

HOUSE BILL NO. 896  
INTRODUCED BY IVERSON

IN THE HOUSE

February 19, 1985	Introduced and referred to Committee on Business and Labor.
	Fiscal Note requested.
February 21, 1985	Fiscal Note returned.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass as amended.
	Correctly engrossed.
February 27, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 25, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1985	Second reading, concurred in.

March 30, 1985

Third reading, concurred in.  
Ayes, 39; Noes, 10.

Returned to House with  
amendments.

IN THE HOUSE

March 30, 1985

Received from Senate.

April 8, 1985

Second reading, amendments  
concurred in.

On motion, rules suspended and  
bill placed on third reading  
this day.

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1                    HOUSE BILL NO. 896  
2    INTRODUCED BY *James*  
3  
4    A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION  
5    OF PERMISSIBLE FIREWORKS; PROVIDING FOR FIREWORKS WHOLESALER  
6    PERMITS; FURTHER REGULATING THE USE AND SALE OF FIREWORKS;  
7    AMENDING SECTIONS 50-37-103 THROUGH 50-37-105, MCA; AND  
8    PROVIDING A DELAYED EFFECTIVE DATE."  
9  
10   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11        Section 1. Section 50-37-103, MCA, is amended to read:  
12        "50-37-103. Unlawful sale, transportation, or use of  
13    fireworks. (1) It is unlawful to possess, sell, transport,  
14    or use any fireworks within the state except as provided in  
15    this chapter.  
16        (2) It is unlawful for an individual under the age of  
17    18 to possess for sale, sell, or offer for sale within the  
18    state permissible fireworks enumerated in 50-37-105.  
19        (3) It is unlawful for a wholesaler to sell or offer  
20    for sale within the state fireworks ~~except-as-enumerated--in~~  
21    without a current fireworks wholesaler permit or in  
22    violation of 50-37-105. It is lawful for a wholesaler,  
23    however, to transport fireworks within Montana for sale  
24    outside of the state.  
25        (4) It is unlawful to sell or offer for sale fireworks

1    as defined in 50-37-101 or permissible fireworks as  
2    enumerated in 50-37-105 by mail order solicitation.  
3        (5) It is unlawful to sell or offer for sale fireworks  
4    as defined in 50-37-101 or permissible fireworks as  
5    enumerated in 50-37-105 within 300 feet of a hospital or  
6    church.  
7        ~~†4†~~(6) It is unlawful for an individual, firm,  
8    partnership, or corporation to discharge or cause to be  
9    discharged any pyrotechnics, fireworks as defined in  
10   50-37-101, or permissible fireworks as enumerated in  
11   50-37-105:  
12        (a) within the exterior boundaries of a state forest,  
13        state park, or state recreation area;  
14        (b) within 100 feet of a fireworks retail sales  
15        location;  
16        (c) from, inside, or toward a motor vehicle; or  
17        (d) in the vicinity of another person or group of  
18        people in a manner likely to expose them to the risk of  
19        injury."  
20        Section 2. Section 50-37-104, MCA, is amended to read:  
21        "50-37-104. Lawful sales or uses of fireworks -- "no  
22        smoking" sign -- wholesaler's permit. It (1) Subject to  
23        subsection (2) it is lawful for an individual, firm,  
24        partnership, corporation, or association to possess for  
25        sale, sell or offer for sale at retail, or use within the

1 state the permissible fireworks enumerated in 50-37-105. At  
2 any place where permissible fireworks are sold or displayed,  
3 a sign reading "NO SMOKING" must be posted in letters at  
4 least 4 inches in height where customers are most likely to  
5 read it.

6 (2) Before a fireworks wholesaler may lawfully possess  
7 for sale, offer for sale, or sell within the state the  
8 permissible fireworks enumerated in 50-37-105, the  
9 wholesaler must obtain a fireworks wholesaler permit from  
10 the department of commerce.

11 (3) A person making application for a fireworks  
12 wholesaler permit shall:

13 (a) pay an application fee to the department, which  
14 must be set by the department commensurate with costs; and

15 (b) furnish proof under oath, on a form provided by  
16 the department, that he:

17 (i) is at least 18 years of age;

18 (ii) is of good moral character; and

19 (iii) has not been convicted of a crime involving the  
20 use, possession, or sale of fireworks.

