Maine Revised Statute Title 8, Chapter 9-A: FIREWORKS

Table of Contents

Section 221. DEFINITIONS (REPEALED)..... 3
Section 221-A. DEFINITIONS..... 3
Section 222. POSSESSION OF FIREWORKS..... 5
Section 223. SALE OF FIREWORKS..... 5
Section 223-A. SALE OF CONSUMER FIREWORKS..... 6
Section 224. STORAGE AND MANUFACTURE OF FIREWORKS..... 10
Section 225. TRANSPORTATION OF FIREWORKS..... 10
Section 226. DISPLAYS AND EXHIBITIONS OF FIREWORKS (REPEALED)..... 10
Section 227. PERMITS FOR DISPLAYS; RULES (REPEALED) (REPEALED)..... 11
Section 227-A. REQUIREMENTS FOR OBTAINING PERMIT..... 11
Section 227-B. REGULATION RESTRICTED; EXCEPTION..... 12
Section 227-C. DENIAL, SUSPENSION OR REVOCATION OF PERMIT..... 12
Section 228. APPLICATION OF PROVISIONS..... 13
Section 229. VIOLATIONS (REPEALED)..... 13
Section 230. APPEALS..... 14
Section 231. FIREWORKS TECHNICIAN LICENSE QUALIFICATIONS..... 14
Section 232. FEES..... 15
Section 233. RENEWAL OF LICENSE..... 15
Section 234. DENIAL; SUSPENSION; REVOCATION; GROUNDS..... 16
Section 235. SUSPENSION BY COMMISSIONER..... 16
Section 236. ADOPTION OF RULES..... 17
Section 237. SEIZURE, FORFEITURE AND DISPOSAL OF FIREWORKS..... 17

8 §221. DEFINITIONS

(REPEALED)

SECTION HISTORY
1985, c. 23, §2 (NEW). 1999, c. 671, §1 (RP).

8 §221-A. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1999, c. 671, §2 (NEW).]

1. **Commissioner.** "Commissioner" means the Commissioner of Public Safety or a designee.

[1999, c. 671, §2 (NEW) .]

1-A. **Consumer fireworks.** "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

A. Missile-type rockets, as defined by the State Fire Marshal by rule; [2011, c. 416, §1 (NEW); 2011, c. 416, §9 (AFF).]

B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and [2011, c. 416, §1 (NEW); 2011, c. 416, §9 (AFF).]

C. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight. [2011, c. 416, §1 (NEW); 2011, c. 416, §9 (AFF).]

[2011, c. 416, §1 (NEW); 2011, c. 416, §9 (AFF) .]

2. **Department.** "Department" means the Department of Public Safety.

[1999, c. 671, §2 (NEW) .]

3. **Display.** "Display" means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects. "Display" includes a special effects display.

[1999, c. 671, §2 (NEW) .]

3-A. **Fire safety official.** "Fire safety official" means a state or municipal official who has authority to enforce life and fire safety laws, statutes, ordinances, rules or regulations.

[2011, c. 416, §2 (NEW); 2011, c. 416, §9 (AFF) .]

4. **Fireworks.** "Fireworks" means any:

A. Combustible or explosive composition or substance; [1999, c. 671, §2 (NEW).]

B. Combination of explosive compositions or substances; [1999, c. 671, §2 (NEW).]

C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction; [1999, c. 671, §2 (NEW).]

D. Fireworks containing any explosive or flammable compound; or [1999, c. 671, §2 (NEW).]

E. Tablets or other device containing any explosive substance or flammable compound. [1999, c. 671, §2 (NEW).]

The term "fireworks" does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

[2011, c. 416, §3 (AMD); 2011, c. 416, §9 (AFF) .]

5. **Fireworks technician.** "Fireworks technician" means a person licensed pursuant to section 231 who, by examination, experience and training, has demonstrated the required skill and competence in the use and discharge of fireworks to conduct a display or special effects display. A fireworks technician is the person who is responsible for safety, setting up and conducting the display.

[1999, c. 671, §2 (NEW) .]

6. **Permit.** "Permit" means the nontransferable permission granted by the commissioner pursuant to section 227-A to hold a display.

