WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED

SENATE BILL No. 58

(By Mr.   )

PASSED       Feb. 28, 1939

In Effect Ninety days from Passage
AN ACT to amend article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto sections twenty-eight to thirty-three, inclusive, prohibiting the sale, offering or exposing for sale of fireworks; defining fireworks and regulating the manner of using fireworks; and providing penalties for the violation of the provisions hereof, and for other purposes.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto sections twenty-eight to thirty-three, inclusive, to read as follows:
Section 28. *Fireworks; Definition.*—The term "fireworks"

shall mean and include any combustible or explosive com-
position, or any substance or combination of substances, or
article prepared for the purpose of producing a visible or an
audible effect by combustion, explosion, deflagration or de-
tonation, and shall include blank cartridges, toy pistols,
toy cannons, toy canes, or toy guns in which explosives are
used, the type of balloons which require fire underneath to
propel the same, firecrackers, torpedoes, skyrockets, Roman
candles, Daygo bombs, sparklers or other fireworks of like
construction and any fireworks containing any explosive or
flammable compound, or any tablets or other device con-
taining any explosive substance: *Provided, however,* That
the term "fireworks," as herein used, shall not be held to
mean and include fixed ammunition for firearms, and
primers therefor.

Sec. 29. *Unlawful to sell at Retail and Use Fireworks; Ex-
ceptions as to Licensed Public Displays.*—Except as herein-
after provided it shall be unlawful for any person, firm,
co-partnership, or corporation to offer for sale, expose for
sale, sell at retail, possess, use or explode any fireworks:
6 *Provided*, That the state fire marshal shall have power to
7 adopt reasonable rules and regulations for the granting of
8 permits for supervised public displays of fireworks by
9 municipalities, fair associations, amusement parks, and
10 other organizations or groups of individuals. Every such
11 display shall be handled by a competent operator to be
12 approved by the chiefs of the police and fire departments of
13 the municipality in which the display is to be held and shall
14 be of such a character, and so located, discharged or fired
15 as in the opinion of the chief of the fire department, after
16 proper inspection, shall not be hazardous to property or
17 endanger any person or persons. If the public display is to
18 be without the limits of a municipality the operator shall be
19 approved by the sheriff of the county wherein said display
20 is to be held. Application for permits shall be made in
21 writing at least fifteen days in advance of the date of the
22 display. After such privilege shall have been granted, sales,
23 possessions, use and distribution of fireworks for such dis-
24 play shall be lawful for that purpose only. No permit
25 granted hereunder shall be transferable.
Sec. 30. *Interstate Sale and Shipment of Fireworks; Use by Military Organizations and for Signal Purposes Permitted.*

—Nothing in this act shall be construed to prohibit any resident wholesaler, dealer, or jobber to sell at wholesale such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped directly out of state; or the use of fireworks by railroads or other transportation agencies for signal purposes of illumination, or the sale or use of blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or to explosives used for blasting or similar purposes.

Sec. 31. *Seizure and Disposition by Fire Marshal of Unlawful Fireworks; Enforcement of Act.*—The state fire marshal shall seize, take, remove, and destroy, or cause to be seized, taken or removed, and destroyed at the expense of the owner all stocks or fireworks or combustibles offered or exposed for sale, stored, or held in violation of this act. It shall be the duty of the state police, sheriffs, municipal policemen, and other law enforcement officers to assist in the enforcement of this act.
Sec. 32. Penalties for Violation of Law Governing Use of Fireworks.—Any person, firm, co-partnership, or corporation violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment.

Sec. 33. Construction; Provisions Severable; Inconsistent Acts Repealed.—Being in the interest of public safety the provisions of this act shall be liberally construed. The provisions of this act shall be construed as severable, and should any provision be held unconstitutional, or for any reason invalid, the remaining provisions shall not be affected thereby. All acts, or parts of acts, in conflict with this act, are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the
foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within..........................this the..............

day of.................................., 1939.

Governor.

Filed in the office of the Secretary of State
of West Virginia
WM. S. O'BRIEN,
Secretary of State
I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the 17th day of March, 1939.

[Signature]

SECRETARY OF STATE