

Wisconsin Department of Justice
Wisconsin Fireworks Law
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Dennis R. Krueger
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707
(608) 261-8116
kruegerdr@doj.state.wi.us

The possession, sale and use of fireworks in Wisconsin is strictly regulated by section 167.10 of the Wisconsin statutes. This advisory summarizes Wisconsin fireworks law and answers common questions and corrects common misunderstandings about the law. Please note that there were 2 revisions to section 167.10 in the 2007 Budget Bill. The first revision allows for the sale of fireworks to an individual or group of individuals who hold a valid permit. The second revision allows for the sale of fireworks to “a nonresident person.” The statute still requires that fireworks be sold only to individuals who hold a valid permit.

Local ordinances may also regulate fireworks and may be stricter than state law, but cannot be less strict. This advisory discusses only state law, so some devices or materials described as legal in this advisory may be prohibited by a local ordinance.

Legal Without A Permit

State allows the sale, possession and use, without a permit, of sparklers, stationary cones and fountains, toy snakes, smoke bombs, and caps, noisemakers and confetti poppers with less than $\frac{1}{4}$ of a grain of explosive mixture. Wis. Stat. § 167.10(1). There is no age restriction on sale, possession or use of these devices and the statute does not classify them as fireworks. Local ordinances may be more restrictive than state statutes and may prohibit any of these items or limit their sale or use. **These are the only kinds of “fireworks,” as that word is commonly used, that a person may use or possess without a permit or that may be sold to a person who does not have a permit.**

Illegal Without A Permit

Possessing or using any other fireworks, including, for example, firecrackers, roman candles, bottle rockets and mortars, without a valid permit is illegal. Wis. Stat. § 167.10(3). A commonly used rule of thumb is that a permit is required if the device explodes or leaves the ground. **The sale of restricted fireworks to a person without a valid permit is illegal.** Wis. Stat. § 167.10(2).

Conditions For A Valid Permit

Nearly all fireworks permits relied upon by buyers and users of fireworks in Wisconsin are not valid. Most of these permits fail for more than one reason. The requirements for a valid permit are contained in Wis. Stat. § 167.10(3)(a), (c) and (f) and are detailed below.

Permits issued or sold by fireworks vendors are invalid. A permit may *only* be issued by a mayor, village president or town chair or a municipal employee or official they have designated. Wis. Stat. § 167.10(3)(a). *An official may not delegate any part of the permit-issuing responsibility or authority to a vendor.* A permit given or sold by a vendor bearing either a printed, stamped or pre-signed signature of a local official in which the permittee's information is completed by the vendor or the buyer has not been issued by the official and is not valid, even if it purports to be issued on behalf of the municipality and even if the fees are remitted to the municipality.

A permit is valid only in the city, village or town of the official who issued it. A mayor, village president or town chair can only authorize possession or use of fireworks within their jurisdiction. Wis. Stat. § 167.10(3)(a). For example, a permit issued by the town chair of one town cannot and does not authorize possession or use of the fireworks in another town. A person that has a valid permit from one municipality may purchase fireworks in another municipality and transport them to the municipality in which the person has a permit. Wis. Stat. § 167.10(3)(b)7.

A permit may require a bond or insurance. Wis. Stat. § 167.10(3)(e). An official issuing a permit may require a bond or insurance policy to indemnify the issuing municipality for any damages that may result from the possession or use of the fireworks.

A permit may be issued to an individual or group of individuals. Permits, other than for crop protection, may be issued to a public authority, a fair association, an amusement park, a park board, a civic organization, an individual, or a group of individuals. Wis. Stat. § 167.10(3)(c).

A group with a permit may authorize an individual to make purchases on its behalf, but the permit must be in the name of the group. A person buying for a group should have both a copy of the group's permit and of the authorization by the group. A group may not issue a blanket authorization to all of its members to purchase on behalf of the group. *City of Wisconsin Dells v. Dells Fireworks, Inc.*, 197 Wis. 2d 1, 21, 539 N.W.2d 916 (Ct. App. 1995). The authorized buyer may only buy the kind of fireworks specified in the group's permits. The total quantity purchased by all authorized buyers on behalf of the group cannot exceed the quantity of fireworks authorized by the permit. The fireworks purchased on behalf of the group may only be possessed in the municipality which issued the group's permit, except while being transported from the point of sale to that municipality. The fireworks may only be used by the group on the date and location specified on the permit and subject to any other conditions on the permit.