[1999, c. 671, §2 (NEW) .]

7. **Person.** "Person" means any individual, combination of individuals, association, municipality, amusement park or other legal or commercial entity.

[1999, c. 671, §2 (NEW) .]

8. **Possession.** "Possession" means the intentional or knowing possession of what the possessor knows or believes to be fireworks.

[1999, c. 671, §2 (NEW) .]

9. **Sale or sell.** "Sale" or "sell" means any transfer or delivery of fireworks to a person for consideration.

[1999, c. 671, §2 (NEW) .]

10. **Special effects display.** "Special effects display" means an entertainment feature using pyrotechnics manufactured or designed to be used with or discharged in conjunction with theatrical, musical or similar productions. "Special effects display" includes the indoor use of pyrotechnics before a proximate audience.

[1999, c. 671, §2 (NEW) .]

11. **Value.** "Value" is determined in accordance with Title 17-A, section 352, subsection 5.

[2003, c. 452, Pt. C, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1999, c. 671, §2 (NEW). 2003, c. 452, §C1 (AMD). 2003, c. 452, §X2 (AFF). 2011, c. 202, §1 (AMD). 2011, c. 416, §§1-3 (AMD). 2011, c. 416, §9 (AFF).

8 §222. POSSESSION OF FIREWORKS

1. **Possession prohibited.** A person may not possess or have under that person's control fireworks.

[2003, c. 452, Pt. C, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. **Value does not exceed $100.** If the value of the fireworks does not exceed $100, a person who violates subsection 1 commits a civil violation for which a fine of not more than $50 may be adjudged.

[2003, c. 452, Pt. C, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

3. **Value exceeds $100.** If the value of the fireworks exceeds $100, a person who violates subsection 1 commits a Class E crime.

[2003, c. 452, Pt. C, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

4. **Exception.** This section does not apply to a person issued a permit pursuant to section 227-A.

[2003, c. 452, Pt. C, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY
1985, c. 23, §2 (NEW). 1995, c. 528, §1 (AMD). 1999, c. 671, §3 (AMD). 2003, c. 452, §C2 (RPR). 2003, c. 452, §X2 (AFF).

8 §223. SALE OF FIREWORKS

1. **Sale of fireworks prohibited.** Except for the sale of consumer fireworks under section 223-A, a person may not sell, possess with the intent to sell or offer for sale fireworks.

[2011, c. 416, §4 (AMD); 2011, c. 416, §9 (AFF) .]

2. **Value exceeds $5,000.** If the value of the fireworks exceeds $5,000, a person who violates subsection 1 commits a Class B crime.

[2003, c. 452, Pt. C, §3 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

3. **Value exceeds $1,000.** If the value of the fireworks exceeds $1,000 but does not exceed $5,000, a person who violates subsection 1 commits a Class C crime.

[2003, c. 452, Pt. C, §3 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

4. **Value does not exceed $1,000.** If the value of the fireworks does not exceed $1,000, a person who violates subsection 1 commits a Class D crime.

[2003, c. 452, Pt. C, §3 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

5. **Value.**

[2003, c. 452, Pt. C, §3 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY
1985, c. 23, §2 (NEW). 2003, c. 452, §C3 (AMD). 2003, c. 452, §X2 (AFF). 2011, c. 416, §4 (AMD). 2011, c. 416, §9 (AFF).

8 §223-A. SALE OF CONSUMER FIREWORKS

1. **Sale of consumer fireworks.** A person may not sell consumer fireworks unless that person is 21 years of age or older and possesses:

A. A federal permit to sell fireworks under 18 United States Code, Section 843; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. A license under subsection 3; and [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. A municipal permit if required under subsection 2. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

2. **Municipalities.** The legislative body of a municipality may adopt an ordinance to prohibit or restrict the sale or use of consumer fireworks within the municipality. Municipalities that prohibit or restrict the sale or use of consumer fireworks shall provide to the Office of the State Fire Marshal a copy of the relevant restriction or prohibition within 60 days of adoption. A municipality may require that a person obtain a municipal permit for selling consumer fireworks within the municipality. A municipality that chooses to issue municipal permits under this subsection shall notify the Office of the State Fire Marshal at least 60 days prior to the initiation of its permitting program for the sale of consumer fireworks. A municipal permit may not be issued unless:

