

LEGISLATIVE COMMITTEE MINUTES

HB490

Bill as Introduced

HB 490-FN - AS INTRODUCED

2015 SESSION

15-0517

05/10

HOUSE BILL

490-FN

AN ACT

prohibiting the retail sale of reloadable aerial shell fireworks.

SPONSORS:

Rep. Cooney, Graf 8; Rep. Takesian, Hills 37

COMMITTEE:

Criminal Justice and Public Safety

ANALYSIS

The bill prohibits the retail sale of reloadable aerial shell fireworks.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT prohibiting the retail sale of reloadable aerial shell fireworks.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Fireworks; Retail Sale of Reloadable Aerial Shells Prohibited. Amend RSA 160-
2 B by inserting after section 16-c the following new section:

3 160-B:16-d Retail Sale of Reloadable Aerial Shells Prohibited; Penalty. The retail sale of
4 reloadable aerial shells shall be prohibited. In this section, "reloadable aerial shells" means any
5 consumer firework device that is individually fused, and designed to be inserted by the consumer
6 into a tube prior to firing. Any person who violates the provisions of this section shall be guilty of a
7 misdemeanor.

8 2 Definition of Permissible Fireworks. Amend RSA 160-C:1, V to read as follows:

9 V. "Permissible fireworks" means consumer fireworks, except for those items that are
10 prohibited pursuant to RSA 160-B:16, 160-B:16-b, [and] 160-B:16-c, **and 160-B:16-d.**

11 3 Effective Date. This act shall take effect January 1, 2016.

HB 490-FN - FISCAL NOTE

AN ACT prohibiting the retail sale of reloadable aerial shell fireworks.

FISCAL IMPACT:

The Department of Safety, Judicial Branch, and the New Hampshire Association of Counties state this bill, **as introduced**, may have an indeterminable impact on state expenditures, and may increase county expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no impact on local expenditures, or state, county, and local revenue.

METHODOLOGY:

The Department of Safety states this bill prohibits the sale of reloadable aerial shell fireworks. The Department states this bill could reduce state restricted expenditures as it would perform fewer investigations into accidents involving aerial shell fireworks as they would no longer be sold in retail stores.

The Judicial Branch states this bill contains an unspecified misdemeanor, which can either be a class A or class B, with the presumption being a class B misdemeanor. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the Branch has provided the potential costs associated with the penalties contained in this bill, where they can be determined, in the table below:

	FY 2016	FY 2017
<u>Judicial Branch*</u>		
Class B Misdemeanor	\$48	\$51
Class A Misdemeanor	\$69	\$71
*It should be noted average case cost estimates for FY 2016 and FY 2017 are based on data that is more than nine years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		

The New Hampshire Association of Counties states this bill could increase county expenditures by an indeterminable amount as a result of increased prosecution activity. However, the Association is unable to determine how many more individuals would be charged as a result of this bill.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 490-FN

BILL TITLE: prohibiting the retail sale of reloadable aerial shell fireworks.

DATE: 2/17/15

LOB ROOM: 204

Time Public Hearing Called to Order:

1:03

Time Adjourned:

2:18

(please circle if present)

Committee Members: Reps. Tholl, Welch, Fields, Fesh, Marston, Burt, S. Sweeney, , Barnes, Comeau, Fisher, Martin, Pantelakos, Berube, Robertson, Cushing, Hirsch, O'Hearne, Mangipudi and DiSesa.

Bill Sponsors: Rep. Cooney, Graf 8; Rep. Takesian, Hills 37

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Rep. Mary Cooney, Sponsor – supports

David Parenti, NH Assoc. of fire chiefs – support reloadable motor, dangerous, make sure motors are aimed properly, many times used, can tip over, different ones can be also sparks left. Case motors empty, reloadable motors are the problem. Pelham 2014, 12 injuries. Loudon, Nashua – serious injury.

Rep. Pantelakos – we these banned Bedford 2011, 2010 or 2011 – law changed.

Parenti – yes

Rep. Hirsch – data do you have per capita injured

Parenti – not reported no burn injury. These were ones they knew about.

George Rondell – Vietnam vet, I spent hrs training for these combat vet. People told them they hated them. Motor ones are intrusive Viet man.

Joe Cormier – just hear for motors at least control them. Vietnam vet. Fed. = illegal=legal=renters are the ones at fault. Out of staters are more problem to motors than locals. Fire danger high- could light up your lawn, liability, for permission only.

Jarrold Savinelli – co-owner of fantasy fireworks. Opposed bill, sparklers 51%. Reloadable shells by company impact on his businesses, before 2011 not purchased because of prolonged board.

Rep. Mangipudi – now many stores 27.

Jarrold – 27 stores since 2014 = you misuse products it can be dangerous. Safety pamphlets = make sure person knows before they leave store,, we don't want people hurt.

Michael Dapkos – opposed bill – gave out into pamphlet people misuse these products. NH injury happened = we took steps to help them to tell them how to use. We try to help. 2000 to now injury dropped nationally. 2300 injuries on sparklers. We have testing places for these. We have these in China = US training. He sells 300,000 every year.

Rep. Marston – how do we stop this in summer

Dapkos – what is the best time to use these, before 10pm.

Rep. Marston – is any law says not when in use.

Fireworks
Timeline

Dapkos – local times, are list what is allowed or not.

Rep. Robertson – if you have heavy equipment times to be used

Dapkos – these fireworks tested for consumers.

Rep. Mangipudi – probably what was used Boston Bomber.

Dapkos – internet can show you how to make a bomb.

Rep. Mangipudi – India lots of injuries.

Dapkos – lots of injuries, no training in India.

Rep. Christianson - fireworks in Pelham, was, put in a deck not safe, any town can out law fireworks. How much money used, fire marshal doesn't need to harass them. Let towns decide if use fireworks or not.

