

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 160-B

FIREWORKS

Section 160-B:1

160-B:1 Definitions. – As used in this chapter:

- I. "Fireworks" means fireworks as defined in 27 C.F.R. section 555.11.
- II. [Repealed.]
- III. [Repealed.]
- IV. "Commissioner" means the commissioner of the department of safety.
- V. "Display" means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
 - V-a. [Repealed.]
 - V-b. [Repealed.]
 - V-c. [Repealed.]
- VI. "Sale" or "sell" means to sell, give or transfer to another, with or without consideration.
- VII. "Retail" means the sale to any consumer or person not engaged in the business of making sales of fireworks.
- VIII. "Wholesale" means engaging in the business of making sales to any other person engaged in the business of making sales of fireworks. "Wholesale" shall not include any making of sales to consumers or persons not engaged in the business of making sales of fireworks. To constitute a wholesale sale a sale must be for a minimum amount of \$1,000. This minimum may be increased by the commissioner by rule adopted pursuant to RSA 541-A.
- IX. "Consumer fireworks" means consumer fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class C common fireworks.
- X. "Display fireworks" means display fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class B special fireworks.

Source. 1991, 286:2. 1992, 44:1, 8 I. 1994, 123:1. 1996, 54:2, 3, 8. 1997, 177:1. 1998, 37:1. 1999, 69:1. 1999, 348:3, 4, 21, I-IV, eff. Jan. 21, 2000. 2011, 160:1, eff. June 14, 2011.

Section 160-B:2

160-B:2 Sale; Penalty. –

- I. No person shall sell fireworks other than a person who meets all of the following requirements:
 - (a) Has a federal permit to sell fireworks issued in accordance with title 18 of the United States Code.
 - (b) Has a state license to sell display and consumer fireworks issued pursuant to RSA 160-

B:6.

(c) Has a local permit to sell display and consumer fireworks issued pursuant to RSA 160-B:6.

II. No person shall sell fireworks other than either:

(a) To a person who presents a certificate of competency issued pursuant to RSA 160-B:7 and RSA 158:9-f and leaves a copy of such certificate and who presents a permit to display issued pursuant to RSA 160-B:7 and leaves a copy of such permit; or

(b) To a person who possesses and shows a license for the storage of class B fireworks issued pursuant to RSA 158:9-f; or

(c) At wholesale to a person engaged in the sale of fireworks meeting all of the specifications in RSA 160-B:6, VII.

III. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Source. 1991, 286:2. 1999, 348:5, eff. Jan. 21, 2000.

Section 160-B:3

160-B:3 Display; Penalty. –

I. No person shall display fireworks other than a person who meets all of the following requirements:

(a) Has obtained a certificate of competency issued pursuant to RSA 158:9-f which shall be in such person's possession at the time of display and which has not been revoked or suspended.

(b) Has obtained a municipal permit to display issued pursuant to RSA 160-B:7 which shall be in such person's possession and which has not been revoked or suspended.

II. Any person who violates the provisions of this section by displaying display fireworks shall be guilty of a misdemeanor.

III. Any person who violates the provisions of this section by displaying consumer common fireworks shall be guilty of a violation for a first offense and a misdemeanor for any subsequent offense.

Source. 1991, 286:2. 1998, 37:2. 1999, 348:6, eff. Jan. 21, 2000.

Section 160-B:4

160-B:4 Possession; Penalty. –

I. No person shall possess fireworks other than the following:

(a) A person who has in the person's possession a certificate of competency issued pursuant to RSA 158:9-f and a valid permit to display issued pursuant to RSA 160-B:7.

(b) A person who has a federal permit to sell display fireworks issued in accordance with title 18 of the United States Code, a state license issued pursuant to RSA 160-B:6, and a municipal permit issued in accordance with RSA 160-B:6, or an employee of such person. For the purposes of this subparagraph, "employee" shall be limited to a person who is reported as an employee for state and federal tax purposes and for unemployment compensation purposes.

(c) A common carrier which is in possession of a bill of lading indicating that fireworks are being shipped to or from a licensed and permitted seller or a person who has a certificate of competency and a permit to display.

(d) Any manufacturer or common carrier shipping fireworks in interstate commerce through the state of New Hampshire which are not being delivered or received in this state.

(e) A person who has a licensed facility for the storage of display fireworks pursuant to RSA 158:9-c.

II. Any person who violates the provisions of this section shall be guilty of a violation unless the person possesses with intent to sell, in which case such person shall be guilty of a misdemeanor.

