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SENATE BILL 6080

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State of Washington

57th Legislature

2001 Regular Session

By Senator Prentice

Read first time 02/19/2001. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to updating and harmonizing fireworks and  
2 explosives laws; amending RCW 70.74.010, 70.74.180, 70.74.191,  
3 70.74.400, 70.77.126, 70.77.131, 70.77.136, 70.77.141, 70.77.160,  
4 70.77.170, 70.77.180, 70.77.200, 70.77.205, 70.77.210, 70.77.215,  
5 70.77.230, 70.77.236, 70.77.250, 70.77.255, 70.77.270, 70.77.305,  
6 70.77.311, 70.77.315, 70.77.330, 70.77.335, 70.77.340, 70.77.343,  
7 70.77.381, 70.77.395, 70.77.401, 70.77.405, 70.77.420, 70.77.425,  
8 70.77.435, 70.77.440, 70.77.495, 70.77.510, 70.77.515, 70.77.517,  
9 70.77.520, 70.77.535, 70.77.555, 70.77.575, and 70.77.580; adding new  
10 sections to chapter 70.77 RCW; and prescribing penalties.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 **Sec. 1.** RCW 70.74.010 and 1993 c 293 s 1 are each amended to read  
13 as follows:

14 As used in this chapter, unless a different meaning is plainly  
15 required by the context:

16 (1) The terms "authorized", "approved" or "approval" shall be held  
17 to mean authorized, approved, or approval by the department of labor  
18 and industries.

1 (2) The term "blasting agent" shall be held to mean and include any  
2 material or mixture consisting of a fuel and oxidizer, (~~intended for~~  
3 ~~blasting, not otherwise classified as an explosive, and in which none~~  
4 ~~of the ingredients are classified as an explosive, provided that the~~  
5 ~~finished product, as mixed and packaged for use or shipment, cannot be~~  
6 ~~detonated when unconfined by means of a No. 8 test blasting cap~~) that  
7 is intended for blasting and not otherwise defined as an explosive; if  
8 the finished product, as mixed for use or shipment, cannot be detonated  
9 by means of a number 8 test blasting cap when unconfined. A number 8  
10 test blasting cap is one containing two grams of a mixture of eighty  
11 percent mercury fulminate and twenty percent potassium chlorate, or a  
12 blasting cap of equivalent strength. An equivalent strength cap  
13 comprises 0.40-0.45 grams of PETN base charge pressed in an aluminum  
14 shell with bottom thickness not to exceed 0.03 of an inch, to a  
15 specific gravity of not less than 1.4 g/cc., and primed with standard  
16 weights of primer depending on the manufacturer.

17 (3) The term "explosive" or "explosives" whenever used in this  
18 chapter, shall be held to mean and include any chemical compound or  
19 mechanical mixture that is commonly used or intended for the purpose of  
20 producing an explosion, that contains any oxidizing and combustible  
21 units, or other ingredients, in such proportions, quantities or  
22 packing, that an ignition by fire, by friction, by concussion, by  
23 percussion, or by detonation of any part of the compound or mixture may  
24 cause such a sudden generation of highly heated gases that the  
25 resultant gaseous pressures are capable of producing destructive  
26 effects on contiguous objects or of destroying life or limb. In  
27 addition, the term "explosives" shall include all material which is  
28 classified as (~~class A, class B, and class C~~) division 1.1, 1.2, 1.3,  
29 1.4, 1.5, or 1.6 explosives by the (~~federal~~) Unites States department  
30 of transportation. For the purposes of this chapter small arms  
31 ammunition, small arms ammunition primers, smokeless powder not  
32 exceeding fifty pounds, and black powder not exceeding five pounds  
33 shall not be defined as explosives, unless possessed or used for a  
34 purpose inconsistent with small arms use or other lawful purpose.

35 (4) Classification of explosives shall include but not be limited  
36 to the following:

37 (a) (~~CLASS A~~) DIVISION 1.1 and 1.2 EXPLOSIVES: (~~Possessing~~)  
38 Possess mass explosion or detonating hazard(+)) and include dynamite,  
39 nitroglycerin, picric acid, lead azide, fulminate of mercury, black

1 powder exceeding five pounds, blasting caps in quantities of 1001 or  
2 more, and detonating primers.

3 (b) (~~(CLASS—B)~~) DIVISION 1.3 EXPLOSIVES: (~~(+Possessing)~~) Possess  
4 a minor blast hazard, a minor projection hazard, or a flammable  
5 hazard(+) and include propellant explosives, including smokeless  
6 (~~(propellants)~~) powder exceeding fifty pounds, and display fireworks as  
7 defined in chapter 70.77 RCW.

8 (c) (~~(CLASS—C)~~) DIVISION 1.4, 1.5, and 1.6 EXPLOSIVES:  
9 (~~(+Including)~~) Include certain types of manufactured articles which  
10 contain (~~(class A or class B)~~) division 1.1, 1.2, or 1.3 explosives, or  
11 (~~(both)~~) all, as components, but in restricted quantities(+), and  
12 also include blasting caps in quantities of 1000 or less and consumer  
13 fireworks as defined in chapter 70.77 RCW.

14 (5) The term "explosive-actuated power devices" shall be held to  
15 mean any tool or special mechanized device which is actuated by  
16 explosives, but not to include propellant-actuated power devices.

17 (6) The term "magazine", shall be held to mean and include any  
18 building or other structure, other than (~~(a factory)~~) an explosives  
19 manufacturing building, used for the storage of explosives.

20 (7) The term "improvised device" means a device which is fabricated  
21 with explosives or destructive, lethal, noxious, pyrotechnic, or  
22 incendiary chemicals and which is designed to disfigure, destroy,  
23 distract, or harass.

24 (8) The term "inhabited building", shall be held to mean and  
25 include only a building regularly occupied in whole or in part as a  
26 habitation for human beings, or any church, schoolhouse, railroad  
27 station, store, or other building where people are accustomed to  
28 assemble, other than any building or structure occupied in connection  
29 with the manufacture, transportation, storage, or use of explosives.

30 (9) The term "explosives manufacturing plant" shall be held to mean  
31 and include all lands, with the buildings situated thereon, used in  
32 connection with the manufacturing or processing of explosives or in  
33 which any process involving explosives is carried on, or the storage of  
34 explosives thereat, as well as any premises where explosives are used  
35 as a component part or ingredient in the manufacture of any article or  
36 device.

37 (10) The term "explosives manufacturing building", shall be held to  
38 mean and include any building or other structure (excepting magazines)  
39 containing explosives, in which the manufacture of explosives, or any

1 processing involving explosives, is carried on, and any building where  
2 explosives are used as a component part or ingredient in the  
3 manufacture of any article or device.

4 (11) The term "railroad" shall be held to mean and include any  
5 steam, electric, or other railroad which carries passengers for hire.