Rep. Dan Eaton – use fireworks 1980 bill for use we passed was doing this since he was 5 yrs. We are good NH regulations. We can't legislate common sense. Reloadable harm, penalties, town can use by town line, reckless conduct, DWI, disturbing peace 2 am morning. Class c fireworks are a group. Every season class b used in his town, found this ITL

*Steve Carbono, NH Fireworks Assoc. – opposed – we are tough on this issue, written material in folder. A poll = 65% legal vs. illegal. Reload motor = stay 150 ft. away. 1 gram less than would make that commercial. 1 3/4" it's hard to tell/the difference. How do you know what fireworks were used. Need permission to use or light these.

*Bill Degnon- state fire marshal- the industry has done pretty good, grab bags, tape short fuse damaged. Missile piece missing. If tip can hurt people. Motor = must be used in tube. Fuse damaged. These being sold to public and not being trained. Some newspaper articles, said these should be banned.

Rep. Burt – would you believe others do use in shipped to Conn.

Bill Degnon – yes.

*Dan Pearl – Youngstown Ohio.

Rep. Welch – if buy person doesn't know how to use fireworks is this a problem every where.

Dan Pearl – No

Christina Katsikas – Hooksett fireworks – opposed

Kevin Bloom – NH Liberty Alliance – opposed

Respectfully submitted,


Rep. Dennis Fields, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

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Page 1

TESTIMONY

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CARD 1

SPONSOR MARY COONEY = SUPPORT WRITTEN TESTIMONY, SUPPORT PROHIBITING RELOADABLE AERIAL SHELL FIREWORKS, SUPPORTED BY FIRE MARSHALL

CARD 2

DIVID PARENTI = SUPPORT RELOADABLE MOTOR, DANGEROUS, SUPPORT MAKE SURE MOTORS ARE RIMED PROPERLY, MANY TIMES USED CAN TIP OVER DIFFERENT OWES CAR BE ALSO SPARKS LEFT CASE MOTORS EMPTY, RELOADABLE MOTORS ARE THE PROBLEM 1x LAM 2004 12 INJURIES LAMDEN NASHUA = SERIOUS INJURY 9 REP PANTELAKOS = WE THESE BANNED BEFORE 2011, 2010 OR 2011 = LAW CHANGED A. PARENTI = YES, 9 = REP HIRSH = BUT DO YOU HAVE YOUR CAPITAL INJURED, A. = PARENTI = NOT REPORTED NO BURN INJURY, THESE WERE OWES THEY KNOW ABOUT

CARD 3

GEORGE ROWBOLL = VIETNAM VET, I SPENT WHS, TRAINING FOR THESE SUPPORT SIMBAT VETS, PEOPLE WHO THOM THEY HATED THEM, MOTOR OWES ARE EXTENSIVE VIETNAM

CARD 4

JOE CORMYER = JUST NEAR FOUR MOTORS AT LEAST CONTROL THEM, SUPPORT VIETNAM VET SON = ILLEGAL = LEGAL = ROWBOLL'S ARE THE OWES AT FAULT, OVER

Table 2 Joe Corrier
OUT OF STATES ARE MORE PROBLEM TO MOTORS THAN LOCALS,
Fire owners high = could light up you lawn
LIABILITY, FOR PERMISSION only

CARD 5 JARRED SPAINWELL = co-owner of Fantasy Fireworks
opposed BILL SPARKERS 51%

RELEASABLE SHELLS by company. IMPACT ON HIS BUSINESSES,
before 2014 NOT PURCHASED BECAUSE OF PROLAPSED BARREL

Q BY MANGIPUDI = How many stores 27

A. JARRED = 27 stores since 2014

You misuse PRODUCTS IT CAN BE DANGEROUS

SAFETY PAMPHLETS = make sure person knows before they leave store,
we don't want people hurt

CARD 6 MICHAEL DAPKOS = opposed BILL 2 GIVE OUT INFO PAMPHLET
People misuse these PRODUCTS

W.H. INJURY HAPPENED = we took steps to help them to tell
them how to use we try to help 2011 to now INJURY DROPPED

NATIONALLY 2300 INJURIES ON SPARKERS, we have TESTING PLACES
for these, we have these in CHINA & US TRAINING

He sells 300,000 every year

Q BY MARSTON = How do we stop this in summer

A = DAPKOS = WHAT IS THE BEST TIME TO USE THESE, BEFORE 10 PM

Q = MARSTON = IS ANY LAW SAYS NOT WHEN TO USE

A = DAPKOS = LOCAL TIMES, MAKE LIST WHAT IS ALLOWED OR NOT

Q = MR ROBERTSON = IF YOU HAVE HEAVY EQUIPMENT TIMES TO BE USED

A = DAPKOS = THESE FIREWORKS TESTED FOR CONSUMERS

Q = MR MANGIPUDI = PROBABLY WHAT WAS USED BOSTON BOMBER

A = DAPKOS = INTERNET CAN SHOW YOU HOW TO MAKE A BOMBER

Q = MR MANGIPUDI = IN INDIA LOTS OF INJURIES

A. DAPKOS = LOTS OF INJURIES, NO TRAINING IN INDIA

CARD 7 = MR LARS CHRISTIAN = FIREWORKS IN YETNAM
OPPOSED WAS PUT IN A DECK NOT SAFE. ANY TOWN CAN OUTLAW FIREWORKS,
How much money used, FIRE MARSHAL DOESN'T NEED TO HARRASS THEM
LET TOWN DECIDE IF USE FIREWORKS OR NOT

CARD 8 DAN ERTON = USE FIREWORKS. 1990 BILL FOR USE HE PASSED
DAN ERTON = HE HAS SINCE HE WAS 5 YRS OLD WE HAD A GOOD MN. REGULATIONS

WB 490 PM.

