon which requires fire under-
9 neath to propel it, firecrackers, torpedoes,
10 skyrockets, roman candles, bombs, rockets, wheels,
11 colored fires, fountains, mines, serpents or other
12 fireworks of like construction; any fireworks con-
13 taining any explosive or flammable compound; or any
14 tablets or other device containing any explosive sub-
15 stance or flammable compound. The term "fireworks"
16 as used in this chapter does not include toy pistols,
17 toy canes, toy guns or other devices in which paper
18 caps or plastic caps containing 25/100 grains or less
19 of explosive compound are used, if they are con-
20 structed so that the hand cannot come in contact with
21 the cap when in place for the explosion, or toy pis-
22 tol paper caps or plastic caps which contain less
23 than 20/100 grains of explosive mixture or sparklers
24 that do not contain magnesium chlorates or
25 perchlorates.

26 2. Sale or sell. "Sale" or "sell" means any
27 transfer or delivery of fireworks to another for con-
28 sideration.

29 3. Possession. "Possession" means the inten-
30 tional or knowing possession of what the possessor
31 knows or believes to be fireworks.

32 §222. Possession of fireworks

33 No person may possess or have under his control
34 fireworks.

35 §223. Sale of fireworks

36 1. Sale of fireworks prohibited. No person may
37 sell, possess with the intent to sell or offer for
38 sale fireworks.

39 2. Class B crime if value exceeds \$5,000. It is
40 a Class B crime to sell, possess with the intent to

1 sell or offer for sale fireworks the value of which
2 exceeds \$5,000.

3 3. Class C crime if value exceeds \$1,000. It is
4 a Class C crime to sell, possess with the intent to
5 sell or offer for sale fireworks the value of which
6 exceeds \$1,000 but does not exceed \$5,000.

7 4. Class D crime if value is \$1,000 or less. It
8 is a Class D crime to sell, possess with the intent
9 to sell or offer for sale fireworks the value of
10 which does not exceed \$1,000.

11 5. Value. "Value" is determined in accordance
12 with Title 17-A, section 352, subsection 5.

13 §224. Storage and manufacture of fireworks

14 1. Storage. No person may store fireworks ex-
15 cept in such buildings as may be permitted by the
16 rules of the Commissioner of Public Safety outside
17 the premises of a fireworks manufactory, if that
18 building or other structure is located within 1,000
19 feet of any church, hospital, theatre, hall, place of
20 assembly, workshop, factory or any inhabited build-
21 ing.

22 2. Certificate of public liability insurance re-
23 quired for manufacture. No person may manufacture
24 fireworks without first furnishing the Commissioner
25 of Public Safety, in an amount to be determined by
26 him, a certificate of public liability insurance to
27 cover the losses, damages or injuries to persons or
28 property that might result.

29 §225. Transportation of fireworks

30 No person may transport fireworks in any motor
31 vehicle or in any conveyance except as may be permit-
32 ted by the rules promulgated by the Commissioner of
33 Public Safety.

34 §226. Displays and exhibitions of fireworks

35 No person engaged in the business of displaying,
36 exploding or exhibiting fireworks may, by himself or
37 his agents, discharge, fire off, explode or display

1 fireworks without first furnishing the Commissioner
2 of Public Safety, in an amount to be determined by
3 him, a certificate of public liability insurance to
4 cover the losses, damages or injuries to persons or
5 property that might result.

6 §227. Permits for displays; rules

7 All persons, municipalities, fair associations,
8 amusement parks and other organizations or groups of
9 individuals desiring to discharge, fire off, explode
10 or display fireworks in accordance with section 228,
11 subsection 2, paragraph B, shall apply in writing to
12 the Commissioner of Public Safety for a permit at
13 least 10 days in advance of the proposed date of the
14 display. The Commissioner of Public Safety, upon re-
15 ceipt of that application, shall determine if the ap-
16 plicant is competent and if the proposed display will
17 in other respects be in accordance with the law and
18 any rules which may have been promulgated in this
19 section. If the Commissioner of Public Safety finds
20 that the applicant is competent and that the proposed
21 display is in accordance with the law and all rules,
22 he shall issue a permit, otherwise he shall refuse to
23 issue a permit. The Commissioner of Public Safety
24 shall make rules for the granting of the permits in
25 this section and shall promulgate such rules relative
26 to the supervised display of fireworks as will be
27 conducive to public safety.

