
HOUSE BILL No. 1272

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-11-14.

Synopsis: Sale of common fireworks. Removes the penalty for the possession, transportation, or delivery of common fireworks. Permits a retailer to sell common fireworks at retail, and repeals the categories of common fireworks, novelties, and trick noisemakers that are permitted to be sold. Repeals the wholesaler requirements for fireworks not approved for sale in Indiana. Provides that a person who possesses, transports, or delivers special fireworks other than as authorized commits a Class A misdemeanor. Makes conforming amendments.

Effective: Upon passage.

Mahern

January 9, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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HOUSE BILL No. 1272



A BILL FOR AN ACT to amend the Indiana Code concerning fireworks.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-11-14-1 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
- 3 chapter:
- 4 "Auto burglar alarm" means a tube that contains pyrotechnic
- 5 composition that produces a loud whistle or smoke when ignited. A
- 6 small quantity of explosive, not exceeding fifty (50) milligrams, may
- 7 also be used to produce a small report. A squib is used to ignite the
- 8 device.
- 9 "Booby trap" means a small tube with string protruding from both
- 10 ends, similar to a party popper in design. The ends of the string are
- 11 pulled to ignite the friction sensitive composition, producing a small
- 12 report.
- 13 "Chaser" means a device, containing fifty (50) milligrams or less of
- 14 explosive composition, that consists of a small paper or cardboard tube
- 15 that travels along the ground upon ignition. A whistling effect is often
- 16 produced, and a small noise may be produced.
- 17 "Cigarette load" means a small wooden peg that has been coated



1 with a small quantity of explosive composition. Upon ignition of a
2 cigarette containing one of the pegs, a small report is produced.

3 "Common firework" means a small firework that is designed
4 primarily to produce visible effects by combustion, and that is required
5 to comply with the construction, chemical composition, and labeling
6 regulations promulgated by the United States Consumer Product Safety
7 Commission under 16 CFR 1507. The term also includes some small
8 devices designed to produce an audible effect, such as whistling
9 devices, ground devices containing fifty (50) milligrams or less of
10 explosive composition, and aerial devices containing one hundred
11 thirty (130) milligrams or less of explosive composition. Propelling or
12 expelling charges consisting of a mixture of charcoal, sulfur, and
13 potassium nitrate are not considered as designed to produce an audible
14 effect. Common fireworks

15 ~~(+)~~ include **the following**:

16 ~~(A)~~ **(1)** Ground and hand-held sparkling devices, which
17 include dipped ~~stick~~, **sticks**, certain wire sparklers, cylindrical
18 fountains, cone fountains, illuminating torches, wheels, ground
19 spinners, and flutter sparklers.

20 ~~(B)~~ **(2)** Aerial devices, which include sky rockets, missile-type
21 rockets, helicopter or aerial spinners, roman candles, mines,
22 and shells.

23 ~~(C)~~ **(3)** Ground audible devices, which include firecrackers,
24 salutes, and chasers. ~~and~~

25 ~~(D)~~ **(4)** Firework devices containing combinations of two (2)
26 or more of the effects described in the preceding three (3)
27 clauses. ~~and~~

28 ~~(2)~~ do not include the following novelties and trick noisemakers:

29 ~~(A)~~ **(5)** Snakes or glow worms.

30 ~~(B)~~ **(6)** Smoke devices.

31 ~~(C)~~ **(7)** Wire ~~sparklers~~ **sparkler novelties** which contain no
32 magnesium and which contain less than one hundred (100)
33 grams of composition per item.

34 ~~(D)~~ **(8)** Trick noisemakers, which include party poppers, booby
35 traps, snappers, trick matches, cigarette loads, and auto burglar
36 alarms.

37 "Cone fountain" means a cardboard or heavy paper cone which
38 contains up to fifty (50) grams of pyrotechnic composition, and which
39 produces the same effect as a cylindrical fountain.

40 "Cylindrical fountain" means a cylindrical tube not exceeding
41 three-quarters (3/4) inch in inside diameter and containing up to
42 seventy-five (75) grams of pyrotechnic composition. Fountains produce

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1 a shower of color and sparks upon ignition, and sometimes a whistling
2 effect. Cylindrical fountains may contain a spike to be inserted in the
3 ground (spike fountain), a wooden or plastic base to be placed on the
4 ground (base fountain), or a wooden handle or cardboard handle for
5 items designed to be hand-held (handle fountain).

