WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

Committee Substitute for
SENATE BILL NO. 482

(By Senator LOVE, ET AL.)

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 an 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
shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs 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, except that the term "fireworks" shall not include:

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

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

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

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

(3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
(4) Trick noisemakers which produce a small report designed to surprise the user and which include:

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

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

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

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

(7) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, are hand-held or ground-based, cannot propel themselves through the air and contain not more than seventy-five grams of chemical compound per tube or not more than a total of two hundred grams if multiple tubes are used: Provided, that sparklers and sparkler devices as provided for herein shall not be sold to anyone below the age of sixteen years old.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ....... this the ... day of ... 1995.

Governor