

FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SESSION, 2006

H. B. NO. 15-205

A BILL FOR AN ACT

TO ESTABLISH A FIREWORKS CONTROL ACT; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Short Title.** This Act shall be known and may be cited as the
2 "Fireworks Control Act of 2006".

3 **Section 2. Repealer.** 6 CMC §3107 is hereby repealed in its entirety.

4 **Section 3. Definitions.** As used in this Act:

5 a. "Fireworks" means any combustible or explosive composition or
6 substance, or any combination of such compositions or substances, or any
7 other article which was prepared for the purpose of providing a visible or
8 audible effect by combustion, explosion, deflagration or detonation, and
9 includes blank cartridges or toy cannons in which explosives are used,
10 balloons which require fire underneath to propel the same, firecrackers,
11 torpedoes, skyrockets, Roman candles, bombs, rockets, wheels, colored
12 fires, fountains, mines, serpents or any other article of like construction or
13 any article containing any explosive or inflammable compound, or any
14 tablets or other device containing any explosive substances or
15 inflammable compound; but does not include:

16 1. Sparklers, toy pistol paper caps, toy pistols, toy canes, toy guns or
17 other devices in which paper caps containing .25 grains or less of
18 explosive compound are used, and when, the rate of burning and
19 the explosive force of the materials in such devices are not greater
20 than an equivalent weight of F.F.F.G. black powder, and when
21 such devices are so constructed that the hand cannot come in

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- 1 contact with the cap when in place for explosion, and the major
 2 explosive force is contained or dispelled within the housing or
 3 shell of the device, there is no visible flame during discharge, there
 4 is no flaming or smoldering of any of the components or parts of
 5 the device after discharge, and the device does not produce
 6 sufficient heat to readily ignite combustible materials upon which
 7 the device may be placed. The sale and use of such devices shall
 8 be permitted at all times.
- 9 2. Snakes or similar smoke-producing material containing not more
 10 than 100 grains of combustible substances when there is no visible
 11 flame during discharge, there is no after smoldering, and the
 12 devices do not produce sufficient heat to readily ignite combustible
 13 materials upon which the devices may be placed. The sale and use
 14 of such devices shall be permitted at all times.
- 15 3. Model rockets and model rocket motors designed for the purpose
 16 of propelling recoverable aero models. The sale and use of such
 17 devices shall be permitted at all times.
- 18 4. Those items described in ORS 480.127 (4).
- 19 b. For purposes of this section "sparklers" means materials of a character that
 20 will, when ignited, sparkle without throwing or dropping hot residue
 21 capable of igniting combustible materials, attached to a wire or other
 22 noncombustible central support, with such materials arranged in a
 23 cylindrical shape not more than 10 inches in length nor more than one-
 24 quarter inch in diameter and which shall not burn more rapidly than one
 25 inch in 10 seconds, but not including materials incased within a container
 26 of any character.
- 27 c. "Explosive substance" or "explosive mixture" as used in this Act shall
 28 mean any substance so arranged as to burn in less than one second.

- 1 d. "Combustible substance" shall mean any substance so arranged as to burn
2 in more than one second.

3 **Section 4. Sale, possession and use of fireworks prohibited; exceptions;**
4 **enforcement.**

- 5 a. No person shall sell, keep or offer for sale, expose for sale, possess, use,
6 explode or have exploded any fireworks within the Commonwealth,
7 except as follows:

- 8 1. Sales to persons or organizations having obtained a permit from
9 the Department of Public Safety for supervised public display;
- 10 2. Sales to boats, motor vehicle or other transportation agencies, to be
11 used for signal, warning or illumination purposes in connection
12 with such business;
- 13 3. Sale or use of blank cartridges for licensed shows or theatres or for
14 signal or ceremonial purposes in athletics or sports;
- 15 4. Sale of blank cartridges for use by the militia or any organization
16 of war veterans or other organization authorized by law to parade
17 in public a color guard armed with firearms;
- 18 5. Sale of shells, cartridges, gunpowder or explosives for use in
19 legally permitted firearms;
- 20 6. Sales of items described in Section 5 of this Act to persons who
21 possess the retail sales permit required by a person who holds a
22 manufacturer or wholesaler license issued pursuant to this Act;
- 23 7. Sales of items described in Section 5 of this Act to individual
24 members of the general public for personal use by taking direct
25 delivery of those items at the time of sale from the holder of a
26 retail sale permit issued pursuant Section 5 of this Act.

- b. Law enforcement officers of the Commonwealth shall enforce the provisions of this Act.

Section 5. Sale Permit for Certain Items; When Required; Fee.

