

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6080

57th Legislature
2002 Regular Session

Passed by the Senate March 11, 2002
YEAS 44 NAYS 0

President of the Senate

Passed by the House March 6, 2002
YEAS 92 NAYS 0

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6080** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6080

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senator Prentice)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to updating and harmonizing fireworks and
2 explosives laws; amending RCW 70.74.010, 70.74.191, 70.74.400,
3 70.77.126, 70.77.131, 70.77.136, 70.77.141, 70.77.160, 70.77.170,
4 70.77.175, 70.77.180, 70.77.205, 70.77.210, 70.77.215, 70.77.230,
5 70.77.236, 70.77.250, 70.77.255, 70.77.270, 70.77.305, 70.77.311,
6 70.77.315, 70.77.330, 70.77.335, 70.77.340, 70.77.343, 70.77.381,
7 70.77.395, 70.77.401, 70.77.405, 70.77.420, 70.77.425, 70.77.435,
8 70.77.440, 70.77.495, 70.77.510, 70.77.515, 70.77.517, 70.77.520,
9 70.77.535, 70.77.555, 70.77.575, and 70.77.580; adding new sections to
10 chapter 70.77 RCW; and prescribing penalties.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 **Sec. 1.** RCW 70.74.010 and 1993 c 293 s 1 are each amended to read
13 as follows:

14 As used in this chapter, unless a different meaning is plainly
15 required by the context:

16 (1) The terms "authorized", "approved" or "approval" shall be held
17 to mean authorized, approved, or approval by the department of labor
18 and industries.

1 (2) The term "blasting agent" shall be held to mean and include any
2 material or mixture consisting of a fuel and oxidizer, (~~intended for~~
3 ~~blasting, not otherwise classified as an explosive, and in which none~~
4 ~~of the ingredients are classified as an explosive, provided that the~~
5 ~~finished product, as mixed and packaged for use or shipment, cannot be~~
6 ~~detonated when unconfined by means of a No. 8 test blasting cap)) that
7 is intended for blasting and not otherwise defined as an explosive; if
8 the finished product, as mixed for use or shipment, cannot be detonated
9 by means of a number 8 test blasting cap when unconfined. A number 8
10 test blasting cap is one containing two grams of a mixture of eighty
11 percent mercury fulminate and twenty percent potassium chlorate, or a
12 blasting cap of equivalent strength. An equivalent strength cap
13 comprises 0.40-0.45 grams of PETN base charge pressed in an aluminum
14 shell with bottom thickness not to exceed 0.03 of an inch, to a
15 specific gravity of not less than 1.4 g/cc., and primed with standard
16 weights of primer depending on the manufacturer.~~

17 (3) The term "explosive" or "explosives" whenever used in this
18 chapter, shall be held to mean and include any chemical compound or
19 mechanical mixture that is commonly used or intended for the purpose of
20 producing an explosion, that contains any oxidizing and combustible
21 units, or other ingredients, in such proportions, quantities or
22 packing, that an ignition by fire, by friction, by concussion, by
23 percussion, or by detonation of any part of the compound or mixture may
24 cause such a sudden generation of highly heated gases that the
25 resultant gaseous pressures are capable of producing destructive
26 effects on contiguous objects or of destroying life or limb. In
27 addition, the term "explosives" shall include all material which is
28 classified as (~~class A, class B, and class C~~) division 1.1, 1.2, 1.3,
29 1.4, 1.5, or 1.6 explosives by the (~~federal~~) Unites States department
30 of transportation. For the purposes of this chapter small arms
31 ammunition, small arms ammunition primers, smokeless powder not
32 exceeding fifty pounds, and black powder not exceeding five pounds
33 shall not be defined as explosives, unless possessed or used for a
34 purpose inconsistent with small arms use or other lawful purpose.

35 (4) Classification of explosives shall include but not be limited
36 to the following:

37 (a) (~~CLASS A~~) DIVISION 1.1 and 1.2 EXPLOSIVES: (~~Possessing~~)
38 Possess mass explosion or detonating hazard(+)) and include dynamite,
39 nitroglycerin, picric acid, lead azide, fulminate of mercury, black

1 powder exceeding five pounds, blasting caps in quantities of 1001 or
2 more, and detonating primers.

3 (b) (~~(CLASS-B)~~) DIVISION 1.3 EXPLOSIVES: (~~(+Possessing)~~) Possess
4 a minor blast hazard, a minor projection hazard, or a flammable
5 hazard(+) and include propellant explosives, including smokeless
6 (~~(propellants)~~) powder exceeding fifty pounds.

7 (c) (~~(CLASS-C)~~) DIVISION 1.4, 1.5, and 1.6 EXPLOSIVES:
8 (~~(+Including)~~) Include certain types of manufactured articles which
9 contain (~~(class A or class B)~~) division 1.1, 1.2, or 1.3 explosives, or
10 (~~(both)~~) all, as components, but in restricted quantities(+), and
11 also include blasting caps in quantities of 1000 or less.

12 (5) The term "explosive-actuated power devices" shall be held to
13 mean any tool or special mechanized device which is actuated by
14 explosives, but not to include propellant-actuated power devices.

15 (6) The term "magazine", shall be held to mean and include any
16 building or other structure, other than (~~(a factory)~~) an explosives
17 manufacturing building, used for the storage of explosives.

18 (7) The term "improvised device" means a device which is fabricated
19 with explosives or destructive, lethal, noxious, pyrotechnic, or
20 incendiary chemicals and which is designed, or has the capacity, to
21 disfigure, destroy, distract, or harass.

22 (8) The term "inhabited building", shall be held to mean and
23 include only a building regularly occupied in whole or in part as a
24 habitation for human beings, or any church, schoolhouse, railroad
25 station, store, or other building where people are accustomed to
26 assemble, other than any building or structure occupied in connection
27 with the manufacture, transportation, storage, or use of explosives.

28 (9) The term "explosives manufacturing plant" shall be held to mean
29 and include all lands, with the buildings situated thereon, used in
30 connection with the manufacturing or processing of explosives or in
31 which any process involving explosives is carried on, or the storage of
32 explosives thereat, as well as any premises where explosives are used
33 as a component part or ingredient in the manufacture of any article or
34 device.

35 (10) The term "explosives manufacturing building", shall be held to
36 mean and include any building or other structure (excepting magazines)
37 containing explosives, in which the manufacture of explosives, or any
38 processing involving explosives, is carried on, and any building where

1 explosives are used as a component part or ingredient in the
2 manufacture of any article or device.

3 (11) The term "railroad" shall be held to mean and include any
4 steam, electric, or other railroad which carries passengers for hire.

5 (12) The term "highway" shall be held to mean and include any
6 public street, public alley, or public road, including a privately
7 financed, constructed, or maintained road that is regularly and openly
8 traveled by the general public.

9 (13) The term "efficient artificial barricade" shall be held to
10 mean an artificial mound or properly revetted wall of earth of a
11 minimum thickness of not less than three feet or such other artificial
12 barricade as approved by the department of labor and industries.