6 (12) The term "highway" shall be held to mean and include any  
7 public street, public alley, or public road, including a privately  
8 financed, constructed, or maintained road that is regularly and openly  
9 traveled by the general public.

10 (13) The term "efficient artificial barricade" shall be held to  
11 mean an artificial mound or properly revetted wall of earth of a  
12 minimum thickness of not less than three feet or such other artificial  
13 barricade as approved by the department of labor and industries.

14 (14) The term "person" shall be held to mean and include any  
15 individual, firm, (~~(copartnership)~~) partnership, corporation, company,  
16 association, society, joint stock company, joint stock association, and  
17 including any trustee, receiver, assignee, or personal representative  
18 thereof.

19 (15) The term "dealer" shall be held to mean and include any person  
20 who purchases explosives or blasting agents for the sole purpose of  
21 resale, and not for use or consumption.

22 (16) The term "forbidden or not acceptable explosives" shall be  
23 held to mean and include explosives which are forbidden or not  
24 acceptable for transportation by common carriers by rail freight, rail  
25 express, highway, or water in accordance with the regulations of the  
26 federal department of transportation.

27 (17) The term "handloader" shall be held to mean and include any  
28 person who engages in the noncommercial assembling of small arms  
29 ammunition for his own use, specifically the operation of installing  
30 new primers, powder, and projectiles into cartridge cases.

31 (18) The term "handloader components" means small arms ammunition,  
32 small arms ammunition primers, smokeless powder not exceeding fifty  
33 pounds, and black powder as used in muzzle loading firearms not  
34 exceeding five pounds.

35 (19) The term "fuel" shall be held to mean and include a substance  
36 which may react with the oxygen in the air or with the oxygen yielded  
37 by an oxidizer to produce combustion.

1 (20) The term "motor vehicle" shall be held to mean and include any  
2 self-propelled automobile, truck, tractor, semi-trailer or full  
3 trailer, or other conveyance used for the transportation of freight.

4 (21) The term "natural barricade" shall be held to mean and include  
5 any natural hill, mound, wall, or barrier composed of earth or rock or  
6 other solid material of a minimum thickness of not less than three  
7 feet.

8 (22) The term "oxidizer" shall be held to mean a substance that  
9 yields oxygen readily to stimulate the combustion of organic matter or  
10 other fuel.

11 (23) The term "propellant-actuated power device" shall be held to  
12 mean and include any tool or special mechanized device or gas generator  
13 system which is actuated by a propellant or which releases and directs  
14 work through a propellant charge.

15 (24) The term "public conveyance" shall be held to mean and include  
16 any railroad car, streetcar, ferry, cab, bus, airplane, or other  
17 vehicle which is carrying passengers for hire.

18 (25) The term "public utility transmission system" shall mean power  
19 transmission lines over 10 KV, telephone cables, or microwave  
20 transmission systems, or buried or exposed pipelines carrying water,  
21 natural gas, petroleum, or crude oil, or refined products and  
22 chemicals, whose services are regulated by the utilities and  
23 transportation commission, municipal, or other publicly owned systems.

24 (26) The term "purchaser" shall be held to mean any person who  
25 buys, accepts, or receives any explosives or blasting agents.

26 (27) The term "pyrotechnic" shall be held to mean and include any  
27 combustible or explosive compositions or manufactured articles designed  
28 and prepared for the purpose of producing audible or visible effects  
29 which are commonly referred to as fireworks.

30 (28) The term "small arms ammunition" shall be held to mean and  
31 include any shotgun, rifle, pistol, or revolver cartridge, and  
32 cartridges for propellant-actuated power devices and industrial guns.  
33 Military-type ammunition containing explosive bursting charges,  
34 incendiary, tracer, spotting, or pyrotechnic projectiles is excluded  
35 from this definition.

36 (29) The term "small arms ammunition primers" shall be held to mean  
37 small percussion-sensitive explosive charges encased in a cup, used to  
38 ignite propellant powder and shall include percussion caps as used in  
39 muzzle loaders.

1 (30) The term "smokeless (~~(propellants)~~) powder" shall be held to  
2 mean and include solid chemicals or solid chemical mixtures in excess  
3 of fifty pounds which function by rapid combustion.

4 (31) The term "user" shall be held to mean and include any natural  
5 person, manufacturer, or blaster who acquires, purchases, or uses  
6 explosives as an ultimate consumer or who supervises such use.

7 Words used in the singular number shall include the plural, and the  
8 plural the singular.

9 **Sec. 2.** RCW 70.74.180 and 1984 c 55 s 1 are each amended to read  
10 as follows:

11 Any person who has in his possession or control any shell, bomb, or  
12 similar device, charged or filled with one or more explosives,  
13 intending to use it or cause it to be used for an unlawful purpose, is  
14 guilty of a class A felony, and upon conviction shall be punished by  
15 imprisonment in a state prison for a term of not (~~(more)~~) less than  
16 twenty years.

17 **Sec. 3.** RCW 70.74.191 and 1998 c 40 s 1 are each amended to read  
18 as follows:

19 The laws contained in this chapter and regulations prescribed by  
20 the department of labor and industries pursuant to this chapter shall  
21 not apply to:

22 (1) Explosives or blasting agents in the course of transportation  
23 by way of railroad, water, highway, or air under the jurisdiction of,  
24 and in conformity with, regulations adopted by the federal department  
25 of transportation, the Washington state utilities and transportation  
26 commission, and the Washington state patrol;

27 (2) The laboratories of schools, colleges, and similar institutions  
28 if confined to the purpose of instruction or research and if not  
29 exceeding the quantity of one pound;

30 (3) Explosives in the forms prescribed by the official United  
31 States Pharmacopoeia;

32 (4) The transportation, storage, and use of explosives or blasting  
33 agents in the normal and emergency operations of (~~(federal)~~) United  
34 States agencies and departments including the regular United States  
35 military departments on military reservations(~~(-)~~); arsenals, navy  
36 yards, depots, or other establishments owned by, operated by, or on  
37 behalf of, the United States; or the duly authorized militia of any

1 state (~~or territory,~~); or to emergency operations of any state  
2 department or agency, any police, or any municipality or county;

3 (5) A hazardous devices technician when carrying out normal and  
4 emergency operations, handling evidence, and operating and maintaining  
5 a specially designed emergency response vehicle that carries no more  
6 than ten pounds of explosive material or when conducting training and  
7 whose employer possesses the minimum safety equipment prescribed by the  
8 federal bureau of investigation for hazardous devices work. For  
9 purposes of this section, a hazardous devices technician is a person  
10 who is a graduate of the federal bureau of investigation hazardous  
11 devices school and who is employed by a state, county, or municipality;

12 (6) The importation, sale, possession, and use of fireworks as  
13 defined in chapter 70.77 RCW, signaling devices, flares, fuses, and  
14 torpedoes;

15 (7) The transportation, storage, and use of explosives or blasting  
16 agents in the normal and emergency avalanche control procedures as  
17 conducted by trained and licensed ski area operator personnel.  
18 However, the storage, transportation, and use of explosives and  
19 blasting agents for such use shall meet the requirements of regulations  
20 adopted by the director of labor and industries; (~~and~~))

21 (8) The storage of consumer fireworks as defined in chapter 70.77  
22 RCW pursuant to a seizure under chapter 70.77 RCW by the chief of the  
23 Washington state patrol, through the director of fire protection, or  
24 his or her deputy, or by state agencies or local governments having  
25 general law enforcement authority; and

26 (9) Any violation under this chapter if any existing ordinance of  
27 any city, municipality, or county is more stringent than this chapter.

