

Senate File 120 - Introduced

SENATE FILE 120
BY FEENSTRA

A BILL FOR

1 An Act relating to the possession, sale, transfer, purchase,
2 and use of fireworks and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 100.1, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8. To order the suspension of the use
4 of consumer fireworks, display fireworks, or novelties, as
5 described in section 727.2, if the fire marshal determines that
6 the use of such devices would constitute a threat to public
7 safety.

8 Sec. 2. Section 101A.1, subsection 3, Code 2015, is amended
9 to read as follows:

10 3. "*Explosive*" means any chemical compound, mixture
11 or device, the primary or common purpose of which is to
12 function by explosion with substantially instantaneous
13 release of gas and heat, unless such compound, mixture, or
14 device is otherwise specifically classified by the United
15 States department of transportation. The term "*explosive*"
16 includes all materials which are classified as a class 1,
17 division 1.1, 1.2, 1.3, or 1.4 explosive by the United States
18 department of transportation, under 49 C.F.R. §173.50, and all
19 materials classified as explosive materials under 18 U.S.C.
20 §841, and includes, but is not limited to, dynamite, black
21 powder, pellet powders, initiating explosives, blasting caps,
22 electric blasting caps, safety fuse, fuse lighters, fuse
23 igniters, squibs, cordeau detonative fuse, instantaneous fuse,
24 igniter cord, igniters, smokeless propellant, cartridges for
25 propellant-actuated power devices, cartridges for industrial
26 guns, and overpressure devices, but does not include "*fireworks*"
27 as "*consumer fireworks*", "*display fireworks*", or "*novelties*" as
28 those terms are defined in section 727.2 or ammunition or small
29 arms primers manufactured for use in shotguns, rifles, and
30 pistols. Commercial explosives are those explosives which are
31 intended to be used in commercial or industrial operations.

32 Sec. 3. Section 331.301, Code 2015, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 17. The board of supervisors may by
35 resolution suspend the use of consumer fireworks, display

1 fireworks, or novelties, as described in section 727.2, if the
2 board determines that the use of such devices would constitute
3 a threat to public safety.

4 Sec. 4. Section 331.304, subsection 9, Code 2015, is amended
5 to read as follows:

6 9. The board, upon application, may grant permits for the
7 ~~display~~ use of display fireworks as provided in section 727.2.

8 Sec. 5. Section 364.2, Code 2015, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 6. A city council may by resolution suspend
11 the use of consumer fireworks, display fireworks, or novelties,
12 as described in section 727.2, if the city council determines
13 that the use of such devices would constitute a threat to
14 public safety.

15 Sec. 6. Section 461A.42, subsection 2, Code 2015, is amended
16 to read as follows:

17 2. The use of consumer fireworks, display fireworks, or
18 novelties, as defined in section 727.2, in state parks and
19 preserves is prohibited except as authorized by a permit issued
20 by the department. The commission shall establish, by rule
21 adopted pursuant to chapter 17A, a fireworks permit system
22 which authorizes the issuance of a limited number of permits to
23 qualified persons to use or display fireworks in selected state
24 parks and preserves.

25 Sec. 7. Section 727.2, Code 2015, is amended to read as
26 follows:

27 **727.2 Fireworks.**

28 1. For purposes of this section:

29 a. "Consumer fireworks" includes all consumer fireworks
30 enumerated in chapter 3 of the American pyrotechnics
31 association's standard 87-1, and that comply with the labeling
32 regulations promulgated by the United States consumer product
33 safety commission.

34 b. The term "~~fireworks~~" "Display fireworks" includes any
35 explosive composition, or combination of explosive substances,

1 or article prepared for the purpose of producing a visible
 2 or audible effect by combustion, explosion, deflagration,
 3 or detonation, and includes ~~blank cartridges, firecrackers,~~
 4 ~~torpedoes, skyrockets, roman candles, or other fireworks of~~
 5 ~~like construction and fireworks containing any explosive or~~
 6 flammable compound, or other device containing any explosive
 7 substance. ~~The term "fireworks"~~ "Display fireworks" does not
 8 include ~~goldstar producing sparklers on wires which contain~~
 9 ~~no magnesium or chlorate or perchlorate, flitter sparklers~~
 10 ~~in paper tubes that do not exceed one-eighth of an inch in~~
 11 ~~diameter, toy snakes which contain no mercury, or caps used~~
 12 ~~in cap pistols~~ novelties or consumer fireworks enumerated in
 13 chapter 3 of the American pyrotechnics association's standard
 14 87-1.

15 c. "Novelties" includes all novelties enumerated in chapter
 16 3 of the American pyrotechnics association's standard 87-1, and
 17 that comply with the labeling regulations promulgated by the
 18 United States consumer product safety commission.

19 2. A person, firm, partnership, or corporation who offers
 20 for sale, exposes for sale, sells at retail, or uses or
 21 explodes any display fireworks, commits a simple misdemeanor.
 22 ~~In addition to any other penalties, the punishment imposed~~
 23 ~~for a violation of this section shall include assessment~~
 24 ~~of, punishable by~~ a fine of not less than two hundred fifty
 25 dollars. However, ~~the~~ a city council of a city or a county
 26 board of supervisors may, upon application in writing, grant a
 27 permit for the display of display fireworks by municipalities,
 28 fair associations, amusement parks, and other organizations
 29 or groups of individuals approved by the city or the county
 30 board of supervisors when the display fireworks ~~display~~ will
 31 be handled by a competent operator, but no such permit shall
 32 be required for the display of display fireworks at the Iowa
 33 state fairgrounds by the Iowa state fair board, at incorporated
 34 county fairs, or at district fairs receiving state aid. Sales
 35 of display fireworks for such display may be made for that

1 purpose only.

