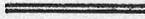


WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

SENATE BILL No. 58

(By Mr. Hussia)

PASSED Feb. 28th 1939

In Effect Thirty days from Passage



85

## ENROLLED

### Senate Bill No. 58

(By MR. HUSSION) (by request)

[Passed February 23, 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 composition, 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 detonation, 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, skyrocketes, 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 containing 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; Exceptions 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  
2 by Military Organizations and for Signal Purposes Permitted.*

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

Sec. 31. *Seizure and Disposition by Fire Marshal of Un-  
2 lawful Fireworks; Enforcement of Act.*—The state fire marshal

3 shall seize, take, remove, and destroy, or cause to be seized,  
4 taken or removed, and destroyed at the expense of the owner  
5 all stocks or fireworks or combustibles offered or exposed for  
6 sale, stored, or held in violation of this act. It shall be the  
7 duty of the state police, sheriffs, municipal policemen, and  
8 other law enforcement officers to assist in the enforcement  
9 of this act.

Sec. 32. *Penalties for Violation of Law Governing Use of*  
2 *Fireworks.*—Any person, firm, co-partnership, or corporation  
3 violating the provisions of this act shall be guilty of a mis-  
4 demeanor and upon conviction thereof shall be punished by  
5 a fine not exceeding one hundred dollars or by imprisonment  
6 in the county jail not exceeding ninety days, or by both  
7 such fine and imprisonment.

Sec. 33. *Construction; Provisions Severable; Inconsistent*  
2 *Acts Repealed.*—Being in the interest of public safety the pro-  
3 visions of this act shall be liberally construed. The provisions  
4 of this act shall be construed as severable, and should any  
5 provision be held unconstitutional, or for any reason invalid,  
6 the remaining provisions shall not be affected thereby. All  
7 acts, or parts of acts, in conflict with this act, are hereby  
8 repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*E. Wiseman*

Chairman Senate Committee

*Deed B. Walter*

Chairman House Committee

Originated in the *Senate*

Takes effect *Ninety days* for passage

*Chas. H. Traylor*

Clerk of the Senate

*Geo. S. Hance*

Clerk of the House of Delegates

*Wm. M. Canine*

President of the Senate

*James Kay Howard*

Speaker House of Delegates

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

day of....., 1939.

.....  
Governor.



Filed in the office of the Secretary of State  
of West Virginia. **MAR 11 1939**  
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



SECRETARY OF STATE