

**Division of Fire Safety**

**MEMORANDUM**



**To:** LEA Fire Officials  
**From:** Louis Kilmer, Chief, Bureau of Fire Code Enforcement  
**Date:** June 22, 2018  
**Subject:** Sale of Consumer Fireworks

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On June 28, 2017 Governor Christie signed into law P.L. 2017, c. 92. The act concerns the sale and possession of certain fireworks and amends R.S.21:2-2, R.S.21:2-3, and R.S.21:3-2. The law now permits the storage, retail sales and use of sparkling devices and novelties by the public 16 years of age or older. The full text of this law can be found online at: [http://www.njleg.state.nj.us/2016/bills/pl17/92\\_.htm](http://www.njleg.state.nj.us/2016/bills/pl17/92_.htm)

The following definition is taken directly from P.L. 2017, c.92:  
“Sparkling devices and novelties mean:

- a. wood sticks or wire sparklers of not more than 100 grams of pyrotechnic mixture per item;
- b. hand held or ground based sparkling devices which are non-explosive and non-aerial, which may produce a crackling or whistling effect, and contain 75 grams or less of pyrotechnic composition per tube or a total of 500 grams or less for multiple tubes; and
- c. snakes and glow worms, smoke devices, and trick noisemakers, which include party poppers, snappers, and drop pops, each consisting of 25/100 grains or less of explosive mixture.”

It is also permitted under the new law for a person to offer for sale, expose for sale, sell, store, possess, or use:

“(1) a toy pistol, toy cane, toy gun, or other device in which paper or plastic caps containing .25 grain or less of explosive compound per cap are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper or plastic caps which contain less than .20 grains of explosive mixture per cap;

(2) sparkling devices and novelties as defined in R.S.21:2-2 if the person is 16 years of age or older. Sparkling devices and novelties, including their sale or use, shall not be subject to further regulation by a municipality pursuant to R.S.40:48-1, except that the storage and sale of items listed in this paragraph shall be consistent with the standards set forth in NFPA 1124 National Fire Protection Association Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition; and

(3) any item or device as otherwise provided in this chapter.”

Items permitted to be sold under this chapter must be used in accordance with their listed and labeled instructions. One key restriction is all of these items are for outdoor use only.

The Division of Fire Safety will be proposing regulations in the July 2, 2018 New Jersey Register to amend the Uniform Fire Code to comply with the provisions of P.L. 2017, c. 92. The proposed changes will include amending the definition of fireworks, excluding the above listed sparkling devices and novelties from the definition of fireworks, making it clear that the sale and utilization of sparkling devices and novelties not considered fireworks is permitted at all times and that product storage must comply with the requirements of NFPA 1124 2006 Edition.

Additionally, a Type 2 permit is being proposed for the storage or retail sales of sparkling devices and novelties in any temporary or permanent structure, when the pyrotechnic content exceeds 125 pounds. It is important to note that the permit requirement of 125 pounds is of actual pyrotechnic material not total product weight which includes packaging and other materials. When promulgating new regulations, the Division cannot exceed the requirements or intent of the law.

The adoption of the new regulations will not occur for several months. After publication of the proposal, there will be a 60-day comment period allowing interested individuals time to file comments on the proposal. After review of comments an adoption notice would normally follow. In the meantime, the sale of sparkling devices and novelties is on-going and the intent of the law must be adhered to.

While waiting for adoption of the proposed regulations, Fire Officials will need to perform their regular maintenance inspections. It is important to note that just because a product is labeled as fireworks, it does not mean that it is illegal to sell in New Jersey. The composition and type of the product is what is important and determines if it is legal to sell. The Fire Official first needs to

verify that the product being stored or sold meets the definition of sparkling devices and novelties.

If the items are permitted then normal fire safety provisions need to be enforced. These would include among other items posting of no smoking signs, maintaining means of egress, ensuring fire protection systems are in working condition, storage is neat and orderly, no accumulation of waste material and required portable extinguishers are in place. The proposed Type 2 permit cannot be issued at this time until the new regulations are adopted.

If a Fire Official finds fireworks being sold that are not permitted under the regulations, they should immediately contact their local law enforcement officials to assist with removing these items from sale. Fireworks storage not meeting the definition of sparkling devices and novelties must meet all current requirements found in the Uniform Fire Code.

We have received a number of inquiries asking if the Group Classification of the occupancy would need to change if the maximum allowable quantity of consumer fireworks listed in Table 307.1(1) of the 2015 International Building Code (IBC) was exceeded. The answer is no as P.L. 2017, c. 92 superseded this requirement. Consumer fireworks can be sold and stored in any amount, in any mercantile use.

There have also been numerous inquiries regarding sale of consumer fireworks in temporary locations such as tents or retail stores. The same requirements that apply to a permanent location would apply here. The only two exceptions would be if the tent meets the requirement for a Type 1 permit listed in N.J.A.C. 5:70-2.7(a)3.xv(1) or (2) or the building meets the definition of a building previously registered as a life hazard use and is now used for mercantile purposes on a temporary basis under N.J.A.C. 5:70-2.7(a)4.vii which would require a Type 2 permit.

“Dangerous fireworks” are defined as follows, the sale of which are prohibited:

“21:2-3. "Dangerous fireworks" mean the following:

Toy torpedoes containing more than 5 grains of an explosive composition.

Paper caps containing more than .35 grain of explosive composition.

Firecrackers or salutes exceeding 5 inches in length or 3/4 inch in diameter.

Cannons, canes, pistols or other devices designed for use otherwise than with paper caps.

Any fireworks containing a compound or mixture of yellow or white phosphorous or mercury.

Any fireworks that contain a detonator or blasting cap.

Fireworks compositions that ignite spontaneously or undergo marked decomposition when subjected for 48 consecutive hours to a temperature of 167 degrees Fahrenheit.

Fireworks that can be exploded en masse by a blasting cap placed in one of the units or by impact of a rifle bullet or otherwise.

Fireworks, such as fusees, containing a match tip, or head, or similar igniting point or surface, unless each individual tip, head or igniting point or surface is thoroughly covered and securely protected from accidental contact or friction with any other surface.

Fireworks containing an ammonium salt and a chlorate.”

21:3-2. a. states: "It shall be unlawful for any person to offer for sale, expose for sale, sell, possess or use, or explode any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used; the type of balloon which requires fire underneath to propel the same; firecrackers; torpedoes; skyrockets, Roman candles, bombs, or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, 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, other than aviation and railroad signal light flares. "

Additionally, Fire Officials should contact the person who is responsible for local NFIRS reporting, to ensure incidents involving these types of devices are properly tracked and categorized.

It is important that Fire Officials take the time necessary to thoroughly review the product being offered for sale to make certain that it meets the definition of permitted sparkling devices and novelties. If you have any questions or concerns regarding this, I would encourage you to contact your Local Assistance Representative. They will be able to assist you. If I may be of any

assistance I may be reached at 609.633.6106 or by e-mail at [louis.kilmer@dca.nj.gov](mailto:louis.kilmer@dca.nj.gov). Thank you for your continued assistance in keeping New Jersey safe.