Source. 1991, 286:2. 1998, 37:3, 4. 1999, 348:7, eff. Jan. 21, 2000.

Section 160-B:5

160-B:5 Issuance of Permit; Penalty. –

I. No person shall issue a permit or license to display fireworks contrary to this chapter.

II. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Source. 1991, 286:2, eff. March 1, 1992.

Section 160-B:6

160-B:6 Requirements for Sale of Fireworks. –

I. Any person who desires to sell display and consumer fireworks as limited by RSA 160-B:2 may apply to the municipality in which such person desires to sell fireworks. Such application shall be in a form prescribed by the commissioner. The licensing board of any municipality or, if one does not exist, the governing body may issue a permit to sell display and consumer fireworks to a person who applies, provided that the person has a valid permit for the sale of fireworks issued pursuant to Title 18 of the United States Code. No permit to sell fireworks shall be issued by the governing body without prior approval of the police chief and fire chief, if any, of the municipality. The municipality may charge a fee for the permit or application for permit under this section.

II. After the person has obtained a municipal permit to sell display and consumer fireworks, such person may apply for a state license to sell display and consumer fireworks. Upon application of any person, the commissioner, or a person designated by the commissioner, may issue a license authorizing the applicant to sell or market display and consumer fireworks in this state, provided the person has first obtained a permit to sell display and consumer fireworks pursuant to RSA 160-B:6, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business. The license shall be issued within a reasonable time after application. The license shall be valid for not more than one year from the date of issue and may be renewed on May 1 of the following year. The initial licensing fee shall be pro-rated to correspond with the initial date of issue.

III. The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-B:6, I. No license shall be issued for the sale of display and consumer fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes,

zoning codes, and the requirements of local ordinances. No license for the sale of display and consumer fireworks shall be issued to or held by any person who has been convicted of a felony if the felony has not been annulled by a court of record. No license shall be issued to any person under 21 years of age.

III-a. Buildings used for the sale or storage of display and consumer fireworks shall be dedicated solely to the sale or storage of display and consumer fireworks and items relating to the sale and promotion of fireworks provided for in rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.

III-b. Prior to the issuance of a state license, the department of safety may conduct a background investigation of the applicant and may conduct an inspection of the site, including all buildings, in which the display and consumer fireworks are to be sold or stored.

IV. If the application for a state license is denied, the reasons for such denial shall be stated in writing, in duplicate, the original of which shall be delivered to the applicant, and the copy thereof kept in the office of the department of safety.

V. The fee for a license for each location shall be \$1,500 per year, payable annually to the department of safety for deposit into the general fund.

VI. A person who has a federal permit issued in accordance with the provisions of title 18, United States Code, governing fireworks, a state license issued pursuant to this section, and a local permit issued pursuant to this section may sell display and consumer fireworks; however, such a person shall only sell display fireworks to a person who shows a certificate of competency issued pursuant to RSA 158:9-f, or who shows a license for the storage of display fireworks issued pursuant to RSA 158:9-c, or a license to sell display and consumer fireworks pursuant to this chapter. Any sale which the seller makes shall be recorded, and the record, at a minimum, shall contain a copy of the purchaser's certificate of competency and display permit and, in the case of a wholesale sale, the purchaser's retail number from the state of residence, IRS tax identification number or such other information as the commissioner shall specify by rule adopted pursuant to RSA 541-A.

VII. A wholesale sale shall not be made to a person or corporation which resides in New Hampshire other than to a person or corporation licensed to sell fireworks pursuant to paragraphs I-III of this section. Any wholesale sale shall be shipped by common carrier or by the wholesaler making the sale. For the purposes of this shipment the wholesaler shall not be authorized to make any person an agent for the limited purpose of transporting fireworks.

VIII. The only retail sale allowed shall be a sale to a person who possesses a certificate of competency and a display permit and leaves a copy of such certificate and display permit with the seller.

IX. No person under the age of 21 shall be engaged in the business of handling or selling any display or consumer fireworks; provided, however, that a person less than 21 years of age but at least 18 years of age may handle and sell display or consumer fireworks at a licensed sales or storage location or may handle display or consumer fireworks at a permitted display site if he or she is under the direct supervision of a person 21 years of age or older.

X. Any person who knowingly provides false information to the department of safety on an application for the sale of fireworks as provided in this section shall be guilty of a class A misdemeanor.

Source. 1991, 286:2. 1992, 44:2. 1994, 123:2. 1998, 37:5, 6. 1999, 348:8, eff. Jan. 21, 2000. 2008, 17:1, eff. Jan. 1, 2009.