A. The applicant is 21 years of age or older; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. The applicant applies for a permit under this subsection on a form prescribed by the commissioner; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. The applicant possesses the federal permit required under subsection 1, paragraph A; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

D. The applicant complies with the provisions of subsection 4; and [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

E. The application is approved by the municipality's police chief, fire chief and code enforcement officer if those positions exist. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

A municipality may require a reasonable fee for a permit issued under this subsection. A person holding a permit issued by a municipality under this subsection may not sell consumer fireworks unless the person satisfies all the requirements of subsection 1.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

3. **State license.** The commissioner may issue a license to sell consumer fireworks to an applicant who:

A. Is 21 years of age or older; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. Possesses the permits required under subsection 1, paragraphs A and C; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. Complies with the provisions of subsection 4; and [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

D. Has not been convicted of an offense or violated a state, federal or municipal law, rule or regulation involving fireworks or explosives within the 2 years prior to the application. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

The commissioner shall charge a fee of $5,000 for the initial license issued to an applicant and $1,500 for each annual license renewal. The term of a license is one year. A separate license is required for each location at which an applicant seeks to sell consumer fireworks. Fees collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

4. **Storage and handling.** A person authorized to sell consumer fireworks under subsection 1 may store and sell the fireworks only in a permanent, fixed, stand-alone building dedicated solely to the storage and sale of consumer fireworks in accordance with this subsection.

A. The building must be constructed, maintained and operated, and all consumer fireworks must be stored, in compliance with the requirements of National Fire Protection Association Standard 1124, as adopted by the Office of the State Fire Marshal, relevant building codes, zoning ordinances and other municipal ordinances. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. The building may not be less than 60 feet from another permanent building and may not be less than 300 feet from a structure at which gasoline, propane or other flammable material is sold or dispensed. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. Cigarettes, tobacco products or lighters or other flame-producing devices may not be permitted in the building. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

D. A person under 21 years of age may not be admitted to the building unless accompanied by a parent or guardian. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

E. Notwithstanding paragraph D, a person at least 18 years of age may handle and sell consumer fireworks if the person is under the direct supervision of a person 21 years of age or older. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

5. **Insurance.** A person authorized to sell consumer fireworks under subsection 1 shall at all times maintain public liability and product liability insurance with minimum coverage limits of $2,000,000 to cover the losses, damages or injuries that might ensue to persons or property as a result of the person selling consumer fireworks.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

6. **Advertising.** A person may not advertise the sale of consumer fireworks in a way that is misleading about the conditions under which consumer fireworks may be purchased or used or about the requirements of this section. An advertisement for the sale of consumer fireworks must contain the words "Check with your local fire department to see if consumer fireworks are allowed in your community" in a conspicuous location and in a consistent font as approved by the commissioner.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

7. **Civil liability.** A person who violates the provisions of this section is liable in a civil action for damages for bodily injury or property damage resulting from violation, and the defenses under Title 14, section 156 or a defense based on assumption of risk may not be used by the person.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

8. **Restrictions on use of consumer fireworks.** The use of consumer fireworks is governed by this subsection.

A. Consumer fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following day:

(1) July 4th;

(2) December 31st; and

(3) The weekends immediately before and after July 4th and December 31st. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. A person may use consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

A person who violates this subsection commits a civil violation for which a fine of not less than $50 and not more than $500, plus court costs, may be adjudged for any one offense.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

9. **Enforcement against licensees.** The commissioner, a state law enforcement officer, a municipal law enforcement officer, a code enforcement officer or a fire safety official may petition the Superior Court or District Court to seize or remove at the expense of a licensee consumer fireworks sold, offered for sale, stored, possessed or used in violation of this section. The commissioner may immediately suspend a license granted under subsection 3 for a violation of this section. A person whose license is suspended under this subsection must receive a hearing within 10 days of the suspension under Title 5, chapter 375, subchapter 4. A person whose license is suspended under this subsection may not receive a license under subsection 3 for a period of at least one year from the date of suspension.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