2 3. a. A person who uses or explodes display fireworks while
3 the use of such devices is suspended by a resolution adopted
4 by the county or city in which the firework is used commits a
5 simple misdemeanor, punishable by a fine of not less than two
6 hundred fifty dollars.

7 b. A person who uses or explodes display fireworks while the
8 use of such devices is suspended by an order of the state fire
9 marshal commits a simple misdemeanor, punishable by a fine of
10 not less than two hundred fifty dollars.

11 4. a. A person who is at least eighteen years of age or
12 a firm, partnership, or corporation may possess or transfer,
13 offer for sale, expose for sale, or sell at retail to a person
14 who is eighteen years of age or older novelties or consumer
15 fireworks. A person who is eighteen years of age or older may
16 use or explode novelties or consumer fireworks.

17 b. A person, firm, partnership, or corporation who transfers
18 or sells novelties or consumer fireworks to a person who is
19 less than eighteen years of age commits a simple misdemeanor,
20 punishable by a fine of not less than two hundred fifty
21 dollars. A person who is less than eighteen years of age who
22 purchases, possesses, uses, or explodes novelties or consumer
23 fireworks commits a simple misdemeanor, punishable by a fine of
24 not less than two hundred fifty dollars.

25 c. (1) A person who uses or explodes novelties or consumer
26 fireworks while the use of such devices is suspended by a
27 resolution adopted by the county or city in which the firework
28 is used commits a simple misdemeanor, punishable by a fine of
29 not less than two hundred fifty dollars.

30 (2) A person who uses or explodes novelties or consumer
31 fireworks while the use of such devices is suspended by an
32 order of the state fire marshal commits a simple misdemeanor,
33 punishable by a fine of not less than two hundred fifty
34 dollars.

35 ~~3.~~ 5. a. This section does not prohibit the sale by a

1 resident, dealer, manufacturer, or jobber of such fireworks as
2 are not prohibited by this section, or the sale of any kind
3 of fireworks if they are to be shipped out of the state, or
4 the sale or use of blank cartridges for a show or the theater,
5 or for signal purposes in athletic sports or by railroads
6 or trucks, for signal purposes, or by a recognized military
7 organization.

8 *b.* This section does not apply to any substance or
9 composition prepared and sold for medicinal or fumigation
10 purposes.

11 *c.* This section does not apply to goldstar-producing
12 sparklers on wires which contain no magnesium or chlorate or
13 perchlorate, flitter sparklers in paper tubes that do not
14 exceed one-eighth of an inch in diameter, toy snakes which
15 contain no mercury, or caps used in cap pistols.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill provides for the legal sale and use of novelties
20 and consumer fireworks within the state.

21 Current law provides that a person, firm, partnership, or
22 corporation who offers for sale, exposes for sale, sells at
23 retail, or uses or explodes any fireworks, commits a simple
24 misdemeanor. Current law, however, also provides that a county
25 board of supervisors or the department of natural resources may
26 grant a permit for the display of fireworks if the fireworks
27 display will be handled by a competent operator. Current
28 law further provides that the term "fireworks" includes any
29 explosive composition, or combination of explosive substances,
30 or article prepared for the purpose of producing a visible
31 or audible effect by combustion, explosion, deflagration,
32 or detonation, including blank cartridges, firecrackers,
33 torpedoes, skyrockets, roman candles, or other fireworks of
34 like construction and fireworks containing any explosive or
35 flammable compound, or other device containing any explosive

1 substance with limited exceptions.

2 The bill maintains these restrictions for display fireworks
3 and provides that the term "display fireworks" shall not
4 include novelties or consumer fireworks. The bill provides
5 that the terms "novelties" and "consumer fireworks" each
6 respectively include all novelties or consumer fireworks
7 enumerated in chapter 3 of the American pyrotechnics
8 association's standard 87-1, which comply with the labeling
9 regulations promulgated by the United States consumer product
10 safety commission.

11 The bill provides that a person who is at least 18 years
12 of age or a firm, partnership, or corporation may possess, or
13 transfer, offer for sale, expose for sale, or sell at retail
14 any novelties or consumer fireworks to any person who is at
15 least 18 years of age. The bill provides that any person who
16 is at least 18 years of age may use or explode novelties or
17 consumer fireworks.

18 The bill provides that a person, firm, partnership, or
19 corporation who transfers or sells novelties or any consumer
20 firework to a person who is less than 18 years of age commits
21 a simple misdemeanor. A person who is less than 18 years of
22 age who purchases, possesses, uses, or explodes novelties or
23 any consumer fireworks commits a simple misdemeanor. A simple
24 misdemeanor is generally punishable by confinement for no more
25 than 30 days or a fine of at least \$65 but not more than \$625 or
26 by both, but the bill provides for a fine of at least \$250.

27 The bill provides that the state fire marshal may order
28 the suspension of the use of consumer fireworks, display
29 fireworks, or novelties if the fire marshal determines that
30 the use of such devices would constitute a threat to public
31 safety. The bill further provides that a county board of
32 supervisors or city council may by ordinance suspend the use
33 of consumer fireworks, display fireworks, or novelties if the
34 board or council determines that the use of such devices would
35 constitute a threat to public safety. The bill provides that a

1 person who violates such an order or ordinance commits a simple
2 misdemeanor, punishable by a fine of at least \$250.

3 The bill maintains current exemptions for goldstar-producing
4 sparklers on wires which contain no magnesium or chlorate or
5 perchlorate, flitter sparklers in paper tubes that do not
6 exceed one-eighth of an inch in diameter, toy snakes which
7 contain no mercury, and caps used in cap pistols.