21 (4) The department shall adopt rules implementing this  
22 section."

23 Section 3. Section 50-37-105, MCA, is amended to read:

24 "50-37-105. Permissible fireworks. Permissible  
25 fireworks,--excluding--sky--rockets,--roman--candies,--daygo

1 bombs,--firecrackers,--and--bottle--rockets, include and are  
2 limited to the following:

3 (1)--helicopter-type-spinners,--the--total--pyrotechnic  
4 composition--not--to--exceed--20--grams--each--in--weight;

5 (2)--cylindrical--fountains,--the--total--pyrotechnic  
6 composition--not--to--exceed--25--grams--each--in--weight--and--the  
7 inside-tube-diameter--not--to--exceed--three-fourths-of-an-inch;

8 (3)--cone--fountains,--the--total--pyrotechnic-composition  
9 not--to--exceed--50--grams--each--in--weight;

10 (4)--wheels,--the--total--pyrotechnic-composition--not--to  
11 exceed--60--grams--in--weight--for--each--driver--unit--(but--there  
12 may--be--any--number--of--drivers--on--any--one--wheel)--and--the  
13 inside--bore--of--driver--tubes--not--to--be--over--one-half--of--an  
14 inch;

15 (5)--illuminating--torches--and--colored--fire--in--any--form,  
16 the--total--pyrotechnic-composition--not--to--exceed--100--grams  
17 each--in--weight;

18 (6)--sparklers--and--dipped--sticks,--the--total--pyrotechnic  
19 composition--not--to--exceed--100--grams--each--in--weight  
20 (pyrotechnic-composition--containing--any--chlorate--not--to  
21 exceed--5--grams);--and

22 (7)--whistles--without--report,--the--total--pyrotechnic  
23 composition--not--to--exceed--40--grams--each--in--weight those that  
24 meet the definition of "common fireworks" as set forth in  
25 the U.S. department of transportation's Hazardous Materials

1 Regulations, 49 C.F.R., parts 173.88 and 173.100, as they  
2 read on January 1, 1985, and that comply with the  
3 construction, chemical composition, and labeling regulations  
4 of the U.S. consumer product safety commission, as set forth  
5 in 16 C.F.R., part 1507, as it reads on January 1, 1985."

6 NEW SECTION. Section 4. Effective date. This act is  
7 effective January 1, 1986.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 484-85

Form BD-15

In compliance with a written request received February 19, 19 85, there is hereby submitted a Fiscal Note for H.B. 896 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 896 revises the definition of permissible fireworks, provides for fireworks wholesaler permits, and regulates the use and sales of fireworks.

ASSUMPTIONS:

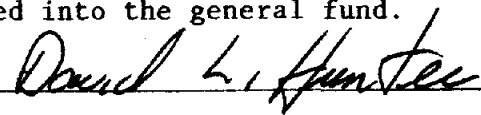
1. Assume 500 wholesaler permits per year.
2. .15 FTE Grade 12 person to issue permits.
3. Operating costs will total \$1,878 per year.
4. Equipment costs will be \$1,000 in fiscal year 1986.
5. Assume permit fees will be \$12 in FY 86 and \$10 in FY 87.
6. Assume fee revenue deposited in general fund and program costs funded from general fund.

FISCAL IMPACT ON STATE GENERAL FUND:

	<u>FY 86</u>	<u>FY 87</u>
Expenditures	\$ <u>6,000</u>	\$ <u>6,000</u>
Revenues	\$ <u>6,000</u>	\$ <u>6,000</u>
Net Impact to General Fund	\$ <u>-0-</u>	\$ <u>-0-</u>

TECHNICAL NOTE:

There is no provision in the bill regarding what fund the fees will be deposited in nor is there any direction given on funding this program. This note assumes fees will be deposited into the general fund.

  
BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 21, 1985  
HB 896

APPROVED BY COMM. ON  
BUSINESS AND LABOR

STATEMENT OF INTENT

HOUSE BILL 896

House Business and Labor Committee

1  
2  
3  
4  
5 It is the intent of the legislature that the department  
6 of commerce adopt rules that include the setting of a permit  
7 fee to cover the costs of administering the fireworks  
8 wholesaler permit program and to establish rules that  
9 provide a monitoring and information function. The rules  
10 should elicit pertinent information from the applicant, such  
11 as business name and location, mailing address, suppliers,  
12 products to be sold under the permit, etc. The rules should  
13 provide for conveying of information to the applicant at the  
14 time of application, such as responsibilities under Montana  
15 law, federal law, and both state and federal administrative  
16 rules.

