



House of Representatives

File No. 643

General Assembly

February Session, 2006

(Reprint of File No. 43)

House Bill No. 5123
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
April 28, 2006

AN ACT CONCERNING SPARKLERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-356 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in sections 29-356 to 29-365, inclusive:

4 (1) "Fireworks" means and includes any combustible or explosive
5 composition, or any substance or combination of substances or article
6 prepared for the purpose of producing a visible or an audible effect by
7 combustion, explosion, deflagration or detonation, and includes blank
8 cartridges, toy pistols, toy cannons, toy canes or toy guns in which
9 explosives are used, the type of balloons which require fire underneath
10 to propel the same, firecrackers, torpedoes, skyrockets, Roman candles,
11 Daygo bombs, [sparklers or other fireworks of like construction] and
12 any fireworks containing any explosive or flammable compound, or
13 any tablets or other device containing any explosive substance, except
14 that the term "fireworks" shall not include sparklers and fountains and
15 toy pistols, toy canes, toy guns or other devices in which paper caps

16 manufactured in accordance with the regulations of the United States
17 Interstate Commerce Commission or its successor agency for packing
18 and shipping of toy paper caps are used and toy pistol paper caps
19 manufactured as provided therein.

20 (2) "Sparklers" means a wire or stick coated with pyrotechnic
21 composition that produces a shower of sparks upon ignition.

22 (3) "Fountain" means any cardboard or heavy paper cone or
23 cylindrical tube containing pyrotechnic mixture that upon ignition
24 produces a shower of colored sparks or smoke. "Fountain" includes,
25 but is not limited to, (A) a spike fountain, which provides a spike for
26 insertion into the ground, (B) a base fountain which has a wooden or
27 plastic base for placing on the ground, or (C) a handle fountain which
28 is a handheld device with a wooden or cardboard handle.

29 Sec. 2. Section 29-357 of the general statutes is repealed and the
30 following is substituted in lieu thereof (*Effective from passage*):

31 (a) Except as provided in subsection (b) of this section, no person,
32 firm or corporation shall offer for sale, expose for sale, sell at retail or
33 use or explode or possess with intent to sell, use or explode any
34 fireworks. [, except, notwithstanding the provisions of section 29-356,
35 any] A person who is sixteen years of age or older may offer for sale,
36 expose for sale, sell at retail, purchase, use or possess with intent to sell
37 or use sparklers or fountains of not more than one hundred grams of
38 pyrotechnic mixture per item, which are nonexplosive and nonaerial,
39 provided (1) such sparklers and fountains do not contain magnesium,
40 except for magnalium or magnesium-aluminum alloy, (2) such
41 sparklers and fountains containing any chlorate or perchlorate salts do
42 not exceed five grams of composition per item, and (3) when more
43 than one fountain is mounted on a common base, the total pyrotechnic
44 composition does not exceed two hundred grams.

45 (b) The State Fire Marshal shall adopt reasonable regulations, in
46 accordance with chapter 54, for the granting of permits for supervised
47 displays of fireworks or for the indoor use of pyrotechnics, sparklers

48 and fountains for special effects by municipalities, fair associations,
49 amusement parks, other organizations or groups of individuals or
50 artisans in pursuit of their trade. Such permit may be issued upon
51 application to said State Fire Marshal and after (1) inspection of the site
52 of such display or use by the local fire marshal to determine
53 compliance with the requirements of such regulations, (2) approval of
54 the chiefs of the police and fire departments, or, if there is no police or
55 fire department, of the first selectman, of the municipality wherein the
56 display is to be held as is provided in this section, and (3) the filing of a
57 bond by the applicant as provided in section 29-358. No such display
58 shall be handled or fired by any person until such person has been
59 granted a certificate of competency by the State Fire Marshal, in
60 respect to which a fee of fifty dollars shall be payable to the State
61 Treasurer when issued and which may be renewed every three years
62 upon payment of a fee of thirty dollars to the State Treasurer, provided
63 such certificate may be suspended or revoked by said marshal at any
64 time for cause. Such certificate of competency shall attest to the fact
65 that such operator is competent to fire a display. Such display shall be
66 of such a character and so located, discharged or fired as in the opinion
67 of the chiefs of the police and fire departments or such selectman, after
68 proper inspection, will not be hazardous to property or endanger any
69 person or persons. In an aerial bomb, no salute, report or maroon may
70 be used that is composed of a formula of chlorate of potash, sulphur,
71 black needle antimony and dark aluminum. Formulas that may be
72 used in a salute, report or maroon are as follows: (A) Perchlorate of
73 potash, black needle antimony and dark aluminum, and (B)
74 perchlorate of potash, dark aluminum and sulphur. No high explosive
75 such as dynamite, fulminate of mercury or other stimulator for
76 detonating shall be used in any aerial bomb or other pyrotechnics.
77 Application for permits shall be made in writing at least fifteen days
78 prior to the date of display, on such notice as the State Fire Marshal by
79 regulation prescribes, on forms furnished by him, and a fee of
80 thirty-five dollars shall be payable to the State Treasurer with each
81 such application. After such permit has been granted, sales,
82 possession, use and distribution of fireworks for such display shall be

83 lawful for that purpose only. No permit granted hereunder shall be
 84 transferable. Any permit issued under the provisions of this section
 85 may be suspended or revoked by the State Fire Marshal or the local
 86 fire marshal for violation by the permittee of any provision of the
 87 general statutes, any regulation or any ordinance relating to fireworks.

