WEST VIRGINIA CODE: §29-3E-2

§29-3E-2. Definitions.

As used in this article:

(1) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers and growers through a wildlife management program administered by the United States Department of the Interior or the Division of Natural Resources of this state;

(2) “Amusement park” means any person or organization which holds a permit for the operation of an amusement ride or amusement attraction under article ten, chapter twenty-one of this code;

(3) "APA Standard 87-1" means the APA Standard 87-1 published by the American Pyrotechnics Association, as amended, and incorporated by reference into Title 49 of the Code of Federal Regulations;

(4) "Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C.F.R. §172.101 (2014);

(5) "Consumer fireworks" means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. Parts 1500 and 1507 (2014), and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;

(6) "Consumer fireworks certificate" means a certificate issued under section five of this article;

(7) "Display fireworks" means large fireworks to be used solely by professional pyrotechnicians licensed by the State Fire Marshal and designed primarily to produce visible or audible effects by combustion, deflagration or detonation and includes, but is not limited to, salutes containing more than two grains (one hundred thirty milligrams) of explosive materials, aerial shells containing more than forty grams of pyrotechnic compositions and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 C.F.R. §172.101 (2014);

(8) "Distributor" means a person who sells fireworks to wholesalers and retailers for resale;

(9) "Division 1.3 explosive" means that term as defined in 49 C.F.R. §173.50 (2014);

WV Legislature

(10) "Division 1.4 explosive" means that term as defined in 49 C.F.R. §173.50 (2014);

(11) "Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited;

(12) "Fire Marshal" means the State Fire Marshal;

(13) "Firework" or "fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparkling devices, novelties, toy caps or model rockets;

(14) "Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks;

(15) “Model rocket” means that term as defined in National Fire Protection Association Standard 1122, “Code for Model Rocketry”;

(16) "New explosive" means that term as defined in 49 C.F.R. §173.56 (2014);

(17) "NFPA 1123" means National Fire Protection Association Standard 1123, "Code for Fireworks Display;"

(18) "NFPA 1124" means National Fire Protection Association Standard 1124, "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles,” 2006 Edition;

(19) "NFPA 1126" means National Fire Protection Association Standard 1126, "Standard for the Use of Pyrotechnics Before a Proximate Audience;"

(20) "Novelties" means that term as defined under APA standard 87-1, section 3.2; but shall not include toy pistols, toy caps, toy canes, toy guns or other similar devices;

(21) “Permanent” means that term as defined in NFPA 1124;

(22) "Person" means an individual or the responsible person for an association, an organization, a partnership, a limited partnership, a limited liability company, a corporation or any other group or combination acting as a unit;

(23) “Public display of fireworks” means a public entertainment feature that is advertised to the general public or is on public property that includes the display or discharge of fireworks;

(24) "Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. A pyrotechnic composition will not explode upon ignition unless severely confined;

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(25) "Retailer" means a person who purchases consumer fireworks for resale to consumers;

(26) "Sparkling devices" means "ground or handheld sparkling devices" as that phrase is defined under APA 87-1, sections 3.1.1 and 3.5;

(27) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment;

(28) “Temporary” means that term as defined in NFPA 1124;

(29) "Toy caps" means that term as defined under APA 87-1, section 3.3; and

(30) "Wholesaler" means any person who sells consumer fireworks to a retailer or any other person for resale and any person who sells articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

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