



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 76**

January 25, 1996 – Offered by COMMITTEE ON BUSINESS, ECONOMIC DEVELOPMENT
AND URBAN AFFAIRS.

1 **AN ACT to amend** 167.10 (1) (i) and (k) to (n), 167.10 (4), 167.10 (5) (a) (intro.),
2 167.10 (6) (e), 167.10 (6m) and 167.10 (8) (b); and **to create** 167.10 (3) (b) 7.,
3 167.10 (3) (bm), 167.10 (5) (d) and 167.10 (5) (e) of the statutes; **relating to:**
4 changes in the laws regulating fireworks.

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

5 **SECTION 1.** 167.10 (1) (i) and (k) to (n) of the statutes are amended to read:
6 167.10 (1) (i) A sparkler on a wire or wood stick not exceeding 36 inches in
7 length ~~or 0.25 inch in outside diameter which does not contain magnesium, chlorate~~
8 ~~or perchlorate~~ that is designed to produce audible or visible effects or to produce
9 audible and visible effects.

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

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

5 (m) A cylindrical fountain ~~not exceeding 100 grams in total weight with an~~
6 ~~inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit~~
7 ~~only sparks and smoke~~ that consists of one or more tubes and that is classified by the
8 federal department of transportation as a Division 1.4 explosive, as defined in 49
9 CFR 173.50.

10 (n) A cone fountain ~~not exceeding 75 grams in total weight, designed to sit on~~
11 ~~the ground and emit only sparks and smoke~~ that is classified by the federal
12 department of transportation as a Division 1.4 explosive, as defined in 49 CFR
13 173.50.

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

15 167.10 (3) (b) 7. Except as provided in par. (bm), the possession of fireworks in
16 any city, town or village while transporting the fireworks to a city, town or village
17 where the possession of the fireworks is authorized by permit or ordinance.

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

19 167.10 (3) (bm) Paragraph (a) applies to a person transporting fireworks under
20 par. (b) 7. if, in the course of transporting the fireworks through a city, town or village,
21 the person remains in that city, town or village for a period of at least 12 hours.

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

23 167.10 (4) (title) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not
24 prohibit a resident wholesaler, ~~dealer~~ or jobber from selling fireworks at wholesale,
25 ~~if that wholesaler, dealer or jobber ships or delivers the fireworks to a person~~ outside

SECTION 4

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

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

9 167.10 (5) (a) (intro.) ~~A~~ Subject to pars. (b) to (e), a city, village, town or county
10 may enact an ordinance for any of the following, except that a county ordinance
11 enacted under this paragraph does not apply and may not be enforced within any city,
12 village or town that has enacted or enacts an ordinance under this paragraph:

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

14 167.10 (5) (d) A county ordinance enacted under par. (a) does not apply and may
15 not be enforced within any city, village or town that has enacted or enacts an
16 ordinance under par. (a).

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

18 167.10 (5) (e) Notwithstanding par. (a) or par. (b), no city, village, town or
19 county may enact an ordinance that prohibits the possession of fireworks in that city,
20 town, village or county while transporting the fireworks to a city, town, village or
21 county where the possession of the fireworks is authorized by permit or ordinance.

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

23 167.10 (6) (e) No person may store fireworks within 50 feet of a public
24 assemblage or place where gasoline or volatile liquid is sold dispensed in quantities
25 exceeding one gallon.

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

2 167.10 **(6m)** LICENSING AND INSPECTING MANUFACTURERS. (a) ~~After June 30,~~
3 ~~1985, no~~ No person may manufacture in this state fireworks or a device listed under
4 sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the
5 department of industry, labor and human relations under par. (d).

6 (b) ~~After June 30, 1985, no~~ No person may manufacture in this state fireworks
7 or a device listed under sub. (1) (e), (f) or (i) to (n) unless the person complies with the
8 rules of the department of industry, labor and human relations promulgated under
9 par. (e).

10 (c) Any person who, ~~after June 30, 1985,~~ manufactures in this state fireworks
11 or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of
12 industry, labor and human relations with a copy of each federal license issued under
13 18 USC 843 to that person.

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

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

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

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

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

14 **SECTION 11. Initial applicability.**

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

18 (END)