6 "Dipped stick" or "wire sparkler" means a common firework that
7 consists of a stick or wire coated with pyrotechnic composition that
8 produces a shower of sparks upon ignition. Total pyrotechnic
9 composition does not exceed one hundred (100) grams per item. Those
10 devices containing chlorate or perchlorate salts do not exceed five (5)
11 grams in total composition per item. Wire sparklers which contain no
12 magnesium and which contain less than one hundred (100) grams of
13 composition per item are not included in the category of common
14 fireworks.

15 "Distributor" means a person who sells fireworks to wholesalers and
16 retailers for resale.

17 "Explosive composition" means a chemical or mixture of chemicals
18 that produces an audible effect by deflagration or detonation when
19 ignited.

20 "Firecracker" or "salute" is a device that consists of a small
21 paper-wrapped or cardboard tube containing not more than fifty (50)
22 milligrams of pyrotechnic composition and that produces, upon
23 ignition, noise, accompanied by a flash of light.

24 "Firework" means any composition or device designed for the
25 purpose of producing a visible or audible effect by combustion,
26 deflagration, or detonation. Fireworks consist of common fireworks and
27 special fireworks. The following items are excluded from the definition
28 of fireworks:

- 29 (1) Model rockets.
- 30 (2) Toy pistol caps.
- 31 (3) Emergency signal flares.
- 32 (4) Matches.
- 33 (5) Fixed ammunition for firearms.
- 34 (6) Ammunition components intended for use in firearms, muzzle
35 loading cannons, or small arms.
- 36 (7) Shells, cartridges, and primers for use in firearms, muzzle
37 loading cannons, or small arms.
- 38 (8) Indoor pyrotechnics special effects material.

39 "Flitter sparkler" means a narrow paper tube filled with pyrotechnic
40 composition that produces color and sparks upon ignition. These
41 devices do not use a fuse for ignition, but rather are ignited by igniting
42 the paper at one (1) end of the tube.

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1 "Ground spinner" means a small spinning device which is similar to
2 wheels in design and effect when placed on the ground and ignited, and
3 which produces a shower of sparks and color when spinning.

4 "Helicopter" or "aerial spinner" is a spinning device:

5 (1) that consists of a tube up to one-half (1/2) inch in inside
6 diameter and that contains up to twenty (20) grams of pyrotechnic
7 composition;

8 (2) to which some type of propeller or blade device is attached;
9 and

10 (3) that lifts into the air upon ignition, producing a visible or
11 audible effect at the height of flight.

12 "Illuminating torch" means a cylindrical tube that:

13 (1) contains up to one hundred (100) grams of pyrotechnic
14 composition;

15 (2) produces, upon ignition, a colored fire; and

16 (3) is either a spike, base, or handle-type device.

17 "Importer" means:

18 (1) a person who imports fireworks from a foreign country; or

19 (2) a person who brings or causes fireworks to be brought within
20 this state for subsequent sale.

21 "Indoor pyrotechnics special effects material" means a chemical
22 material that is clearly labeled by the manufacturer as suitable for
23 indoor use (as provided in National Fire Protection Association
24 Standard 1126 (1992 edition)).

25 ~~"Interstate wholesaler" means a person who is engaged in interstate
26 commerce selling fireworks not approved for sale in Indiana.~~

27 "Manufacturer" means a person engaged in the manufacture of
28 fireworks.

29 "Mine" or "shell" means a device that:

30 (1) consists of a heavy cardboard or paper tube up to two and
31 one-half (2 1/2) inches in inside diameter, to which a wooden or
32 plastic base is attached;

33 (2) contains up to forty (40) grams of pyrotechnic composition;
34 and

35 (3) propels, upon ignition, stars (pellets of pressed pyrotechnic
36 composition that burn with bright color), whistles, parachutes, or
37 combinations thereof, with the tube remaining on the ground.

38 "Missile-type rocket" means a device that is similar to a sky rocket
39 in size, composition, and effect, and that uses fins rather than a stick for
40 guidance and stability.

41 "Party popper" means a small plastic or paper item containing not
42 more than sixteen (16) milligrams of explosive composition that is

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1 friction sensitive. A string protruding from the device is pulled to ignite
2 it, expelling paper streamers and producing a small report.

3 "Person" means an individual, an association, an organization, a
4 limited liability company, or a corporation.

5 "Pyrotechnic composition" means a mixture of chemicals that
6 produces a visible or audible effect by combustion rather than
7 deflagration or detonation. Pyrotechnic compositions will not explode
8 upon ignition unless severely confined.

