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**MEMORANDUM**

To: Lehigh County Police Chiefs  
Pennsylvania State Police, Troop M Commander  
Assistant District Attorneys

From: James B. Martin, District Attorney

Date: June 25, 2018

Re: Fireworks

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With summer and the holiday season approaching, I thought it would be beneficial to review the issues concerning fireworks and enforcement of the current law regarding fireworks in Lehigh County. Based on my review of the applicable provisions, which have recently been amended, a brief synopsis on the law of fireworks follows.

Pennsylvania law distinguishes between consumer and display fireworks. Consumer fireworks include "any combustible or explosive composition or any substances or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public," which comply with requirements promulgated by the Consumer Products Safety Commission and which fall under the definition of "consumer fireworks" defined by the American Pyrotechnics Association ("APA") Standard 87-1. 72 Pa.C.S.A. § 9401.

Consumer fireworks may be purchased, possessed and used by a person who is at least 18 years old of age and meets the requirements that follow. "A person may not intentionally ignite or discharge:

- 1) Consumer fireworks on public or private property without the express permission of the owner.
- 2) Consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building.
- 3) Consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person.

- 4) Consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.
- 5) Consumer fireworks within 150 feet of an occupied structure.”

72 Pa.C.S.A. § 9404.

In accordance with above, a person **does not need** a permit for consumer fireworks, ground and hand-held sparkling devices, novelties, or toy caps. As such, the following is a non-exhaustive list of examples allowed without a permit: aerial devices (sky rockets, bottle rockets, roman candles, mine and shell devices containing no more than 60 grams of total chemical composition); audible ground devices (firecrackers, chasers); ground and hand-held sparkling devices (sparklers, ground spinner, cylindrical fountain); novelties (party popper, snapper, smoke devices); and toy caps (plastic and paper caps for toy pistols).

A person **is required** to obtain a permit from a municipality for display fireworks. 72 Pa.C.S.A. § 9402. Display fireworks include “large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation.” 72 Pa.C.S.A. § 9401.

Therefore, the following are prohibited without a permit: Aerial Shells (containing more than 60 grams of pyrotechnic compositions); Salutes (containing more than two grains or 130 milligrams of explosive materials); and other firework devices “that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN 0334, or UN 0335 under 49 CFR 172.101.” 72 Pa.C.S.A. § 9401.

With the updated provision governing fireworks, Pennsylvania residents and Non-Pennsylvania residents may purchase fireworks from a facility licensed by the Pennsylvania Department of Agriculture. Only facilities licensed by the Department of Agriculture may sell consumer fireworks. Please keep in mind there are specific requirements for the operation of these facilities, including, *inter alia*, security personnel for the seven days preceding and including July 4, no smoking, and no minors allowed without an adult. 72 Pa.C.S.A. § 9409.

Improper use of consumer fireworks in violation of the Fireworks Act constitutes a summary offense with a fine of not more than \$100. An illegal sale of consumer fireworks constitutes a misdemeanor of the second degree. The Act also provides for any officer to remove all stock of consumer fireworks in violation of the Act at the expense of the owner. 72 Pa.C.S.A. § 9414.

It will continue to be my office’s policy to review cases on a case-by-case basis. Should you have any question, please contact my office. If questions arise after hours or over a weekend, please contact the Duty Assistant or the Back-up Assistant.