A permit must specify the kind and quantity of fireworks allowed to be used or possessed. Wis. Stat. § 167.10(3)(f)3. The purpose of the fireworks statute is to allow municipalities to “carefully control the use and possession of fireworks within its boundaries.” *Dells Fireworks, Inc.*, 197 Wis. 2d at 21. The kind and quantity must be specified with enough detail to accomplish that. Specifying kind with broad categories, such as “consumer fireworks” does not satisfy this requirement. Note also that the term “Class C” fireworks no longer has any legal meaning. Any permit describing the kind of fireworks allowed only as “Class C” fireworks is invalid.

The quantity must be expressed by the number of each kind of fireworks, not by the dollar value of the fireworks. Dollars are a measure of value, not quantity.

A permit must specify the location at which the fireworks may be possessed or used. Wis. Stat. § 167.10(3)(f)4. As noted above, this location must be within the jurisdiction of the official who issued the permit. It must be a specific location within that jurisdiction, rather than the entire jurisdiction. The statute uses “location” in the singular. A permit that specifies multiple locations is not valid.

The permit must specify the date of the permitted use. The word “date” is in the singular in the statute. A permit that specifies multiple dates or a range of dates of permitted use is not valid. This, in combination with the specification of location, means that a separate permit is required for each date and location for which use is permitted.

The permit must specify the date on and after which the fireworks can be purchased. This is also a singular date, not a range of dates and it may be different from the date of permitted use.

A copy of the permit must be given to a fire or law enforcement official in the municipality which issued the permit at least two days before the date of use. Wis. Stat. § 167.10(3)(g).

The permit may contain additional restrictions. Wis. Stat. § 167.10(3)(f)5. A municipality may adopt ordinances imposing special restrictions, e.g. times or manner of use, distances from buildings or spectators, etc. and a permit may specify these additional restrictions.

Permits may not be issued to minors. Wis. Stat. § 167.10(3)(h). Since minors may not be issued fireworks permits there are no conditions under which it is legal for a minor to possess or use any fireworks except those allowed without a permit, e.g. sparklers, snakes, fountains, etc.

Non-residents must have a valid Wisconsin permit to purchase fireworks while in Wisconsin. It is sometimes mistakenly believed that sales to residents of other states are legal as long as the fireworks are not used in Wisconsin. A nonresident person may purchase and possess fireworks in Wisconsin, but only if the nonresident has a valid Wisconsin permit. A nonresident person without a valid Wisconsin permit may order

fireworks from a Wisconsin vendor. However, the fireworks must be shipped to the buyer by common carrier, contract carrier or private motor carrier. Wis. Stat. § 167.10(4), *State v. Victory Fireworks, Inc.*, 230 Wis. 2d 721, 602 N.W.2d 128 (Ct. App. 1999).

Possession of the fireworks cannot be transferred to an out-of-state buyer within Wisconsin unless the buyer has a valid Wisconsin permit. *Victory Fireworks, Inc.*, 230 Wis. 2d at 726-27. This means the buyer may not pick up the fireworks in Wisconsin; the seller must deliver or ship them to an out-of-state location. The seller may use a truck owned by the seller to deliver the fireworks.

Penalties

A person who possesses or uses fireworks without a valid permit, or who sells fireworks to a person who does not have a valid permit, is subject to a forfeiture of up to \$1,000 per violation. Wis. Stat. § 167.10(9)(b). Each firework illegally possessed, used or sold may be a separate violation.

A parent or guardian who allows a minor to possess or use fireworks (not including those for which no permits are required) is subject to a forfeiture of up to \$1,000 per violation. Wis. Stat. § 167.10(9)(c).

A city, village or town may obtain an injunction prohibiting a person from violating Wis. Stat. § 167.10(8)(a). Violations of such an injunction are criminal misdemeanors, subject to up to 9 months in jail and a \$10,000 fine. Wis. Stat. § 167.10(9)(a).

Enforcement

The statutes do not give the Department of Justice direct authority to enforce the fireworks law. Enforcement responsibility and authority rest with local law enforcement and district attorneys, or municipal prosecutors in the case of local ordinance violations.