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WEST VIRGINIA
SENATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

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ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 482

(By Senator LOVE, ET AL)

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PASSED MARCH 11, 1995
In Effect 90 DAYS FROM Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 482

(SENATORS LOVE, WIEDEBUSCH, BOWMAN,
SCHOONOVER, BUCKALEW AND BLATNIK,
original sponsors)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighty-six; and to amend and reenact section twenty-three, article three, chapter twenty-nine of said code, all relating to authorizing sparklers and novelties sales; requiring registration of businesses which sell sparklers and novelties; and preventing sparklers and sparkler devises from being sold to persons under sixteen years of age.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighty-six; and that section twenty-three, article three,

chapter twenty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 12. BUSINESS REGISTRATION TAX.

§11-12-86. Sparkler and novelty registration fee.

1 The tax commissioner shall establish a annual "Sparkler and Novelty Registration Fee" which shall be charged all businesses licensed to do business in the state of West Virginia desiring to sell sparklers and novelties authorized for sale in section twenty-three, article three, chapter twenty-nine of this code. This fee shall run concurrent with the business registration certificate set forth in section five of this article. This fee shall not be prorated. Each business shall pay fifteen dollars for each registration and shall be issued a sticker or card by the tax commissioner to be posted in a conspicuous position at the location of the business which has paid the registration fee. This fee shall be collected for each separate location where sparklers and novelties are sold. The tax commissioner may, in his discretion, require a separate certificate which shall be posted as set forth herein, or provide that the evidence of compliance with this section may be by a stamp or language added to the business registration certificate or by embossing or writing imprinted on the business registration certificate.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-23. "Fireworks" defined; labels required.

1 The term "fireworks" means and includes 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

6 shall include blank cartridges, toy pistols, toy cannons,
7 toy canes or toy guns in which explosives are used, the
8 type of unmanned balloons which require fire under-
9 neath to propel the same, firecrackers, torpedoes,
10 skyrockets, roman candles, daygo bombs or other
11 fireworks of like construction and any fireworks con-
12 taining any explosive or flammable compound or any
13 tablets or other device containing any explosive sub-
14 stance, except that the term "fireworks" shall not
15 include:

16 Model rockets and model rocket engines, designed, sold
17 and used for the purpose of propelling recoverable acro
18 models and shall not include toy pistols, toy canes, toy
19 guns or other devices in which paper or plastic caps
20 manufactured in accordance with the United States
21 department of transportation regulations for packing
22 and shipping of toy paper or plastic caps are used and
23 toy paper or plastic caps manufactured as provided
24 therein, the sale and use of which shall be permitted at
25 all times. Each package containing toy paper or plastic
26 caps offered for retail sale shall be labeled to indicate
27 the maximum explosive content per cap.

28 The following sparklers and novelties shall not be
29 considered fireworks and require a business registration
30 fee be paid to be authorized to sell, as provided for in
31 section eighty-six, article twelve, chapter eleven of this
32 code:

33 (1) Explosive caps designed to be fired in toy pistols,
34 provided that the explosive mixture of the caps shall not
35 exceed twenty-five hundredths of a grain for each cap.

36 (2) Snake and glow worms composed of pressed pellets
37 of a pyrotechnic mixture that produce a large snake-like
38 ash when burning.

39 (3) Smoke devices consisting of a tube or sphere
40 containing a pyrotechnic mixture that produces white or
41 colored smoke.

42 (4) Trick noisemakers which produce a small report
43 designed to surprise the user and which include:

44 (a) A party popper, which is a small plastic or paper
45 item containing not in excess of twenty-five hundredths
46 of a grain of explosive mixture. A string protruding
47 from the device is pulled to activate the device, expelling
48 paper streamers and producing a small report.

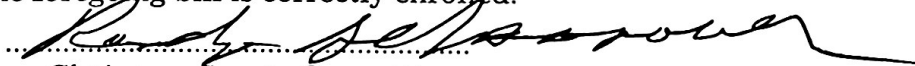
49 (b) A string popper which is a small tube containing
50 not in excess of twenty-five hundredths of a grain of
51 explosive mixture with string protruding from both ends.
52 The strings are pulled to activate the friction-sensitive
53 mixture, producing a small report.

54 (c) A snapper or drop pop, which is a small paper
55 wrapped item containing no more than twenty-five
56 hundredths of a grain of explosive mixture coated on
57 small bits of sand. When dropped, the device produces
58 a small report.

59 (6) Wire sparklers consisting of wire or stick coated
60 with nonexplosive pyrotechnic mixture that produces a
61 shower of sparks upon ignition. These items must not
62 exceed one hundred grams of mixture per item.

63 (7) Other sparkling devices which emit showers of
64 sparks and sometimes a whistling or crackling effect
65 when burning, do not detonate or explode, are hand-held
66 or ground-based, cannot propel themselves through the
67 air and contain not more than seventy-five grams of
68 chemical compound per tube or not more than a total of
69 two hundred grams if multiple tubes are used: *Provided*,
70 That sparklers and sparkler devices as provided for
71 herein shall not be sold to anyone below the age of
72 sixteen years old.

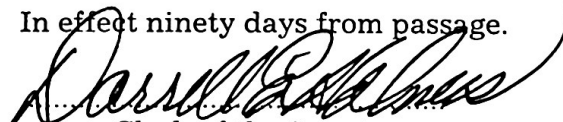
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee



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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

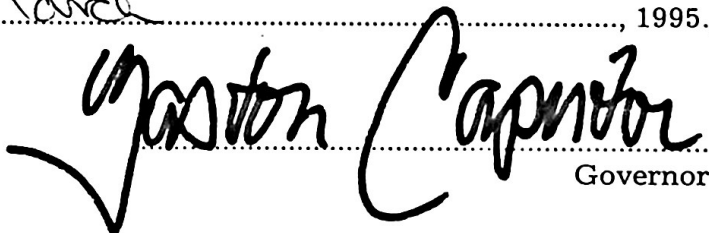

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved..... this the 23rd
day of March....., 1995.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/22/95

Time

4:48 pm