Page 3

CRIMINAL JUSTICE - SAFETY COMMITTEE

Rya = Epton = we cannot let common sense

Reliable team, Penalties, Towns can use Ban
Time Lines. Reckless conduct, DWI, Disturbance Peace
24hr, meaning

CLASS C FIREWORKS ARE A GROUP B every season CLASS B
USED IN NISYOWN. FIND THIS FTR

Card 9

Steve Carrawe = New Hampshire Fireworks Association

Opposer. We are tough on this issue,

WARRANT MATERIAL IN FOLDER

A Puh = 65% legal vs illegal

Relax motor = stay 150 FT away. Person less than would make
that commercial 1" 3/4 ITS HARD TO TELL THE DIFFERENCE

How do you know what fireworks were used?

Need permission to use or light these

Card 10

Bill DeGard = STATE FIRE MARSHAL

WALTER TESTIMONY. THE INDUSTRY HAS DONE

Pretty good, GRAB BAGS, TAPE SHORT FUSE DAMAGE.

Missile piece missing. IF TIP CAN KILL PEOPLE,

MOTOR = MUST BE USED IN TUBES FUSE DAMAGE.

These being sold to public and not being trained.

Some wrapped ratches, say these should be banned.

Rep = Burt = would you believe others do use in shipyard?

CINN.

Yes.

Be sure to march 3rd.

LOW TITLED NOT
D.L.O. (4)

Receipt

HB 490 FN CONTINUED HEARING ORDER 10:05 AM.

ADJ=

3/3/15

CRIMINAL JUSTICE - PUBLIC SAFETY COMMITTEE

OBAMA

DAN PEARL = YOUNGSTOWN OHIO.

BS PLAN FOR WRITTEN TESTIMONY.

Q: WELCH = IF ANY PERSON DOESN'T KNOW HOW TO USE

FRIDGES IS THIS A PROBLEM EVERYWHERE.

A: PEARL = NO.

OBAMA = HAVIN BLOOM = LIBERTY RELIANCE = OFFICE

Testimony

160-C:16 Emergency Removal from Retail Sale of Permissible Fireworks.

I. (a) The commissioner may, upon the recommendation of the state fire marshal or the director of state police, at any time and with notice to the permissible fireworks advisory committee, suspend from retail sale or otherwise order the removal from retail sale of any permissible firework item that poses an imminent threat to life and property.

(b) The commissioner shall, within 15 days of action taken pursuant to this paragraph, file a report and request a finding from the federal Consumer Product Safety Commission, a determination on the legal status of the permissible consumer firework item being suspended or removed by the commissioner from retail sale.

(c) The commissioner's suspension or removal of any such firework items shall continue in force and effect until such time as a determination can be made and shall not supersede any finding by the Consumer Product Safety Commission pursuant to the commissioner's report and request.

II. Upon notification by the commissioner or designee that a permissible firework is prohibited from being sold, a person licensed to sell permissible fireworks shall remove the item from the public sales area and shall not sell the item to any person.

III. Any person who sells a permissible firework item after being notified by the commissioner or designee that the item is prohibited from being sold shall be guilty of a class B misdemeanor. In addition, the commissioner may revoke the violator's license for a minimum period of 10 consecutive days, but not to exceed 30 days. On the third violation of this section, the commissioner shall revoke the license for the remainder of the licensure term.

IV. Any license holder aggrieved by the action of the commissioner pursuant to this section may appeal pursuant to RSA 541.

160-C:17 Fireworks Inspector.

There is hereby established in the office of the state fire marshal the full-time classified position of fireworks inspector. The fireworks inspector shall be under the direction and supervision of the state fire marshal and shall:

I. Inspect fireworks sales outlets.

I-a. Inspect sites and facilities for the display or storage of display fireworks, as defined in RSA 160-B:1, X.

I-b. Coordinate enforcement activities relative to illegal sales, including the disposal or proper storage of illegal fireworks.

IV. Develop an informational booklet on fireworks to be issued to police and fire agencies throughout the state.

V. Coordinate media releases and public education efforts concerning fireworks.

HB 490 Reloadable aerial shell fireworks Criminal Justice and Public Safety

02/17/2015 1:00 pm Public Hearing Rep. Mary Cooney, Grafton #8

We all come to Concord with different ideas about the role of government. Some would prefer to remove almost all government. Some would like to improve the way government works. My definition of the role of government is to provide infrastructure, both physical and regulatory, to ensure the safety and well being of all citizens.

This state is famous for a laissez-faire approach to personal safety. This works to the point until the risk is too great. NH has applied this approach to seat belts and motorcycle helmets. In some cases we have managed to maintain safety standards for some things such as yearly automobile inspections which could affect the safety of many other citizens in one's own car and other cars around you. NH police chiefs issue permits to carry concealed weapons with only the assurance of the owner that they know how to use and store a gun safely. Many professions require proof of competency for someone to pursue their practice. Driving a car is a right of all citizens but requires proof of competency. Consumer use of fireworks falls into the category where no proof of competency is required. Professionals operators do. I believe it is the duty of the government in this case to ban certain particularly dangerous fireworks in the interest of public safety.

Fireworks have been a part of celebrations all over the country, for Fourth of July and many other occasions. When used properly with skilled technicians they provide a beautiful and enjoyable show. Reloadable aerial artillery shell fireworks were banned for many years, but with the passage of HB 291 in 2011 160-B:16-a was repealed allowing them to be sold to the public. The consumer mortars are only 1 gram under the professional standards in order to make them legal to sell to the public. HB 291 made the duties of the permissible fireworks committee advisory only, and even made the previously *mandatory* safety instructions now only "available" to the consumer. It repealed 160-B:16-a which banned the retail sale of reloadable aerial artillery shells, and the statute relative to the fireworks inspector's duties.

There have been two bad accidents in Pelham in recent years which I do not wish to revisit. I have supplied a copy of one of the many articles which appeared at the time.

Reloadable mortars have proven to be particularly dangerous due to their design to reuse the firing shell many times. I know of a young man in Plymouth many years ago blew his thumb and first finger off with this type of reloadable shell.

Many people will testify that you just have to be careful and follow the instructions. This may be true except often people will purchase fireworks to celebrate a vacation at the lake or to add fireworks to any party. Too often these parties will involve a considerable quantity of alcohol which makes for a bad combination.