13 (14) The term "person" shall be held to mean and include any
14 individual, firm, (~~(copartnership))~~ partnership, corporation, company,
15 association, society, joint stock company, joint stock association, and
16 including any trustee, receiver, assignee, or personal representative
17 thereof.

18 (15) The term "dealer" shall be held to mean and include any person
19 who purchases explosives or blasting agents for the sole purpose of
20 resale, and not for use or consumption.

21 (16) The term "forbidden or not acceptable explosives" shall be
22 held to mean and include explosives which are forbidden or not
23 acceptable for transportation by common carriers by rail freight, rail
24 express, highway, or water in accordance with the regulations of the
25 federal department of transportation.

26 (17) The term "handloader" shall be held to mean and include any
27 person who engages in the noncommercial assembling of small arms
28 ammunition for his own use, specifically the operation of installing
29 new primers, powder, and projectiles into cartridge cases.

30 (18) The term "handloader components" means small arms ammunition,
31 small arms ammunition primers, smokeless powder not exceeding fifty
32 pounds, and black powder as used in muzzle loading firearms not
33 exceeding five pounds.

34 (19) The term "fuel" shall be held to mean and include a substance
35 which may react with the oxygen in the air or with the oxygen yielded
36 by an oxidizer to produce combustion.

37 (20) The term "motor vehicle" shall be held to mean and include any
38 self-propelled automobile, truck, tractor, semi-trailer or full
39 trailer, or other conveyance used for the transportation of freight.

1 (21) The term "natural barricade" shall be held to mean and include
2 any natural hill, mound, wall, or barrier composed of earth or rock or
3 other solid material of a minimum thickness of not less than three
4 feet.

5 (22) The term "oxidizer" shall be held to mean a substance that
6 yields oxygen readily to stimulate the combustion of organic matter or
7 other fuel.

8 (23) The term "propellant-actuated power device" shall be held to
9 mean and include any tool or special mechanized device or gas generator
10 system which is actuated by a propellant or which releases and directs
11 work through a propellant charge.

12 (24) The term "public conveyance" shall be held to mean and include
13 any railroad car, streetcar, ferry, cab, bus, airplane, or other
14 vehicle which is carrying passengers for hire.

15 (25) The term "public utility transmission system" shall mean power
16 transmission lines over 10 KV, telephone cables, or microwave
17 transmission systems, or buried or exposed pipelines carrying water,
18 natural gas, petroleum, or crude oil, or refined products and
19 chemicals, whose services are regulated by the utilities and
20 transportation commission, municipal, or other publicly owned systems.

21 (26) The term "purchaser" shall be held to mean any person who
22 buys, accepts, or receives any explosives or blasting agents.

23 (27) The term "pyrotechnic" shall be held to mean and include any
24 combustible or explosive compositions or manufactured articles designed
25 and prepared for the purpose of producing audible or visible effects
26 which are commonly referred to as fireworks as defined in chapter 70.77
27 RCW.

28 (28) The term "small arms ammunition" shall be held to mean and
29 include any shotgun, rifle, pistol, or revolver cartridge, and
30 cartridges for propellant-actuated power devices and industrial guns.
31 Military-type ammunition containing explosive bursting charges,
32 incendiary, tracer, spotting, or pyrotechnic projectiles is excluded
33 from this definition.

34 (29) The term "small arms ammunition primers" shall be held to mean
35 small percussion-sensitive explosive charges encased in a cup, used to
36 ignite propellant powder and shall include percussion caps as used in
37 muzzle loaders.

1 (30) The term "smokeless (~~(propellants)~~) powder" shall be held to
2 mean and include solid chemicals or solid chemical mixtures in excess
3 of fifty pounds which function by rapid combustion.

4 (31) The term "user" shall be held to mean and include any natural
5 person, manufacturer, or blaster who acquires, purchases, or uses
6 explosives as an ultimate consumer or who supervises such use.

7 Words used in the singular number shall include the plural, and the
8 plural the singular.

9 **Sec. 2.** RCW 70.74.191 and 1998 c 40 s 1 are each amended to read
10 as follows:

11 The laws contained in this chapter and regulations prescribed by
12 the department of labor and industries pursuant to this chapter shall
13 not apply to:

14 (1) Explosives or blasting agents in the course of transportation
15 by way of railroad, water, highway, or air under the jurisdiction of,
16 and in conformity with, regulations adopted by the federal department
17 of transportation, the Washington state utilities and transportation
18 commission, and the Washington state patrol;

19 (2) The laboratories of schools, colleges, and similar institutions
20 if confined to the purpose of instruction or research and if not
21 exceeding the quantity of one pound;

22 (3) Explosives in the forms prescribed by the official United
23 States Pharmacopoeia;

24 (4) The transportation, storage, and use of explosives or blasting
25 agents in the normal and emergency operations of (~~(federal)~~) United
26 States agencies and departments including the regular United States
27 military departments on military reservations(~~(-)~~); arsenals, navy
28 yards, depots, or other establishments owned by, operated by, or on
29 behalf of, the United States; or the duly authorized militia of any
30 state (~~(or territory,)~~); or to emergency operations of any state
31 department or agency, any police, or any municipality or county;

32 (5) A hazardous devices technician when carrying out normal and
33 emergency operations, handling evidence, and operating and maintaining
34 a specially designed emergency response vehicle that carries no more
35 than ten pounds of explosive material or when conducting training and
36 whose employer possesses the minimum safety equipment prescribed by the
37 federal bureau of investigation for hazardous devices work. For
38 purposes of this section, a hazardous devices technician is a person

1 who is a graduate of the federal bureau of investigation hazardous
2 devices school and who is employed by a state, county, or municipality;

3 (6) The importation, sale, possession, and use of fireworks as
4 defined in chapter 70.77 RCW, signaling devices, flares, fuses, and
5 torpedoes;

6 (7) The transportation, storage, and use of explosives or blasting
7 agents in the normal and emergency avalanche control procedures as
8 conducted by trained and licensed ski area operator personnel.
9 However, the storage, transportation, and use of explosives and
10 blasting agents for such use shall meet the requirements of regulations
11 adopted by the director of labor and industries; ((and))

12 (8) The storage of consumer fireworks as defined in chapter 70.77
13 RCW pursuant to a forfeiture or seizure under chapter 70.77 RCW by the
14 chief of the Washington state patrol, through the director of fire
15 protection, or his or her deputy, or by state agencies or local
16 governments having general law enforcement authority; and

17 (9) Any violation under this chapter if any existing ordinance of
18 any city, municipality, or county is more stringent than this chapter.

19 **Sec. 3.** RCW 70.74.400 and 1993 c 293 s 8 are each amended to read
20 as follows:

21 (1) Explosives, improvised devices, and components of explosives
22 and improvised devices that are possessed, manufactured, delivered,
23 imported, exported, stored, sold, purchased, transported, abandoned,
24 detonated, or used, or intended to be used, in violation of a provision
25 of this chapter are subject to seizure and forfeiture by a law
26 enforcement agency and no property right exists in them.