28 **Sec. 4.** RCW 70.74.400 and 1993 c 293 s 8 are each amended to read  
29 as follows:

30 (1) Explosives, improvised devices, and components of explosives  
31 and improvised devices that are possessed, manufactured, delivered,  
32 imported, exported, stored, sold, purchased, transported, abandoned,  
33 detonated, or used, or intended to be used, in violation of a provision  
34 of this chapter are subject to seizure and forfeiture by a law  
35 enforcement agency and no property right exists in them.

36 (2) The law enforcement agency making the seizure shall notify the  
37 Washington state department of labor and industries of the seizure as

1 soon as possible, but never later than the next regular day of  
2 business.

3 (3) Seizure of explosives, improvised devices, and components of  
4 explosives and improvised devices under subsection (1) of this section  
5 may be made if:

6 (a) The seizure is incident to arrest or a search under a search  
7 warrant;

8 (b) The explosives, improvised devices, or components have been the  
9 subject of a prior judgment in favor of the state in an injunction or  
10 forfeiture proceeding based upon this chapter;

11 (c) A law enforcement officer has probable cause to believe that  
12 the explosives, improvised devices, or components are directly or  
13 indirectly dangerous to health or safety; or

14 (d) The law enforcement officer has probable cause to believe that  
15 the explosives, improvised devices, or components were used or were  
16 intended to be used in violation of this chapter.

17 ~~((+3))~~ (4) A law enforcement agency shall destroy explosives  
18 seized under this chapter when it is necessary to protect the public  
19 safety and welfare. When destruction is not necessary to protect the  
20 public safety and welfare, and the explosives are not being held for  
21 evidence, a seizure pursuant to this section commences proceedings for  
22 forfeiture.

23 ~~((+4))~~ (5) The law enforcement agency under whose authority the  
24 seizure was made shall issue a written notice of the seizure and  
25 commencement of the forfeiture proceedings to the person from whom the  
26 explosives were seized, to any known owner of the explosives, and to  
27 any person who has a known interest in the explosives. The notice  
28 shall be issued within fifteen days of the seizure. The notice of  
29 seizure and commencement of the forfeiture proceedings shall be served  
30 in the same manner as provided in RCW 4.28.080 for service of a  
31 summons. The law enforcement agency shall provide a form by which the  
32 person or persons may request a hearing before the law enforcement  
33 agency to contest the seizure.

34 ~~((+5))~~ (6) If no person notifies the seizing law enforcement  
35 agency in writing of the person's claim of ownership or right to  
36 possession of the explosives, improvised devices, or components within  
37 thirty days of the date the notice was issued, the seized explosives,  
38 devices, or components shall be deemed forfeited.



1       (~~(6)~~) (7) If, within thirty days of the issuance of the notice,  
2 any person notifies the seizing law enforcement agency in writing of  
3 the person's claim of ownership or right to possession of items seized,  
4 the person or persons shall be afforded a reasonable opportunity to be  
5 heard as to the claim or right. The hearing shall be before the chief  
6 law enforcement or the officer's designee of the seizing agency, except  
7 that the person asserting the claim or right may remove the matter to  
8 a court of competent jurisdiction if the aggregate value of the items  
9 seized is more than five hundred dollars. The hearing and any appeal  
10 shall be conducted according to chapter 34.05 RCW. The seizing law  
11 enforcement agency shall bear the burden of proving that the person (a)  
12 has no lawful right of ownership or possession and (b) that the items  
13 seized were possessed, manufactured, stored, sold, purchased,  
14 transported, abandoned, detonated, or used in violation of a provision  
15 of this chapter with the person's knowledge or consent.

16       (~~(7)~~) (8) The seizing law enforcement agency shall promptly  
17 return the items seized to the claimant upon a determination that the  
18 claimant is entitled to possession of the items seized.

19       (~~(8)~~) (9) If the items seized are forfeited under this statute,  
20 the seizing agency shall (~~destroy~~) dispose of the explosives by  
21 summary destruction. However, when explosives are destroyed either to  
22 protect public safety or because the explosives were forfeited, the  
23 person from whom the explosives were seized loses all rights of action  
24 against the law enforcement agency or its employees acting within the  
25 scope of their employment, or other governmental entity or employee  
26 involved with the seizure and destruction of explosives.

27       (~~(9)~~) (10) This section is not intended to change the seizure and  
28 forfeiture powers, enforcement, and penalties available to the  
29 department of labor and industries pursuant to chapter 49.17 RCW as  
30 provided in RCW 70.74.390.

31       **Sec. 5.** RCW 70.77.126 and 1995 c 61 s 3 are each amended to read  
32 as follows:

33       "Fireworks" means any composition or device(~~(, in a finished state,~~  
34 ~~containing any combustible or explosive substance for the purpose of~~  
35 ~~producing)~~) designed to produce a visible or audible effect by  
36 combustion(~~(, explosion,~~) or deflagration(~~(, or detonation,~~) and  
37 classified as (~~common~~) consumer fireworks or (~~special~~) display  
38 fireworks by the United States bureau of explosives or contained in the

1 regulations of the United States department of transportation and  
2 designated as U.N. 0333 1.1G, U.N. 0334 1.2G, U.N. 0335 1.3G, or U.N.  
3 0336 1.4G as of (~~April 17, 1995~~) July 31, 2001.

4 **Sec. 6.** RCW 70.77.131 and 1995 c 61 s 4 are each amended to read  
5 as follows:

6 "~~((Special))~~ Display fireworks" means any fireworks designed  
7 primarily for exhibition display by producing visible or audible  
8 effects and classified as such by the United States bureau of  
9 explosives or in the regulations of the United States department of  
10 transportation and designated as U.N. 0333 1.1G, U.N. 0334 1.2G, or  
11 U.N. 0335 1.3G as of (~~April 17, 1995~~) July 31, 2001.

12 **Sec. 7.** RCW 70.77.136 and 1995 c 61 s 5 are each amended to read  
13 as follows:

14 "~~((Common))~~ Consumer fireworks" means any fireworks which are  
15 designed primarily for retail sale to the public during prescribed  
16 dates and which produce visual or audible effects through combustion  
17 and are classified as (~~common~~) consumer fireworks by the United  
18 States bureau of explosives or in the regulations of the United States  
19 department of transportation and designated as U.N. 0336 1.4G as of  
20 (~~April 17, 1995~~) July 31, 2001.