The Department of Safety in testimony last year reported that the U.S. Consumer Product Safety Commission reported in their 2011 Annual Fireworks Report that there were 900 injuries nation wide resulting from reloadable mortar aerial shells. I have provided copies of this information.

I am not familiar with operating fireworks so I will quote a person who is, and he was involved in one of the recent accidents:

"I believe that mortar shells are inherently much more dangerous than the other types of

fireworks that have been legal in NH for many years. Prior to the accident in July of 2012, I've used most of the legal fireworks products available for approximately 40 years without any accidents or injuries. The reason I believe mortar shells present such an increased risk of damage and injury is that once removed from the packaging (typically containing anywhere from 6 to 48 individual shells) you are left with a pile of explosives consisting of gunpowder covered by a thin layer of highly flammable paper. Unlike the larger "cake" style fireworks, where the explosive powder is still covered by the box-like cover after unwrapping, and the shells are contained within individual tubes, the mortar shells are completely exposed, without any intervening material, to any spark, fireworks that move in unpredictable directions (such as the spinners...) or any other source that generates enough heat or flame to ignite them." (Chris Pappathan from testimony in 2014 on HB336)

I have spoken to professionals who have told me, that for safety's sake, they would like to see them banned from consumer sales. You may be told that this is a business issue; that people will go to other states to get these particular shells. I have been told that these particular items constitute about 2 to 5% of the total sales. The effective date of this bill is the end of this year which should be time enough to sell off a retailer's current supply.

My last argument against reloadable aerial shells is about representing a number of Veterans who suffer from PTSD, at least one of whom will be testifying: When fireworks are used professionally, there is a specified time and place the display occurs. When consumers buy them they often use them at very random times and places. Some towns have hours and prohibitions of their use but this is hard to enforce. Some set them off at odd times, even in the middle of the night. These particular mortars mimic the artillery shells used by the military, and for some vets, puts them back in the war. I know a Vietnam Vet in Plymouth who has had great deal of stress in the past because students would set off fireworks right on his street late at night. This is just another factor which I think you should consider. I realize this bill has been heard before, but I believe it has been proven to be a public safety issue and a veterans consideration issue.

This bill is supported by the Department of Safety's Office of the Fire Marshall and the NH Association of Fire Chiefs. Thank you for your time.

From the file of HB 336 2014

9 FILE

This team of investigators has determined that this explosion and fire originated on the rear deck of the residence as corroborated through the scene inspection and interviews with witnesses. The scene inspection was able to determine that there were approximately 344 reloadable mortar shells or effects stored on the deck prior to the explosion. This number comes from the number of reloadable mortar kits/packages that were recovered from the fire pit and the interior room of the house where other consumer fireworks were being stored. No other fireworks were being stored on the open deck. Contributing factors relative to the explosion, fire and multiple injuries include:

- 1) All reloadable mortar shells purchased for the fireworks show had been unpackaged and stored openly and unprotected, separate from any of its original packaging, on the deck prior to the explosion.
- 2) The unprotected storage of reloadable mortars shells / effects was in close proximity to adult spectators and children on the deck. The majority of the people injured as a result of this fireworks explosion were located in the open deck area which is only approximately 14 feet long by 14 feet wide.
- 3) Reloadable mortar shells, once removed from their packaging have several inches of exposed fuse, and the material covering the pyrotechnic composition of each shell/effect can be compromised with little effort depending on each shells/effects construction.
- 4) This is only the second time reloadable mortars shells have been purchased / used for this event, but it was the first time they were stored in such a manner.
- 5) In his interview it was determined that a firework was ignited off on the rear deck stairwell railing just prior to the explosion.
- 6) It is unknown what the firework device actually was, but multiple witnesses describe a "spinner" type firework, being ignited off the rear of the deck (CID corner). The unidentified firework then flew over the deck, landing in the pile of reloadable mortar shells/effects stored on the deck.
- 7) Spinner type firework devices do not always have a controlled direction of flight, nor can it be predicted once ignited. Spinner type fireworks can emit a shower of sparks from the device while it is functioning, or flying through the air.
- 8) Safety information provided with the reload able mortar shell kits do not include information on how to properly handle or store a shell(s) once removed from the kit, or its packaging and they are not going to be immediately used. The included safety information provides detailed instructions on how to properly handle the shell and ignite it, including proper use/handling of the mortar tube, when it is intended to be fired immediately.
- 9) Based on the interviews with multiple witnesses, it is probable that the device that caused the explosion was not ignited from the ground area surrounding the deck.

No criminal intent is suspected in this incident. In the absence of any new information forthcoming, this firework related explosion and subsequent fire shall be classified as "accidental" and this report shall stand as final.



HB 490 prohibiting the retail sale of reloadable aerial shell fireworks

Mr. Chairman and Members of the Committee.
My name is Steve Carbone, President of Atomic Fireworks Inc. and proprietor of Carbone's Garden Center both located in Seabrook, NH. Chairman of the New Hampshire Fireworks Association (NHFA) and in the past appointed by the Governor to the NH permissible fireworks review committee for four consecutive terms. A business owner and resident of NH for 43 years. I am here today to speak as Chairman of the NHFA against HB 490

From 1976 to 2008 fireworks usage has increased 750% yet injuries have decreased 91%. No other consumer item can claim this. Increase snowmobile use and injuries if not deaths increase, same can be said for sports, bikes, cars, smoking, and your gas grill in the back yard, all are accepted risks with never a thought to outlaw those items or form committees to ban certain ones.

The American Fireworks Safety Laboratory (AFSL) which was founded by American Companies is located in China' AFSL developed stringent testing procedures and all consumer fireworks are tested before items are shipped to

the United States. The Consumer Product Safety Commission (CPSC) becomes involved in all safety aspect of consumer fireworks after they enter the United States

Under current law, the Dept. of Safety Commissioner has the power to remove any firework we currently sell if that item is faulty or of imminent danger.