27 (2) The law enforcement agency making the seizure shall notify the
28 Washington state department of labor and industries of the seizure.

29 (3) Seizure of explosives, improvised devices, and components of
30 explosives and improvised devices under subsection (1) of this section
31 may be made if:

32 (a) The seizure is incident to arrest or a search under a search
33 warrant;

34 (b) The explosives, improvised devices, or components have been the
35 subject of a prior judgment in favor of the state in an injunction or
36 forfeiture proceeding based upon this chapter;

1 (c) A law enforcement officer has probable cause to believe that
2 the explosives, improvised devices, or components are directly or
3 indirectly dangerous to health or safety; or

4 (d) The law enforcement officer has probable cause to believe that
5 the explosives, improvised devices, or components were used or were
6 intended to be used in violation of this chapter.

7 ~~((+3))~~ (4) A law enforcement agency shall destroy explosives
8 seized under this chapter when it is necessary to protect the public
9 safety and welfare. When destruction is not necessary to protect the
10 public safety and welfare, and the explosives are not being held for
11 evidence, a seizure pursuant to this section commences proceedings for
12 forfeiture.

13 ~~((+4))~~ (5) The law enforcement agency under whose authority the
14 seizure was made shall issue a written notice of the seizure and
15 commencement of the forfeiture proceedings to the person from whom the
16 explosives were seized, to any known owner of the explosives, and to
17 any person who has a known interest in the explosives. The notice
18 shall be issued within fifteen days of the seizure. The notice of
19 seizure and commencement of the forfeiture proceedings shall be served
20 in the same manner as provided in RCW 4.28.080 for service of a
21 summons. The law enforcement agency shall provide a form by which the
22 person or persons may request a hearing before the law enforcement
23 agency to contest the seizure.

24 ~~((+5))~~ (6) If no person notifies the seizing law enforcement
25 agency in writing of the person's claim of ownership or right to
26 possession of the explosives, improvised devices, or components within
27 thirty days of the date the notice was issued, the seized explosives,
28 devices, or components shall be deemed forfeited.

29 ~~((+6))~~ (7) If, within thirty days of the issuance of the notice,
30 any person notifies the seizing law enforcement agency in writing of
31 the person's claim of ownership or right to possession of items seized,
32 the person or persons shall be afforded a reasonable opportunity to be
33 heard as to the claim or right. The hearing shall be before the chief
34 law enforcement or the officer's designee of the seizing agency, except
35 that the person asserting the claim or right may remove the matter to
36 a court of competent jurisdiction if the aggregate value of the items
37 seized is more than five hundred dollars. The hearing and any appeal
38 shall be conducted according to chapter 34.05 RCW. The seizing law
39 enforcement agency shall bear the burden of proving that the person (a)

1 has no lawful right of ownership or possession and (b) that the items
2 seized were possessed, manufactured, stored, sold, purchased,
3 transported, abandoned, detonated, or used in violation of a provision
4 of this chapter with the person's knowledge or consent.

5 ~~((+7))~~ (8) The seizing law enforcement agency shall promptly
6 return the items seized to the claimant upon a determination that the
7 claimant is entitled to possession of the items seized.

8 ~~((+8))~~ (9) If the items seized are forfeited under this statute,
9 the seizing agency shall ~~((destroy))~~ dispose of the explosives by
10 summary destruction. However, when explosives are destroyed either to
11 protect public safety or because the explosives were forfeited, the
12 person from whom the explosives were seized loses all rights of action
13 against the law enforcement agency or its employees acting within the
14 scope of their employment, or other governmental entity or employee
15 involved with the seizure and destruction of explosives.

16 ~~((+9))~~ (10) This section is not intended to change the seizure and
17 forfeiture powers, enforcement, and penalties available to the
18 department of labor and industries pursuant to chapter 49.17 RCW as
19 provided in RCW 70.74.390.

20 **Sec. 4.** RCW 70.77.126 and 1995 c 61 s 3 are each amended to read
21 as follows:

22 "Fireworks" means any composition or device ~~((, in a finished state,~~
23 ~~containing any combustible or explosive substance for the purpose of~~
24 ~~producing))~~ designed to produce a visible or audible effect by
25 combustion ~~((, —explosion))~~, deflagration, or detonation, and
26 ~~((classified as common))~~ which meets the definition of articles
27 pyrotechnic or consumer fireworks or ~~((special))~~ display fireworks ~~((by~~
28 ~~the United States bureau of explosives or contained in the regulations~~
29 ~~of the United States department of transportation and designated as~~
30 ~~U.N. 0335 1.3G or U.N. 0336 1.4G as of April 17, 1995))~~.

31 **Sec. 5.** RCW 70.77.131 and 1995 c 61 s 4 are each amended to read
32 as follows:

33 ~~((Special))~~ Display fireworks means ~~((any fireworks designed~~
34 ~~primarily for exhibition display by producing visible or audible~~
35 ~~effects and classified as such by the United States bureau of~~
36 ~~explosives or in the regulations of the United States department of~~
37 ~~transportation and designated as U.N. 0335 1.3G as of April 17, 1995))~~

1 large fireworks designed primarily to produce visible or audible
2 effects by combustion, deflagration, or detonation and includes, but is
3 not limited to, salutes containing more than 2 grains (130 mg) of
4 explosive materials, aerial shells containing more than 40 grams of
5 pyrotechnic compositions, and other display pieces which exceed the
6 limits of explosive materials for classification as "consumer
7 fireworks" and are classified as fireworks UN0333, UN0334, or UN0335 by
8 the United States department of transportation at 49 C.F.R. Sec.
9 172.101 as of the effective date of this section, and including fused
10 setpieces containing components which exceed 50 mg of salute powder.

11 **Sec. 6.** RCW 70.77.136 and 1995 c 61 s 5 are each amended to read
12 as follows:

13 ~~"((Common)) Consumer fireworks" means ((any fireworks which are~~
14 ~~designed primarily for retail sale to the public during prescribed~~
15 ~~dates and which produce visual or audible effects through combustion~~
16 ~~and are classified as common fireworks by the United States bureau of~~
17 ~~explosives or in the regulations of the United States department of~~
18 ~~transportation and designated as U.N. 0336 1.4G as of April 17, 1995))~~
19 any small firework device designed to produce visible effects by
20 combustion and which must comply with the construction, chemical
21 composition, and labeling regulations of the United States consumer
22 product safety commission, as set forth in 16 C.F.R. Parts 1500 and
23 1507 and including some small devices designed to produce audible
24 effects, such as whistling devices, ground devices containing 50 mg or
25 less of explosive materials, and aerial devices containing 130 mg or
26 less of explosive materials and classified as fireworks UN0336 by the
27 United States department of transportation at 49 C.F.R. Sec. 172.101 as
28 of the effective date of this section, and not including fused
29 setpieces containing components which together exceed 50 mg of salute
30 powder.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.77 RCW
32 to read as follows:

33 "Articles pyrotechnic" means pyrotechnic devices for professional
34 use similar to consumer fireworks in chemical composition and
35 construction but not intended for consumer use which meet the weight
36 limits for consumer fireworks but which are not labeled as such and
37 which are classified as UN0431 or UN0432 by the United States

1 department of transportation at 49 C.F.R. Sec. 172.101 as of the
2 effective date of this section.