- a. Any person who desires to sell cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers or combination items at retail to individual members of the general public for personal use shall apply in writing to the Department of Public Safety for a permit at least 15 days in advance of the proposed sale. The Department of Public Safety shall issue the permit only if the department finds that the applicant is qualified to conduct the proposed sale and that the proposed sale will conform to the provisions of this Act and any rules promulgated pursuant thereto. A fee may be charged for the permit.

- b. The permit required by subsection (a) of this section shall not be valid for more than one year from the date of issuance and shall authorize sales only between

1. midnight June 22 and midnight July 6 of any given calendar year;
2. midnight December 22 and midnight January 3 of any given calendar year;; and
3. 5 day prior to and one day after Chinese New Year of any given calendar year

- c. Notwithstanding any other provision of law, the Department of Public Safety shall not prescribe limitations on the aggregate amount of items described in subsection (d) of this section at a sales facility operated by a person who holds the permit referred to in this section. However, such items shall be stored in accordance with such safety statutes and regulations as may be prescribed to insure safe storage of such materials. In prescribing such rules and regulations the Department of Public Safety may consider, among other matters, requirements of the United States

1 Department of Transportation regarding the storage of hazardous
2 materials.

3 d. As used in this section:

4 1. "Combination item" means a device that contains combinations of
5 two or more of the effects described in paragraphs (2) to (7) of this
6 subsection.

7 2. "Cone fountain" means a cardboard or heavy paper cone
8 containing not more than 50 grams of pyrotechnic composition.
9 The effect upon ignition is the same as that of a cylindrical
10 fountain.

11 3. "Cylindrical fountain" means a cylindrical tube not more than
12 three-fourths inch (19mm) inside diameter and containing not more
13 than 75 grams of pyrotechnic composition. Upon ignition, a
14 shower of colored sparks and sometimes a whistling effect is
15 produced. This device may be provided with a spike for insertion
16 into the ground, a wood or plastic base for placing on the ground or
17 a wood or cardboard handle if intended to be handheld.

18 4. "Flitter sparkler" means a narrow paper tube containing not more
19 than 100 grams of pyrotechnic composition that produces colored
20 sparks upon ignition. The paper at one end of the tube is ignited to
21 make the device function.

22 5. "Ground spinner" means a small device similar to a wheel in
23 design and effect and containing not more than 60 grams of
24 pyrotechnic composition. When placed on the ground and ignited,
25 a shower of colored sparks is produced by the rapidly spinning
26 device.

27 6. "Illuminating torch" means a cylindrical tube containing not more
28 than 100 grams of pyrotechnic composition. This device may be

provided with a spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be handheld.

7. "Wheel" means a pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain not more than six driver units or tubes not exceeding one-half inch (12.5mm) inside diameter and containing not more than 60 grams of pyrotechnic composition. Upon ignition, the wheel revolves and produces a shower of colored sparks, and sometimes a whistling effect.

Section 6. Permit Required for Sale or Public Display of Fireworks; Fee.

- a. All persons, municipalities, associations or organizations or groups of individuals desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell items described in Section 5(d) of this Act to persons who possess the permit referred to in Section 5 of this Act, shall apply in writing to the Department of Public Safety for a permit at least 15 days in advance of the proposed sale or date of the display. The Department of Public Safety, upon receipt of such application, shall determine if the proposed sale or display will conform to law and any rules promulgated thereunder. If the Department of Public Safety finds that the applicant is qualified to conduct such sale or display and that the proposed sale or display is in accordance with the law and all rules and regulations, the Department of Public Safety shall issue a permit; otherwise the Department of Public Safety shall refuse to issue it.
- b. The fee for a permit for the public display of fireworks and each permit for sale of fireworks or items described in Section 5(d) shall be established by regulation by the Department of Public Safety, subject to the Administrative Procedure Act prior to adopting the fee, and subsequently

1 shall be adjusted to finance the administrative expenses incurred under this
2 section.

3 c. Sales permits for fireworks or items described in Section 5(d) shall not be
4 valid for more than one year from date of issue. A public display permit
5 shall not be valid for more than 10 days from date of issuance and shall
6 authorize only one fireworks display during that period.

7 **Section 7. Fireworks Displays Supervision.** Every such display held within any
8 municipality shall be under the supervision of the Department of Public Safety of the
9 municipalities in which the display is to be held and shall be of such character, and so
10 located, discharged or fired as, in the opinion of the department, after proper inspection,
11 shall not be hazardous to property or endanger any person.