If HB 490 becomes law this will not prevent the use of reloads in NH because they can easily be shipped into the state as they were in the past or NH residents will travel to Maine to purchase them. A fact most people do not realize is that consumers will travel hundreds of miles to purchase their fireworks. This happens all the time, we have many customers from CT, RI, MA, ME, VT, NY. NH dealers have a strong safety protocol in force at the store level and on their websites.

Wal-Mart and Target are considered anchor stores or destination stores meaning they are the main draw in a plaza and surrounding stores tend to feed off of their traffic. Every fireworks store in NH is a destination store but unlike Wal-Mart or Target we are a destination store for consumers that travel hundreds of miles coming from NY CT VT ME etc. The fact that our customers travel anywhere up to 6 or 7 hours to purchase fireworks from us is also a plus plus for NH. When they land at our fireworks stores they purchase fireworks with "out of state" money, then they need to get something to eat before they head back, and of course they have to gas up and don't forget the state liquor store because of the great savings. And many of

them stop and load up on cartons of cigarettes. If HB 490 passes these customers will bypass NH and go the extra 20 miles to Maine to get their fireworks and they will do their purchases in Maine. Over the past few years we have lost about 20% business because NH does not allow the sale of firecrackers and smoke balls which are sold in Maine and many other states. All across the state we have customers that also spend time visiting the Seacoast, lake regions etc. spending money and adding to the state coffers thru rooms and meals tax. This goes on thru out the year.

Reloadable fireworks are a minimum of 35% of NH fireworks sales with over 2 million shells sold in 2014.

If HB 490 becomes law NH stores will see a loss of business in the 50% range, leading to reduced hours for our hard working employees which in turn causes a loss of many different taxes to the state and a drop in our business profit tax.

We ask that you ITL HB 490

Sincerely yours,

Steven Carbone

Chairman

New Hampshire Fireworks Association

UNION LEADER EDITORIAL

JULY 9, 2014

Ban fireworks? Get serious

No cause for banning fireworks.

EDITORIAL

Another Independence Day fireworks injury, another public official calling for a ban on all fireworks. We wonder whether anyone really gets the meaning of Independence Day anymore.

After a couple of mishaps over the July 4 weekend, state Fire Marshal William Degnan has called for a state fireworks ban. Two men in Pelham were injured by a reloadable mortar device, and one of them sustained a serious hand wound. Two years ago, in the same neighborhood, 13 people were injured in an accident involving hundreds of exploding reloadable mortars. Degnan says it's time to ban them.

Reloadable mortars are dangerous. But the 2012 incident was hardly the fault of the devices. Someone had stored 344 of them on a deck, and an aerial spinner, a different firework, landed on them, setting them off. If there is a case to be made for banning them, these two accidents hardly make it.

But Degnan goes further. He wants to ban all fireworks. They're dangerous, he says. Well.

According to an April report by the Consumer Product Safety Commission, the average rate of fireworks injuries in the United States over the last 15 years has been 3.2 injuries for every 100,000 people. According to the Centers for Disease Control and Prevention, the average annual rate of traumatic brain injuries sustained in youth sports is 298 for every 100,000 people.

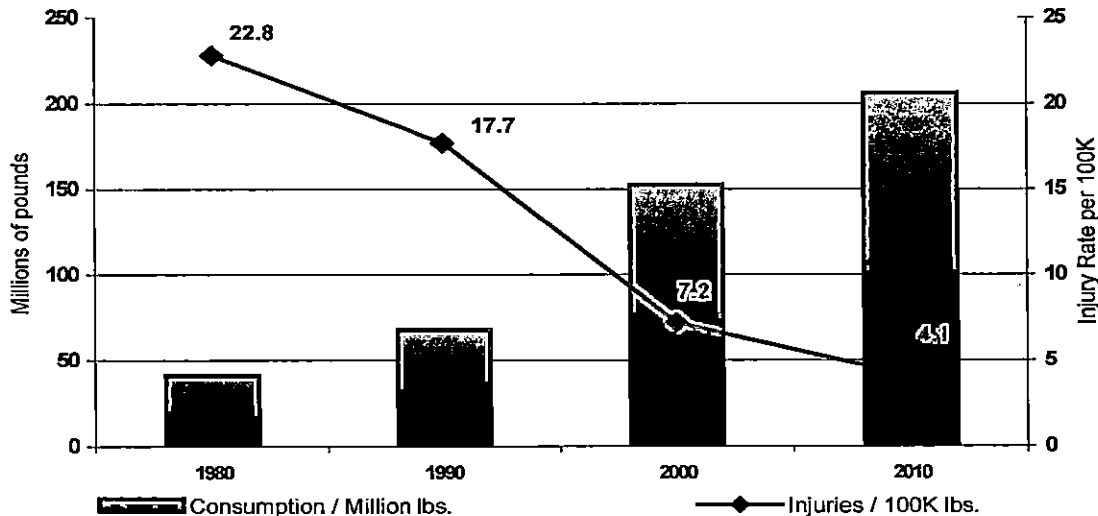
No serious person would advocate banning youth sports, which are vastly more dangerous than fireworks. And no serious person should advocate banning fireworks. Freedom is risky. But it's better than the alternative.



FIREWORKS-RELATED INJURY RATES CONTINUE TO DECLINE AS STATES LIBERALIZE LAWS

Consumption of fireworks in the United States has risen dramatically during the past three decades, from 41 million pounds in 1980 to over 207.5 million pounds in 2012. During this period of unprecedented growth, fireworks injuries have declined dramatically due to industry safety education efforts and the ever improving quality of its products.

Over the most recent decade, this downward injury trend continues even as an increasing number of states & municipalities have relaxed their consumer fireworks laws – in fact the injury rate was almost 57% lower in 2012 compared to 2000.



