

# 2010 -- H 8173 SUBSTITUTE A

LC02709/SUB A/3

## STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL OFFENSES -- EXPLOSIVES AND FIREWORKS; HEALTH  
AND SAFETY -- FIREWORKS AND PYROTECHNICS

Introduced By: Representative JP O'Neill

Date Introduced: May 25, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-13-1 of the General Laws in Chapter 11-13 entitled "Explosives  
2 and Fireworks" is hereby amended to read as follows:

3 **11-13-1. Sale, use or possession of fireworks.** -- (a) No person shall offer for sale at  
4 retail or at wholesale, shall possess or have under his or her control, use or explode, or cause to  
5 explode for exhibition or amusement, display fireworks or aerial consumer fireworks unless  
6 permits are obtained pursuant to this chapter and chapter 23-28.11. Display fireworks are defined  
7 in the American pyrotechnic association standard 87-1 (APA 87-1) 2001 Edition section 2.7.2  
8 and are classified as explosives 1.3G by the U.S. department of transportation (U.S. DOT),  
9 UN0335. Aerial consumer fireworks are defined in APA 87-1 2001 Edition section 3.1.2. and are  
10 classified 1.4G U.S. DOT, UN 0336. ~~any fireworks D.O.T. Class "B" or "C" (which term for the~~  
11 ~~purposes of this section is defined and declared to be any combustible or explosive composition,~~  
12 ~~or any substance or combination of substances or article prepared for the purpose of producing a~~  
13 ~~visible or audible effect by combustion, explosion, deflagration or detonation, including blank~~  
14 ~~cartridges, balloons requiring fire underneath to propel them, firecrackers, torpedoes, skyrockets,~~  
15 ~~Roman candles, bombs, sparklers and other combustibles and explosives of like construction,~~  
16 ~~articles containing any explosive or flammable compound, and tablets and other devices~~  
17 ~~containing an explosive substance, but excluding~~ Certain fireworks and devices that are exempt  
18 from the definitions of display fireworks and aerial consumer fireworks shall include, but are not

1 limited to, the following: ground-based and hand-held sparkling devices (non-aerial fireworks) as  
2 defined in APA 87-1 2001 Edition sections 3.1.1 and 3.5, and include the following: fountains,  
3 illuminating torches, wheels, ground spinners, flitter sparklers, sparkers; novelties, which are  
4 defined in the APA 87-1 2001 Edition section 3.2 and include the following: party poppers,  
5 snappers, toy smoke devices, snakes, glow worms, wire sparklers and dipped sticks; paper caps  
6 containing not more than twenty-five hundredths (0.025) grains of explosive mixture ammunition  
7 to be consumed by weapons used for sporting and hunting purposes, and model rockets and  
8 model rocket engines, designed, sold and used for the purpose of propelling recoverable aero  
9 models). The storage, possession, sale, transportation and use of the items in the above reference  
10 section that are not included in the definition of display fireworks and aerial consumer fireworks  
11 shall be allowed at all times throughout the state for persons at least sixteen (16) years of age,  
12 ~~except that permits~~ Permits for ~~use of~~ display fireworks and aerial consumer ~~D.O.T. Class "B"~~  
13 ~~and "C"~~ fireworks for commercial display may be issued in accordance with provisions of the  
14 Rhode Island Fire Safety Code, chapters 28.1 -- 28.39 of title 23. Fireworks display of display  
15 and aerial consumer fireworks by any municipality, fair association, amusement park, or other  
16 organization or group of individuals is permitted, on condition that the display shall be made by a  
17 competent operator approved by the local fire authority and shall be of such character as in the  
18 opinion of the fire authority will not be hazardous to persons or property; and, provided further,  
19 that the foregoing shall not apply the use of Display Fireworks and Aerial Consumer Fireworks  
20 ~~fireworks~~ by common carriers for signal or illumination purposes, the use of blank cartridges in  
21 any show or theater, the use of explosives for blasting, the use of Display Fireworks and Aerial  
22 Consumer Fireworks ~~fireworks~~ as signals in any athletic or sporting event, the use of display  
23 fireworks and aerial consumer fireworks ~~fireworks~~ for ceremonial or military purposes, the sale  
24 of fireworks for shipment out of this state, or the sale of fireworks for any use permitted pursuant  
25 to this section, provided the person who sells, stores or transports ~~Class "C"~~ display fireworks and  
26 aerial consumer fireworks ~~fireworks~~ has a permit as required by the Rhode Island Fire Safety  
27 Code, chapters 28.1 -- 28.39 of title 23.