9 "Retail sales stand" means a temporary business site or location **that**
10 **is a permanent structure having four (4) walls, a floor, a ceiling,**
11 **and a foundation** where goods are to be sold.

12 "Retailer" means a person who purchases fireworks for resale to
13 consumers.

14 "Roman candle" means a device that consists of a heavy paper or
15 cardboard tube not exceeding three-eighths (3/8) inch in inside
16 diameter and that contains up to twenty (20) grams of pyrotechnic
17 composition. Upon ignition, up to ten (10) "stars" (pellets of pressed
18 pyrotechnic composition that burn with bright color) are individually
19 expelled at several-second intervals.

20 "Sky rocket" means a device that:

- 21 (1) consists of a tube that does not exceed one-half (1/2) inch in
22 inside diameter and that contains up to twenty (20) grams of
23 pyrotechnic composition;
24 (2) contains a wooden stick for guidance and stability; and
25 (3) rises into the air upon ignition, producing a burst of color or
26 noise at the height of flight.

27 "Smoke device" means a **novelty consisting of** tube or sphere
28 containing pyrotechnic composition that produces white or colored
29 smoke upon ignition as the primary effect.

30 "Snake" or "glow worm" means a **novelty consisting of a** pressed
31 pellet of pyrotechnic composition that produces a large, snake-like ash
32 upon burning. The ash expands in length as the pellet burns. These
33 devices do not contain mercuric thiocyanate.

34 "Snapper" means a small, paper-wrapped item containing a minute
35 quantity of explosive composition coated on small bits of sand. When
36 dropped, the device explodes, producing a small report.

37 "Special fireworks" means fireworks designed primarily to produce
38 visible or audible effects by combustion, deflagration, or detonation,
39 including firecrackers containing more than one hundred thirty (130)
40 milligrams of explosive composition, aerial shells containing more than
41 forty (40) grams of pyrotechnic composition, and other exhibition
42 display items that exceed the limits for classification as common

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1 fireworks.

2 "Trick match" means a kitchen or book match that has been coated
3 with a small quantity of explosive or pyrotechnic composition. Upon
4 ignition of the match, a small report or a shower of sparks is produced.

5 "Trick noisemaker" means an item that produces a small report
6 intended to surprise the user.

7 "Wheel" means a pyrotechnic device that:

- 8 (1) is attached to a post or tree by means of a nail or string;
9 (2) contains up to six (6) driver units (tubes not exceeding
10 one-half (1/2) inch in inside diameter) containing up to sixty (60)
11 grams of composition per driver unit; and
12 (3) revolves, upon ignition, producing a shower of color and
13 sparks and sometimes a whistling effect.

14 "Wholesaler" means a person who purchases fireworks for resale to
15 retailers.

16 SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The fire
18 prevention and building safety commission may adopt rules for the
19 granting of permits for supervised public displays of **special** fireworks
20 by municipalities, fair associations, amusement parks, and other
21 organizations or groups of individuals. The fire prevention and building
22 safety commission created under IC 22-12-2 shall establish by rule the
23 fee for the permit. A fee collected for a permit shall be paid into the fire
24 and building services fund created under IC 22-12-6-1. The application
25 for any permit must name a competent operator who is to officiate at
26 the display together with a brief resume of the operator's experience.
27 No operator who has a prior conviction for violating this chapter may
28 operate any display for one (1) year after the conviction. Every display
29 shall be handled by a qualified operator to be approved by the chief of
30 the fire department of the municipality in which the display is to be
31 held and shall be so located, discharged, or fired as, in the opinion of
32 the chief of the fire department, or the township fire chief, or the fire
33 chief of the municipality nearest the site proposed in case the exhibit
34 or display is sought to be held outside of the corporate limits of any city
35 or town, after proper inspection, is not hazardous to property or person.
36 Applications for permits must be made in writing at least fifteen (15)
37 days in advance of the date of display. A permit granted under this
38 section is not transferable.

39 (b) A municipality may adopt an ordinance concerning the
40 conducting and display of indoor pyrotechnics. However, an ordinance
41 adopted under this subsection may not be more lenient than a rule
42 adopted by a state agency.



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1 (c) A municipality or an organization that obtains a permit for an
 2 indoor pyrotechnics display from a local governmental entity is not
 3 required to obtain a permit approved by the state fire marshal.

4 (d) A person who possesses, transports, or delivers **special**
 5 fireworks, except as authorized under this section, commits a Class A
 6 misdemeanor.