3 **Sec. 8.** RCW 70.77.141 and 1982 c 230 s 4 are each amended to read
4 as follows:

5 "Agricultural and wildlife fireworks" includes fireworks devices
6 distributed to farmers, ranchers, and growers through a wildlife
7 management program administered by the United States department of the
8 interior or an equivalent state or local governmental agency.

9 **Sec. 9.** RCW 70.77.160 and 1997 c 182 s 1 are each amended to read
10 as follows:

11 "Public display of fireworks" means an entertainment feature where
12 the public is or could be admitted or allowed to view the display or
13 discharge of (~~special~~) display fireworks.

14 **Sec. 10.** RCW 70.77.170 and 1995 c 369 s 44 are each amended to
15 read as follows:

16 "License" means a nontransferable formal authorization which the
17 chief of the Washington state patrol (~~and~~), through the director of
18 fire protection (~~are permitted~~), is authorized to issue under this
19 chapter to allow a person to engage in the act specifically designated
20 therein.

21 **Sec. 11.** RCW 70.77.175 and 1961 c 228 s 12 are each amended to
22 read as follows:

23 "Licensee" means any person (~~holding~~) issued a fireworks license
24 in conformance with this chapter.

25 **Sec. 12.** RCW 70.77.180 and 1995 c 61 s 9 are each amended to read
26 as follows:

27 "Permit" means the official (~~permission~~) authorization granted by
28 a (~~local public agency~~) city or county for the purpose of
29 establishing and maintaining a place within the jurisdiction of the
30 (~~local agency~~) city or county where fireworks are manufactured,
31 constructed, produced, packaged, stored, sold, or exchanged and the
32 official (~~permission~~) authorization granted by a (~~local agency~~)
33 city or county for a public display of fireworks.

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.77 RCW
2 to read as follows:

3 "Permittee" means any person issued a fireworks permit in
4 conformance with this chapter.

5 **Sec. 14.** RCW 70.77.205 and 1995 c 61 s 11 are each amended to read
6 as follows:

7 "Manufacturer" includes any person who manufactures, makes,
8 constructs, fabricates, or produces any fireworks article or device but
9 does not include persons who assemble or fabricate sets or mechanical
10 pieces in public displays of fireworks or persons who assemble
11 ~~((common))~~ consumer fireworks items or sets or packages containing
12 ~~((common))~~ consumer fireworks items.

13 **Sec. 15.** RCW 70.77.210 and 1982 c 230 s 9 are each amended to read
14 as follows:

15 "Wholesaler" includes any person who sells fireworks to a retailer
16 or any other person for resale and any person who sells ~~((special))~~
17 display fireworks to public display licensees.

18 **Sec. 16.** RCW 70.77.215 and 1982 c 230 s 10 are each amended to
19 read as follows:

20 "Retailer" includes any person who, at a fixed location or place of
21 business, offers for sale, sells~~((, transfers, or gives common)),~~ or
22 exchanges for consideration consumer fireworks to a consumer or user.

23 **Sec. 17.** RCW 70.77.230 and 1982 c 230 s 11 are each amended to
24 read as follows:

25 "Pyrotechnic operator" includes any individual who by experience
26 and training has demonstrated the required skill and ability for safely
27 setting up and discharging ~~((public displays of special))~~ display
28 fireworks.

29 **Sec. 18.** RCW 70.77.236 and 1997 c 182 s 4 are each amended to read
30 as follows:

31 (1) "New fireworks item" means any fireworks initially classified
32 or reclassified as ~~((special or common))~~ articles pyrotechnic, display
33 fireworks, or consumer fireworks by ~~((the United States bureau of~~
34 ~~explosives or in the regulations of))~~ the United States department of

1 transportation after (~~April 17, 1995~~) the effective date of this
2 section, and which comply with the construction, chemical composition,
3 and labeling regulations of the United States consumer products safety
4 commission, 16 C.F.R., Parts 1500 and 1507.

5 (2) The chief of the Washington state patrol, through the director
6 of fire protection, shall classify any new fireworks item in the same
7 manner as the item is classified by (~~the United States bureau of~~
8 ~~explosives or in the regulations of~~) the United States department of
9 transportation(~~, unless~~) and the United States consumer product
10 safety commission. The chief of the Washington state patrol, through
11 the director of fire protection, may determine(~~s~~), stating reasonable
12 grounds, that the item should not be so classified.

13 **Sec. 19.** RCW 70.77.250 and 1997 c 182 s 5 are each amended to read
14 as follows:

15 (1) The chief of the Washington state patrol, through the director
16 of fire protection, shall enforce and administer this chapter.

17 (2) The chief of the Washington state patrol, through the director
18 of fire protection, shall appoint such deputies and employees as may be
19 necessary and required to carry out the provisions of this chapter.

20 (3) The chief of the Washington state patrol, through the director
21 of fire protection, shall adopt those rules relating to fireworks as
22 are necessary for the implementation of this chapter.

23 (4) The chief of the Washington state patrol, through the director
24 of fire protection, shall adopt those rules as are necessary to ensure
25 statewide minimum standards for the enforcement of this chapter.
26 Counties(~~, and~~) and cities(~~, and towns~~) shall comply with these state
27 rules. Any (~~local rules~~) ordinances adopted by (~~local authorities~~)
28 a county or city that are more restrictive than state law shall have an
29 effective date no sooner than one year after their adoption.

30 (5) The chief of the Washington state patrol, through the director
31 of fire protection, may exercise the necessary police powers to enforce
32 the criminal provisions of this chapter. This grant of police powers
33 does not prevent any other state agency and city, county, or local
34 government agency having general law enforcement powers from enforcing
35 this chapter within the jurisdiction of the agency and city, county, or
36 local government.

37 (6) The chief of the Washington state patrol, through the director
38 of fire protection, shall adopt rules necessary to enforce the civil

1 penalty provisions for the violations of this chapter. A civil penalty
2 under this subsection may not exceed one thousand dollars per day for
3 each violation and is subject to the procedural requirements under
4 section 20 of this act.

5 (7) The chief of the Washington state patrol, through the director
6 of fire protection, may investigate or cause to be investigated all
7 fires resulting, or suspected of resulting, from the use of fireworks.

