

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 818

6
7 S.P. 330

In Senate, February 28, 1985

8 Referred to the Committee on Legal Affairs. Sent down for concurrence
9 and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

11 Presented by Senator Gill of Cumberland.

Cosponsored by Representative Stetson of Damariscotta and
Representative Carrier of Westbrook.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Relating to Fireworks.
18

19 Be it enacted by the People of the State of Maine as
20 follows:

21 Sec. 1. 8 MRSA c. 9, as amended, is repealed.

22 Sec. 2. 8 MRSA c. 10 is enacted to read:

23 CHAPTER 10

24 FIREWORKS

25 §221. Definitions

26 As used in this chapter, unless the context indi-
27 cates otherwise, the following terms have the follow-
28 ing meanings.

29 1. Fireworks. "Fireworks" means any combustible
30 or explosive composition or substance, or any combi-
31 nation of those compositions or substances, or any

1 other article, which was prepared for the purpose of
2 producing a visible or audible effect by combustion,
3 explosion, deflagration or detonation, including
4 blank cartridges or toy cannons in which explosives
5 are used, the type of balloon which requires fire un-
6 derneath to propel them, firecrackers, torpedoes,
7 skyrockets, Roman candles, bombs, rockets, wheels,
8 colored fires, fountains, mines, serpents or other
9 fireworks containing any explosive or flammable com-
10 pound, or any tablets or other device containing any
11 explosive substance or flammable compound. The term
12 "fireworks" does not include toy pistols, toy canes,
13 toy guns or other devices in which paper caps or
14 plastic caps containing 25/100th grains or less of
15 explosive compound are used, if they are so con-
16 structed that the hand cannot come in contact with
17 the cap when in place for the explosion, or toy pis-
18 tol paper caps or plastic caps which contain less
19 than 20/100th grains of explosive mixture or spar-
20 cklers that do not contain magnesium chlorates or
21 perchlorates.

22 2. Sale or sell. "Sale" or "sell" means any
23 transfer or delivery of fireworks to another for con-
24 sideration.

25 §222. Sale of fireworks

26 1. Sale or possession. No person may sell, pos-
27 sess with the intent to sell or offer for sale, fire-
28 works. This section does not apply:

29 A. To the sale of any article named in this
30 chapter to be shipped directly out of the State;

31 B. To the sale of any such article for its use
32 by persons or organizations having obtained from
33 the Commissioner of Public Safety a permit to
34 display the article or fireworks under section
35 226;

36 C. To the sale of flares, lanterns or fireworks
37 for use by railroads, railways, boats, motor ve-
38 hicles or other transportation agencies, or other
39 activity lawfully permitted or required to use
40 any or all of the articles for signal purposes,
41 illumination or otherwise;

- 1 D. To the sale or use of blank cartridges for a
2 duly licensed show or theater, or for signal or
3 ceremonial purposes in athletics or sports;
- 4 E. To experiments at a factory for explosives;
- 5 F. To the sale of blank cartridges for use by
6 the militia or any organization of war veterans
7 or other organizations authorized by law to pa-
8 rade in public a color guard armed with firearms;
- 9 G. In teaching the use of firearms;
- 10 H. To the sale of shells for firearms, car-
11 tridges, gunpowder and explosives for the purpose
12 of any legal use of firearms; or
- 13 I. To the sale to, and use of fireworks by, ag-
14 ricultural growers for the protection of crops,
15 provided that a permit has been obtained for this
16 purpose from the Commissioner of Public Safety.
17 The commissioner shall promulgate regulations for
18 the protection of the public governing the pur-
19 chase, use and storage of fireworks by agricul-
20 tural growers. The regulations shall include the
21 size, type and explosive content of the fire-
22 works, areas in which they may be used and the
23 season of the year during which a permit is val-
24 id. The commissioner may charge a fee of not more
25 than \$2 for the permit, which shall be used to
26 enforce this section. The fees shall be credited
27 to the Department of Public Safety and shall not
28 lapse, but shall remain a continuing carrying
29 balance.
- 30 2. Class B crime. Sale of fireworks is a Class B
31 crime if the value of the fireworks sold, possessed
32 or offered for sale exceeds \$5,000.
- 33 3. Class C crime. Sale of fireworks is a Class C
34 crime if the value of the fireworks sold, possessed
35 or offered for sale exceeds \$1,000.
- 36 4. Class D crime. Otherwise, sale of fireworks
37 is a Class D crime.

