

West Virginia State Tax Department INFORMATION ON SPARKLERS AND NOVELTIES



The Fire Prevention and Control Act, WV Code § 29-3-1 et seq., as amended, authorizes businesses that sell sparklers and novelties in West Virginia to hold both a current business registration certificate and a registration certificate issued by the Tax Commissioner to sell sparklers and novelties.

It remains unlawful to offer for sale, possess, expose for sale, sell at retail, or use or explode any fireworks. "Fireworks" is defined to include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation and includes, but is not limited to:

- blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used,
- the type of unmanned balloons which require fire underneath to propel the same,
- firecrackers,
- torpedoes,
- skyrockets,
- Roman candles,
- Daygo bombs
- Other fireworks of like construction, and
- Any fireworks containing any explosive or flammable compound or any tablets or other device containing any explosive substance.

"Fireworks" expressly does not include, and a "Sparklers and Novelties Registration Certificate" is not required to sell:

- model rockets and model rocket engines designed, sold and used for the purpose of propelling recoverable arco models,
- to pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used, and
- toy paper or plastic caps manufactured as provided in United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps.

NOTE: The sale and use of these items is permitted at all times. However, WV Code § 29-3-23 specifies that each package containing toy paper or plastic caps offered for retail sale must be labeled to indicate the maximum explosive content per cap.

The following sparklers and novelties are not considered to be fireworks. However, a **Sparklers and Novelties Registration Certificate** is required to sell the following items:

- Explosive caps designed to be fired in toy pistols, provided the explosive mixture of the caps does not exceed 0.25 of a grain for each cap.
- Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a snake-like ash when burning.
- Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
- Trick noisemakers which produce a small report designed to surprise the user and which include:
 - A party popper, which is a small plastic or paper item containing not in excess of 0.25 of a grain of explosive mixture, and which has a string protruding from the device which is pulled to activate the device, expelling paper streamers and producing a small report.
 - A string of poppers, which is a small tube containing not in excess of 0.25 of a grain of explosive mixture that has a string protruding from both ends which is pulled to activate the friction-sensitive mixture, producing a small report.
 - A snapper or drop pop, which is a small paper wrapped item containing no more than 0.25 of a grain of explosive mixture coated on small bits of sand that, when dropped, produces a small report.
- Wire sparkler consisting of wire or stick coated with a nonexplosive pyrotechnic mixture of 100 grams or less per item, that produces a shower of sparks upon ignition.

- Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, are hand-held or ground-based, cannot propel themselves through the air and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.

NOTE: These sparklers and sparkler devices may not be sold to anyone under the age of 16.

Any business that has a current West Virginia business registration certificate and desires to sell sparklers and novelties in West Virginia must obtain a **Sparklers and Novelties Registration Certificate** from the Tax Commissioner prior to offering such items for sale. The fee for this certificate is \$15 per registration year.

All **Sparklers and Novelties Registration Certificates** expire on the 30th day of June of the registration year (July 1st – June 30th) for which the certificate is used regardless of when the **Sparklers and Novelties Registration Certificate** becomes effective.

A separate **Sparklers and Novelties Registration Certificate** must be obtained for each business location in this State from which such items will be sold and a \$15 sparkler and novelty registration fee must be paid for each certificate.

Under WV Code § 11-12-86, this \$15 fee may not be prorated based upon when during the business registration year the sparklers and novelties registration fee is paid or the **Sparklers and Novelties Registration Certificate** becomes effective.

In summary,

- A business that wants to sell sparklers and novelties in West Virginia must have a business registration certificate for the current registration year and a **Sparklers and Novelties Registration Certificate** for that year. Both certificates are issued by the Tax Commissioner.
- A business that has a current business registration certificate and wants to sell sparklers and novelties must apply to the Tax Commissioner for a **Sparklers and Novelties Registration certificate** in sufficient time for the application to be received and processed by the Department and for the registration certificate to be mailed to the applicant. The fee for a **Sparklers and Novelties Registration Certificate** is \$15.
- A business that does not have a current business registration certificate and wants to sell sparklers and novelties, must file form WV/BUS-APP, **Application for Business Registration**, and an application for a **Sparklers and Novelties Registration Certificate**.
- If a business has two or more business locations in this State from which sparklers and novelties will be sold, each business location must have a **Business Registration Certificate** and a **Sparklers and Novelties Registration Certificate**.

Registration certificates to sell sparklers and novelties may also be obtained by visiting the West Virginia State Tax Department, Internal Auditing Division, Administrative Support Unit, at 1001 Lee Street East, Charleston, West Virginia.

If you have any questions concerning your sparkler and novelty registration or license account, contact:

West Virginia State Tax Department
Administrative Support Unit
1001 Lee Street East
Charleston, West Virginia 25301

Telephone: (304) 558-8611
Fax Number: (304) 558-8754

To order forms or publications call the automated information system at :
(304) 344-2068 or 1-800-422-2075 within West Virginia

Internet address: <http://www.wvtax.gov>