Legislative activity since 2000 liberalizing state fireworks laws

- | | |
|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Hand-held & ground based sparkling devices permitted: | <ul style="list-style-type: none"> 2000 Connecticut 2001 Maryland 2002 Minnesota 2002 Vermont (sparklers & novelties only) 2005 Georgia 2010 Arizona & Rhode Island |
| Recent changes to existing consumer fireworks laws: | <ul style="list-style-type: none"> 2011 Kentucky (full line) 2011 Utah (multiple tube cakes & repeaters) 2011 New Hampshire (reloadable devices) 2012 Maine (full line with some exceptions) 2012 Michigan (full line) |

There are only 4 states that maintain a total prohibition on all consumer fireworks (DE, MA, NJ, NY)

Source: American Pyrotechnics Association

RELOADABLE ARTILLERY SHELL SAFETY INSTRUCTIONS

This device is to be used no less than 150 feet from any occupied dwelling or spectator area.

Use only the launch tube supplied with your kit. NEVER TRY TO MAKE YOUR OWN LAUNCH TUBES USING ABS OR PVC PLASTIC PIPE.

Never use a damaged or wet launch tube.

Use launch tube on solid level ground. HDPE or Fiberglass tubes can be buried in a 5 gallon pail of sand or dirt $\frac{3}{4}$ buried.

Always make sure the area is clear of overhead obstructions.

Always keep artillery shells covered in box they are packaged in and away from spectator area when fired from launch tube area.

Never cut the string loop on the top of the shell that holds the fuse and keeps the shell in it's proper upright loading position.

Always load the shell into the launch tube first before lighting the fuse. Never ignite the shell outside the launcher.

Never force the artillery shell down the launch tube. Shell should drop down launch tube freely, with fuse exposed from the top of the launch tube.

Never load and fire more than one shell at a time from the launch tube.

Clean debris from launch tube after each firing.

Never have any part of your body over the loaded launch tube when lighting the exposed fuse.

After lighting the shell that is loaded in the launch tube move at least 40' from the launch area.

Always wait at least 2 minutes between reloading a new shell into an empty launch tube after firing.

If your kit comes with more than one launch tube, rotate the firing of each tube.

If shell fails to fire, never relight the fuse. Wait 20 minutes and then flood the tube with water. You can return the failed device back to us for an exchange or full refund.

Never experiment or take the shell apart.

For further safety information please go to our website at www.AtomicFireworks.net and click on the safety link.



State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

LEGISLATION POSITION NH DEPARTMENT OF SAFETY

HB 490: prohibiting the retail sale of reloadable aerial shell fireworks

Position: In favor

Dear Honorable Members of the Committee:

I would like to start out with some history of Permissible Fireworks and Reloadable Aerial Shells so we all have an understanding of what they are and what has happened since 1999.

History

The term "Permissible Fireworks" and RSA 160-C were created in legislation in 1999 (HB 346), and the legislation created a review committee which evaluated and made recommendations of which consumer type fireworks could be deemed "permissible" in New Hampshire.

In 2011, HB 291 changed the definition of "permissible fireworks", repealed RSA 160-B: 16-a (which prohibited the sale of reloadable aerial shells), and changed the requirement in RSA 160-C: 12 "Distribution of Pamphlet Required" from "provide" to "make available".

Reloadable Mortar Aerial Shells

160-B:16-e Retail Sale of Reloadable Aerial Shells Prohibited; Penalty. The retail sale of reloadable aerial shells shall be prohibited. In this section, "reloadable aerial shells" means any consumer firework device that is individually fused, and designed to be inserted by the consumer into a tube prior to firing. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

This is the same language that was contained in the repealed RSA 160-B: 16-a. Since being passed in 1999, RSA 160-B:16-a made it illegal for reloadable mortar shells to be sold to consumers. From 1999 until the statute was repealed in 2011, the Division of Fire Safety had not received any documented injuries or fire related incidents from these devices. On June 14, 2011, HB 291 became effective, and reloadable mortar shells were made available to consumers in our licensed retail establishments.

Related Incidents

On July 4, 2011 (20 days after the bill became effective) A New Hampshire family suffered injuries from an incident involving reloadable mortars. Although this incident occurred in Georgetown, Maine; all the fireworks that were purchased, including the reloadable mortars, were purchased from a NH licensed establishment. One adult male suffered minor injuries, while an 11 year old boy standing in the crowd suffered permanent injury to one of his eyes.

On July 3, 2012, thirteen people (8 adults and 5 children) suffered minor to serious injuries from an explosion involving reloadable mortar shells being stored inappropriately. Some of the injured were still receiving wound / burn care several months following the incident, and the impact associated with these injuries may include permanent disfigurement. The subsequent fire caused by the explosion caused approximately \$20,000.00 in property damage but health costs were well over \$500,000.00. Research done by Investigator David Burns of the U.S. Consumer Product Safety Commission found that this incident is one of the largest incidents involving consumer firework related injuries in the country.

On January 4, 2014, one person received severe burns and lacerations from a fireworks explosion in a car. The subject, in an attempt to kill himself in the vehicle, lit a mortar shell and threw the device into a box containing approximately 20 – 30 more devices located in the front passenger seat. The subject stated to local officials that he was blown out of the car.

On July 4, 2014, two people were injured when a reloadable mortar tube exploded from the shell being accidentally placed upside down in the mortar tube. One person suffered a traumatic injury to one hand and minor burns from the explosion. This individual was transported to a Boston trauma center for treatment. The second person involved received minor burns from the explosion.

On July 4, 2014, one person received burn and traumatic injuries from a triple break (multiple effects) reloadable mortar shell that was discharged in the victim's direction. The victim sustained burn injuries to his upper torso, as well as the effect penetrated and burned three holes in his left arm, shoulder and chest. These wounds looked very similar to gunshot wounds.

Safety Concerns:

These devices must be handled just like a professional style fireworks shell. These products do not have the same protections which are provided with a consumer fireworks cake or other similar device. Once a shell is removed from the initial package, the consumer is holding the exposed pyrotechnic device and has to hand load it into a mortar, just like a professional fireworks operator, and then light it. If loaded, discharged, handled or stored inappropriately, these devices could cause serious injury or even death.