12 **Section 8. Permits for Fireworks Sales or Displays; Rules; Security.**

13 a. The Department of Public Safety may adopt reasonable rules and
14 regulations for granting permits for supervised public displays or sales of
15 fireworks or items described in Section 5(d) by municipalities, fair
16 associations, amusement parks, and other persons, organizations or groups
17 of individuals. The governing body of any municipality, or of any county,
18 may require liability insurance, or other form of indemnity deemed
19 adequate by the municipality, in a sum not less than \$500, conditioned for
20 payment of all damages which may be caused either to a person or
21 property by reason of the authorized display or sale and arising from any
22 acts of any person or agents, employees or subcontractors of the person.
23 At the time a permit is revoked, the Department of Public Safety or
24 approving authority may include in the revocation order a provision
25 prohibiting the holder of the revoked permit from applying for or
26 obtaining another such permit, for a period not to exceed three years from
27 the revocation date, if the Department of Public Safety or approving
28 authority finds that the circumstances of the permit holder's failure to

1 comply with applicable sale or display statutes and regulations presented a
2 significant fire hazard or other public safety danger.

3 b. The Department of Public Safety or the approving authority of any
4 governmental subdivision may revoke permits for display or sale of
5 fireworks or items described in Section 5 when in the opinion of the
6 Department of Public Safety or the approving authority the sale or display
7 of fireworks or items described in Section 5(d) is not in compliance with
8 applicable statutes and regulations governing such sale or displays.

9 c. Permit fees required shall not be refunded in the event such permits are
10 revoked.

11 **Section 8. Publication of Advertisement for Sale of Unlawful Fireworks**
12 **Prohibited.**

13 a. No person shall publish or cause to be published any advertisement for the
14 sale of fireworks the use or possession of which is declared unlawful by
15 this Act.

16 b. Subsection (a) of this section does not apply to any advertising medium
17 which accepts such advertising in good faith, without knowledge of the
18 violation of law.

19 **Section 9. Manufacturer or Wholesaler Required to Maintain Records of**
20 **Sale of Fireworks; confiscation.**

21 a. Each manufacturer or wholesaler of fireworks or items described in
22 Section 5 shall keep a record of all sales showing the name and address of
23 the purchaser, the municipality of destination, license and permit numbers,
24 the municipality and date of permit issuance and a list of the type and
25 quantity of fireworks or items sold.

26 b. All shipments of fireworks or items described in Section 5 coming into the
27 Commonwealth must show the appropriate permit number of the
28 addressee on the outside of the package. If the permit number is not so

1 shown, such shipment may be confiscated by a law enforcement officer or
2 enforcement authority having jurisdiction.

3 **Section 10. Parents of Minor Liable for Costs Incurred.**

4 a. In addition to any other remedy provided by law, the parent or parents of
5 an unemancipated minor child shall be liable for costs incurred by a public
6 fire agency in suppressing fires caused by use of fireworks by such minor
7 child. However, a parent who is not entitled to legal custody of the minor
8 child at the time of the fire shall not be liable for such damages.

9 b. The legal obligation of the parent or parents of an unemancipated minor
10 child to pay damages under this section shall be limited to not more than
11 \$5,000 payable to the same claimant, for one or more acts.

12 c. When an action is brought under this section on parental responsibility for
13 acts of their children, the parents shall be named as defendants therein and,
14 in addition, the minor child shall be named as a defendant. The filing of
15 an answer by the parents shall remove any requirement that a guardian ad
16 litem be required.

17 d. Nothing in subsections (a) to (c) of this section applies to foster parents.

18 **Section 11. Civil Penalty for Violations.** In addition to any other penalty
19 provided by law, any person who violates any provision of this Act, or any rule adopted
20 pursuant thereto, is subject to a civil penalty imposed by the Department of Public Safety
21 in an amount not to exceed \$500 per violation. However, an individual member of the
22 general public who possesses fireworks of a retail value less than \$50 is not subject to a
23 civil penalty. Each day a violation continues shall be considered a separate offense.

24 **Section 12. Penalties.** Violation of any provisions of all be guilty of a
25 misdemeanor punishable by a fine of not less than \$100 and not more than \$1,000, and/or
26 up to 30 days imprisonment.

27 **Section 13. Severability.** If any provision of this Act or the application of any
28 such provision to any person or circumstance should be held invalid by a court of

1 competent jurisdiction, the remainder of this Act or the application of its provisions to
2 persons or circumstances other than those to which it is held invalid shall not be affected
3 thereby.

4 **Section 14. Savings Clause.** This Act and any repealer contained herein shall
5 not be construed as affecting any existing right acquired under contract or acquired under
6 statutes repealed or under any rule, regulation or order adopted under the statutes.
7 Repealers contained in this Act shall not affect any proceeding instituted under or
8 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
9 or in any way modifying, any liability, civil or criminal, which shall already be in
10 existence on the date this Act becomes effective.

11 **Section 15. Effective Date.** This Act shall take effect upon its approval by the
12 Governor or becoming law without such approval.

Prefiled: 12/13/06

Date: _____ Introduced By: /s/ Rep. Jacinta M. Kaipat

Reviewed for Legal Sufficiency by:

/s/ Ian Catlett
House Legal Counsel