7 SECTION 3. IC 22-11-14-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in
 9 this chapter shall be construed to prohibit:

10 (1) any ~~resident~~ wholesaler, manufacturer, importer, or distributor
 11 from selling:

12 (A) at wholesale fireworks not prohibited by this chapter; or

13 (B) fireworks not approved for sale in Indiana if they are to be
 14 shipped directly out of state within five (5) days of the date of
 15 sale;

16 (2) the use of fireworks by railroads or other transportation
 17 agencies for signal purposes or illumination;

18 (3) the sale or use of blank cartridges for:

19 (A) a show or theater;

20 (B) signal or ceremonial purposes in athletics or sports; or

21 (C) use by military organizations;

22 ~~(4) the intrastate sale of fireworks not approved for sale in Indiana~~
 23 ~~between interstate wholesalers;~~

24 ~~(5) (4) the possession, sale, or disposal of fireworks, incidental to~~
 25 ~~the public display of Class B special fireworks, by wholesalers or~~
 26 ~~other persons who possess a permit to possess, store, and sell~~
 27 ~~Class B 1.3g explosives from the Bureau of Alcohol, Tobacco and~~
 28 ~~Firearms, United States Department of the Treasury; or~~

29 ~~(6) (5) the use of indoor pyrotechnics special effects material~~
 30 ~~before an indoor or outdoor proximate audience.~~

31 ~~(b) For the purposes of this section, a resident wholesaler, importer,~~
 32 ~~or distributor, is a person who:~~

33 ~~(1) is a resident of Indiana;~~

34 ~~(2) possesses for resale common fireworks approved or not~~
 35 ~~approved for sale in Indiana;~~

36 ~~(3) is engaged in the interstate sale of common fireworks~~
 37 ~~described in subdivision (2) as an essential part of a business that~~
 38 ~~is located in a permanent structure and is open at least six (6)~~
 39 ~~months each year;~~

40 ~~(4) sells common fireworks described in subdivision (2) only to~~
 41 ~~purchasers who provide a written and signed assurance that the~~
 42 ~~fireworks are to be shipped out of Indiana within five (5) days of~~

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1 the date of sale; and

2 (5) has possession of a certificate of compliance issued by the
3 state fire marshal under section 5 of this chapter.

4 (c) A purchaser may not provide a written and signed assurance that
5 the fireworks purchased are to be shipped out of Indiana and then sell
6 or use them in Indiana.

7 (b) A retailer may sell common fireworks at retail, subject to
8 section 7 of this chapter.

9 SECTION 4. IC 22-11-14-6 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person who
11 violates section 4(c), 5(c), 5(d), or 7 or 8 of this chapter commits a
12 Class A misdemeanor.

13 SECTION 5. IC 22-11-14-7 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A retailer
15 selling fireworks at one (1) or more temporary stands must obtain a
16 fireworks ~~stand~~ retail sales **stand** permit, referred to in this section as
17 a "permit", from the state fire marshal.

18 (b) An application for a permit must be made before June 1 of each
19 year and must require that at least the following information be
20 supplied by the retailer:

21 (1) The retailer's retail merchant certificate number or proof of
22 application for a certificate number.

23 (2) The location of each **retail sales** stand.

24 The state fire marshal shall, within seven (7) days after the receipt of
25 an application for a permit, either issue the permit or notify the
26 applicant of the denial of the permit.

27 (c) The retailer must pay to the state fire marshal an annual permit
28 fee set under IC 22-12-6-8. If the state fire marshal approves an
29 application for a permit, he shall issue a permit to the retailer. The
30 permit expires one (1) year after the date of issuance.

31 (d) The permit shall be posted by the retailer at the **retail sales** stand
32 so that it is easily seen by the public. However, the state fire marshal's
33 issuance of a permit does not constitute approval of the fireworks
34 offered for sale by the retailer. The retailer is responsible for
35 determining that all fireworks which he offers for sale conform to
36 applicable law.

37 (e) At each **retail sales** stand, the retailer shall provide:

38 (1) a posted certificate of compliance, including a descriptive list
39 of approved fireworks; and

40 (2) a supervisor who is at least sixteen (16) years of age.

41 (f) Fireworks may not be sold at retail from trucks, vans, or
42 automobiles.

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1 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE
2 UPON PASSAGE]: IC 22-11-14-8; IC 22-11-14-10.
3 SECTION 7. **An emergency is declared for this act.**

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