

HOUSE BILL No. 1996

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-11-14.

Synopsis: Fireworks. Establishes building and fire suppression requirements for the sale of fireworks. Requires a manufacturer, wholesaler, importer, or distributor of fireworks to pay a \$100 registration fee for a second or subsequent location where fireworks are offered for sale. Prohibits the sale of certain fireworks to a person under the age of 18. Prohibits the sale, distribution, and use of a specific sky rocket unless the sky rocket is sold by a licensed wholesaler exclusively for the purpose of out-of-state distribution.

Effective: Upon passage; July 1, 1999.

Bottorff

January 27, 1999, read first time and referred to Committee on Commerce and Economic Development.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1996

A BILL FOR AN ACT to amend the Indiana Code concerning fireworks.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-11-14-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
3 chapter:
4 "Auto burglar alarm" means a tube that contains pyrotechnic
5 composition that produces a loud whistle or smoke when ignited. A
6 small quantity of explosive, not exceeding fifty (50) milligrams, may
7 also be used to produce a small report. A squib is used to ignite the
8 device.
9 "Booby trap" means a small tube with string protruding from both
10 ends, similar to a party popper in design. The ends of the string are
11 pulled to ignite the friction sensitive composition, producing a small
12 report.
13 "Chaser" means a device, containing fifty (50) milligrams or less of
14 explosive composition, that consists of a small paper or cardboard tube
15 that travels along the ground upon ignition. A whistling effect is often
16 produced, and a small noise may be produced.
17 "Cigarette load" means a small wooden peg that has been coated

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1 with a small quantity of explosive composition. Upon ignition of a
2 cigarette containing one of the pegs, a small report is produced.

3 "Common firework" means a small firework that is designed
4 primarily to produce visible effects by combustion, and that is required
5 to comply with the construction, chemical composition, and labeling
6 regulations promulgated by the United States Consumer Product Safety
7 Commission under 16 CFR 1507. The term also includes some small
8 devices designed to produce an audible effect, such as whistling
9 devices, ground devices containing fifty (50) milligrams or less of
10 explosive composition, and aerial devices containing one hundred
11 thirty (130) milligrams or less of explosive composition. Propelling or
12 expelling charges consisting of a mixture of charcoal, sulfur, and
13 potassium nitrate are not considered as designed to produce an audible
14 effect. Common fireworks:

15 (1) include:

16 (A) ground and hand-held sparkling devices, which include
17 dipped stick, certain wire sparklers, cylindrical fountains, cone
18 fountains, illuminating torches, wheels, ground spinners, and
19 flitter sparklers;

20 (B) aerial devices, which include sky rockets, missile-type
21 rockets, helicopter or aerial spinners, roman candles, mines,
22 and shells;

23 (C) ground audible devices, which include firecrackers,
24 salutes, and chasers; and

25 (D) firework devices containing combinations of two (2) or
26 more of the effects described in ~~the preceding three (3)~~
27 **clauses; clauses (A), (B), and (C);** and

28 (2) do not include the following novelties and trick noisemakers:

29 (A) Snakes or glow worms.

30 (B) Smoke devices.

31 (C) Wire sparklers which contain no magnesium and which
32 contain less than one hundred (100) grams of composition per
33 item.

34 (D) Trick noisemakers, which include party poppers, booby
35 traps, snappers, trick matches, cigarette loads, and auto burglar
36 alarms.

37 "Cone fountain" means a cardboard or heavy paper cone which
38 contains up to fifty (50) grams of pyrotechnic composition, and which
39 produces the same effect as a cylindrical fountain.

40 "Cylindrical fountain" means a cylindrical tube not exceeding
41 three-quarters (3/4) inch in inside diameter and containing up to
42 seventy-five (75) grams of pyrotechnic composition. Fountains produce



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1 a shower of color and sparks upon ignition, and sometimes a whistling
 2 effect. Cylindrical fountains may contain a spike to be inserted in the
 3 ground (spike fountain), a wooden or plastic base to be placed on the
 4 ground (base fountain), or a wooden handle or cardboard handle for
 5 items designed to be hand-held (handle fountain).