21 **Sec. 8.** RCW 70.77.141 and 1982 c 230 s 4 are each amended to read  
22 as follows:

23 "Agricultural and wildlife fireworks" includes fireworks devices  
24 distributed to farmers, ranchers, and growers through a wildlife  
25 management program administered by the United States department of the  
26 interior or an equivalent state or local governmental agency.

27 **Sec. 9.** RCW 70.77.160 and 1997 c 182 s 1 are each amended to read  
28 as follows:

29 "~~((Public))~~ Display of fireworks" means an entertainment feature  
30 where the public is or could be admitted or allowed to view the  
31 (~~display or~~) discharge of (~~special~~) display fireworks.

32 **Sec. 10.** RCW 70.77.170 and 1995 c 369 s 44 are each amended to  
33 read as follows:

1 "License" means a nontransferable formal authorization which the  
2 chief of the Washington state patrol (~~(and)~~), through the director of  
3 fire protection (~~(are permitted)~~), is authorized to issue under this  
4 chapter to engage in the act specifically designated therein.

5 **Sec. 11.** RCW 70.77.180 and 1995 c 61 s 9 are each amended to read  
6 as follows:

7 "Permit" means the official (~~(permission)~~) authorization granted by  
8 a (~~(local public agency)~~) city or county for the purpose of  
9 establishing and maintaining a place within the jurisdiction of the  
10 (~~(local agency)~~) city or county where fireworks are manufactured,  
11 constructed, produced, packaged, stored, sold, or exchanged and the  
12 official (~~(permission)~~) authorization granted by a (~~(local agency)~~)  
13 city or county for a public display of fireworks.

14 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.77 RCW  
15 to read as follows:

16 "Permittee" means any person holding a fireworks permit in  
17 conformance with this chapter.

18 **Sec. 13.** RCW 70.77.200 and 1995 c 61 s 10 are each amended to read  
19 as follows:

20 "Importer" includes any person who for any purpose other than  
21 personal use:

22 (1) Brings fireworks into this state or causes fireworks to be  
23 brought into this state;

24 (2) Procures the delivery into, or receives shipments of, any  
25 fireworks (~~(into)~~) in this state; or

26 (3) Buys or contracts to buy fireworks for shipment into this  
27 state.

28 **Sec. 14.** RCW 70.77.205 and 1995 c 61 s 11 are each amended to read  
29 as follows:

30 "Manufacturer" includes any person who manufactures, makes,  
31 constructs, fabricates, or produces any fireworks article or device but  
32 does not include persons who assemble or fabricate sets or mechanical  
33 pieces in public displays of fireworks or persons who assemble  
34 (~~(common)~~) consumer fireworks items or sets or packages containing  
35 (~~(common)~~) consumer fireworks items.

1       **Sec. 15.** RCW 70.77.210 and 1982 c 230 s 9 are each amended to read  
2 as follows:

3       "Wholesaler" includes any person who sells fireworks to a retailer  
4 or any other person for resale and any person who sells (~~(special)~~)  
5 display fireworks to public display licensees.

6       **Sec. 16.** RCW 70.77.215 and 1982 c 230 s 10 are each amended to  
7 read as follows:

8       "Retailer" includes any person who, at a fixed location or place of  
9 business, sells(~~(, transfers, or gives common)~~) fireworks to a consumer  
10 or user.

11       **Sec. 17.** RCW 70.77.230 and 1982 c 230 s 11 are each amended to  
12 read as follows:

13       "Pyrotechnic operator" includes any individual who by experience  
14 and training has demonstrated the required skill and ability for safely  
15 setting up and discharging (~~(public)~~) displays of (~~(special)~~) display  
16 fireworks.

17       **Sec. 18.** RCW 70.77.236 and 1997 c 182 s 4 are each amended to read  
18 as follows:

19       (1) "New fireworks item" means any fireworks initially classified  
20 or reclassified as (~~(special)~~) display or (~~(common)~~) consumer fireworks  
21 by the United States bureau of explosives or in the regulations of the  
22 United States department of transportation after (~~(April 17, 1995)~~)  
23 July 31, 2001.

24       (2) The chief of the Washington state patrol, through the director  
25 of fire protection, shall classify any new fireworks item in the same  
26 manner as the item is classified by the United States bureau of  
27 explosives or in the regulations of the United States department of  
28 transportation(~~(, unless)~~). The chief of the Washington state patrol,  
29 through the director of fire protection, may determine(~~(s)~~), stating  
30 reasonable grounds, that the item should not be so classified.

31       **Sec. 19.** RCW 70.77.250 and 1997 c 182 s 5 are each amended to read  
32 as follows:

33       (1) The chief of the Washington state patrol, through the director  
34 of fire protection, shall enforce and administer this chapter.

1 (2) The chief of the Washington state patrol, through the director  
2 of fire protection, shall appoint such deputies and employees as may be  
3 necessary and required to carry out the provisions of this chapter.

4 (3) The chief of the Washington state patrol, through the director  
5 of fire protection, shall adopt those rules relating to fireworks as  
6 are necessary for the implementation of this chapter.

7 (4) The chief of the Washington state patrol, through the director  
8 of fire protection, shall adopt those rules as are necessary to ensure  
9 statewide minimum standards for the enforcement of this chapter.  
10 Counties(~~(7)~~) and cities(~~(7, and towns)~~) shall comply with these state  
11 rules. Any local rules adopted by local authorities that are more  
12 restrictive than state law shall have an effective date no sooner than  
13 one year after their adoption.

14 (5) The chief of the Washington state patrol, through the director  
15 of fire protection, may exercise the necessary police powers to enforce  
16 the criminal provisions of this chapter. This grant of police powers  
17 does not prevent any other state agency (~~(or local government)~~) and  
18 city or county agency having general law enforcement powers from  
19 enforcing this chapter within the jurisdiction of the agency (~~(or local~~  
20 ~~government)~~) and city or county.

21 (6) The chief of the Washington state patrol, through the director  
22 of fire protection, shall adopt rules necessary to enforce the civil  
23 penalty provisions for the violations of this chapter.

24 (7) The chief of the Washington state patrol, through the director  
25 of fire protection, shall investigate or cause to be investigated all  
26 fires resulting, or suspected of resulting, from the use of fireworks.

27 **Sec. 20.** RCW 70.77.255 and 1997 c 182 s 6 are each amended to read  
28 as follows:

29 (1) Except as otherwise provided in this chapter, no person,  
30 without appropriate state licenses and city or county permits as  
31 required by this chapter may:

32 (a) Manufacture, import, possess, or sell any fireworks at  
33 wholesale or retail for any use;

34 (b) Make a public display of fireworks;

35 (c) Transport fireworks, except as a licensee or as a public  
36 carrier delivering to a licensee; or

1 (d) Knowingly manufacture, import, transport, store, sell, or  
2 possess with intent to sell, as fireworks, explosives, as defined under  
3 RCW 70.74.010, that are not fireworks, as defined under this chapter.

