

PSAB COMMENTS ON HOUSE BILL 1687 (PN2287)

PA HOUSE AGRICULTURE AND RURAL AFFAIRS COMMITTEE

SEPTEMBER 24, 2019

Good Morning Chairmen Causer and Pashinski and committee members. My name is Ed Troxell, I serve as the Director of Government Affairs for the Pa State Association of Boroughs (PSAB). Since 1911 the association has served as the statutorily authorized advocate “for advancing the interests of the boroughs” of the Commonwealth.¹ The association serves the 957 boroughs in a variety of functions by acting as a collaborative for the provision of administrative services and benefits provided by borough governments. This collaborative overwhelmingly benefits the 2.5 million residents who call boroughs their home by giving their borough’s administration access to group benefits, training and education as well as my role here today and that is to advocate in their best interests.

Let me begin by saying that, **House Bill 1687** does meet the interest of our boroughs and their concerns for the health, safety and welfare of their residents. Under the current law² there has been quite the clamor throughout our communities regarding consumer fireworks and what exactly is the law concerning their use by Pennsylvanians. Municipalities have been striving to regulate these items in limited fashion only to be met with lament by the inability to enforce such ordinances or regulatory measures.

Current fireworks law, while prescribing what seems to be effective statutory guidance falls short on the practical local level. This is not unusual and PSAB offers no condemnation for the outcomes related to Act 43. What we have witnessed is a maxim evolving over the decades which I phrase as the *quandary of unintended consequences*. I recall informal comments with legislators of the past “fireworks are fun!” and yes, they are. So, in the spirit of the joy often associated with fireworks, let me express that HB1687 moves in good direction and my comments and suggested changes today hope to fend off any unintended consequences which flare up! By providing an

¹ Title 8 PaCS Section 701(a)

² Act 43 of 2017 amended Title 3 PaCS Agriculture

overview of the current bill³ I will point out sections and items which would best be served by alteration prior to further advancement of the bill.

Beginning with Section 901 Definitions; there should be added information to help clarify several items. **Page 2 line 13** of the bill provides the definition of the American Pyrotechnics Assoc. Standard 87-1 (APA 87-1) however, in the bill the definition does not include the phrase “*2006 edition or any subsequent edition*” which is in the original Act 43/2017.⁴ Further on Section 901 Definitions; **page 3 lines 8-11** the National Fire Protection Assoc. Standard 1124 is void of the phrase “*any subsequent edition*” as well which appears in the original Act.

Lastly, an observation under the definitions in Section 901 whether an oversight or intentional PSAB sees the need for including clear language defining “**Occupied Structure**”, “**Outdoor Storage Unit**” and “**Temporary Structure**”, these terms all exist within current law. It would serve best to include these definitions for clarity and identity purposes should local governments need such information for safety purposes. The “temporary structure” void as well remains curious. Noting that in the subsequent pages of the bill there are subsections entitled “reserved” which one may construe to anticipate language addressing the sale of these items from transient or tent facilities?

Under Section 902, **page 3 line 24(b)** the term “Permit” seemingly was morphed into “permission” only to find it reverting back to the term *permit* in the concluding sentence of Section 902(b). Clearer permit language exists in the original Act 43/2017 at Section 2402. That section incorporates a subsection (a) Permissible purposes⁵ which clearly establishes the authorization for displays through a formal permit certificate acquired by party seeking to possess and use such items. Revisiting the existing language on **page 3 lines 24-29 is warranted.**⁶

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⁴ Title 3 PaCS Article 14 Section 2401 Definitions

⁵ Title 3 PaCS Article 14 Section 2402 Permits; sub (a) Permissible purposes

⁶ Changes to these sections in both current and proposed language regarding permits for display is sought for effective implementation at the local level. Clarity on what is the acceptable form of a permit in the respective municipality seeking to create such a permit.

Under Section 902 as well is subsection (d) on **page 4 lines 8-13** addressing bonding. PSAB would insist on using the language from existing law Act 43 and replace the \$1000 with \$50,000 **page 4 line 10**.

Section 903 Request for extension (a) should insert the phrase “*governing body of the*” following the word “*the*” on **page 4 line 18** and preceding the word “*municipality*” on **line 19** thereby reading the governing body of the municipality. Similar changes should be made to subsection(c) Determination at **line 26 of page 4**. Moreover, PSAB observes that this new language removes the extension period time period which exists in current law. We would request the one-week extension limit be amended into the language replacing the language on **page 4 line 28** which in essence removed the cap.

Section 904 Use of consumer fireworks; this will be the most visible section for the residents of our municipalities. Getting it correct and anticipating potential circumstances remains the priority of this portion of the bill. Let’s begin with (b) prohibitions and inserting the term “*occupied structure*”. Two locations for these edits include (2) **page 5 line 17** and (5) **line 21**. PSAB would note that under this section a most appropriate oversight for municipalities would be the inclusion of novelties, ground based and handheld sparklers. This is not to say that boroughs seek to restrict their use. It is based, if requested, on the residents of a municipality seeking to ensure safety to regulate these additional flammable items as well. For clarity purposes, under Section 905 Agricultural purposes; an observation is the use of the term *display* **page 6 lines 4 & 10** fireworks for ag purposes. Law prior to Act 43 uses the term “*suitable*” in this application. It would serve clarity and continuity sake for ag purposes to replace the term.

Section 906 Rules and regulations. Is most helpful for providing guidance to municipal governing bodies. It provides the statutory authority to regulate consumer fireworks. As mentioned earlier a consideration of that same capacity for novelties, ground and handheld sparklers would be requested by our boroughs. This may be accomplished under (a) Authorization; subsection (1) **page 6 lines 15-18**. Adding to clarity for licenses pertaining to sale of consumer fireworks subsection (2) on **page 6 line 20** the addition of terms “*of Agriculture*” following the word department is warranted. Regarding Sales Locations in Section 907 two clean up measures to

language may be best addressed by legislative staff. **Page 7 line 23** the phrase “*primary fire department*” could be tweaked for authorizing the appropriate provider for conducting fire drills and documenting any preplanning. In other words, how do we best designate who is responsible for this training. Secondly in section 907 under subsection (8) **Page 7 line 26** the addition of the phrase “and any subsequent editions” would keep the language current to any changes by the NFPA.

Section 909 Conditions for facilities. This observation regarding licensed facilities is regarding the presence of security personnel on premises as cited under subsection (1) **Page 9 lines 14-16**. Under the current language in the bill clarity would be best established by deleting “*on December 31*” beginning on line 15 and continuing to line 16. And inserting the phrase “three days prior to January 2” to replace the time period for security personnel presence. Additionally, under section 909 is subsection (10) **Page 10 lines 10-15** which is a conspicuously posted disclaimer on additional conditions, prohibitions and limitations which may be implemented by municipal interests. This is a welcomed disclaimer which may be served best by the facility selling the merchandise to attach to items or receipts included with customers purchase.

In all, **HB1687** is a good step in the right direction of securing the health, safety and welfare of our commonwealth’s residents who may choose to use consumer/display fireworks. It also provides municipalities capacity to regulate for the protection of property, public and private. PSAB is available to work with interests to bring about the best results in order to avoid any unintended consequences. Thank you and I am available for any questions you may have.