



Homeland Security  
and Emergency Services

# CONSUMER FIREWORKS In NYS

January 18, 2018





# CONSUMER FIREWORKS IN NY STATE

This presentation covers....

- Definitions
- Applicable Laws and Rules
- Standards
- OFPC's Role
- DOS & AHJ's Role
- Resources



# Consumer Fireworks Legislation

- Signed into Law November 21, 2014
- Third Attempt
- What Changed?
  - Penal Law
  - GBL
  - Executive Law
    - OFPC
    - DOS



# Consumer Fireworks Legislation

- On 10/23/2017 the new amendment was signed into legislation.
  - This amended 270 & 405 of the Penal Law
    - It removed the requirement of counties and cities to opt in. Now it is legalized in counties unless they pass local law to opt out.

# Penal Law of NY State

## **Penal Law Section 270**

- Subdivision 1 - Definitions
  - Fireworks
    - Display Fireworks
    - Articles Pyrotechnic
    - Special Effects
    - Consumer Fireworks
    - Sparkling Devices

# Display Fireworks



# Articles Pyrotechnic





# Special Effects



# Consumer Fireworks



# Sparkling Devices



# The Exception!

**“Except in cities with a population of one million or more, “fireworks” and “dangerous fireworks” shall not be deemed to include “sparkling devices”** as defined in subparagraph (vi) of paragraph (a) of this subdivision.” The storage and retail sale of sparkling devices shall be regulated in a manner that is not in conflict with the provisions of NFPA 1124, 2006 edition

# Offenses

## Penal Law Section 270

- Subdivision 2 - Offenses
  - Except where a permit is obtained
    - Unlawful to sell or furnish
    - Unlawful to possess or use
    - Unlawful to offer, sell or furnish any sparkling device to anyone under age 18

# Exceptions

## Penal Law Section 270

- Subdivision 3 - Exceptions
  - Business entities to deal in sparkling devices in non opt-in municipalities provided they ship to legal locations
  - Possession and transport from one locale to another - State Police list on website

# Legal Counties

Albany

Allegany

Cattaraugus

Chemung

Clinton

Cortland

Dutchess

Essex

Franklin

Fulton

Greene

Hamilton

Herkimer

Jefferson

Seneca

Schoharie

Schuyler

Lawrence

Ben

an

r

ren

Washington

Wayne

Wyoming

Yates



Saratoga

# Penal Law of NY State

## Penal Code Section 405

- Subdivision 5
  - County or city opt-out, all others must follow
- All jurisdictions must remain consistent with the Penal Code and NFPA



# Laws Establishing Sales Dates

GBL 392-j

Sales of Sparkling Devices

- June 1 to July 5
- December 26 to January 2

Executive Law 156-h

- Sets the temporary seasonal retailer (tents)
- June 20 to July 5
- December 10<sup>th</sup> to January 2<sup>nd</sup>

# Executive Law of NY State

## Executive Law Article 6-C Section 156-H - Subdivision 20 – Registration

*“Register the manufacturers, distributors, wholesalers, retailers and seasonal retailers of sparkling devices who wish to do business within the state.”*

# Executive Law

Executive Law Article 6-C Section 156-H  
Registration of entities wishing to deal in  
Sparkling Devices

- OFPC is charged with developing a registration and enforcement process
  - Issuance of Certificates of Registration
  - Collect fees
  - Review records
  - Enforcement

# Executive Law

## Executive Law Article 6-C Section 156-H

### - Registration

Manufacturer

Distributor

Wholesaler

Retailer – Specialty, Permanent, Temporary

Seasonal      Temporary Seasonal Retailers may only sell

June 20 – July 5 **OR** December 10 – January 2

# Executive Law

## Executive Law Article 6-C Section 156-H

- Fees
  - Range from \$200 to \$5000
  - No jurisdiction shall charge any fee or require a permit
- Records and Reports
  - Made available to OFPC for inspection
- Rules
  - Part 225

# Department of State

## Part 1228.3 of Title 19 NYCRR

- Scope
- Definitions
- Applicable laws
- Hazardous conditions
- Use of devices near buildings
- Retail Sales
- Storage and quantity limits
- Records
- Manufacture, assembly and testing
- Referenced publications

# DOS 1228.3 And The AHJ

## Part 1228.3 of Title 19 NYCRR

- Scope
- Definitions
- Applicable laws
- Hazardous conditions

# DOS 1228.3 And The AHJ

## Part 1228.3 of Title 19 NYCRR

- Use of devices near buildings
- Retail Sales
- Storage and quantity limits
- Records
- Manufacture, assembly and testing
- Referenced publications



# NFPA 1124

Code for the Manufacture, Transportation,  
Storage, and Retail Sales of Fireworks and  
Pyrotechnic Articles (2006)

- Strong enforcement tool
- Deserves it's own educational  
component
- Highlights

# NFPA 1124

- 1 Administration
- 2 Referenced Publications
- 3 Definitions
- 4 Manufacturing Operations
- 5 Storage of Display Fireworks
- 6 Storage of Consumer Fireworks
- 7 Retail Sales of Consumer Fireworks
- 8 Transportation on Public Highways

# NFPA 1124

- 1.3.3 This code shall not apply to the use of consumer fireworks by the general public.