1 5. Value. "Value" shall be as determined in ac-
2 cordance with Title 17-A, section 352, subsection 5.

3 §223. Storage of fireworks

4 No person may store fireworks, except in such
5 buildings as may be permitted by the rules of the
6 Commissioner of Public Safety, outside the premises
7 of a fireworks factory, if that building or other
8 structure is located within 1,000 feet of any church,
9 hospital, theater, hall, place of assembly, workshop,
10 factory or any inhabited building, nor may any person
11 manufacture fireworks, without first furnishing the
12 commissioner, in an amount to be determined by him, a
13 certificate of public liability insurance to cover
14 the losses, damages or injuries that might ensue to
15 persons or property by reason thereof.

16 §224. Transportation of fireworks

17 No person may transport fireworks in any motor
18 vehicle or in any conveyance, except as may be per-
19 mitted by the rules of the Commissioner of Public
20 Safety.

21 §225. Displays and exhibition of fireworks

22 No person engaged in the business of displaying,
23 exploding or exhibiting fireworks may, by himself or
24 his agents, discharge, fire off, explode or display
25 fireworks without first furnishing the Commissioner
26 of Public Safety, in an amount to be determined by
27 him, a certificate of public liability insurance to
28 cover the losses, damages or injuries that might en-
29 sue to persons or property by reason thereof.

30 §226. Permits for displays; rules

31 All persons, municipalities, fair associations,
32 amusement parks and other organizations or groups of
33 individuals desiring to discharge, fire off, explode
34 or display fireworks in accordance with section 222,
35 subsection 1, paragraph B, shall apply in writing to
36 the Commissioner of Public Safety for a permit at
37 least 10 days in advance of the proposed date of the
38 display. The commissioner, upon receipt of that ap-
39 plication, shall determine if the applicant is compe-

1 tent and if the proposed display will in other re-
2 spects be in accordance with the law and any rules
3 which may have been promulgated in this section. If
4 the commissioner finds that the applicant is compe-
5 tent and that the proposed display is in accordance
6 with the law and all rules, he shall issue a permit,
7 otherwise he shall refuse to issue a permit. The com-
8 missioner shall make rules for the granting of the
9 permits in this section and shall promulgate such
10 rules relative to the supervised display of fireworks
11 as are conducive to public safety.

12 The following schedule of fees applies to permits
13 and inspections required by this section and by rules
14 promulgated in this section:

15 1. Permit to discharge fireworks. Permit to dis-
16 charge, fire off or explode fireworks, \$15 per calen-
17 dar year;

18 2. Site inspection. Inspection of fireworks dis-
19 play sites, \$10; and

20 3. Display permit for specified period of time.
21 Permit for supervised display of fireworks for the
22 period of time specified in permit, \$20.

23 §227. Application of provisions

24 Firecrackers and pyrotechnical ship or railway
25 signals are included and classed as fireworks, but
26 sections 223, 224 and 225 do not apply to the storage
27 of pyrotechnical ship or railway signals nor to the
28 discharge, firing or exploding of the signals when
29 used for the protection of life and property.

30 §228. Violations

31 Any violation of sections 223, 224 and 225 is a
32 Class E crime.

33 §229. Appeals

34 Any person aggrieved by any decision of the Com-
35 missioner of Public Safety, within 30 days after the
36 decision, may appeal therefrom to the Superior Court,
37 which shall forthwith, after notice and hearing, af-

1 firm or reverse the decision and the finding of the
2 court shall be final.

3 STATEMENT OF FACT

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

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