4 (2) Except as authorized by a license and permit under subsection  
5 (1)(b) of this section or as provided in RCW 70.77.311, no person may  
6 discharge (~~special~~) display fireworks at any place.

7 (3) No person less than eighteen years of age may apply for or  
8 receive a license or permit under this chapter.

9 (4) No license or permit is required for the possession or use of  
10 (~~common~~) consumer fireworks lawfully purchased at retail.

11 **Sec. 21.** RCW 70.77.270 and 1997 c 182 s 8 are each amended to read  
12 as follows:

13 (1) The governing body of a city or county, or a designee, shall  
14 grant an application for a permit under RCW 70.77.260(1) if the  
15 application meets the standards under this chapter, and the applicable  
16 ordinances of the city or county. The permit shall be granted by June  
17 10, or no less than thirty days after receipt of an application  
18 whichever date occurs first, for sales commencing on June 28 and on  
19 December 27; or by December 10, or no less than thirty days after  
20 receipt of an application whichever date occurs first, for sales  
21 commencing only on December 27.

22 (2) The chief of the Washington state patrol, through the director  
23 of fire protection, shall prescribe uniform, statewide standards for  
24 retail fireworks stands including, but not limited to, the location of  
25 the stands, setback requirements and siting of the stands, types of  
26 buildings and construction material that may be used for the stands,  
27 use of the stands and areas around the stands, cleanup of the area  
28 around the stands, transportation of fireworks to and from the stands,  
29 and temporary storage of fireworks associated with the retail fireworks  
30 stands. All cities and counties which allow retail fireworks sales  
31 shall comply with these standards.

32 (3) No retail fireworks permit may be issued to any applicant  
33 unless the retail fireworks stand is covered by a liability insurance  
34 policy with coverage of not less than fifty thousand dollars and five  
35 hundred thousand dollars for bodily injury liability for each person  
36 and occurrence, respectively, and not less than fifty thousand dollars  
37 for property damage liability for each occurrence, unless such  
38 insurance is not readily available from at least three approved

1 insurance companies. If insurance in this amount is not offered, each  
2 fireworks permit shall be covered by a liability insurance policy in  
3 the maximum amount offered by at least three different approved  
4 insurance companies.

5 No wholesaler may knowingly sell or supply fireworks to any retail  
6 fireworks (~~stand~~) licensee unless the wholesaler determines that the  
7 retail fireworks (~~stand~~) licensee is covered by liability insurance  
8 in the same, or greater, amount as provided in this subsection.

9 **Sec. 22.** RCW 70.77.305 and 1995 c 369 s 46 are each amended to  
10 read as follows:

11 The chief of the Washington state patrol, through the director of  
12 fire protection, has the power to issue licenses for the manufacture,  
13 importation, sale, and use of all fireworks in this state, except as  
14 provided in RCW 70.77.311 and 70.77.395. A person may be licensed as  
15 a manufacturer, importer, or wholesaler under this chapter only if the  
16 person has a designated agent in this state who is registered with the  
17 chief of the Washington state patrol, through the director of fire  
18 protection.

19 **Sec. 23.** RCW 70.77.311 and 1995 c 61 s 17 are each amended to read  
20 as follows:

21 (1) No license is required for the purchase of agricultural and  
22 wildlife fireworks by government agencies if:

23 (a) The agricultural and wildlife fireworks are used for wildlife  
24 control or are distributed to farmers, ranchers, or growers through a  
25 wildlife management program administered by the United States  
26 department of the interior or an equivalent state or local governmental  
27 agency;

28 (b) The distribution is in response to a written application  
29 describing the wildlife management problem that requires use of the  
30 devices;

31 (c) It is of no greater quantity than necessary to control the  
32 described problem; and

33 (d) It is limited to situations where other means of control are  
34 unavailable or inadequate.

35 (2) No license is required for religious organizations or private  
36 organizations or persons to purchase or use (~~common~~) consumer

1 fireworks and such audible ground devices as firecrackers, salutes, and  
2 chasers if:

3 (a) Purchased from a licensed manufacturer, importer, or  
4 wholesaler;

5 (b) For use on prescribed dates and locations;

6 (c) For religious or specific purposes; and

7 (d) A permit is obtained from the local fire official. No fee may  
8 be charged for this permit.

9 **Sec. 24.** RCW 70.77.315 and 1997 c 182 s 10 are each amended to  
10 read as follows:

11 Any person who desires to engage in the manufacture, importation,  
12 sale, or use of fireworks, except use as provided in RCW 70.77.255(4)  
13 (~~and~~), 70.77.311, and 70.77.395, shall make a written application to  
14 the chief of the Washington state patrol, through the director of fire  
15 protection, on forms provided by him or her. Such application shall be  
16 accompanied by the annual license fee as prescribed in this chapter.

17 **Sec. 25.** RCW 70.77.330 and 1995 c 369 s 48 are each amended to  
18 read as follows:

19 If the chief of the Washington state patrol, through the director  
20 of fire protection, finds that the granting of such license (~~would~~)  
21 is not (~~be~~) contrary to public safety or welfare, he or she shall  
22 issue a license authorizing the applicant to engage in the particular  
23 act or acts upon the payment of the license fee specified in this  
24 chapter. Licensees may transport the class of fireworks for which they  
25 hold a valid license.

26 **Sec. 26.** RCW 70.77.335 and 1982 c 230 s 23 are each amended to  
27 read as follows:

28 The authorization to engage in the particular act or acts conferred  
29 by a license to a person shall extend to (~~salesmen~~) sellers,  
30 authorized representatives, and other employees of such person.

31 **Sec. 27.** RCW 70.77.340 and 1982 c 230 s 24 are each amended to  
32 read as follows:



1 The original and annual license fee shall be as follows:

2	Manufacturer . . . . .	\$	500.00
3	Importer . . . . .		100.00
4	Wholesaler . . . . .		1,000.00
5	Retailer (for each separate retail outlet) . . . . .		10.00
6	Public display for ( <del>special</del> ) <u>display</u>		
7	fireworks . . . . .		10.00
8	Pyrotechnic operator for ( <del>special</del> ) <u>display</u>		
9	fireworks . . . . .		5.00

10 **Sec. 28.** RCW 70.77.343 and 1997 c 182 s 12 are each amended to  
11 read as follows:

12 (1) License fees, in addition to the fees in RCW 70.77.340, shall  
13 be charged as follows:

14	Manufacturer . . . . .	\$	1,500.00
15	Importer . . . . .		900.00
16	Wholesaler . . . . .		1,000.00
17	Retailer (for each separate outlet) . . . . .		30.00
18	Public display for ( <del>special</del> ) <u>display</u>		
19	fireworks . . . . .		40.00
20	Pyrotechnic operator for ( <del>special</del> ) <u>display</u>		
21	fireworks . . . . .		5.00

22 (2) All receipts from the license fees in this section shall be  
23 placed in the fire services trust fund and at least seventy-five  
24 percent of these receipts shall be used to fund a statewide public  
25 education campaign developed by the chief of the Washington state  
26 patrol and the licensed fireworks industry emphasizing the safe and  
27 responsible use of legal fireworks and the remaining receipts shall be  
28 used to fund statewide enforcement efforts against the sale and use of  
29 fireworks that are illegal under this chapter.