28 (b) Any person violating the provisions of this section shall be guilty of a felony and  
29 shall be fined not exceeding one thousand dollars (\$1,000) for each offense and/or imprisoned for  
30 not more than one year for each offense; except that any person using or having in his or her  
31 possession without a permit with intent to use ~~D.O.T. Class "C"~~ display fireworks and aerial  
32 consumer fireworks ~~fireworks~~ with a value of under five hundred dollars (\$500) shall be guilty of  
33 a misdemeanor and shall upon conviction be fined not exceeding five hundred dollars (\$500) for  
34 each offense and/or imprisoned for not more than one year for each offense.

1 SECTION 2. Sections 23-28.11-3, 23-28.11-4, 23-28.11-7, 23-28.11-8, 23-28.11-9 and  
2 23-28.11-10 of the General Laws in Chapter 23-28.11 entitled "Fireworks and Pyrotechnics" are  
3 hereby amended to read as follows:

4 **23-28.11-3. Permits for storage, handling, transportation and display of fireworks**  
5 **and pyrotechnics** **Permits for storage, handling, transportation and display of display**  
6 **fireworks, aerial consumer fireworks, and pyrotechnics.** -- (a) All storage, handling,  
7 transportation and display of fireworks shall be in accordance with the National Fire Protection  
8 Association (NFPA) Standard 1123 entitled "Code for Fireworks Display" [2006 Edition](#), and  
9 NFPA Standard 1124 entitled "Code for the Manufacture, Transportation, Storage, and Retail  
10 Sales of Fireworks and Pyrotechnic Articles" ~~2003~~ [2006](#) Edition, and the requirements of this  
11 chapter. [For purposes of this chapter, sections 28.11-3 through 28.11-10 of title 23 shall not apply](#)  
12 [to the storage, handling, transportation, use and \(display\) sale of ground-based hand-held devices](#)  
13 [\(non-aerial consumer fireworks\), novelties and other items exempted from the definition of](#)  
14 [display fireworks and aerial consumer fireworks in section 11-13-1 Rhode Island explosive and](#)  
15 [fireworks code chapter 13 of title 11.](#)

16 (b) All storage, handling, transportation and display of pyrotechnics shall be in  
17 accordance with the National Fire Protection Association (NFPA) Standard 1126 entitled  
18 "Standard for the Use of Pyrotechnics before a Proximate Audience" [2006 Edition](#), and NFPA  
19 Standard 1124 entitled "Code for the Manufacture, Transportation, Storage, and Retail Sales of  
20 Fireworks and Pyrotechnic Articles" ~~2003~~ [2006](#) Edition, and the requirements of this chapter.

21 (c) Permits to possess and display ~~commercial fireworks~~ [display fireworks and aerial](#)  
22 [consumer fireworks](#) or pyrotechnics shall be issued by the local fire authority on forms provided  
23 by the state fire marshal. No permit shall be issued until the applicant's certificate of competency  
24 and insurance coverage is verified as being current and the applicant has submitted a fifty dollar  
25 (\$50.00) fee. Verification will be determined by the state fire marshal office.

26 (d) No permit to possess and display [display fireworks and aerial consumer fireworks](#)  
27 ~~fireworks~~ or pyrotechnics shall be issued by the local fire authority until the applicant has first  
28 obtained a valid certificate of competency from the state fire marshal. For the purposes of this  
29 chapter, "pyrotechnics" means a chemical mixture, including pyrotech-compositions, intended to  
30 produce a visible and/or audible effect by combustion, deflagration or detonation before a  
31 proximate audience closer than allowed for outdoor [display fireworks and aerial consumer](#)  
32 [fireworks](#) ~~fireworks~~ displays as permitted under this chapter. All pyrotechnics shall be in  
33 accordance with the requirements of the National Fire Protection Association Standard 1126,  
34 entitled "Use of Pyrotechnics Before A Proximate Audience", ~~1992~~ [2006](#) Edition, and the

1 requirements of this chapter. For purposes of this chapter, “display” means to ignite, set-off or  
2 otherwise use.

3 (e) All fees collected pursuant to this section shall be deposited as general revenue.