8 NEW SECTION. Sec. 20. A new section is added to chapter 70.77 RCW
9 to read as follows:

10 (1) The penalty provided for in RCW 70.77.250(6) shall be imposed
11 by a notice in writing to the person against whom the civil fine is
12 assessed and shall describe the violation with reasonable
13 particularity. The notice shall be personally served in the manner of
14 service of a summons in a civil action or in a manner which shows proof
15 of receipt. Any penalty imposed by RCW 70.77.250(6) shall become due
16 and payable twenty-eight days after receipt of notice unless
17 application for remission or mitigation is made as provided in
18 subsection (2) of this section or unless application for an
19 adjudicative proceeding is filed as provided in subsection (3) of this
20 section.

21 (2) Within fourteen days after the notice is received, the person
22 incurring the penalty may apply in writing to the chief of the
23 Washington state patrol, through the director of fire protection, for
24 the remission or mitigation of the penalty. Upon receipt of the
25 application, the chief of the Washington state patrol, through the
26 director of fire protection, may remit or mitigate the penalty upon
27 whatever terms the chief of the Washington state patrol, through the
28 director of fire protection, deems proper, giving consideration to the
29 degree of hazard associated with the violation. The chief of the
30 Washington state patrol, through the director of fire protection, may
31 only grant a remission or mitigation that it deems to be in the best
32 interests of carrying out the purposes of this chapter. The chief of
33 the Washington state patrol, through the director of fire protection,
34 may ascertain the facts regarding all such applications in a manner it
35 deems proper. When an application for remission or mitigation is made,
36 any penalty incurred under RCW 70.77.250(6) becomes due and payable
37 twenty-eight days after receipt of the notice setting forth the
38 disposition of the application, unless an application for an

1 adjudicative proceeding to contest the disposition is filed as provided
2 in subsection (3) of this section.

3 (3) Within twenty-eight days after notice is received, the person
4 incurring the penalty may file an application for an adjudicative
5 proceeding and may pursue subsequent review as provided in chapter
6 34.05 RCW and applicable rules of the chief of the Washington state
7 patrol, through the director of fire protection.

8 (4) Any penalty imposed by final order following an adjudicative
9 proceeding becomes due and payable upon service of the final order.

10 (5) The attorney general may bring an action in the name of the
11 chief of the Washington state patrol, through the director of fire
12 protection, in the superior court of Thurston county or of any county
13 in which the violator may do business to collect any penalty imposed
14 under this chapter.

15 (6) All penalties imposed under this section shall be paid to the
16 state treasury and credited to the fire services trust fund and used as
17 follows: At least fifty percent is for a statewide public education
18 campaign developed by the chief of the Washington state patrol, through
19 the director of fire protection, and the licensed fireworks industry
20 emphasizing the safe and responsible use of legal fireworks; and the
21 remainder is for statewide efforts to enforce this chapter.

22 **Sec. 21.** RCW 70.77.255 and 1997 c 182 s 6 are each amended to read
23 as follows:

24 (1) Except as otherwise provided in this chapter, no person,
25 without appropriate state licenses and city or county permits as
26 required by this chapter may:

27 (a) Manufacture, import, possess, or sell any fireworks at
28 wholesale or retail for any use;

29 (b) Make a public display of fireworks;

30 (c) Transport fireworks, except as a licensee or as a public
31 carrier delivering to a licensee; or

32 (d) Knowingly manufacture, import, transport, store, sell, or
33 possess with intent to sell, as fireworks, explosives, as defined under
34 RCW 70.74.010, that are not fireworks, as defined under this chapter.

35 (2) Except as authorized by a license and permit under subsection
36 (1)(b) of this section or as provided in RCW 70.77.311, no person may
37 discharge (~~special~~) display fireworks at any place.

1 (3) No person less than eighteen years of age may apply for or
2 receive a license or permit under this chapter.

3 (4) No license or permit is required for the possession or use of
4 (~~common~~) consumer fireworks lawfully purchased at retail.

5 **Sec. 22.** RCW 70.77.270 and 1997 c 182 s 8 are each amended to read
6 as follows:

7 (1) The governing body of a city or county, or a designee, shall
8 grant an application for a permit under RCW 70.77.260(1) if the
9 application meets the standards under this chapter, and the applicable
10 ordinances of the city or county. The permit shall be granted by June
11 10, or no less than thirty days after receipt of an application
12 whichever date occurs first, for sales commencing on June 28 and on
13 December 27; or by December 10, or no less than thirty days after
14 receipt of an application whichever date occurs first, for sales
15 commencing only on December 27.

16 (2) The chief of the Washington state patrol, through the director
17 of fire protection, shall prescribe uniform, statewide standards for
18 retail fireworks stands including, but not limited to, the location of
19 the stands, setback requirements and siting of the stands, types of
20 buildings and construction material that may be used for the stands,
21 use of the stands and areas around the stands, cleanup of the area
22 around the stands, transportation of fireworks to and from the stands,
23 and temporary storage of fireworks associated with the retail fireworks
24 stands. All cities and counties which allow retail fireworks sales
25 shall comply with these standards.

26 (3) No retail fireworks permit may be issued to any applicant
27 unless the retail fireworks stand is covered by a liability insurance
28 policy with coverage of not less than fifty thousand dollars and five
29 hundred thousand dollars for bodily injury liability for each person
30 and occurrence, respectively, and not less than fifty thousand dollars
31 for property damage liability for each occurrence, unless such
32 insurance is not readily available from at least three approved
33 insurance companies. If insurance in this amount is not offered, each
34 fireworks permit shall be covered by a liability insurance policy in
35 the maximum amount offered by at least three different approved
36 insurance companies.

37 No wholesaler may knowingly sell or supply fireworks to any retail
38 fireworks (~~stand~~) licensee unless the wholesaler determines that the

1 retail fireworks ((stand)) licensee is covered by liability insurance
2 in the same, or greater, amount as provided in this subsection.

3 **Sec. 23.** RCW 70.77.305 and 1995 c 369 s 46 are each amended to
4 read as follows:

5 The chief of the Washington state patrol, through the director of
6 fire protection, has the power to issue licenses for the manufacture,
7 importation, sale, and use of all fireworks in this state, except as
8 provided in RCW 70.77.311 and 70.77.395. A person may be licensed as
9 a manufacturer, importer, or wholesaler under this chapter only if the
10 person has a designated agent in this state who is registered with the
11 chief of the Washington state patrol, through the director of fire
12 protection.

13 **Sec. 24.** RCW 70.77.311 and 1995 c 61 s 17 are each amended to read
14 as follows:

15 (1) No license is required for the purchase of agricultural and
16 wildlife fireworks by government agencies if:

17 (a) The agricultural and wildlife fireworks are used for wildlife
18 control or are distributed to farmers, ranchers, or growers through a
19 wildlife management program administered by the United States
20 department of the interior or an equivalent state or local governmental
21 agency;

22 (b) The distribution is in response to a written application
23 describing the wildlife management problem that requires use of the
24 devices;

25 (c) It is of no greater quantity than necessary to control the
26 described problem; and

27 (d) It is limited to situations where other means of control are
28 unavailable or inadequate.

