

PHANTOM FIREWORKS

Distributors of Phantom® and Wolf Pack® Brand Fireworks

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Senate Bill No. 1055
Senate Agricultural and Rural Affairs Committee
Proponent testimony by B.J. Alan Company dba Phantom Fireworks

Chairman Vogel, Minority Chair Schwank, and members of the committee, I am Danial Peart, Director of Showroom Operations for Phantom Fireworks. Phantom Fireworks is one of the leading retailers of consumer fireworks in the country, and has operated in Pennsylvania since 1989, currently with seven permanent locations, 68 temporary locations and hundreds of chain store locations. Thank you for the opportunity today to discuss Senate Bill 1055.

SB 1055 seeks to change Pennsylvania's consumer fireworks sales and use laws, making it legal for Pennsylvanians to purchase and responsibly use consumer fireworks on private property. This, once a year, display of patriotism is already enjoyed by thousands of Pennsylvania residents who trek across state lines where they can legally purchase fireworks, and come home to illegally light them. If this bill can decriminalize the otherwise law-abiding citizens who choose to celebrate their independence as John Adams proclaimed they would back on July 4, 1776, then that alone should be given earnest consideration. Then citizen Adams said:

"The day (Independence Day) will be the most memorable in the history of America. I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival...it ought to be solemnized with pomp and parade...bonfires and illuminations (fireworks) from one end of this continent to the other, from this day forward forevermore."

Today we celebrate Independence Day as John Adams predicted with the modern day equivalent of bonfires and illuminations – that being barbeques and fireworks.

SB 1055 recognizes the exceptional safety record of the consumer fireworks industry, which is well-documented in the information published in the U.S. *Consumer Product Safety Commission (CPSC) annual fireworks report*. On page 11 of the *2014 Fireworks Annual Report* produced by the CPSC, it is stated that:

“There is not a statistically significant trend detected in the fireworks-injury estimates from 1999 to 2014.”

While that may be true when only looking at fireworks-related injury statistics, that statement does not consider the fact that fireworks consumption in the United States has increased dramatically over the same period of time. In 1999, 156.9 million pounds of fireworks were imported into the United States. In 2014, 225.3 million pounds were imported into the United States, an increase of 68.4 million pounds, or 44% (*Summary of Trade and Tariff Information-Fireworks, U.S. International Trade Commission*). The fireworks-related injury rate per 100,000 people in the U.S. reported by the CPSC has modestly changed from 3.1 in 1999 to 3.3 in 2014, a change of .06%. By stark contrast, the consumption of fireworks in the U.S. over the same period of time has increased 44%. I submit to this committee that the trend in fireworks-related injuries is statistically significant to any industry dealing in consumer products. Significantly more use against essentially the same number of injuries. That is a good record.

The *CPSC Annual Fireworks Report* continues to incorporate injury data related to 1.3G display fireworks and illegal explosives, although neither 1.3G display fireworks nor illegal explosives are consumer items, and they are not regulated items by the CPSC. Inclusion of these products skews the injury statistics upward, while none of these products are available for purchase in a consumer fireworks sales facility.

This downward trend in fireworks-related injuries can be attributed to two, key factors: a better, safer product, and a more educated buying public. A better, safer product, is realized thanks to the efforts of the *American Fireworks Standards Laboratory (AFSL)* working at the factory level in China to ensure compliance with U.S. standards and quality of product and through the AFSL testing program at those factories. A more educated consumer is achieved through safety campaigns sponsored by the CPSC, ATF, fire-service groups, state fireworks associations, and companies like Phantom Fireworks, as well as many of the other companies you will hear from today that are invested in the integrity and stability of the consumer fireworks industry.

SB 1055 seeks to employ an excise tax, similar to states like, Indiana, Michigan and Georgia. Indiana and Georgia have a 5% excise tax, Michigan has a 6% excise tax, which makes the 10% excise tax proposed in SB 1055 seem out of line. Considering that many of the most popular, single items, in a consumer fireworks store start at a price of \$50 or more, a 10% excise on top of sales tax seems punitive on a, then, legal product to the consumer. Pennsylvania already has the highest state license fee in the country at \$5,000 per license, per year, and SB 1055 seeks to raise that higher as well. License fees are considered to be operating costs and typically don't factor into pricing decisions, but an excise tax is virtually always passed onto the consumer and 10% is a heavy lift in this circumstance.

Consider that Pennsylvania residents already have the option to buy fireworks across the border in Ohio with no excise tax, or the soon to be available options in West

Virginia. If a local purchase is more costly than driving out of state for the same products, then the amount taxed is problematical and the tax revenue will diminish.

The consumer fireworks business is a highly competitive, seasonal business, where one bad day can make or break your entire year. If a small retailer sees their business going around the corner where the same product is cheaper, what do you think they're going to do to remain competitive? What will happen when word spreads that many Pennsylvania licensees are not collecting the excise tax, just as word spread that many of them were also providing illegal permits to PA residents who previously wanted to purchase consumer fireworks? We understand the concept of the excise tax, but it must be set at a level that is consistent and ensures compliance. We think an excise tax of 4-5% is reasonable for the industry and fair to the market.

While Phantom agrees that the time to legalize the use of consumer fireworks in Pennsylvania is now, it must be acknowledged that the Pennsylvania fireworks industry has grown and positioned itself under a law where such use was illegal. With that, some thought should be given to the manner with which the increased license applications are to be handled under SB 1055.

For example: There are 75-80 consumer fireworks licensees in the state that have been tax-paying businesses with many employees for many years, and they may not have the ability to, immediately, open two or three new locations to remain competitive once the market changes. Most companies now operating in Pennsylvania would not be able to open more competitive locations immediately and would face an unknown future as a result of the increased fireworks interest in the state.

We think it makes sense to employ a measured and graduated approach to expanding the amount of consumer fireworks licenses in Pennsylvania. It's undeniable that the Pennsylvania consumer fireworks market has geographically positioned itself to operate without sales to Pennsylvania residents. Should the law change, these Pennsylvania businesses that have operated in good faith for many years should be shown due consideration in the legislative process.

Phantom Fireworks unequivocally supports the legal and responsible use of consumer fireworks in Pennsylvania, and the safety data does as well. I thank you for your time today and am happy to answer any questions.

Very Truly Yours,



Danial Peart, Director of Showroom Operations