10. **Disclosures to customers.** A person authorized to sell consumer fireworks shall provide to the purchaser at the point of sale written guidelines describing the safe and proper use of consumer fireworks. The guidelines must also include the following statements in a conspicuous location: "MAINE LAW EXPRESSLY PROHIBITS PERSONS UNDER 21 YEARS OF AGE FROM PURCHASING, POSSESSING OR USING CONSUMER FIREWORKS" and "FURNISHING CONSUMER FIREWORKS TO PERSONS UNDER 21 YEARS OF AGE IS A CRIMINAL OFFENSE IN MAINE." Such guidelines must be published or approved by the commissioner prior to distribution.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

11. **Prohibited acts.** This subsection governs prohibited acts.

A. A person may not sell consumer fireworks within the State unless that person holds a valid license or is an employee or agent of a person that holds a valid license. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. A person licensed to sell consumer fireworks under this chapter may not sell consumer fireworks to a person under 21 years of age or who appears to be under the influence of alcohol or drugs. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. Except as specifically allowed under subsection 4, paragraph E, a person may not knowingly:

(1) Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or

(2) Allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

D. A person under 21 years of age may not purchase, use or possess consumer fireworks within the State or present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the person's own for the purpose of purchasing consumer fireworks. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

It is an affirmative defense to prosecution for a violation of paragraph B or C that the licensee sold consumer fireworks to a person under 21 years of age in reasonable reliance upon fraudulent proof of age presented by the purchaser.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

12. **Violations.** The following penalties apply to violations of subsection 11.

A. A person who violates subsection 11, paragraph A, B or C commits a Class D crime. If the violation involves furnishing consumer fireworks to a minor, a fine of not less than $500 must be imposed in addition to any term of imprisonment the court may impose. If a person violates subsection 11, paragraph A, B or C after having been convicted of violating the same paragraph one or more times within the previous 6-year period, a fine of not less than $1,000 must be imposed in addition to any term of imprisonment the court may impose. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. A person who violates subsection 11, paragraph D commits a civil violation for which a fine of not less than $200 and not more than $400 must be imposed. If the person has been previously convicted of violating subsection 11, paragraph D one or more times, a fine of not less than $300 and not more than $600 must be imposed. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

Fines collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

13. **Annual report to the Legislature.** Beginning in 2013, the Office of the State Fire Marshal shall submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a written report regarding the sale and use of consumer fireworks in this State. The report must, at a minimum, include information on the issuance and oversight of licenses to sell consumer fireworks, reported consumer fireworks-related injuries, reported consumer fireworks-related fires or other property damage and municipal restrictions or prohibitions on the sale or use of consumer fireworks. The report must be submitted not later than March 1st each year.

[2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

SECTION HISTORY
2011, c. 416, §5 (NEW). 2011, c. 416, §9 (AFF).

8 §224. STORAGE AND MANUFACTURE OF FIREWORKS

1. **Storage.** A person may not store fireworks in a building or structure outside the premises of a fireworks manufactory if that building or other structure is located within 1,000 feet of any church, hospital, theatre, hall, place of assembly, workshop, factory or any inhabited building unless rules adopted by the commissioner permit storage in that building or structure.

[2003, c. 452, Pt. C, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. **Certificate of public liability insurance required for manufacture.** A person may not manufacture fireworks without first furnishing the Commissioner of Public Safety, in an amount to be determined by the commissioner, a certificate of public liability insurance to cover the losses, damages or injuries to persons or property that might result.

[2003, c. 452, Pt. C, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

3. **Penalty.** A person who violates this section commits a Class E crime.

[2003, c. 452, Pt. C, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

4. **Strict liability.** Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. C, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY
1985, c. 23, §2 (NEW). 2003, c. 452, §C4 (AMD). 2003, c. 452, §X2 (AFF).

8 §225. TRANSPORTATION OF FIREWORKS

1. **Transportation of fireworks.** A person may not transport fireworks in a motor vehicle or conveyance except as permitted by the rules adopted by the commissioner.

[2003, c. 452, Pt. C, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. **Penalty.** A person who violates this section commits a Class E crime.