6 "Dipped stick" or "wire sparkler" means a common firework that
 7 consists of a stick or wire coated with pyrotechnic composition that
 8 produces a shower of sparks upon ignition. Total pyrotechnic
 9 composition does not exceed one hundred (100) grams per item. Those
 10 devices containing chlorate or perchlorate salts do not exceed five (5)
 11 grams in total composition per item. Wire sparklers which contain no
 12 magnesium and which contain less than one hundred (100) grams of
 13 composition per item are not included in the category of common
 14 fireworks.

15 "Distributor" means a person who sells fireworks to wholesalers and
 16 retailers for resale.

17 "Explosive composition" means a chemical or mixture of chemicals
 18 that produces an audible effect by deflagration or detonation when
 19 ignited.

20 "Firecracker" or "salute" is a device that consists of a small
 21 paper-wrapped or cardboard tube containing not more than fifty (50)
 22 milligrams of pyrotechnic composition and that produces, upon
 23 ignition, noise, accompanied by a flash of light.

24 "Firework" means any composition or device designed for the
 25 purpose of producing a visible or audible effect by combustion,
 26 deflagration, or detonation. Fireworks consist of common fireworks and
 27 special fireworks. The following items are excluded from the definition
 28 of fireworks:

- 29 (1) Model rockets.
- 30 (2) Toy pistol caps.
- 31 (3) Emergency signal flares.
- 32 (4) Matches.
- 33 (5) Fixed ammunition for firearms.
- 34 (6) Ammunition components intended for use in firearms, muzzle
 35 loading cannons, or small arms.
- 36 (7) Shells, cartridges, and primers for use in firearms, muzzle
 37 loading cannons, or small arms.
- 38 (8) Indoor pyrotechnics special effects material.
- 39 (9) **M-80s, cherry bombs, silver salutes, and any other device**
 40 **banned by the federal government.**

41 "Flitter sparkler" means a narrow paper tube filled with pyrotechnic
 42 composition that produces color and sparks upon ignition. These

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1 devices do not use a fuse for ignition, but rather are ignited by igniting
2 the paper at one (1) end of the tube.

3 "Ground spinner" means a small spinning device which is similar to
4 wheels in design and effect when placed on the ground and ignited, and
5 which produces a shower of sparks and color when spinning.

6 "Helicopter" or "aerial spinner" is a spinning device:

7 (1) that consists of a tube up to one-half (1/2) inch in inside
8 diameter and that contains up to twenty (20) grams of pyrotechnic
9 composition;

10 (2) to which some type of propeller or blade device is attached;
11 and

12 (3) that lifts into the air upon ignition, producing a visible or
13 audible effect at the height of flight.

14 "Illuminating torch" means a cylindrical tube that:

15 (1) contains up to one hundred (100) grams of pyrotechnic
16 composition;

17 (2) produces, upon ignition, a colored fire; and

18 (3) is either a spike, base, or handle-type device.

19 "Importer" means:

20 (1) a person who imports fireworks from a foreign country; or

21 (2) a person who brings or causes fireworks to be brought within
22 this state for subsequent sale.

23 "Indoor pyrotechnics special effects material" means a chemical
24 material that is clearly labeled by the manufacturer as suitable for
25 indoor use (as provided in National Fire Protection Association
26 Standard 1126 (1992 edition)).

27 "Interstate wholesaler" means a person who is engaged in interstate
28 commerce selling fireworks not approved for sale in Indiana.

29 "Manufacturer" means a person engaged in the manufacture of
30 fireworks.

31 "Mine" or "shell" means a device that:

32 (1) consists of a heavy cardboard or paper tube up to two and
33 one-half (2 1/2) inches in inside diameter, to which a wooden or
34 plastic base is attached;

35 (2) contains up to forty (40) grams of pyrotechnic composition;
36 and

37 (3) propels, upon ignition, stars (pellets of pressed pyrotechnic
38 composition that burn with bright color), whistles, parachutes, or
39 combinations thereof, with the tube remaining on the ground.

