



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Public Safety

DIVISION OF FIRE AND LIFE SAFETY
Lloyd Nakano, Director
State Fire Marshal

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April 4, 2024

The Honorable Scott Kawasaki, Chair
Senate State Affairs Committee
Alaska State Capitol, Room 119

The Honorable Matt Claman, Vice-Chair
Senate State Affairs Committee
Alaska State Capitol, Room 429

Re: House Bill 146 – Regulation of Fireworks

Dear Senator Kawasaki and Senator Claman:

The Department of Public Safety (DPS) has requested a committee hearing be scheduled on House Bill (HB) 146, "An Act relating to fireworks; repealing restrictions on the sale of fireworks; directing the Department of Public Safety to adopt fireworks regulations; and providing for an effective date," for consideration by the Senate State Affairs Committee. The department presented the companion bill to House Bill (HB) 146 to the Senate State Affairs Committee in January 2024. During the presentation, committee members had several questions regarding the bill that DPS would like to address in preparation for a hearing on HB 146.

Are fireworks used for agricultural or wildlife control in Alaska?

Consumer fireworks are not used for wildlife control. Explosive pest control is regulated by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Changes to statutes or regulations would not change the federal requirements.

- Does ATF issue permits for using fireworks for wildlife/agricultural use? Yes.
- Would that include the seal bomb used by fisheries? Yes.
- The current statute (AS 18.71.010(b)) allows for the use of dangerous fireworks for this purpose after complying with the permit requirements of the fire safety code. The regulation project will address dangerous fireworks to distinguish between display fireworks and wildlife control fireworks using the definitions and standards set forth by federal and industry standards which include
 - National Fire Protection Association (NFPA) Codes,
 - U.S. Consumer Product Safety Commission (CPSC),
 - International Building Code,
 - International Fire code
 - American Pyrotechnics Association (APA),

- U.S. Department of Transportation (DOT) Pipeline and Hazardous Material Safety Administration, and
- other governing bodies to include the and the Bureau of Alcohol, Tobacco, Firearms, and Explosives and Title 49 Code of Federal Regulations (CFR) Parts 100-185 and Title 16 CFR.

Will liability insurance be addressed in the regulations?

The State Fire Marshal's Office will work with the insurance industry, current retail, and wholesale permit holders to ensure that Alaska is requiring the correct insurance coverage amounts. The current fees for wholesale and retail sales are currently locked in statute for 1969 rates (\$200,000 for bodily injury and \$50,000 for property damage).

For wholesale and retail fireworks, a policy covering bodily injury, death, and property damage will be required. The rates for these policies would be based on a review from the underwriters, industry, and State of Alaska Department of Revenue Division of Insurance to make sure we are setting correct and reasonable rates.

Display fireworks were not included in the existing fireworks statute. The regulations will maintain the requirement for liability insurance but will increase the minimum amount to be in accordance with International Fire Code regulations. The insurance requirement in the regulations will apply to pyrotechnic operators permits, fireworks events, and testing companies insurance underwriters. A policy for not less than \$1,000,000 for bodily injury and death and not less than \$500,000 for property damage will be required.

Is there a regulation package yet? What would happen if this bill became law, and the regulations package has not been passed?

A draft copy of the proposed regulations is currently underway. The regulations will follow national standards with Alaska regulations to maintain our current fireworks program. The Fire and Life Safety Division anticipates the regulations package to be completed by the end of calendar year 2025.

Would the use of game management fireworks from Canada be legal?

The use of fireworks from Canada would be illegal. The ATF governs the use of explosive pest control such as the Tru Flare Pen Launcher available in Canada, but sales/use would be illegal in Alaska.

What are the current industry standards that are more or less restrictive than current statute?

The current statute lists 11 types of "salable" fireworks and includes items approved by the Bureau of Explosives as noted in 1969. The Bureau is now the ATF and does not regulate consumer fireworks as those are now handled by the U.S. CPSC and encompasses 42 items for consumer use as defined in the APA.

The existing statute uses the terms of "Dangerous Fireworks", "Salable Fireworks", and references back to the National Fire Protection Association (for shipping classification) and the Bureau of Explosives.

The new regulations will remove the terms of "Dangerous" and "Salable" and replaces them with current industry-based definition for consumer and display fireworks. The new regulations would also redirect the

language listed for the Bureau of Explosives to the Consumer Product Safety Commission and the specific standards of the NFPA and CFR.

Why not simply adopt the national/federal standards by reference in the statute?

While some areas of the regulations could be adopted by reference, which would be preferable, some areas will require a hybrid of existing definitions as defined by the State Fire Marshal in coordination with industry practitioners in Alaska. Because there are multiple organizations establishing standards, for example the definition of consumable fireworks is covered by the CPSC, APA, and DOT, the regulations will need to pull from each to craft the most complete definitions.

How will this impact local municipalities that already have ordinances for fireworks?

The State Fire Marshal's Office is aware of ordinances/codes in 39 jurisdictions in Alaska. Businesses would need to comply with state regulations, and a review of the existing local ordinances by the State Fire Marshal reflect they are equal to or more restrictive than the national standards that will be adopted in the regulations. The more restrictive is prohibiting the sale and use in local jurisdictions.

How would bans on fireworks due to high fire danger be addressed?

The restrictions will be removed from the Fire Code and added to the regulations.

How will fees be determined?

The State Fire Marshal is currently reviewing other states' statutes and regulations in preparation for the regulation project, and this will include an assessment of fees charged by each state.

How frequently do fireworks standards change?

Generally, they are updated every three to five years. The APA was last updated in 2018 and is currently finalizing their 2022 updates. The International Code Council updates codes every three years; the International Fire Code has a 2021 edition. The NFPA codes are updated every three years, last updated in 2022.

What is the number of fireworks caused fires in Alaska?

Based on the information from the Alaska National Fire Incident Reporting System there were seven in 2022, 15 in 2021, seven in 2020, four in 2019, and 11 in 2018. Wildland fires information is covered by the Bureau of Land Management – Alaska Fire Services; State of Alaska Department of Natural Resources (DNR) Division of Forestry who can also collect for damages under AS 41.15.160; and the U. S Forest Service.

Respectfully,



Lloyd Nakano

State Fire Marshal

Director, Division of Fire and Life Safety

Department of Public Safety

cc: Laura Stidolph, Legislative Director

James Cockrell, Commissioner, Department of Public Safety