30 **Sec. 29.** RCW 70.77.381 and 1995 c 61 s 27 are each amended to read  
31 as follows:

32 (1) Every wholesaler shall carry liability insurance for each  
33 wholesale and retail fireworks outlet it operates in the amount of not  
34 less than fifty thousand dollars and five hundred thousand dollars for  
35 bodily injury liability for each person and occurrence, respectively,  
36 and not less than fifty thousand dollars for property damage liability

1 for each occurrence, unless such insurance is not available from at  
2 least three approved insurance companies. If insurance in this amount  
3 is not offered, each wholesale and retail outlet shall be covered by a  
4 liability insurance policy in the maximum amount offered by at least  
5 three different approved insurance companies.

6 (2) No wholesaler may knowingly sell or supply fireworks to any  
7 retail ((outlet)) licensee unless the wholesaler determines that the  
8 retail ((outlet)) licensee carries liability insurance in the same, or  
9 greater, amount as provided in subsection (1) of this section.

10 **Sec. 30.** RCW 70.77.395 and 1995 c 61 s 22 are each amended to read  
11 as follows:

12 (1) It is legal to sell((,)) and purchase((, use, and discharge  
13 ~~common~~) consumer fireworks within this state from ((twelve)) nine  
14 o'clock ((noon)) a.m. on the twenty-eighth of June to twelve o'clock  
15 noon on the sixth of July of each year, from nine o'clock a.m. on the  
16 twenty-seventh of December to eleven o'clock p.m. on the thirty-first  
17 of December of each year, and as provided in RCW 70.77.311. ((However,  
18 ~~no common~~))

19 (2) Consumer fireworks may be ((sold)) used or discharged each day  
20 between the hours of nine o'clock a.m. and eleven o'clock p.m. ((and  
21 ~~nine o'clock a.m.~~)) on the twenty-eighth of June to the sixth of July,  
22 ((except)) and on July 4th ((from)) between the hours of nine o'clock  
23 a.m. ((through)) and twelve o'clock midnight, and ((except)) from six  
24 o'clock p.m. on December 31st until one o'clock a.m. on January 1st of  
25 the subsequent year, and as provided in RCW 70.77.311: PROVIDED, That  
26 a city or county may prohibit the sale or discharge of ((common))  
27 consumer fireworks on December ((31, 1995,)) 31st by enacting an  
28 ordinance prohibiting such sale or discharge ((within sixty days of  
29 April 17, 1995)).

30 **Sec. 31.** RCW 70.77.401 and 1995 c 61 s 7 are each amended to read  
31 as follows:

32 No fireworks may be sold or offered for sale to the public as  
33 ((common)) consumer fireworks which are classified as sky rockets, or  
34 missile-type rockets, firecrackers, salutes, or chasers as defined by  
35 the United States department of transportation and the federal consumer  
36 products safety commission except as provided in RCW 70.77.311.

1       **Sec. 32.** RCW 70.77.405 and 1982 c 230 s 32 are each amended to  
2 read as follows:

3       Toy paper caps containing not more than twenty-five hundredths  
4 grain of explosive compound for each cap and trick or novelty devices  
5 not classified as (~~common~~) consumer fireworks may be sold at all  
6 times unless prohibited by local ordinance.

7       NEW SECTION. **Sec. 33.** A new section is added to chapter 70.77 RCW  
8 to read as follows:

9       (1) "Permanent storage" means storage of display fireworks at any  
10 time and/or storage of consumer fireworks at any time other than the  
11 periods allowed under RCW 70.77.420(2) and 70.77.425 and which shall be  
12 in compliance with the requirements of chapter 70.74 RCW.

13       (2) "Temporary storage" means the storage of consumer fireworks  
14 during the periods allowed under RCW 70.77.420(2) and 70.77.425.

15       **Sec. 34.** RCW 70.77.420 and 1997 c 182 s 18 are each amended to  
16 read as follows:

17       (1) It is unlawful for any person to store permanently fireworks of  
18 any class without a permit for such permanent storage from the city or  
19 county in which the storage is to be made. A person proposing to store  
20 permanently fireworks shall apply in writing to a city or county at  
21 least ten days prior to the date of the proposed permanent storage.  
22 The city or county receiving the application for a permanent storage  
23 permit shall investigate whether the character and location of the  
24 permanent storage as proposed (~~would~~) meets the requirements of the  
25 zoning, building, and fire codes or constitutes a hazard to property or  
26 be dangerous to any person. Based on the investigation, the city or  
27 county may grant or deny the application. The city or county may place  
28 reasonable conditions on any permit granted.

29       (2) For the purposes of this section the temporary storing or  
30 keeping of (~~common~~) consumer fireworks when in conjunction with a  
31 valid retail sales license and permit shall comply with RCW 70.77.425  
32 and the standards adopted under RCW 70.77.270(2) and not this section.

33       **Sec. 35.** RCW 70.77.425 and 1984 c 249 s 27 are each amended to  
34 read as follows:

35       It is unlawful for any person to store (~~unsold~~) permanently  
36 stocks of fireworks remaining unsold after the lawful period of sale as

1 provided in the person's permit except in such places of permanent  
2 storage as the (~~local fire official~~) city or county issuing the  
3 permit approves. Unsold stocks of (~~common~~) consumer fireworks  
4 remaining after the authorized retail sales period from (~~twelve~~) nine  
5 o'clock (~~noon~~) a.m. on June 28th to twelve o'clock noon on July 6th  
6 shall be returned on or before July 31st of the same year, or remaining  
7 after the authorized retail sales period from nine o'clock a.m. on  
8 December 27th to eleven o'clock p.m. on December 31st shall be returned  
9 on or before January 10th of the subsequent year, to the approved  
10 permanent storage facilities of a licensed fireworks wholesaler(~~(7)~~) or  
11 to a magazine or permanent storage place approved by a local fire  
12 official.