[2003, c. 452, Pt. C, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

3. **Strict liability.** Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. C, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY
1985, c. 23, §2 (NEW). 2003, c. 452, §C5 (RPR). 2003, c. 452, §X2 (AFF).

8 §226. DISPLAYS AND EXHIBITIONS OF FIREWORKS

(REPEALED)

SECTION HISTORY
1985, c. 23, §2 (NEW). 1999, c. 671, §4 (RP).

8 §227. PERMITS FOR DISPLAYS; RULES

(REPEALED)
(REPEALED)

SECTION HISTORY
1985, c. 23, §2 (NEW). 1991, c. 464, §2 (AMD). 1999, c. 671, §5 (RP).

8 §227-A. REQUIREMENTS FOR OBTAINING PERMIT

1. **Permits; requirements.** A person may not conduct a display without a permit. The commissioner shall issue a permit to possess and conduct a fireworks display to an applicant who:

A. Applies in writing to the commissioner for a permit at least 20 days in advance of the proposed display; [2003, c. 521, §1 (AMD).]

B. Applies on forms furnished by the department. An application for a permit must include:

(1) A certificate of public liability insurance in the amount of $1,000,000 to cover loss, damage or injuries to persons or property that might result from the display; and

(2) A site plan for the proposed display depicting a diagram of the grounds or facilities at which or in which the display will be held. The diagram must show points of discharge, fallout areas, any buildings or other structures in proximity to the display site and the location of any audience that may be present. Distances of and distances between the points of discharge and any buildings or structures must be stated on the diagram; and [2003, c. 521, §1 (AMD).]

C. Submits with the application fees set out in subsection 3. [1999, c. 671, §6 (NEW).]

[2003, c. 521, §1 (AMD) .]

2. **Inspection.** Upon receipt of a complete application, the department shall conduct an inspection of the proposed display site to determine the hazard posed by the display.

[1999, c. 671, §6 (NEW) .]

3. **Fees.** The fee for a permit is $30 per display and the fee for a site inspection is $111. The fee for all monitored indoor pyrotechnic events that occur outside of normal business hours is $100.

[2003, c. 521, §2 (AMD) .]

4. **Permits; violation.** A person may not conduct a fireworks display in violation of the permit issued under subsection 1.

[2003, c. 452, Pt. C, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

5. **Penalties.** The following penalties apply.

A. A person who conducts a fireworks display without a permit commits a Class D crime. [2003, c. 452, Pt. C, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who conducts a fireworks display in violation of a permit issued under subsection 1 commits a Class E crime. [2003, c. 452, Pt. C, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. C, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

6. **Strict liability.** Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. C, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

7. **Indoor pyrotechnics.** All indoor pyrotechnic events must be monitored by the State Fire Marshal or the State Fire Marshal's designee.

[2003, c. 521, §3 (NEW) .]

SECTION HISTORY
1999, c. 671, §6 (NEW). 2001, c. 437, §§6,8 (AFF). 2001, c. 437, §2 (AMD). 2003, c. 452, §C6 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 521, §§1-3 (AMD).

8 §227-B. REGULATION RESTRICTED; EXCEPTION

1. **Regulation restricted.** Except as provided in subsection 2, a political subdivision of the State, including, but not limited to, a municipality, county, township or village corporation, may not adopt an order, ordinance, rule or regulation concerning the issuance of permits under section 227-A.

[1999, c. 671, §6 (NEW) .]

2. **Exception.** This section does not prohibit an order, ordinance, rule or regulation of a political subdivision that, with the exception of appropriate penalty provisions, conforms exactly with an applicable provision of state law or that regulates the issuance of these permits within a jurisdiction.

[1999, c. 671, §6 (NEW) .]

SECTION HISTORY
1999, c. 671, §6 (NEW).

8 §227-C. DENIAL, SUSPENSION OR REVOCATION OF PERMIT

The commissioner may, after a hearing in conformance with the applicable provisions of the Maine Administrative Procedure Act, suspend or revoke a permit issued under this chapter. The following are grounds for denial, suspension or revocation of a permit: [1999, c. 671, §6 (NEW).]

1. **Incomplete.** The application or a document filed with the application is incomplete;

[1999, c. 671, §6 (NEW) .]