# NFPA 1124

Definitions can be tricky

- Consumer Fireworks Retail Sales
  - CFRS Facility
  - CFRS Store
  - CFRS Area

# NFPA 1124

- Chapter 7 Retail Sales of Consumer Fireworks

## Applicability

### 7.1.1.1 New Facilities

CFRS Facilities and Stores shall be considered new if sales have not been conducted within one year prior to the date of this code

# NFPA 1124 7.3.1

- Exempt amounts
  - 125 lbs. or less in un-sprinkled buildings
  - 250 lbs. or less in sprinkled buildings
- So....how much have I got????
  - 25% of the packaged weight =  
pyrotechnic composition

# NFPA 1124

- General Requirements for Retail Sales

7.3.6 Automatic sprinkler system shall be provided in new buildings greater than 6000 square feet.

# Resources

DOS Codes Part 1228.3

<http://www.dos.ny.gov/DCEA/pdf/SparklerText20150506.pdf>

OFPC Sparkling Devices Information

<http://www.dhses.ny.gov/ofpc/news/sparklingdevices.cfm>

NFPA

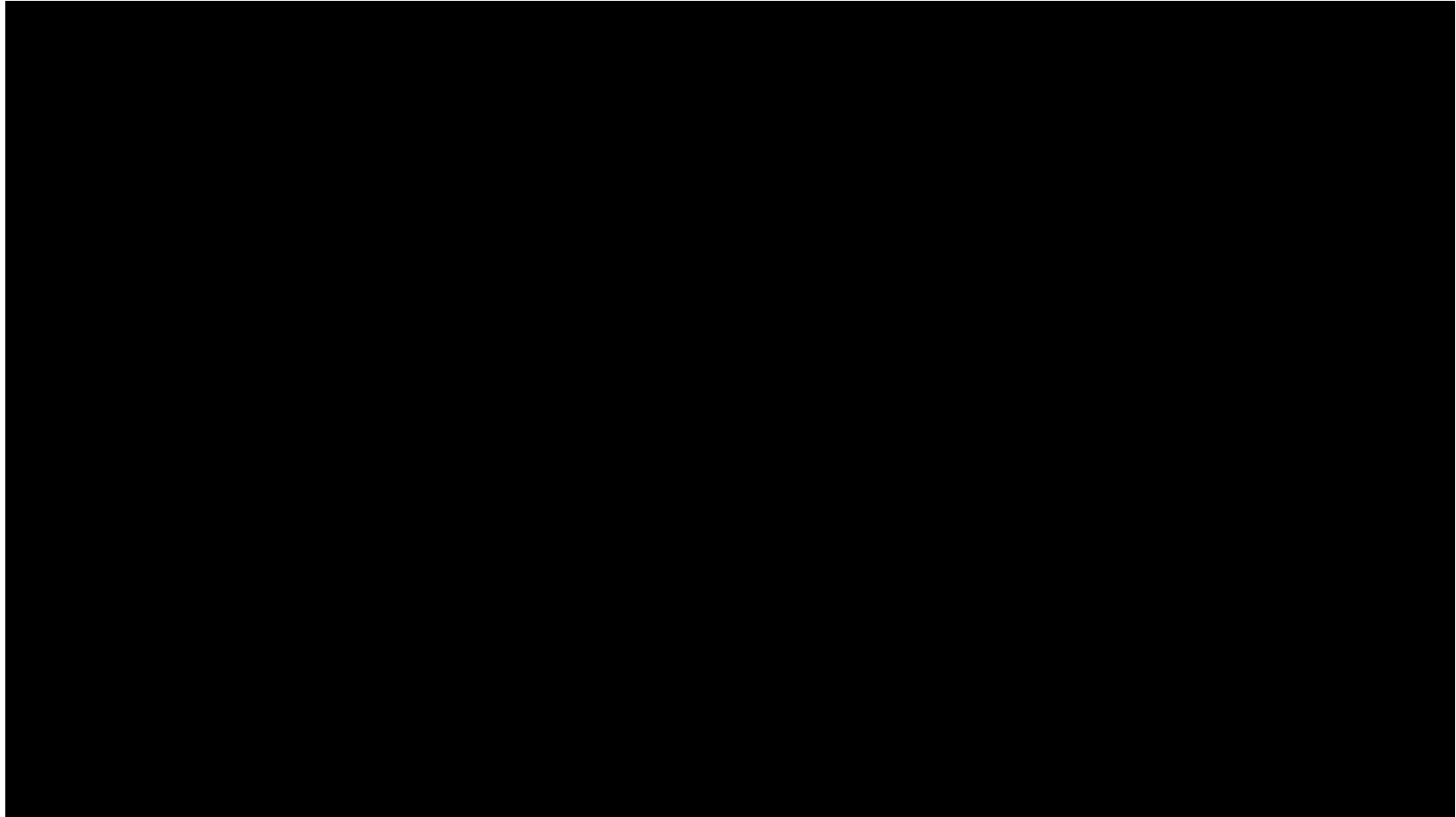
<http://nfpa.org>

Centers For Disease Control 2013 Fireworks Annual Report

<http://www.cpsc.gov/PageFiles/169197/2013FireworksReport.pdf>



# Sparkling Devices Movie



# Consumer Fireworks in NY State

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