29 (2) No license is required for religious organizations or private
30 organizations or persons to purchase or use ((common)) consumer
31 fireworks and such audible ground devices as firecrackers, salutes, and
32 chasers if:

33 (a) Purchased from a licensed manufacturer, importer, or
34 wholesaler;

35 (b) For use on prescribed dates and locations;

36 (c) For religious or specific purposes; and

1 (d) A permit is obtained from the local fire official. No fee may
2 be charged for this permit.

3 **Sec. 25.** RCW 70.77.315 and 1997 c 182 s 10 are each amended to
4 read as follows:

5 Any person who desires to engage in the manufacture, importation,
6 sale, or use of fireworks, except use as provided in RCW 70.77.255(4)
7 (~~and~~), 70.77.311, and 70.77.395, shall make a written application to
8 the chief of the Washington state patrol, through the director of fire
9 protection, on forms provided by him or her. Such application shall be
10 accompanied by the annual license fee as prescribed in this chapter.

11 **Sec. 26.** RCW 70.77.330 and 1995 c 369 s 48 are each amended to
12 read as follows:

13 If the chief of the Washington state patrol, through the director
14 of fire protection, finds that the granting of such license (~~would~~)
15 is not (~~be~~) contrary to public safety or welfare, he or she shall
16 issue a license authorizing the applicant to engage in the particular
17 act or acts upon the payment of the license fee specified in this
18 chapter. Licensees may transport the class of fireworks for which they
19 hold a valid license.

20 **Sec. 27.** RCW 70.77.335 and 1982 c 230 s 23 are each amended to
21 read as follows:

22 The authorization to engage in the particular act or acts conferred
23 by a license to a person shall extend to (~~salesmen~~) sellers,
24 authorized representatives, and other employees of such person.

25 **Sec. 28.** RCW 70.77.340 and 1982 c 230 s 24 are each amended to
26 read as follows:

27 The original and annual license fee shall be as follows:

28	Manufacturer	\$	500.00
29	Importer		100.00
30	Wholesaler		1,000.00
31	Retailer (for each separate retail outlet)		10.00
32	Public display for (special) <u>display</u>		
33	fireworks		10.00

1 Pyrotechnic operator for (~~special~~) display
2 fireworks 5.00

3 **Sec. 29.** RCW 70.77.343 and 1997 c 182 s 12 are each amended to
4 read as follows:

5 (1) License fees, in addition to the fees in RCW 70.77.340, shall
6 be charged as follows:

7	Manufacturer	\$	1,500.00
8	Importer		900.00
9	Wholesaler		1,000.00
10	Retailer (for each separate outlet)		30.00
11	Public display for (special) <u>display</u>		
12	fireworks		40.00
13	Pyrotechnic operator for (special) <u>display</u>		
14	fireworks		5.00

15 (2) All receipts from the license fees in this section shall be
16 placed in the fire services trust fund and at least seventy-five
17 percent of these receipts shall be used to fund a statewide public
18 education campaign developed by the chief of the Washington state
19 patrol and the licensed fireworks industry emphasizing the safe and
20 responsible use of legal fireworks and the remaining receipts shall be
21 used to fund statewide enforcement efforts against the sale and use of
22 fireworks that are illegal under this chapter.

23 **Sec. 30.** RCW 70.77.381 and 1995 c 61 s 27 are each amended to read
24 as follows:

25 (1) Every wholesaler shall carry liability insurance for each
26 wholesale and retail fireworks outlet it operates in the amount of not
27 less than fifty thousand dollars and five hundred thousand dollars for
28 bodily injury liability for each person and occurrence, respectively,
29 and not less than fifty thousand dollars for property damage liability
30 for each occurrence, unless such insurance is not available from at
31 least three approved insurance companies. If insurance in this amount
32 is not offered, each wholesale and retail outlet shall be covered by a
33 liability insurance policy in the maximum amount offered by at least
34 three different approved insurance companies.

35 (2) No wholesaler may knowingly sell or supply fireworks to any
36 retail (~~outlet~~) licensee unless the wholesaler determines that the

1 retail (~~outlet~~) licensee carries liability insurance in the same, or
2 greater, amount as provided in subsection (1) of this section.

3 **Sec. 31.** RCW 70.77.395 and 1995 c 61 s 22 are each amended to read
4 as follows:

5 (1) It is legal to sell(~~(,)~~) and purchase(~~(, use, and discharge~~
6 ~~common~~) consumer fireworks within this state from twelve o'clock noon
7 to eleven o'clock p.m. on the twenty-eighth of June, from nine o'clock
8 a.m. to eleven o'clock p.m. on each day from the twenty-ninth of June
9 through the fourth of July, from nine o'clock a.m. to (~~twelve~~) nine
10 o'clock (~~(noon)~~) p.m. on the (~~(sixth)~~) fifth of July (~~(of each year)~~),
11 from twelve o'clock noon to eleven o'clock p.m. on each day from the
12 twenty-seventh of December through the thirty-first of December of each
13 year, and as provided in RCW 70.77.311. (~~(However, no common)~~)

14 (2) Consumer fireworks may be (~~(sold)~~) used or discharged each day
15 between the hours of twelve o'clock noon and eleven o'clock p.m. (~~(and~~
16 ~~nine o'clock a.m.)~~) on the twenty-eighth of June and between the hours
17 of nine o'clock a.m. and eleven o'clock p.m. on the twenty-ninth of
18 June to the third of July, (~~(except)~~) and on July 4th (~~(from)~~) between
19 the hours of nine o'clock a.m. (~~(through)~~) and twelve o'clock midnight,
20 and between the hours of nine o'clock a.m. and eleven o'clock p.m. on
21 July 5th, and (~~(except)~~) from six o'clock p.m. on December 31st until
22 one o'clock a.m. on January 1st of the subsequent year(~~(: PROVIDED,~~
23 ~~That a city or county may prohibit the sale or discharge of common~~
24 ~~fireworks on December 31, 1995, by enacting an ordinance prohibiting~~
25 ~~such sale or discharge within sixty days of April 17, 1995)), and as~~
26 provided in RCW 70.77.311.

27 (3) A city or county may enact an ordinance within sixty days of
28 the effective date of this act to limit or prohibit the sale, purchase,
29 possession, or use of consumer fireworks on December 27, 2002, through
30 December 31, 2002, and thereafter as provided in RCW 70.77.250(4).

31 **Sec. 32.** RCW 70.77.401 and 1995 c 61 s 7 are each amended to read
32 as follows:

33 No fireworks may be sold or offered for sale to the public as
34 (~~(common)~~) consumer fireworks which are classified as sky rockets, or
35 missile-type rockets, firecrackers, salutes, or chasers as defined by
36 the United States department of transportation and the federal consumer
37 products safety commission except as provided in RCW 70.77.311.