13 **Sec. 36.** RCW 70.77.435 and 1997 c 182 s 20 are each amended to  
14 read as follows:

15 Any fireworks which are illegally sold, offered for sale, used,  
16 discharged, possessed, or transported in violation of the provisions of  
17 this chapter or the rules or regulations of the chief of the Washington  
18 state patrol, through the director of fire protection, (~~shall be~~) are  
19 subject to seizure by the chief of the Washington state patrol, through  
20 the director of fire protection, or his or her deputy, or by state  
21 agencies or local governments having general law enforcement authority.  
22 (~~Any fireworks seized by legal process anywhere in the state may be~~  
23 ~~disposed of by the chief of the Washington state patrol, through the~~  
24 ~~director of fire protection, or the agency conducting the seizure, by~~  
25 ~~summary destruction at any time subsequent to thirty days from such~~  
26 ~~seizure or ten days from the final termination of proceedings under the~~  
27 ~~provisions of RCW 70.77.440, whichever is later.))~~

28 **Sec. 37.** RCW 70.77.440 and 1997 c 182 s 21 are each amended to  
29 read as follows:

30 (1) In the event of seizure under RCW 70.77.435, proceedings for  
31 forfeiture shall be deemed commenced by the seizure. The chief of the  
32 Washington state patrol or a designee, through the director of fire  
33 protection or the agency conducting the seizure, under whose authority  
34 the seizure was made shall cause notice to be served within fifteen  
35 days following the seizure on the owner of the fireworks seized and the  
36 person in charge thereof and any person having any known right or  
37 interest therein, of the seizure and intended forfeiture of the seized

1 property. The notice may be served by any method authorized by law or  
2 court rule including but not limited to service by certified mail with  
3 return receipt requested. Service by mail shall be deemed complete  
4 upon mailing within the fifteen-day period following the seizure.

5 (2) If no person notifies the chief of the Washington state patrol,  
6 through the director of fire protection or the agency conducting the  
7 seizure, in writing of the person's claim of lawful ownership or right  
8 to lawful possession of seized fireworks within thirty days of the  
9 seizure, the seized fireworks shall be deemed forfeited.

10 (3) If any person notifies the chief of the Washington state  
11 patrol, through the director of fire protection or the agency  
12 conducting the seizure, in writing of the person's claim of lawful  
13 ownership or possession of the fireworks within thirty days of the  
14 seizure, the person or persons shall be afforded a reasonable  
15 opportunity to be heard as to the claim or right. The hearing shall be  
16 before an administrative law judge appointed under chapter 34.12 RCW,  
17 except that any person asserting a claim or right may remove the matter  
18 to a court of competent jurisdiction if the aggregate value of the  
19 seized fireworks is more than five hundred dollars. The hearing before  
20 an administrative law judge and any appeal therefrom shall be under  
21 Title 34 RCW. In a court hearing between two or more claimants to the  
22 article or articles involved, the prevailing party shall be entitled to  
23 a judgment for costs and reasonable attorneys' fees. The burden of  
24 producing evidence shall be upon the person claiming to have the lawful  
25 right to possession of the seized fireworks. The chief of the  
26 Washington state patrol, through the director of fire protection or the  
27 agency conducting the seizure, shall promptly return the fireworks to  
28 the claimant upon a determination by the administrative law judge or  
29 court that the claimant is lawfully entitled to possession of the  
30 fireworks.

31 (4) When fireworks are forfeited under this chapter the chief of  
32 the Washington state patrol, through the director of fire protection or  
33 the agency conducting the seizure, may:

34 (a) Dispose of the fireworks by summary destruction at any time  
35 subsequent to thirty days from such seizure or ten days from the final  
36 termination of proceedings under this section, whichever is later; or

37 (b) Sell the forfeited fireworks and chemicals used to make  
38 fireworks, that are legal for use and possession under this chapter, to  
39 wholesalers or manufacturers, authorized to possess and use such

1 fireworks or chemicals under a license issued by the chief of the  
2 Washington state patrol, through the director of fire protection. Sale  
3 shall be by public auction after publishing a notice of the date,  
4 place, and time of the auction in a newspaper of general circulation in  
5 the county in which the auction is to be held, at least three days  
6 before the date of the auction. The proceeds of the sale of the seized  
7 fireworks under this section may be retained by the agency conducting  
8 the seizure and used to offset the costs of seizure and/or storage  
9 costs of the seized fireworks. The remaining proceeds, if any, shall  
10 be deposited in the fire services trust fund and shall be used for the  
11 same purposes and in the same percentages as specified in RCW  
12 70.77.343.

13 **Sec. 38.** RCW 70.77.495 and 1988 c 128 s 11 are each amended to  
14 read as follows:

15 Nothing in this chapter shall be construed as permitting any person  
16 to set off fireworks of any kind in forest, fallows, grass or brush  
17 covered land, either on his own land or the property of another,  
18 between April 15th and December 1st of any year, unless it is done  
19 under a written permit from the Washington state department of natural  
20 resources or its duly authorized agent, and in strict accordance with  
21 the terms of the permit and any other applicable law.

22 **Sec. 39.** RCW 70.77.510 and 1984 c 249 s 31 are each amended to  
23 read as follows:

24 It is unlawful for any person knowingly to import, export, sell,  
25 transfer, or agree to sell or transfer any ~~((special))~~ display  
26 fireworks to any person who is not a fireworks licensee as provided for  
27 by this chapter. A violation of this section is a gross misdemeanor.

28 **Sec. 40.** RCW 70.77.515 and 1984 c 249 s 32 are each amended to  
29 read as follows:

30 It is unlawful for any person to sell ~~((or—transfer))~~ any  
31 ~~((common))~~ consumer fireworks to a consumer or user other than at a  
32 fixed place of business of a retailer for which a license and permit  
33 have been issued. A violation of this section is a gross misdemeanor.

34 **Sec. 41.** RCW 70.77.517 and 1984 c 249 s 34 are each amended to  
35 read as follows:

1 It is unlawful for any person, except in the course of continuous  
2 interstate transportation through any state, to transport fireworks  
3 from this state into any other state, or deliver them for  
4 transportation into any other state, or attempt so to do, knowing that  
5 such fireworks are to be delivered, possessed, stored, transshipped,  
6 distributed, sold, or otherwise dealt with in a manner or for a use  
7 prohibited by the laws of such other state specifically prohibiting or  
8 regulating the use of fireworks. A violation of this section is a  
9 gross misdemeanor.

10 This section does not apply to a licensee or a common or contract  
11 carrier or to international or domestic water carriers engaged in  
12 interstate commerce or to the transportation of fireworks into a state  
13 for the use of (~~federal~~) United States agencies in the carrying out  
14 or the furtherance of their operations.

15 In the enforcement of this section, the definitions of fireworks  
16 contained in the laws of the respective states shall be applied.

17 As used in this section, the term "state" includes the several  
18 states, territories, and possessions of the United States, and the  
19 District of Columbia.

20 **Sec. 42.** RCW 70.77.520 and 1984 c 249 s 33 are each amended to  
21 read as follows:

22 It is unlawful for any person to allow any (~~rubbish~~) combustibles  
23 to accumulate in any premises in which fireworks are stored or sold or  
24 to permit a fire nuisance to exist in such a premises. A violation of  
25 this section is a misdemeanor.