Section 160-B:7

160-B:7 Requirements for Display of Fireworks. –

I. The commissioner may issue a certificate of competency to display fireworks as provided in RSA 158:9-f to a person who meets the requirements established under that section.

II. Any municipality, fair association, amusement park or other organization may apply for a permit to display fireworks and shall include in the application the name of a person who has been issued a certificate of competency who shall be responsible for conducting the display and a copy of that individual's certificate.

III. The chief of police, licensing board, or governing body of the municipality, after an inspection has been conducted by the fire chief, may issue a permit to display fireworks. The permit shall specify the date on which the display is to be conducted and any other conditions that may be imposed.

IV. The display shall be of such a character, and so located and displayed, as in the opinion of the chief of the fire department or fire ward, after proper inspection, that it shall not be hazardous to property or endanger any person.

V. An application for a display permit shall be made in writing at least 15 days in advance of the date of the display. The town, city, or village district may charge a reasonable fee for a permit to display fireworks. No display permit granted under this section shall be transferable, and each display permit shall be valid for only one display to be held on the date permitted. If, in the opinion of the chief of the fire department, conditions deteriorate during the 15 days before the date for which such permit is granted so that a fire hazard exists, the chief may revoke the permit. At least 72 hours prior to the date of display, the operator of the display shall transmit a copy of the completed display permit, with proof of insurance for the display, approved by the town, city, or village district, to the department of safety.

Source. 1991, 286:2. 1998, 37:7, eff. May 5, 1998. 2008, 192:1, eff. June 11, 2008.

Section 160-B:8

160-B:8 Rulemaking. – The commissioner shall adopt rules pursuant to RSA 541-A relative to:

I. The procedure and reasons for suspending or revoking a license issued pursuant to RSA 160-B:6.

II. Increasing the amount of sale necessary to constitute a wholesale sale, to account for inflation or other economic factors.

III. Expanding the definition of fireworks to cover any other devices used for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation which are not covered by the federal regulations governing display and consumer fireworks but which are deemed by the commissioner to constitute a threat to public safety.

IV. Insurance, bonding, or other evidence of financial responsibility to be required of any person licensed under this chapter.

V. Forms for applications and local permits to sell fireworks and forms for applications and

local permits to display fireworks.

V-a. [Repealed.]

V-b. [Repealed.]

V-c. [Repealed.]

VI. All matters necessary to implement the provisions of RSA 160-B:12, relative to exceptions.

VII. Forms for applications and state licenses to sell fireworks.

VIII. Requirements for the safe use, handling, and storage of fireworks.

Source. 1991, 286:2. 1992, 44:3, 8 II. 1994, 123:3, 4. 1996, 54:1. 1999, 348:9, 10, 21, eff. Jan. 21, 2000.

Section 160-B:9

160-B:9 Enforcement. – Upon application, the superior court or district court is authorized to permit the law enforcement officials or certified fire citation officers of the state, counties, or any city or town to seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored or held in violation of this chapter. Nothing in this section shall be construed to restrict or limit any other authority granted by law to law enforcement officials or certified fire citation officers.

Source. 1991, 286:2. 1992, 44:4, eff. April 9, 1992.

Section 160-B:10

160-B:10 Local Option. – Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits or licenses to the extent authorized under RSA 160-B:6 and 160-B:7. If the municipality has voted to prohibit the issuance of permits or the display of fireworks prior to March 1, 1992, such decision shall remain in effect unless subsequent action is taken under this section.

Source. 1991, 286:2. 1992, 44:5. 1999, 348:11, eff. Jan. 21, 2000.

Section 160-B:11

160-B:11 Civil Liability. – In addition to any other penalties imposed under this chapter, any person who violates the provisions of this chapter shall be liable, in any civil action, to any person for damages resulting from the illegal sale or use of fireworks, and neither assumption of risk nor contributory negligence shall be a defense for such violator.

Source. 1991, 286:2, eff. March 1, 1992.

Section 160-B:12

160-B:12 Exceptions. – The commissioner may issue permits granting exceptions to the provisions of this chapter to persons who intend to use fireworks for agricultural, railroad, or military purposes, provided that the type of fireworks to be used are designed in such a way as to accomplish the purpose for which the permit is sought and provided that the person who applies for the exception has first received approval by the appropriate local official.

Source. 1991, 286:2, eff. March 1, 1992.