88 (c) The State Fire Marshal may grant variations or exemptions from,
 89 or approve equivalent or alternate compliance with, particular
 90 provisions of any regulation issued under the provisions of subsection
 91 (b) of this section where strict compliance with such provisions would
 92 entail practical difficulty or unnecessary hardship or is otherwise
 93 adjudged unwarranted, provided any such variation, exemption,
 94 approved equivalent or alternate compliance shall, in the opinion of
 95 the State Fire Marshal, secure the public safety and shall be made in
 96 writing.

97 (d) Any person, firm or corporation violating the provisions of this
 98 section shall be fined not more than one hundred dollars or
 99 imprisoned not more than ninety days or be both fined and
 100 imprisoned, except that (1) any person, firm or corporation violating
 101 the provisions of subsection (a) of this section by offering for sale,
 102 exposing for sale or selling at retail or possessing with intent to sell any
 103 fireworks with a value exceeding ten thousand dollars shall be guilty
 104 of a class A misdemeanor, and (2) any person, firm or corporation
 105 violating any provision of subsection (b) of this section or any
 106 regulation adopted thereunder shall be guilty of a class A
 107 misdemeanor, except if death or injury results from any such violation,
 108 such person, firm or corporation shall be fined not more than ten
 109 thousand dollars or imprisoned not more than ten years, or both.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	29-356
Sec. 2	<i>from passage</i>	29-357

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various technical changes including: modifying the definition of sparklers, distinguishing sparklers from the definition of fireworks, defining fountains, and places the same restrictions on fountains, as sparklers.

The bill allows the State Fire Marshall to develop regulations for the indoor use of sparklers and fountains. The development of the regulations will result in a workload increase to the State Fire Marshall, but is not anticipated to result in a fiscal impact.

House "A" extends the minimal cost by moving the effective date to upon passage.

House "B" restores the age from eighteen to sixteen of a person who can legally offer for sale, expose for sale, sell at retail, purchase, use, or possess with intent to sell or use sparklers or fountains. House "B" eliminates the fiscal impact contained in the original bill.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5123 (as amended by House "A" and "B")******AN ACT CONCERNING SPARKLERS.*****SUMMARY:**

This bill defines sparklers and excludes them from the definition of fireworks. By law, people under age 16 may not do any of the following with regard to sparklers: offer to sell, expose for sale, sell at retail, buy, use, or possess with intent to sell or use. The bill also defines fountains and places the same restrictions on them as sparklers.

Under current law, the state fire marshal must adopt reasonable regulations for granting permits for supervised displays of fireworks or the indoor use of pyrotechnics. The bill specifically requires the regulations to cover sparklers and fountains.

*House Amendment "A" changes the effective date from October 1, 2006 to upon passage, clarifies the definition of fountain, and makes technical changes.

*House Amendment "B" requires the state fire marshal's regulations to address sparklers and fountains and replaces the original bill's 18-year minimum age for handling sparklers with current law's 16-year minimum age.

EFFECTIVE DATE: Upon passage

SPARKLERS AND FOUNTAINS

The bill defines "sparklers" as a wire or stick coated with pyrotechnic composition that gives off a shower of sparks when lit.

Under current law, sparklers are considered fireworks. Current law generally bans fireworks, with exceptions for supervised use and display under a permit. But people age 16 or over may do the following with regard to sparklers: offer or expose for sale, sell at retail, buy, use, or possess with intent to sell sparklers with not more than 100 grams of pyrotechnic mixture per item, which are nonexplosive and nonaerial.

The bill adds the following restrictions: (1) sparklers cannot contain magnesium, except for magnalium or magnesium-aluminum alloy and (2) they cannot have more than five grams of chlorate or perchlorate salts per item. The bill places all these restrictions on fountains as well, and it limits to 200 grams the total pyrotechnic composition of fountains when more that one fountain is mounted on a common base.

The bill defines "fountain" as any cardboard or heavy paper cone or cylindrical tube containing pyrotechnic mixture that produces a shower of colored sparks or smoke when ignited. Fountain includes (1) a spike fountain, which has a spike for inserting the fountain into the ground; (2) a base fountain, which has a wooden or plastic base for placing the fountain on the ground; or (3) a handle fountain, which is a hand-held device with a wooden or cardboard handle. Under the bill, fountains are not fireworks.

Under existing law, the penalty for violations is up to \$100, imprisonment for up to 90 days, or both. If the violation involves more than \$10,000 in sales, it is a class A misdemeanor, punishable by a fine of up to \$2,000, imprisonment up to one year, or both.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable

Yea 17 Nay 3 (03/07/2006)

Judiciary Committee

Joint Favorable

Yea 31 Nay 4 (04/04/2006)