40 "Missile-type rocket" means a device that is similar to a sky rocket
41 in size, composition, and effect, and that uses fins rather than a stick for
42 guidance and stability.

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1 "Party popper" means a small plastic or paper item containing not
2 more than sixteen (16) milligrams of explosive composition that is
3 friction sensitive. A string protruding from the device is pulled to ignite
4 it, expelling paper streamers and producing a small report.

5 "Person" means an individual, an association, an organization, a
6 limited liability company, or a corporation.

7 "Pyrotechnic composition" means a mixture of chemicals that
8 produces a visible or audible effect by combustion rather than
9 deflagration or detonation. Pyrotechnic compositions will not explode
10 upon ignition unless severely confined.

11 "Retail sales stand" means a temporary business site or location
12 where goods are to be sold.

13 "Retailer" means a person who purchases fireworks for resale to
14 consumers.

15 "Roman candle" means a device that consists of a heavy paper or
16 cardboard tube not exceeding three-eighths (3/8) inch in inside
17 diameter and that contains up to twenty (20) grams of pyrotechnic
18 composition. Upon ignition, up to ten (10) "stars" (pellets of pressed
19 pyrotechnic composition that burn with bright color) are individually
20 expelled at several-second intervals.

21 "Sky rocket" means a device that:

22 (1) consists of a tube that ~~does not exceed one-half (1/2) inch in~~
23 ~~inside diameter and that~~ contains up to twenty (20) grams of
24 pyrotechnic composition;

25 (2) contains a ~~wooden~~ stick for guidance and stability; and

26 (3) rises into the air upon ignition, producing a burst of color or
27 noise at the height of flight.

28 "Smoke device" means a tube or sphere containing pyrotechnic
29 composition that produces white or colored smoke upon ignition as the
30 primary effect.

31 "Snake" or "glow worm" means a pressed pellet of pyrotechnic
32 composition that produces a large, snake-like ash upon burning. The
33 ash expands in length as the pellet burns. These devices do not contain
34 mercuric thiocyanate.

35 "Snapper" means a small, paper-wrapped item containing a minute
36 quantity of explosive composition coated on small bits of sand. When
37 dropped, the device explodes, producing a small report.

38 "Special fireworks" means fireworks designed primarily to produce
39 visible or audible effects by combustion, deflagration, or detonation,
40 including firecrackers containing more than one hundred thirty (130)
41 milligrams of explosive composition, aerial shells containing more than
42 forty (40) grams of pyrotechnic composition, and other exhibition

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1 display items that exceed the limits for classification as common
2 fireworks.

3 "Trick match" means a kitchen or book match that has been coated
4 with a small quantity of explosive or pyrotechnic composition. Upon
5 ignition of the match, a small report or a shower of sparks is produced.

6 "Trick noisemaker" means an item that produces a small report
7 intended to surprise the user.

8 "Wheel" means a pyrotechnic device that:

9 (1) is attached to a post or tree by means of a nail or string;

10 (2) contains up to six (6) driver units (tubes not exceeding
11 one-half (1/2) inch in inside diameter) containing up to sixty (60)
12 grams of composition per driver unit; and

13 (3) revolves, upon ignition, producing a shower of color and
14 sparks and sometimes a whistling effect.

15 "Wholesaler" means a person who **does either or both of the**
16 **following:**

17 (1) Purchases fireworks for resale to retailers.