2. **Misstatement.** The application or a document filed with the application contains a material misstatement;

[1999, c. 671, §6 (NEW) .]

3. **Site inspection.** The site fails to pass an inspection conducted by the department pursuant to section 227-A; or

[1999, c. 671, §6 (NEW) .]

4. **Failure to employ or use fireworks technician.** The applicant fails to use a licensed fireworks technician to conduct the display.

[1999, c. 671, §6 (NEW) .]

SECTION HISTORY
1999, c. 671, §6 (NEW).

8 §228. APPLICATION OF PROVISIONS

1. **Firecrackers and pyrotechnical ship or railway signals.** Firecrackers and pyrotechnical ship or railway signals are included and classed as fireworks, but sections 222, 224 and 225 do not apply to the storage of pyrotechnical ship or railway signals nor to the discharge, firing or exploding of the signals when used for the protection of life and property.

[1985, c. 23, §2 (NEW) .]

2. **Exceptions.** This chapter does not apply:

A. To any article named in this chapter to be shipped directly out of the State; [1985, c. 23, §2 (NEW).]

B. [1999, c. 671, §7 (RP).]

C. To the sale of flares, lanterns or fireworks for use by railroads, railways, boats, motor vehicles or other transportation agencies, or other activity lawfully permitted or required to use any or all of the articles named in this chapter for signal purposes, illumination or otherwise; [1985, c. 23, §2 (NEW).]

D. To the sale or use of blank cartridges for signal or ceremonial purposes in athletics or sports; [1999, c. 671, §8 (AMD).]

E. To experiments at a factory for explosives; [1985, c. 23, §2 (NEW).]

F. To the sale of blank cartridges for use by the militia or any organization of war veterans or other organizations authorized by law to parade in public a color guard armed with firearms; [1985, c. 23, §2 (NEW).]

G. In teaching the use of firearms; or [1999, c. 671, §9 (AMD).]

H. To the sale of shells for firearms, cartridges, gunpowder and explosives for the purpose of any legal use of firearms. [1999, c. 671, §9 (AMD).]

I. [1999, c. 671, §10 (RP).]

[1999, c. 671, §§7-10 (AMD) .]

SECTION HISTORY
1985, c. 23, §2 (NEW). 1999, c. 671, §§7-10 (AMD).

8 §229. VIOLATIONS

(REPEALED)

SECTION HISTORY
1985, c. 23, §2 (NEW). 1995, c. 528, §2 (AMD). 1999, c. 671, §11 (AMD). 2003, c. 452, §C7 (RP). 2003, c. 452, §X2 (AFF).

8 §230. APPEALS

Any person aggrieved by any decision of the Commissioner of Public Safety may appeal the decision to the Superior Court within 30 days. The court shall, after notice and hearing, affirm or reverse the commissioner's decision. The finding of the Superior Court may be reviewed by appeal to the Supreme Judicial Court sitting as the Law Court. [2011, c. 559, Pt. A, §5 (AMD).]

SECTION HISTORY
1985, c. 23, §2 (NEW). 1985, c. 506, §§B7,8 (AMD). 2011, c. 559, Pt. A, §5 (AMD).

8 §231. FIREWORKS TECHNICIAN LICENSE QUALIFICATIONS

A person may not act as a fireworks technician unless the person meets the qualifications specified in this section and obtains a license. The person must: [1999, c. 671, §12 (NEW).]

1. **Age.** Be at least 21 years of age;

[1999, c. 671, §12 (NEW) .]

2. **Citizenship.** Be a citizen or resident alien of the United States;

[1999, c. 671, §12 (NEW) .]

3. **Experience.** Have experience and training working under the direction of a fireworks technician during at least 5 displays, or comparable experience as determined by the department;

[1999, c. 671, §12 (NEW) .]

4. **Character.** Be of good moral character as determined by the department and not have been convicted of a crime that is punishable by a maximum term of imprisonment equal to or exceeding one year. In making the determination of good moral character, the commissioner shall consider matters recorded within the previous 5 years, including, but not limited to:

A. Records of incidents of abuse by the applicant of family or household members provided pursuant to Title 19-A, section 4012, subsection 1; [1999, c. 671, §12 (NEW).]