1 **Sec. 33.** RCW 70.77.405 and 1982 c 230 s 32 are each amended to
2 read as follows:

3 Toy paper caps containing not more than twenty-five hundredths
4 grain of explosive compound for each cap and trick or novelty devices
5 not classified as (~~common~~) consumer fireworks may be sold at all
6 times unless prohibited by local ordinance.

7 NEW SECTION. **Sec. 34.** A new section is added to chapter 70.77 RCW
8 to read as follows:

9 (1) "Permanent storage" means storage of display fireworks at any
10 time and/or storage of consumer fireworks at any time other than the
11 periods allowed under RCW 70.77.420(2) and 70.77.425 and which shall be
12 in compliance with the requirements of chapter 70.74 RCW.

13 (2) "Temporary storage" means the storage of consumer fireworks
14 during the periods allowed under RCW 70.77.420(2) and 70.77.425.

15 **Sec. 35.** RCW 70.77.420 and 1997 c 182 s 18 are each amended to
16 read as follows:

17 (1) It is unlawful for any person to store permanently fireworks of
18 any class without a permit for such permanent storage from the city or
19 county in which the storage is to be made. A person proposing to store
20 permanently fireworks shall apply in writing to a city or county at
21 least ten days prior to the date of the proposed permanent storage.
22 The city or county receiving the application for a permanent storage
23 permit shall investigate whether the character and location of the
24 permanent storage as proposed (~~would~~) meets the requirements of the
25 zoning, building, and fire codes or constitutes a hazard to property or
26 (~~be~~) is dangerous to any person. Based on the investigation, the
27 city or county may grant or deny the application. The city or county
28 may place reasonable conditions on any permit granted.

29 (2) For the purposes of this section the temporary storing or
30 keeping of (~~common~~) consumer fireworks when in conjunction with a
31 valid retail sales license and permit shall comply with RCW 70.77.425
32 and the standards adopted under RCW 70.77.270(2) and not this section.

33 **Sec. 36.** RCW 70.77.425 and 1984 c 249 s 27 are each amended to
34 read as follows:

35 It is unlawful for any person to store (~~unsold~~) permanently
36 stocks of fireworks remaining unsold after the lawful period of sale as

1 provided in the person's permit except in such places of permanent
2 storage as the (~~local fire official~~) city or county issuing the
3 permit approves. Unsold stocks of (~~common~~) consumer fireworks
4 remaining after the authorized retail sales period from (~~twelve~~) nine
5 o'clock (~~noon~~) a.m. on June 28th to twelve o'clock noon on July
6 (~~6th~~) 5th shall be returned on or before July 31st of the same year,
7 or remaining after the authorized retail sales period from twelve
8 o'clock noon on December 27th to eleven o'clock p.m. on December 31st
9 shall be returned on or before January 10th of the subsequent year, to
10 the approved permanent storage facilities of a licensed fireworks
11 wholesaler(~~(-)~~) or to a magazine or permanent storage place approved by
12 a local fire official.

13 **Sec. 37.** RCW 70.77.435 and 1997 c 182 s 20 are each amended to
14 read as follows:

15 Any fireworks which are illegally sold, offered for sale, used,
16 discharged, possessed, or transported in violation of the provisions of
17 this chapter or the rules or regulations of the chief of the Washington
18 state patrol, through the director of fire protection, (~~shall be~~) are
19 subject to seizure by the chief of the Washington state patrol, through
20 the director of fire protection, or his or her deputy, or by state
21 agencies or local governments having general law enforcement authority.
22 (~~Any fireworks seized by legal process anywhere in the state may be~~
23 ~~disposed of by the chief of the Washington state patrol, through the~~
24 ~~director of fire protection, or the agency conducting the seizure, by~~
25 ~~summary destruction at any time subsequent to thirty days from such~~
26 ~~seizure or ten days from the final termination of proceedings under the~~
27 ~~provisions of RCW 70.77.440, whichever is later.))~~

28 **Sec. 38.** RCW 70.77.440 and 1997 c 182 s 21 are each amended to
29 read as follows:

30 (1) In the event of seizure under RCW 70.77.435, proceedings for
31 forfeiture shall be deemed commenced by the seizure. The chief of the
32 Washington state patrol or a designee, through the director of fire
33 protection or the agency conducting the seizure, under whose authority
34 the seizure was made shall cause notice to be served within fifteen
35 days following the seizure on the owner of the fireworks seized and the
36 person in charge thereof and any person having any known right or
37 interest therein, of the seizure and intended forfeiture of the seized

1 property. The notice may be served by any method authorized by law or
2 court rule including but not limited to service by certified mail with
3 return receipt requested. Service by mail shall be deemed complete
4 upon mailing within the fifteen-day period following the seizure.

5 (2) If no person notifies the chief of the Washington state patrol,
6 through the director of fire protection or the agency conducting the
7 seizure, in writing of the person's claim of lawful ownership or right
8 to lawful possession of seized fireworks within thirty days of the
9 seizure, the seized fireworks shall be deemed forfeited.

10 (3) If any person notifies the chief of the Washington state
11 patrol, through the director of fire protection or the agency
12 conducting the seizure, in writing of the person's claim of lawful
13 ownership or possession of the fireworks within thirty days of the
14 seizure, the person or persons shall be afforded a reasonable
15 opportunity to be heard as to the claim or right. The hearing shall be
16 before an administrative law judge appointed under chapter 34.12 RCW,
17 except that any person asserting a claim or right may remove the matter
18 to a court of competent jurisdiction if the aggregate value of the
19 seized fireworks is more than five hundred dollars. The hearing before
20 an administrative law judge and any appeal therefrom shall be under
21 Title 34 RCW. In a court hearing between two or more claimants to the
22 article or articles involved, the prevailing party shall be entitled to
23 a judgment for costs and reasonable attorneys' fees. The burden of
24 producing evidence shall be upon the person claiming to have the lawful
25 right to possession of the seized fireworks. The chief of the
26 Washington state patrol, through the director of fire protection or the
27 agency conducting the seizure, shall promptly return the fireworks to
28 the claimant upon a determination by the administrative law judge or
29 court that the claimant is lawfully entitled to possession of the
30 fireworks.

31 (4) When fireworks are forfeited under this chapter the chief of
32 the Washington state patrol, through the director of fire protection or
33 the agency conducting the seizure, may:

34 (a) Dispose of the fireworks by summary destruction at any time
35 subsequent to thirty days from such seizure or ten days from the final
36 termination of proceedings under this section, whichever is later; or

37 (b) Sell the forfeited fireworks and chemicals used to make
38 fireworks, that are legal for use and possession under this chapter, to
39 wholesalers or manufacturers, authorized to possess and use such

1 fireworks or chemicals under a license issued by the chief of the
2 Washington state patrol, through the director of fire protection. Sale
3 shall be by public auction after publishing a notice of the date,
4 place, and time of the auction in a newspaper of general circulation in
5 the county in which the auction is to be held, at least three days
6 before the date of the auction. The proceeds of the sale of the seized
7 fireworks under this section may be retained by the agency conducting
8 the seizure and used to offset the costs of seizure and/or storage
9 costs of the seized fireworks. The remaining proceeds, if any, shall
10 be deposited in the fire services trust fund and shall be used ((for
11 the same purposes and in the same percentages as specified in RCW
12 70.77.343)) as follows: At least fifty percent is for a statewide
13 public education campaign developed by the chief of the Washington
14 state patrol, through the director of fire protection, and the licensed
15 fireworks industry emphasizing the safe and responsible use of legal
16 fireworks; and the remainder is for statewide efforts to enforce this
17 chapter.