1. Tube can tip over if not properly supported, ie: hard level ground, braced.
2. Multiple uses of tubes can weaken the tube and if not noticed by the homeowner a blowout of that tube occurs knocking it over into other tubes causing them to shoot into family, friends, homes, woods, etc.

3. If you buy different types of reloadable shells you cannot mix with other tubes or tube failure can occur.
4. If burning debris is still in the tube it will lite the fuse of the next shell and launch it without someone lighting the fuse.
5. A shell can be put in upside down and explode the tube shooting the shell across the ground.
6. A shell if laid down while a tube is being cleaned out comes in contact with any burning debris that was on the ground could ignite and travel in any direction.
7. If multiple tubes are set up the burning debris from one could set off another before it is lit.

The New Hampshire Association of Fire Chiefs requested this bill and the Department supports it.



State of New Hampshire

DEPARTMENT OF SAFETY
JAMES H. HAYES BLDG. 33 HAZEN DR.
CONCORD, N.H. 03305
603/271-2559

JOHN J. BARTHELMES
COMMISSIONER OF SAFETY

EARL M. SWEENEY
ASSISTANT COMMISSIONER

NH DEPARTMENT OF SAFETY

LEGISLATIVE POSITION PAPER

HB 336 SB ____ AS INTRODUCES (X) AMENDMENT NO. ____

The Department of Safety supports HB 336.

History

The term "Permissible Fireworks" and RSA 160-C was created in legislation in 1999 (HB 346), and the legislation created a review committee which evaluated and made recommendations of which consumer type fireworks could be deemed "permissible" in New Hampshire. The committee was comprised of legislators, retail fireworks industry and public safety.

In 2011, HB 291 changed the definition of "permissible fireworks", repealed RSA 160-B: 16-a (which prohibited the sale of reloadable aerial shells), and changed the requirement in RSA 160-C: 12 "Distribution of Pamphlet Required" from "provide" to "make available".

House Bill 336 Break Down

Reloadable Mortar Aerial Shells

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During the public hearing for HB 291 of 2011 session the State Fire Marshal testified in opposition to the change and when he stated national statistics the committee said you don't have New Hampshire statistics. The reason we did not have any was that these explosive devices had not been legal to possess and use by untrained individuals.

See pg. 2

See H. R. 2014

Related Incidents specific to New Hampshire

On July 4, 2011 (20 days after the bill became effective) A New Hampshire family suffered injuries from an incident involving reloadable mortars. Although this incident occurred in Georgetown, Maine; all the fireworks that were purchased, including the reloadable mortars, were purchased from a NH licensed establishment. One adult male suffered minor injuries, while an 11 year old male in the standing in the crowd suffered permanent injury to one of his eyes.

On July 3, 2012, 13 people (8 adults and 5 children) suffered minor to serious injuries from an explosion involving reloadable mortar shells being stored in preparation for the evening backyard show. Some of the injured were still receiving wound / burn care several months following the incident, and the impact associated with these injuries may include permanent disfigurement. The subsequent fire caused by the explosion caused approximately \$20,000.00 in property damage to the family's residence.

Safety Concerns: -

These devices must be handled just like a professional style fireworks shell. These products do not have the same protections which are provided with a fireworks cake or other similar device. Once removed from the initial package, the consumer is holding the exposed pyrotechnic device and has to hand load it into a mortar, just like a professional fireworks operator, and then light it. If loaded, discharged, handled, or stored inappropriately, these devices could cause serious injury or even death.

National Injury Statistic

The U.S. Consumer Product Safety Commission reported in their 2011 Annual Fireworks Report, released in June 2012, reported that there were 900 injuries nation wide resulting from reloadable mortar aerial shells. The head, face, hands and fingers are the areas of the body most commonly injured.

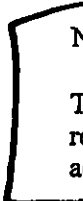
Helicopters, Aerial Spinners

160-B:16-d Retail Sales of Helicopters, Aerial Spinners or Similar Devices Prohibited; Penalty. The retail sales of any helicopter, aerial spinner, or similar device shall be prohibited. In this section, "helicopter, aerial spinner, or similar device" means any consumer firework device containing not more than 20 g of chemical or pyrotechnic composition, which may have a propeller, blade, or wing attached and upon ignition is designed to rapidly spin or otherwise launches itself into the air. A visible or audible effect may be produced by the device. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

On June 2, 2010, Commissioner Barthelmes, based on the recommendation of the NH Permissible Fireworks Review Committee, made these devices non-permissible and ordered them removed from our licensed stores effective December 31, 2010. The NH Permissible Fireworks Review Committee concluded that these were a safety and environmental hazard. The law change in June of 2011 made these items permissible by definition.

Related Incidents:

On July 3, 2012, 13 people (8 adults and 5 children) suffered minor to serious injuries from an explosion involving reloadable mortar shells being stored in preparation for the evening backyard show. The device which was identified as the cause of the incident was an unpredictable aerial spinner; however the exact device could not be identified.



2012

Safety Concerns:

One of the largest problems with these devices is that their flight path, once ignited, is completely unpredictable. Many devices are intended, at the time of manufacture to shoot straight up in the air, but after packaging, shipping and handling, even the slightest unintentional change in its structure could dramatically change its flight path. These devices, once discharged, may also not be readily recovered by a consumer due to the distance or direction they travel, which could result in fireworks debris remaining on the ground or into a neighbor's property. This could be dangerous to pets, other wild animals or live stock.

Parachute Devices

160-B:16-f Retail Sale of Parachute Aerial Devices Prohibited; Penalty. The retail sale of parachute aerial devices shall be prohibited. In this section, "parachute aerial device" means any consumer firework device that is designed to launch a parachute aerial effect into the air and float back to the ground, which may have a pyrotechnic, smoke or other similar effect attached to the parachute. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

On June 2, 2010, Commissioner Barthelmes, based on the recommendation of the NH Permissible Fireworks Review Committee, made these devices non-permissible and ordered them removed from our licensed stores effective December 31, 2010. The NH Permissible Fireworks Review Committee concluded that these devices were a fire and safety hazard. The law change in June of 2011 made these items permissible by definition.