18 (2) **Sells common fireworks for use at public display sites.**

19 SECTION 2. IC 22-11-14-4 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in
21 this chapter shall be construed to prohibit:

22 (1) any resident wholesaler, manufacturer, importer, or distributor
23 from selling:

24 (A) at wholesale fireworks not prohibited by this chapter; **or**

25 (B) fireworks not approved for sale in Indiana if they are to be
26 shipped directly out of state within five (5) days of the date of
27 sale; **or**

28 (C) **common fireworks to be used in conjunction with an**
29 **approved public display site;**

30 (2) the use of fireworks by railroads or other transportation
31 agencies for signal purposes or illumination;

32 (3) the sale or use of blank cartridges for:

33 (A) a show or theater;

34 (B) signal or ceremonial purposes in athletics or sports; **or**

35 (C) use by military organizations;

36 (4) the intrastate sale of fireworks not approved for sale in Indiana
37 between interstate wholesalers;

38 (5) the possession, sale, or disposal of fireworks, incidental to the
39 public display of Class B fireworks, by wholesalers or other
40 persons who possess a permit to possess, store, and sell Class B
41 explosives from the Bureau of Alcohol, Tobacco and Firearms,
42 United States Department of the Treasury; **or**



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- 1 (6) the use of indoor pyrotechnics special effects material before
 2 an indoor or outdoor proximate audience.
- 3 (b) For the purposes of this section, a resident wholesaler, importer,
 4 or distributor, is a person who:
- 5 (1) is a resident of Indiana;
- 6 (2) possesses for resale common fireworks approved or not
 7 approved for sale in Indiana;
- 8 (3) is engaged in the interstate sale of common fireworks
 9 described in subdivision (2) as an essential part of a business that
 10 is located in a permanent structure ~~and that:~~
- 11 (A) is open at least six (6) months each year;
- 12 (B) contains four (4) walls, a roof, foundation, and floor;
- 13 (C) has at least one (1) smoke detector for every one
 14 thousand (1,000) square feet of selling floor space and at
 15 least two (2) smoke detectors for every structure;
- 16 (D) has at least one (1) fire extinguisher for every one
 17 thousand (1,000) square feet of selling floor space and at
 18 least two (2) fire extinguishers for every structure;
- 19 (E) does not exceed ten thousand (10,000) square feet in
 20 total area unless the structure is in existence on June 1,
 21 1999;
- 22 (F) if the structure has other tenants that sell other
 23 commodities, has a fixed fire wall separation of at least a
 24 two (2) hour fire resistive construction as determined
 25 under the rules of the fire prevention and building safety
 26 commission between the area where fireworks are offered
 27 for sale and any other occupant of the same building; and
- 28 (G) prohibits smoking in the structure and has at least one
 29 (1) sign posted for every one thousand (1,000) square feet
 30 of floor space and at least two (2) signs for every structure
 31 that state that a person is prohibited from smoking where
 32 fireworks are sold or stored; and
- 33 (4) sells common fireworks described in subdivision (2) only to
 34 purchasers who provide a written and signed assurance that the
 35 fireworks are to be shipped out of Indiana within five (5) days of
 36 the date of sale; and
- 37 ~~(5)~~ has possession of a certificate of compliance issued by the
 38 state fire marshal under section 5 of this chapter.
- 39 (c) ~~A purchaser may not provide a written and signed assurance that~~
 40 ~~the fireworks purchased are to be shipped out of Indiana and then sell~~
 41 ~~or use them in Indiana. Notwithstanding subsection (b)(3):~~
- 42 (1) ~~an addition or structural modification that is made to an~~

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1 existing permanent structure used for the sale of fireworks
 2 must have a fire suppression system installed for the entire
 3 area in which fireworks are to be sold if the building has
 4 direct access to a public water source; and

5 **(2) an existing permanent structure that was not used for the**
 6 **sale of fireworks in 1998 must have a fire suppression system**
 7 **for the entire area in which fireworks are to be sold not later**
 8 **than January 1, 2003, if the building has direct access to a**
 9 **public water source.**

10 SECTION 3. IC 22-11-14-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state fire
 12 marshal shall remove at the expense of the owner, all stocks of
 13 fireworks or combustibles possessed, transported, or delivered in
 14 violation of this chapter.