18 **Sec. 39.** RCW 70.77.495 and 1988 c 128 s 11 are each amended to
19 read as follows:

20 ((~~Nothing in this chapter shall be construed as permitting~~)) It is
21 unlawful for any person to set off fireworks of any kind in forest,
22 fallows, grass or brush covered land, either on his own land or the
23 property of another, between April 15th and December 1st of any year,
24 unless it is done under a written permit from the Washington state
25 department of natural resources or its duly authorized agent, and in
26 strict accordance with the terms of the permit and any other applicable
27 law.

28 **Sec. 40.** RCW 70.77.510 and 1984 c 249 s 31 are each amended to
29 read as follows:

30 It is unlawful for any person knowingly to sell, transfer, or agree
31 to sell or transfer any ((~~special~~)) display fireworks to any person who
32 is not a fireworks licensee as provided for by this chapter. A
33 violation of this section is a gross misdemeanor.

34 **Sec. 41.** RCW 70.77.515 and 1984 c 249 s 32 are each amended to
35 read as follows:

1 (1) It is unlawful for any person to offer for sale, sell ((or
2 transfer)), or exchange for consideration, any ((common)) consumer
3 fireworks to a consumer or user other than at a fixed place of business
4 of a retailer for which a license and permit have been issued.

5 (2) No licensee may sell any fireworks to any person under the age
6 of sixteen.

7 (3) A violation of this section is a gross misdemeanor.

8 **Sec. 42.** RCW 70.77.517 and 1984 c 249 s 34 are each amended to
9 read as follows:

10 It is unlawful for any person, except in the course of continuous
11 interstate transportation through any state, to transport fireworks
12 from this state into any other state, or deliver them for
13 transportation into any other state, or attempt so to do, knowing that
14 such fireworks are to be delivered, possessed, stored, transshipped,
15 distributed, sold, or otherwise dealt with in a manner or for a use
16 prohibited by the laws of such other state specifically prohibiting or
17 regulating the use of fireworks. A violation of this section is a
18 gross misdemeanor.

19 This section does not apply to a common or contract carrier or to
20 international or domestic water carriers engaged in interstate commerce
21 or to the transportation of fireworks into a state for the use of
22 ~~((federal))~~ United States agencies in the carrying out or the
23 furtherance of their operations.

24 In the enforcement of this section, the definitions of fireworks
25 contained in the laws of the respective states shall be applied.

26 As used in this section, the term "state" includes the several
27 states, territories, and possessions of the United States, and the
28 District of Columbia.

29 **Sec. 43.** RCW 70.77.520 and 1984 c 249 s 33 are each amended to
30 read as follows:

31 It is unlawful for any person to allow any ~~((rubbish))~~ combustibles
32 to accumulate in any premises in which fireworks are stored or sold or
33 to permit a fire nuisance to exist in such a premises. A violation of
34 this section is a misdemeanor.

35 **Sec. 44.** RCW 70.77.535 and 1994 c 133 s 14 are each amended to
36 read as follows:

1 (~~This chapter does not prohibit~~) The assembling, compounding,
2 use, and display of articles pyrotechnic or special effects (~~by any~~
3 ~~person engaged~~) in the production of motion pictures, radio or
4 television productions, or live entertainment (~~when such use and~~
5 ~~display is an integral part of the production and such person~~) shall
6 be under the direction and control of a pyrotechnic operator licensed
7 by the state of Washington and who possesses a valid permit from the
8 (~~local fire official~~) city or county.

9 **Sec. 45.** RCW 70.77.555 and 1995 c 61 s 26 are each amended to read
10 as follows:

11 (1) A (~~local public agency~~) city or county may provide by
12 ordinance for a fee in an amount sufficient to cover all legitimate
13 costs for all needed permits (~~and local~~), licenses, and
14 authorizations from application to and through processing, issuance,
15 and inspection, but in no case to exceed a total of one hundred dollars
16 for any one (~~year~~) retail sales permit for any one selling season in
17 a year, whether June 28th through July 5th or December 27th through
18 December 31st, or a total of two hundred dollars for both selling
19 seasons.

20 (2) A city or county may provide by ordinance for a fee in an
21 amount sufficient to cover all legitimate costs for all display
22 permits, licenses, and authorizations from application to and through
23 processing, issuance, and inspection, not to exceed actual costs and in
24 no case more than a total of five thousand dollars for any one display
25 permit.

26 **Sec. 46.** RCW 70.77.575 and 1995 c 369 s 57 are each amended to
27 read as follows:

28 (1) The chief of the Washington state patrol, through the director
29 of fire protection, shall adopt by rule a list of the consumer
30 fireworks that may be sold to the public in this state pursuant to this
31 chapter. The chief of the Washington state patrol, through the
32 director of fire protection, shall file the list by October 1st of each
33 year with the code reviser for publication, unless the previously
34 published list has remained current.

35 (2) The chief of the Washington state patrol, through the director
36 of fire protection, shall provide the list adopted under subsection (1)
37 of this section by November 1st of each year to all manufacturers,

1 wholesalers, and importers licensed under this chapter, unless the
2 previously distributed list has remained current.

3 **Sec. 47.** RCW 70.77.580 and 1995 c 369 s 58 are each amended to
4 read as follows:

5 Retailers required to be licensed under this chapter shall post
6 prominently at each retail (~~outlet~~) location a list of the consumer
7 fireworks that may be sold to the public in this state pursuant to this
8 chapter. The posted list shall be in a form approved by the chief of
9 the Washington state patrol, through the director of fire protection.
10 The chief of the Washington state patrol, through the director of fire
11 protection, shall make the list available (~~(the list)~~).

12 NEW SECTION. **Sec. 48.** A new section is added to chapter 70.77 RCW
13 to read as follows:

14 Civil proceedings to enforce this chapter may be brought in the
15 superior court of Thurston county or the county in which the violation
16 occurred by the attorney general or the attorney of the city or county
17 in which the violation occurred on his or her own motion or at the
18 request of the chief of the Washington state patrol, through the
19 director of fire protection.

20 NEW SECTION. **Sec. 49.** A new section is added to chapter 70.77 RCW
21 to read as follows:

22 In addition to criminal penalties, a person who violates this
23 chapter is also liable for a civil penalty and for the costs incurred
24 with enforcing this chapter and bringing the civil action, including
25 court costs and reasonable investigative and attorneys' fees.

26 NEW SECTION. **Sec. 50.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

--- END ---