4 **23-28.11-4. Certificate of competency.** -- (a) Every person desiring to obtain a  
5 certificate of competency to possess and display display fireworks and aerial consumer fireworks  
6 ~~commercial fireworks~~ and/or pyrotechnics shall make application to the state fire marshal. A fee  
7 of ten dollars (\$10.00) shall accompany each application and shall be for processing the  
8 application and for examination to be given within ninety (90) days of receipt of application to  
9 determine applicant's experience and ability to conduct display fireworks and aerial consumer  
10 fireworks ~~commercial fireworks~~ and/or pyrotechnics demonstrations. Separate applications,  
11 examinations and certificates shall be issued by the state fire marshal for fireworks and  
12 pyrotechnics and shall be in such form as the state fire marshal may require. The examinations  
13 herein provided for shall require the applicant to demonstrate adequate understanding of  
14 applicable NFPA requirements.

15 (b) Each applicant found to be qualified by examination shall forthwith be issued a  
16 certificate of competency upon payment of fifty dollars (\$50.00) and submission of certification  
17 indicating satisfactory completion of psychiatric examination administered by a qualified  
18 physician within the previous year. All fees collected pursuant to this section shall be deposited as  
19 general revenue.

20 **23-28.11-7. Financial responsibility.** -- No permit shall be issued to any applicant  
21 desiring to possess and display display fireworks and aerial consumer fireworks ~~fireworks~~ and/or  
22 pyrotechnics until the applicant furnishes to the local fire authority satisfactory proof of financial  
23 responsibility in an amount not less than one million dollars (\$1,000,000) to satisfy claims for  
24 damage to property or persons resulting from the possession or use of display fireworks and aerial  
25 consumer fireworks ~~fireworks~~ and/or pyrotechnics. The local fire authority may require additional  
26 financial responsibility as he or she may deem necessary due to existing conditions.

27 **23-28.11-8. Nonresident.** -- No permit shall be issued under the provisions of this  
28 chapter to a nonresident person to conduct a display fireworks and aerial consumer fireworks  
29 ~~fireworks~~ and/or pyrotechnics display in this state, until that person shall have appointed in  
30 writing a member of the Rhode Island bar association to be his or her attorney upon whom all  
31 processes in any action or proceeding against the person may be served.

32 **23-28.11-9. Violations.** -- (a) Any person found to be in violation of the provisions of  
33 this chapter relating to possession of display fireworks and aerial consumer fireworks ~~commercial~~  
34 ~~fireworks~~ or pyrotechnics shall be fined not less than one hundred (\$100) nor more than five

1 hundred dollars (\$500) or imprisoned for not more than one year. Any person found to be in  
2 violation of the provisions of this chapter relating to use or display of display fireworks and aerial  
3 consumer fireworks ~~commercial fireworks~~ or pyrotechnics shall be guilty of a felony, and shall be  
4 fined not less than one thousand dollars (\$1,000), or imprisoned for not more than five (5) years,  
5 or both.

6 (b) The state fire marshal or the fire marshal's deputies or any officer qualified to serve  
7 criminal process may arrest without a warrant any person found in violation of this chapter and  
8 shall seize immediately any and all of the display fireworks and aerial consumer fireworks  
9 ~~fireworks~~ and/or pyrotechnics in illegal use, possession, or under that person's control, and the  
10 display fireworks and aerial consumer fireworks ~~fireworks~~ seized shall upon conviction of the  
11 person be forfeited to the state.

12 (c) Notice of the seizure of the display fireworks and aerial consumer fireworks  
13 ~~fireworks~~ and/or pyrotechnics shall immediately be sent to the marshal by the officer making the  
14 seizure and the fireworks and/or pyrotechnics seized shall be held and securely stored by that  
15 department until the marshal or the marshal's authorized explosives technician takes them into his  
16 or her possession for disposal.

17 **23-28.11-10. Rules and regulations.** -- The state fire marshal is hereby authorized and  
18 directed to promulgate reasonable rules and regulations governing the possession, sale wholesale  
19 and retail, and use of display fireworks and aerial consumer fireworks ~~fireworks~~ and pyrotechnics  
20 in the state.

21 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CRIMINAL OFFENSES -- EXPLOSIVES AND FIREWORKS; HEALTH  
AND SAFETY -- FIREWORKS AND PYROTECHNICS

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- 1           This act would amend certain provisions of the Rhode Island general laws to adopt and  
2 conform to federal designations of fireworks types and would provide for the regulation, storage,  
3 handling and transportation of Display Fireworks and Aerial Consumer Fireworks.  
4           This act would take effect upon passage.

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