26 **Sec. 43.** RCW 70.77.535 and 1994 c 133 s 14 are each amended to  
27 read as follows:

28 (~~This chapter does not prohibit~~) The assembling, compounding,  
29 use, and display of special effects (~~by any person engaged~~) in the  
30 production of motion pictures, radio or television productions, or live  
31 entertainment (~~when such use and display is an integral part of the~~  
32 ~~production and such person~~) shall be under the direction and control  
33 of a state licensed pyrotechnician who possesses a valid permit from  
34 the local fire official.

35 **Sec. 44.** RCW 70.77.555 and 1995 c 61 s 26 are each amended to read  
36 as follows:

1       (1) A (~~local public agency~~) city or county may provide by  
2 ordinance for a fee for retail sales in an amount sufficient to cover  
3 all legitimate costs for all needed permits and local licenses from  
4 application to and through processing, issuance, and inspection, but in  
5 no case to exceed a total of one hundred dollars for any one ((year))  
6 selling season in a year, whether June 28th through July 6th or  
7 December 27th through December 31st, or a total of two hundred dollars  
8 for both selling seasons.

9       Even though business, environmental impact, inspection, and all  
10 other required costs, fees, local licenses, and permits are not  
11 directly related to fireworks permits, fees, costs, and local licenses  
12 on their face, when these fees, costs, local licenses, and permits are  
13 necessary to the use and operation of the fireworks permits and local  
14 licenses such as, but not limited to, business, environmental impact,  
15 and inspection, they are included as part and parcel of the annual  
16 maximum fees, under this subsection (1), that cover costs for the  
17 fireworks permits and local licenses.

18       (2) A city or county may provide by ordinance for a fee for public  
19 display permits as required by RCW 70.77.255(1)(b) not to exceed three  
20 hundred dollars for any one permit.

21       (3) Any special event fees required by a city or county in  
22 connection with a fireworks display that requires traffic or crowd  
23 control in a public place shall not be subject to the limitation  
24 provided in subsection (2) of this section.

25       **Sec. 45.** RCW 70.77.575 and 1995 c 369 s 57 are each amended to  
26 read as follows:

27       (1) The chief of the Washington state patrol, through the director  
28 of fire protection, shall adopt by rule a list of the consumer  
29 fireworks that may be sold to the public in this state pursuant to this  
30 chapter. The chief of the Washington state patrol, through the  
31 director of fire protection, shall file the list by October 1st of each  
32 year with the code reviser for publication, unless the previously  
33 published list has remained current.

34       (2) The chief of the Washington state patrol, through the director  
35 of fire protection, shall provide the list adopted under subsection (1)  
36 of this section by November 1st of each year to all manufacturers,  
37 wholesalers, and importers licensed under this chapter, unless the  
38 previously distributed list has remained current.



1       **Sec. 46.** RCW 70.77.580 and 1995 c 369 s 58 are each amended to  
2 read as follows:

3       Retailers required to be licensed under this chapter shall post  
4 prominently at each retail outlet a list of the consumer fireworks that  
5 may be sold to the public in this state pursuant to this chapter. The  
6 posted list shall be in a form approved by the chief of the Washington  
7 state patrol, through the director of fire protection. The chief of  
8 the Washington state patrol, through the director of fire protection,  
9 shall make the list available (~~the list~~).

10       NEW SECTION. **Sec. 47.** A new section is added to chapter 70.77 RCW  
11 to read as follows:

12       Civil proceedings to enforce this chapter may be brought in the  
13 county in which the violation occurred by the attorney general or the  
14 prosecuting attorney of the city or county in which the violation  
15 occurred on his or her own motion or at the request of the chief of the  
16 Washington state patrol, through the director of fire protection.

17       NEW SECTION. **Sec. 48.** A new section is added to chapter 70.77 RCW  
18 to read as follows:

19       (1) In addition to any other penalty provided by law, every person  
20 who violates standards set forth in this chapter or rules adopted under  
21 RCW 70.77.250 is subject to a penalty of not more than five hundred  
22 dollars per day for every violation. Every violation is a separate and  
23 distinct offense. In case of a continuing violation, every day's  
24 continuance is a separate and distinct violation. Every person who,  
25 through an act of commission or omission, procures, aids, or abets in  
26 the violation is in violation of this section and is subject to the  
27 penalty provided in this section.

28       (2) The penalty provided for in this section shall be imposed by a  
29 notice in writing to the person against whom the civil fine is assessed  
30 and shall describe the violation with reasonable particularity. The  
31 notice shall be personally served in the manner of service of a summons  
32 in a civil action or in a manner which shows proof of receipt. Any  
33 penalty imposed by this section shall become due and payable twenty-  
34 eight days after receipt of notice unless application for remission or  
35 mitigation is made as provided in subsection (3) of this section or  
36 unless application for an adjudicative proceeding is filed as provided  
37 in subsection (4) of this section.

1 (3) Within fourteen days after the notice is received, the person  
2 incurring the penalty may apply in writing to the chief of the  
3 Washington state patrol, through the director of fire protection, for  
4 the remission or mitigation of the penalty. Upon receipt of the  
5 application, the chief of the Washington state patrol, through the  
6 director of fire protection, may remit or mitigate the penalty upon  
7 whatever terms the chief of the Washington state patrol, through the  
8 director of fire protection, deems proper, giving consideration to the  
9 degree of hazard associated with the violation. The chief of the  
10 Washington state patrol, through the director of fire protection, may  
11 only grant a remission or mitigation that it deems to be in the best  
12 interests of carrying out the purposes of this chapter. The chief of  
13 the Washington state patrol, through the director of fire protection,  
14 may ascertain the facts regarding all such applications in a manner it  
15 deems proper. When an application for remission or mitigation is made,  
16 any penalty incurred pursuant to this section becomes due and payable  
17 twenty-eight days after receipt of the notice setting forth the  
18 disposition of the application, unless an application for an  
19 adjudicative proceeding to contest the disposition is filed as provided  
20 in subsection (4) of this section.

21 (4) Within twenty-eight days after notice is received, the person  
22 incurring the penalty may file an application for an adjudicative  
23 proceeding and may pursue subsequent review as provided in chapter  
24 34.05 RCW and applicable rules of the chief of the Washington state  
25 patrol, through the director of fire protection.

26 (5) Any penalty imposed by final order following an adjudicative  
27 proceeding becomes due and payable upon service of the final order.

28 (6) The attorney general may bring an action in the name of the  
29 chief of the Washington state patrol, through the director of fire  
30 protection, in the superior court of Thurston county or of any county  
31 in which the violator may do business to collect any penalty imposed  
32 under this chapter.

33 (7) All penalties imposed under this section shall be paid to the  
34 state treasury and credited to the fire services trust fund and used  
35 for the same purposes, and in the same percentages, as specified in RCW  
36 70.77.343.

37 NEW SECTION. **Sec. 49.** If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

--- END ---