B. Records provided by the Department of Health and Human Services regarding the failure of the applicant to meet child or family support obligations; [1999, c. 671, §12 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

C. Records of 3 or more convictions of the applicant for Class D or Class E crimes; [1999, c. 671, §12 (NEW).]

D. Records of 3 or more civil violations by the applicant; and [1999, c. 671, §12 (NEW).]

E. Records that the applicant has engaged in recklessness or negligence that endangered the safety of others; [1999, c. 671, §12 (NEW).]

[1999, c. 671, §12 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

5. **Examination.** Successfully complete a written examination administered by the department encompassing fireworks and the conduct of displays; and

[1999, c. 671, §12 (NEW) .]

6. **Application.** Submit an application to the department that contains:

A. The applicant's full name, full current address, social security number and date of birth; and [1999, c. 671, §12 (NEW).]

B. A statement granting the commissioner authority to check the criminal records of the applicant. [1999, c. 671, §12 (NEW).]

[1999, c. 671, §12 (NEW) .]

SECTION HISTORY
1999, c. 671, §12 (NEW). 2003, c. 689, §B6 (REV).

8 §232. FEES

All license and permit fees received pursuant to this chapter by the department must be used for carrying out this chapter. Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years. [1999, c. 671, §12 (NEW).]

1. **Fee for fireworks technician.** The fee for an initial fireworks technician license is $180. The fee for renewal of the license is $25.

[2001, c. 437, §3 (AMD); 2001, c. 437, §8 (AFF) .]

SECTION HISTORY
1999, c. 671, §12 (NEW). 2001, c. 437, §§6,8 (AFF). 2001, c. 437, §3 (AMD).

8 §233. RENEWAL OF LICENSE

Each fireworks technician license is valid for a term of one year. Unless revoked or suspended, the license is renewable annually. [1999, c. 671, §12 (NEW).]

1. **Complete application required.** A licensee shall submit a complete application for renewal at least 30 days prior to the expiration of a license under this chapter. An application is not complete unless it includes all materials required to be evaluated for licensure.

[2003, c. 521, §4 (NEW) .]

2. **Renewal submitted within 90 days following license expiration.** Notwithstanding subsection 1, a person may renew a license under this chapter for up to 90 days after the date of expiration of the license. The 90-day period does not postpone the expiration date of the existing license. A licensee whose license has lapsed may not work as a fireworks technician until a renewed license is issued.

[2003, c. 521, §4 (NEW) .]

3. **Renewal submitted more than 90 days following license expiration.** An application for license renewal under this section submitted more than 90 days after the license expiration date is considered an application for a new license and is subject to all requirements governing a new application.

[2003, c. 521, §4 (NEW) .]

SECTION HISTORY
1999, c. 671, §12 (NEW). 2003, c. 521, §4 (AMD).

8 §234. DENIAL; SUSPENSION; REVOCATION; GROUNDS

The commissioner may, after a hearing in conformance with applicable provisions of the Maine Administrative Procedure Act, suspend or revoke a license issued under this chapter. The following are grounds for denial, suspension or revocation of a license: [1999, c. 671, §12 (NEW).]

1. **Fraud or deceit.** The practice of fraud or deceit in obtaining a license under this chapter or in the performance of services within the scope of the license issued;

[1999, c. 671, §12 (NEW) .]

2. **Conviction of certain crimes.** Conviction of a crime that relates directly to the practice for which the person is licensed or conviction of a crime for which incarceration for one year or more may be imposed;

[1999, c. 671, §12 (NEW) .]

3. **Violation of chapter or rule.** A violation of this chapter or a rule adopted by the commissioner;

[1999, c. 671, §12 (NEW) .]

4. **Aiding or abetting unlicensed practice.** Aiding or abetting the practice of displaying or discharging fireworks by a person not duly licensed under this chapter; or

[1999, c. 671, §12 (NEW) .]

5. **Incompetence.** Incompetence in the practice of displaying or discharging fireworks. A licensee is considered incompetent in the practice if the licensee has:

A. Engaged in professional conduct that evidences a lack of ability or fitness to perform the duties for which that licensee is licensed; or [1999, c. 671, §12 (NEW).]

