

State of Wisconsin



1995 Senate Bill 76

Date of enactment: **May 2, 1996**
Date of publication*: **May 16, 1996**

1995 WISCONSIN ACT 330

AN ACT *to amend* 167.10 (1) (i) and (k) to (n), 167.10 (4), 167.10 (5) (a) (intro.), 167.10 (6) (e), 167.10 (6m) and 167.10 (8) (b); and *to create* 167.10 (3) (b) 7., 167.10 (3) (bm), 167.10 (5) (d) and 167.10 (5) (e) of the statutes; **relating to:** changes in the laws regulating fireworks.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 167.10 (1) (i) and (k) to (n) of the statutes are amended to read:

167.10 (1) (i) A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate that is designed to produce audible or visible effects or to produce audible and visible effects.

(k) A fuseless device that is designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.

(L) A device that emits smoke with no external flame and does not leave the ground is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.

(m) A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke that consists of one or more tubes and that is classified by the federal department of transporta-

tion as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(n) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

SECTION 2. 167.10 (3) (b) 7. of the statutes is created to read:

167.10 (3) (b) 7. Except as provided in par. (bm), the possession of fireworks in any city, town or village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance.

SECTION 3. 167.10 (3) (bm) of the statutes is created to read:

167.10 (3) (bm) Paragraph (a) applies to a person transporting fireworks under par. (b) 7. if, in the course of transporting the fireworks through a city, town or village, the person remains in that city, town or village for a period of at least 12 hours.

SECTION 4. 167.10 (4) of the statutes is amended to read:

167.10 (4) (title) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not prohibit a resident wholesaler, dealer or jobber from selling fireworks at wholesale, if

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

~~that wholesaler, dealer or jobber ships or delivers the fireworks to a person outside of this state in sealed opaque containers or to a person or group granted a permit under sub. (3) (c) 1. to 7. A resident wholesaler or jobber that ships the fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law by, as defined in s. 194.01 (1), (2) and (11), common motor carrier, contract motor carrier or private motor carrier engaged in the business of shipping or delivering property, or to a person or group granted a permit under sub. (3) (c) 1. to 7.~~

SECTION 5. 167.10 (5) (a) (intro.) of the statutes is amended to read:

167.10 (5) (a) (intro.) ~~A-~~ Subject to pars. (b) to (e), a city, village, town or county may enact an ordinance for any of the following, except that a county ordinance enacted under this paragraph does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under this paragraph:

SECTION 6. 167.10 (5) (d) of the statutes is created to read:

167.10 (5) (d) A county ordinance enacted under par. (a) does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under par. (a).

SECTION 7. 167.10 (5) (e) of the statutes is created to read:

167.10 (5) (e) Notwithstanding par. (a) or par. (b), no city, village, town or county may enact an ordinance that prohibits the possession of fireworks in that city, town, village or county while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance.

SECTION 8. 167.10 (6) (e) of the statutes is amended to read:

167.10 (6) (e) No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is sold dispensed in quantities exceeding one gallon.

SECTION 9. 167.10 (6m) of the statutes is amended to read:

167.10 (6m) LICENSING AND INSPECTING MANUFACTURERS. (a) ~~After June 30, 1985, no~~ No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the department of industry, labor and human relations under par. (d).

(b) ~~After June 30, 1985, no~~ No person may manufacture in this state fireworks or a device listed under sub. (1)

(e), (f) or (i) to (n) unless the person complies with the rules of the department of industry, labor and human relations promulgated under par. (e).

(c) Any person who, ~~after June 30, 1985,~~ manufactures in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of industry, labor and human relations with a copy of each federal license issued under 18 USC 843 to that person.

(d) The department of industry, labor and human relations shall issue a license to manufacture fireworks or devices listed under sub. (1) (e), (f) or (i) to (n) to a person who complies with the rules of the department promulgated under par. (e). The department may not issue a license to a person who does not comply with the rules promulgated under par. (e). The department may revoke a license under this subsection for the refusal to permit an inspection at reasonable times by the department or for a continuing violation of the rules promulgated under par. (e).

(e) The department of industry, labor and human relations shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under sub. (1) (e), (f) or (i) to (n). ~~The rules may not take effect before July 1, 1985.~~

(f) The department of industry, labor and human relations may inspect at reasonable times the premises on which each person licensed under this subsection manufactures fireworks or devices listed under sub. (1) (e), (f) or (i) to (n).

SECTION 10. 167.10 (8) (b) of the statutes is amended to read:

167.10 (8) (b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub. (5) or a court order under par. (a) shall may be seized. ~~The fireworks shall and held as evidence of the violation. Except as provided in s. 968.20 (4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub. (5) or a court order under par. (a) may~~ be destroyed after conviction for a violation, and otherwise. Except as provided in s. 968.20 (4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

SECTION 11. Initial applicability.

(1) FIREWORKS SEIZURE AND DESTRUCTION. The treatment of section 167.10 (8) (b) of the statutes first applies to any fireworks seized on the effective date of this subsection.