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF PERMISSIBLE FIREWORKS; PROVIDING FOR FIREWORKS WHOLESALER PERMITS; FURTHER REGULATING THE USE AND SALE OF FIREWORKS; AMENDING SECTIONS 50-37-103 THROUGH 50-37-105, MCA; AND PROVIDING A-~~DELA~~<sup>YED</sup> AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-37-103, MCA, is amended to read:

"50-37-103. Unlawful sale, transportation, or use of fireworks. (1) It is unlawful to possess, sell, transport, or use any fireworks within the state except as provided in this chapter.

(2) It is unlawful for an individual under the age of 18 to possess for sale, sell, or offer for sale within the state permissible fireworks enumerated in 50-37-105.

(3) It is unlawful for a wholesaler to sell or offer for sale within the state fireworks ~~except-as-enumerated--in~~ without a current fireworks wholesaler permit or in violation of 50-37-105. It is lawful for a wholesaler, however, to transport fireworks within Montana for sale outside of the state.

(4) It is unlawful to sell or offer for sale fireworks

as defined in 50-37-101 or permissible fireworks as enumerated in 50-37-105 by mail order solicitation.

(5) It is unlawful to sell or offer for sale fireworks as defined in 50-37-101 or permissible fireworks as enumerated in 50-37-105 within 300 feet of a hospital or church.

~~(4)~~(6) It is unlawful for an individual, firm, partnership, or corporation to discharge or cause to be discharged any pyrotechnics, fireworks as defined in 50-37-101, or permissible fireworks as enumerated in 50-37-105:

(a) within the exterior boundaries of a state forest, state park, or state recreation area;

(b) within 100 feet of a fireworks retail sales location;

(c) from, inside, or toward a motor vehicle; or

(d) in the vicinity of another person or group of people in a manner likely to expose them to the risk of injury."

Section 2. Section 50-37-104, MCA, is amended to read:

"50-37-104. Lawful sales or uses of fireworks -- "no smoking" sign -- wholesaler's permit. ~~It~~ (1) Subject to subsection (2) it is lawful for an individual, firm, partnership, corporation, or association to possess for sale, sell or offer for sale at retail, or use within the



state the permissible fireworks enumerated in 50-37-105. At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted in letters at least 4 inches in height where customers are most likely to read it.

(2) Before a fireworks wholesaler may lawfully possess for sale, offer for sale, or sell within the state the permissible fireworks enumerated in 50-37-105, the wholesaler must obtain a fireworks wholesaler permit from the department of commerce.

(3) A person making application for a fireworks wholesaler permit shall:

(a) pay an application fee to the department OF COMMERCE, which must be set by the department OF COMMERCE commensurate with costs; and

(b) furnish proof under oath, on a form provided by the department, that he:

(i) is at least 18 years of age;

(ii) is of good moral character; and

(iii) has not been convicted of a crime involving the use, possession, or sale of fireworks.

(4) The department OF COMMERCE shall adopt rules implementing this section."

Section 3. Section 50-37-105, MCA, is amended to read:

"50-37-105. Permissible fireworks. Permissible

fireworks--excluding--sky--rockets--roman--candles--daygo bombs--firecrackers--and--bottle--rockets, EXCLUDING SKY ROCKETS, ROMAN CANDLES, DAYGO BOMBS, FIRECRACKERS, AND BOTTLE ROCKETS, include and are limited to the following:

(1)--helicopter-type spinners--the--total--pyrotechnic composition--not--to--exceed--20--grams--each--in--weight;

(2)--cylindrical--fountains--the--total--pyrotechnic composition--not--to--exceed--25--grams--each--in--weight--and--the inside--tube--diameter--not--to--exceed--three--fourths--of--an--inch;

(3)--cone--fountains--the--total--pyrotechnic--composition--not--to--exceed--50--grams--each--in--weight;

(4)--wheels--the--total--pyrotechnic--composition--not--to--exceed--60--grams--in--weight--for--each--driver--unit--(but--there may--be--any--number--of--drivers--on--any--one--wheel)--and--the inside--bore--of--driver--tubes--not--to--be--over--one--half--of--an inch;