B. Engaged in professional conduct that evidences a lack of knowledge of, or inability to apply, appropriate principles or skills to carry out the practice for which that licensee is licensed. [1999, c. 671, §12 (NEW).]

[1999, c. 671, §12 (NEW) .]

SECTION HISTORY
1999, c. 671, §12 (NEW).

8 §235. SUSPENSION BY COMMISSIONER

1. **Immediate suspension.** If the commissioner has probable cause to believe that a person licensed under this chapter poses, because of gross negligence in the performance of duties associated with the license, an immediate threat to the public, the commissioner shall immediately suspend that person's license.

[1999, c. 671, §12 (NEW) .]

2. **Duration of suspension.** A suspension remains in effect for 30 days unless a revocation procedure under section 234 is commenced within the 30 days, in which case the suspension continues until the revocation procedure is complete.

[1999, c. 671, §12 (NEW) .]

SECTION HISTORY
1999, c. 671, §12 (NEW).

8 §236. ADOPTION OF RULES

1. **Routine technical rules.** The commissioner may adopt rules concerning the sale, use, storage, transportation and display of consumer fireworks, fireworks and special effect pyrotechnics and to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2011, c. 416, §6 (NEW); 2011, c. 416, §9 (AFF) .]

2. **Major substantive rules.** After December 31, 2013, the commissioner may adopt rules governing the reporting of consumer fireworks-related injuries by health care providers. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2011, c. 416, §6 (NEW); 2011, c. 416, §9 (AFF) .]

SECTION HISTORY
1999, c. 671, §12 (NEW). 2011, c. 416, §6 (RPR). 2011, c. 416, §9 (AFF).

8 §237. SEIZURE, FORFEITURE AND DISPOSAL OF FIREWORKS

1. **Seizure of fireworks.** A law enforcement officer may seize fireworks that the law enforcement officer has probable cause to believe are:

A. Stored, sold, manufactured, transported or found in any person's possession in violation of this chapter; [2007, c. 81, §1 (NEW).]

B. Shipped by common carrier in violation of this chapter to the address of a person in the State; or [2007, c. 81, §1 (NEW).]

C. Surrendered to or otherwise lawfully acquired by a law enforcement agency when there is no permitted claimant under this chapter. [2007, c. 81, §1 (NEW).]

[2007, c. 81, §1 (NEW) .]

2. **Forfeiture of seized fireworks.** All fireworks lawfully seized under this section are contraband and are forfeited to the State.

[2007, c. 81, §1 (NEW) .]

3. **Disposal of forfeited fireworks.** The commissioner may dispose of fireworks forfeited to the State under this section in any lawful manner considered appropriate by the commissioner, including, but not limited to, by their auction or destruction or by using them for training purposes.

[2007, c. 81, §1 (NEW) .]

4. **Exceptions.** This section does not apply to:

A. Fireworks stored by, manufactured by, transported by, shipped by common carrier to, sold to or in the possession of a person issued a permit pursuant to section 227-A; or [2007, c. 81, §1 (NEW).]

B. Fireworks otherwise permitted or exempted under this chapter. [2007, c. 81, §1 (NEW).]

[2007, c. 81, §1 (NEW) .]

5. **Procedure.** The following governs the process of disposing of fireworks seized pursuant to this section.

A. As soon as reasonably possible following a seizure under subsection 1, the law enforcement officer or agency effecting the seizure shall cross-reference the commissioner's permit records to determine whether a permit exception applies. [2007, c. 81, §1 (NEW).]

B. If a review of the permit records pursuant to paragraph A discloses that the fireworks were lawfully possessed, sold, stored, transported or manufactured, then the seizing agency shall return them to the lawful possessor as soon as reasonably possible. [2007, c. 81, §1 (NEW).]

C. A public notice is not required to effect a lawful seizure, forfeiture and disposal if no permit exception applies. [2007, c. 81, §1 (NEW).]

[2007, c. 81, §1 (NEW) .]

SECTION HISTORY
2007, c. 81, §1 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 125th Maine Legislature, is current through September 1, 2012, and is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.