28 The following schedule of fees applies to permits
29 and inspections required by this section and by rules
30 promulgated in this section:

31 1. Permit to discharge fireworks. Permit to
32 discharge, fire off or explode fireworks: Fifteen
33 dollars per calendar year;

34 2. Site inspection. Inspection of fireworks
35 display sites: Ten dollars; and

36 3. Display permit for specified period of time.
37 Permit for supervised display of fireworks for period
38 of time specified in permit: Twenty dollars.

39 §228. Application of provisions

- 1 1. Firecrackers and pyrotechnical ship or rail-
2 way signals. Firecrackers and pyrotechnical ship or
3 railway signals are included and classed as fire-
4 works, but sections 222, 224 and 225 do not apply to
5 the storage of pyrotechnical ship or railway signals
6 nor to the discharge, firing or exploding of the sig-
7 nals when used for the protection of life and proper-
8 ty.
- 9 2. Exceptions. This chapter does not apply:
- 10 A. To any article named in this chapter to be
11 shipped directly out of the State;
- 12 B. To the sale of any article named in this
13 chapter for use by persons or organizations who
14 have obtained from the Commissioner of Public
15 Safety a permit to display the article or fire-
16 works under section 227;
- 17 C. To the sale of flares, lanterns or fireworks
18 for use by railroads, railways, boats, motor ve-
19 hicles or other transportation agencies, or other
20 activity lawfully permitted or required to use
21 any or all of the articles named in this chapter
22 for signal purposes, illumination or otherwise;
- 23 D. To the sale or use of blank cartridges for a
24 duly licensed show or theatre or for signal or
25 ceremonial purposes in athletics or sports;
- 26 E. To experiments at a factory for explosives;
- 27 F. To the sale of blank cartridges for use by
28 the militia or any organization of war veterans
29 or other organizations authorized by law to pa-
30 rade in public a color guard armed with firearms;
- 31 G. In teaching the use of firearms;
- 32 H. To the sale of shells for firearms, car-
33 tridges, gunpowder and explosives for the purpose
34 of any legal use of firearms; or
- 35 I. To the sale to, and use of fireworks by, ag-
36 ricultural growers for the protection of crops,
37 provided a permit has been obtained for this pur-

1 pose from the Commissioner of Public Safety. The
2 commissioner shall promulgate regulations for the
3 protection of the public governing the purchase,
4 use and storage of fireworks by agricultural
5 growers. The regulations will include the size,
6 type and explosive content of the fireworks, ar-
7 reas in which they may be used, and the season of
8 the year during which a permit is valid. The
9 commissioner may charge a fee of not more than \$2
10 for the permit, which fee will be used to enforce
11 this section. The fees will be credited to the
12 Department of Public Safety and will not lapse
13 but will remain a continuing, carrying balance.

14 §229. Violations

15 1. Criminal penalties. Any person who violates
16 section 222, where the value of the fireworks pos-
17 sessed exceeds \$100, or section 224 or 225 is guilty
18 of a Class E crime.

19 2. Civil violation. Any person who violates
20 section 222 where the value of the fireworks pos-
21 sessed does not exceed \$100 commits a civil violation
22 for which a forfeiture not to exceed \$50 may be ad-
23 judged.

24 §230. Appeals

25 Any person aggrieved by an decision of the Com-
26 missioner of Public Safety may appeal the decision to
27 the Superior Court within 30 days. The court shall
28 immediately, after notice and hearing, affirm or re-
29 verse the commissioner's decision. The finding of
30 the court shall be final.

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STATEMENT OF FACT

2 The revision of the fireworks laws is in response
3 to concerns about growing illegal importation and
4 sale of large quantities of fireworks, involving
5 truckloads of fireworks having a value in the thou-
6 sands of dollars. The public dangers posed by these
7 large quantity dealers for profit demand that Class C
8 and Class B penalties be available. Previous penal-
9 ties for illegal sale of fireworks were limited to
10 fines of up to \$100 or imprisonment for not more than
11 one month, or both. Penalties for possession of
12 fireworks of a value greater than \$100 and for ille-
13 gal storage and display by nondealers remain Class E
14 crimes, while possession of \$100 or less worth of
15 fireworks is a civil violation punishable by a for-
16 feiture of up to \$50.

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