(5)--illuminating--torches--and--colored--fire--in--any--form--the--total--pyrotechnic--composition--not--to--exceed--100--grams each--in--weight;

(6)--sparklers--and--dipped--sticks--the--total--pyrotechnic composition--not--to--exceed--100--grams--each--in--weight (pyrotechnic--composition--containing--any--chlorate--not--to exceed--5--grams);--and

(7)--whistles--without--report--the--total--pyrotechnic composition--not--to--exceed--40--grams--each--in--weight those that

1 meet the definition of "common fireworks" as set forth in  
2 the U.S. department of transportation's Hazardous Materials  
3 Regulations, 49 C.F.R., parts 173.88 and 173.100, as they  
4 read on January 1, 1985, and that comply with the  
5 construction, chemical composition, and labeling regulations  
6 of the U.S. consumer product safety commission, as set forth  
7 in 16 C.F.R., part 1507, as it reads on January 1, 1985."

8 NEW SECTION. Section 4. Effective date. This act is  
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-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 896

## 3 House Business and Labor Committee

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(3) It is unlawful for a wholesaler to sell or offer for sale within the state fireworks ~~except as enumerated in~~ without a current fireworks wholesaler permit or in violation of 50-37-105. It is lawful for a wholesaler, however, to transport fireworks within Montana for sale outside of the state.

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as defined in 50-37-101 or permissible fireworks as enumerated in 50-37-105 by mail order solicitation.

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 4 BOTTLE ROCKETS, include and are limited to the following:

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7 (2)--cylindrical--fountains,--the--total--pyrotechnic  
 8 composition--not--to--exceed--25--grams--each--in--weight--and--the  
 9 inside-tube-diameter--not--to--exceed--three-fourths--of--an--inch;

10 (3)--cone--fountains,--the--total--pyrotechnic--composition  
 11 not--to--exceed--50--grams--each--in--weight;

12 (4)--wheels,--the--total--pyrotechnic--composition--not--to  
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 14 may--be--any--number--of--drivers--on--any--one--wheel)--and--the  
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-End-

# SENATE

## STANDING COMMITTEE REPORT

MARCH 25, 1985

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 896

THIRD reading copy ( BLUE )  
color

DEFINING PERMISSIBLE FIREWORKS & FURTHER REGULATING THEIR SALE AND USE

IVERSON (R. MANNING)

Respectfully report as follows: That HOUSE BILL No. 896

be amended as follows:

1. Page 2, line 18.

Following: "people"

Insert: "or any animal"

~~DO PASS~~ AND AS AMENDED

~~DO NOT PASS~~ BE CONCURRED IN

SENATOR JUDY JACOBSON

Chairman.

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## 3 House Business and Labor Committee

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 11 not--to--exceed--50--grams--each--in--weight;

12 (4)--wheels,--the--total--pyrotechnic--composition--not--to  
 13 exceed--60--grams--in--weight--for--each--driver--unit--(but--there  
 14 may--be--any--number--of--drivers--on--any--one--wheel)--and--the  
 15 inside--bore--of--driver--tubes--not--to--be--over--one--half--of--an  
 16 inch;

17 (5)--illuminating--torches--and--colored--fire--in--any--form,  
 18 the--total--pyrotechnic--composition--not--to--exceed--100--grams  
 19 each--in--weight;

20 (6)--sparklers--and--dipped--sticks,--the--total--pyrotechnic  
 21 composition--not--to--exceed--100--grams--each--in--weight  
 22 (pyrotechnic--composition--containing--any--chlorate--not--to  
 23 exceed--5--grams);--and

24 (7)--whistles--without--report,--the--total--pyrotechnic  
 25 composition--not--to--exceed--40--grams--each--in--weight those that

1 meet the definition of "common fireworks" as set forth in  
2 the U.S. department of transportation's Hazardous Materials  
3 Regulations, 49 C.F.R., parts 173.88 and 173.100, as they  
4 read on January 1, 1985, and that comply with the  
5 construction, chemical composition, and labeling regulations  
6 of the U.S. consumer product safety commission, as set forth  
7 in 16 C.F.R., part 1507, as it reads on January 1, 1985."

8 NEW SECTION. Section 4. Effective date. This act is  
9 effective January 1, 1986 ON PASSAGE AND APPROVAL.

-End-