Section 160-B:13

160-B:13 Appeal. – Any person aggrieved by a decision of the commissioner pursuant to this chapter may appeal pursuant to RSA 541.

Source. 1991, 286:2, eff. March 1, 1992.

Section 160-B:14

160-B:14 Immediate Suspension Authority. – Notwithstanding any other provision of law to the contrary, the commissioner may immediately suspend a license issued pursuant to RSA 160-B:6 if the commissioner has evidence that the licensee is selling fireworks contrary to any of the provisions of RSA 160-B or any rules adopted under this chapter. Any person whose license is suspended pursuant to this section shall be given the opportunity for a hearing within 10 days of the suspension. Any person found to be selling fireworks after the person's license has been suspended pursuant to this section shall not have the license reinstated for a minimum of one year from the date of suspension.

Source. 1992, 44:6. 1998, 37:8, eff. May 5, 1998.

Section 160-B:15

160-B:15 Advertising. –

I. No person shall advertise fireworks by means of radio, television, newspaper, flyer, catalog, billboard, mobile or stationary sign, or any other means in such a way as to confuse or mislead the public about:

- (a) The conditions under which fireworks may be purchased.
- (b) The conditions under which fireworks may be used.
- (c) The requirements contained in RSA 160-B, RSA 160-C, or any other provision of state or federal law or regulations.

II. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

III. [Repealed.]

Source. 1992, 44:6. 1999, 348:21, eff. Jan. 21, 2000.

Section 160-B:16

160-B:16 Certain Sparklers Prohibited; Penalties. –

I. Notwithstanding any law to the contrary, the sale, possession or display of class "C" sparklers or those sparklers consisting of a wire or stick which contain chlorates or perchlorates is prohibited.

II. Any person who sells or possesses with intent to sell class "C" sparklers or sparklers consisting of a wire or stick which contain chlorates or perchlorates shall be guilty of a misdemeanor.

III. Any person who displays or possesses without intent to sell class "C" sparklers or sparklers consisting of a wire or stick which contain chlorates or perchlorates shall be guilty of a violation.

Source. 1992, 44:6, eff. April 9, 1992.

Section 160-B:16-a

160-B:16-a Retail Sale of Reloadable Aerial Shells Prohibited; Penalty. – [Repealed 2011, 160:6, I, eff. June 14, 2011.]

Section 160-B:16-b

160-B:16-b Retail Sale of Firecrackers Prohibited; Penalty. – The retail sale of firecrackers is prohibited. In this section, "firecracker" means a ground device firecracker as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.3.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Source. 2004, 247:2, eff. Sept. 30, 2004.

Section 160-B:16-c

160-B:16-c Retail Sale of Bottle Rockets Prohibited; Penalty. – The retail sale of bottle rockets is prohibited. In this section, "bottle rocket" means a bottle rocket as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.2.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Source. 2004, 247:2, eff. Sept. 30, 2004.

Permissible Fireworks

Section 160-B:17-19

160-B:17 to 160-B:19 Repealed. – [Repealed 1992, 44:8, III, eff. April 1, 1994.]

Section 160-B:19-a

160-B:19-a Emergency Removal From Sale or Use of Unsafe Devices. –

I. The commissioner may, upon the recommendation of the state fire marshal or the director of

state police, prohibit the sale or use of any display or consumer fireworks that pose an imminent threat to life and property.

II. Upon notification by the commissioner or designee that a display or consumer firework is prohibited for sale or use, a person licensed to sell display or consumer fireworks shall remove the item from the sales area and shall not sell the item to any person.

III. Any person who sells a display or consumer firework after being notified by the commissioner or designee that the item is prohibited for sale or use shall be guilty of a class A misdemeanor for the first offense and a class B felony for the second offense. In addition, the commissioner may revoke the violator's license for a minimum period of 30 consecutive days.

IV. Any person who uses a display or consumer firework after being notified by the commissioner or designee, or by a law enforcement officer or fire official that the item is prohibited for sale or use shall be guilty of a class A misdemeanor for the first offense and a class B felony for the second offense. In addition, the commissioner may revoke the violator's certificate of competency for a minimum period of 30 consecutive days.

V. Any license holder or certificate holder aggrieved by the action of the commissioner pursuant to this section may appeal pursuant to RSA 541.

Source. 1999, 348:13, eff. Jan. 21, 2000.

Section 160-B:20-23

160-B:20 to 160-B:23 Repealed. – [Repealed 1999, 348:21, VII, eff. Jan. 21, 2000.]