15 (b) The state fire marshal shall stop the shipments and sale of
 16 fireworks, novelties, and trick noisemakers unless, prior to shipment
 17 into this state for sale, the manufacturer, wholesaler, importer, or
 18 distributor of the fireworks, novelties, and trick noisemakers submits
 19 to the state fire marshal:

20 (1) a complete description of each item proposed to be shipped
 21 into Indiana;

22 (2) a written certification that the items are manufactured in
 23 accordance with section 1 of this chapter; and

24 (3) **an annual registration fee of one thousand dollars (\$1,000) for**
 25 **the first location and an additional registration fee of one**
 26 **hundred dollars (\$100) for a second or subsequent location**
 27 **from which fireworks are to be offered for sale.**

28 If upon inspection the state fire marshal finds that this chapter has been
 29 complied with, an annual certificate of compliance shall be issued to
 30 the manufacturer, wholesaler, importer, or distributor. An annual
 31 certificate of compliance expires December 31 of the year during
 32 which the certificate is issued. Each manufacturer, wholesaler,
 33 importer, or distributor must obtain a certificate of compliance. The
 34 certificate is not transferable, except that a retailer that offers the items
 35 for sale to the public is entitled to receive a certified copy of the
 36 certificate from the manufacturer, wholesaler, importer, or distributor
 37 from which the retailer purchases the items. A certified copy of the
 38 certificate of compliance must be posted in each location where the
 39 items are offered for sale to the public. If upon inspection the state fire
 40 marshal finds that this chapter has not been complied with, the state
 41 fire marshal shall refuse to issue a certificate of compliance and state
 42 the reasons for the refusal. A copy of the order denying the issuance of

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1 a certificate of compliance and the reasons shall be forwarded to the
 2 manufacturer, wholesaler, importer, or distributor. The state fire
 3 marshal may revoke any certificate of compliance issued to any
 4 manufacturer, wholesaler, importer, or distributor if the holder of the
 5 certificate has violated this chapter. **A certificate of compliance may
 6 not be issued after June 15 of a year.**

7 (c) All fireworks, novelties, and trick noisemakers shipped into
 8 Indiana, or manufactured and sold in Indiana, must have distinctly and
 9 durably painted, stamped, printed or marked on the package, box or
 10 container in which the items are enclosed the exact number of pieces
 11 in the container.

12 (d) It is unlawful for a manufacturer, wholesaler, importer, or
 13 distributor to sell at wholesale, offer to sell at wholesale, or ship or
 14 cause to be shipped into Indiana fireworks, novelties, or trick
 15 noisemakers unless the manufacturer, wholesaler, importer, or
 16 distributor has been issued and holds a valid certificate of compliance
 17 issued under subsection (b). This subsection applies to nonresidents
 18 and residents of Indiana.

19 **(e) Fireworks may not be sold to a person under eighteen (18)
 20 years of age except for those fireworks listed in section 8 of this
 21 chapter.**

22 SECTION 4. IC 22-11-14-6 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person who
 24 violates section ~~4(c)~~ 5(c), 5(d), **5(e)**, 7, ~~or~~ 8, **or 8.1** of this chapter
 25 commits a Class A misdemeanor.

26 SECTION 5. IC 22-11-14-8.1 IS ADDED TO THE INDIANA
 27 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 28 [EFFECTIVE JULY 1, 1999]: **Sec. 8.1. (a) Except as provided in
 29 subsection (b), a person may not sell, distribute, or use a sky
 30 rocket:**

31 **(1) with a tube diameter of less than three-eighths (3/8) inch
 32 by two and one-fourth (2 1/4) inches in length;**

33 **(2) with a stick dimension that is less than one-eighth (1/8)
 34 inch in diameter by eleven and one-half (11 1/2) inches in
 35 length; and**

36 **(3) that has a total pyrotechnic composition that is less than
 37 twenty (20) grams in weight.**

38 **(b) A sky rocket that is prohibited from sale, use, or distribution
 39 under subsection (a) may be stored and sold by a licensed
 40 wholesaler for the exclusive purpose of out-of-state distribution.**

41 SECTION 6. An emergency is declared for this act.



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