Related Incidents

On September 14, 2005, the Concord Fire Department responded to a brush fire on the campus of the NH Fire Academy caused by a parachute device being fired off during the NH Permissible Fireworks Review Committee meeting.

On July 3, 2012 the (same date, but unrelated to the 13 injured) Pelham Fire Department responded to a local resident that had sustained a burn injury to his eye while watching a parachute device burn while returning to the ground.


Safety Concerns

As identified in the two related incidents, these unpredictable devices pose a fire safety hazard to any property they are used on, or any structure they are used near. These devices are fired into the air and then float back to the ground with normally a sparking / flaming, or smoke generating device, any of which could easily start a fire or cause an injury. These devices do not have a specific path of travel and may land in trees, on roof tops or in wet lands or bodies of water.

Safety Information

160-C:12 Distribution of [Pamphlet] Safety Information Required. Any person engaged in selling permissible fireworks shall [make available] provide to the purchaser a pamphlet, approved by the commissioner, detailing the appropriate and safe use of the permissible fireworks being sold. Anyone who violates the provisions of this section shall be guilty of a violation.

Prior to the law change in 2011, RSA 160-C:12 required that all licensed sales establishments "provide" safety information to each consumer with their purchase. This requirement ensured that each consumer was leaving one of our licensed stores with relevant safety information. In 2011, the law changed it to "make available". If the intent of the law is minimizing personal injury and property damage, the State



needs to ensure that each consumer is provided this information with every purchase, just not made available at the cash register, or sitting on a counter.

New Hampshire Fireworks Injury Information

Without a burn injury reporting requirement, it is extremely difficult for the Department to track permissible firework related injuries, and the types of devices by which they are caused. The reporting system currently relies solely on individuals or organizations voluntarily reporting these injuries or incidents to the Department.

On July 3, 2012, New Hampshire fire departments reported to the division three separate incidents involving permissible consumer fireworks, which resulted in a total of 18 injuries. The devices involved were reloadable mortars, aerial spinners, parachutes and sparklers.

NH Department of Health and Human Services, Health Statistics and Data Management Section reported children under age 14 make up 20% of fireworks related injuries. While the percentage for this age group decreased in 2006 and 2007, the percentage for fireworks related injuries in 15-24 year old and 25-34 year olds increased. There are also no statistically significant changes in fireworks-related injuries percentages from year to year. The counts for the events by age group are very small, so these changes do not hold statistical significance. Late June and July make up 66% in which the fireworks-related injury occurred, when reviewing the data by the month. July making up 54% of fireworks-related injuries between years 2001 and 2007. This data does not reflect the injuries that are treated by a doctor's office.

* Source of Information from NH-DHHS

Total number of all emergency room and inpatient discharges for fireworks cared for in NH hospitals from 2001 to 2007, which were reported

2001 - 20	2005 - 19
2002 - 21	2006 - 19
2003 - 17	2007 - 14
2004 - 20	

* Source of Information from DHHS on years 2008 thru 2011 have not been received.

This bill will return the use of permissible fireworks in New Hampshire to the 2010 status. By removing the reloadable shells it reduces the significant risk to the use by untrained individuals.

APPROVED:

Earl M. Sweeney

ASSISTANT COMMISSIONER



Marshal mulls firework ban

Reloadable mortars have caused injuries

By ANN MARIE JAKUBOWSKI
Monitor staff

William Degnan has seen 38 July Fourth celebrations come and go since he began his career in fire services. He took over as state fire marshal

10 years ago, and recently he has become more convinced that certain types of fireworks should no longer be legal.

"There needs to be some sanity brought back to this issue," he said.

Degnan is specifically concerned about reloadable mortar fireworks, which caused a severe hand injury to a Pelham man last weekend. This

type of firework was banned by statute in New Hampshire until 2011, when a movement in the Legislature significantly reduced regulation on fireworks. Before then, a committee of fireworks industry representatives, public safety officials and members of the state House and Senate would examine each type of firework that stores wanted to sell and

vote to approve or disapprove them, he said.

Since their legalization, Degnan said reloadable mortars have caused two injuries in 2011, 13 in 2012, one in 2013 and two in 2014.

"Each and every time I see the pain and anguish that a family goes through when

See **FIREWORK - A2**

FIREWORK Continued from A1

they have an injured family member; that's the driving force for why I feel compelled to make people aware that there's a way to reduce the risk," he said. "There are still other fireworks they can have that will put on a great show but at a lesser risk of injury."

Reloadable mortar fireworks can be especially dangerous because the user needs to assemble the pieces before firing them, Degnan said.

"First of all, the tubes need to be set up on a solid, firm surface so they're supported," he said. "Then you have to load them correctly. If you put the explosive in upside down, you could blow up the tube and have shrapnel from it, or you could have a tube tip over and fire the explosive directly at the spectators."

Lack of training

The incident in Pelham was reportedly caused by an explosive inserted upside down in the tube.

The general public should not use reloadable mortar fireworks because most people lack the training that licensed pyrotechnicians have, Degnan said.

"Those who do the display shows are licensed and trained. They know how to do this," he said. "Would you drive a car without a license? There might be danger driving any vehicle, but you have to have a license first. It's basic safety."

He said he would support a statewide ban on reloadable mortar fireworks, but there is currently no legislation being pursued.

"Reloadable mortars are consistently in the top three types of fireworks for injuries in the United States," he said. "Now, unfortunately, we've got several families that have had significant injuries to family members, and that impacts health care, loss of work, cost of emergency response. . . . It does have an impact on the state."

Concord fire Chief Dan Andrus said the city had very few July Fourth emergency calls between 2011 and 2013 and no serious firework-related injuries recently. He credited both responsible firework users and the city officials who organize the official Independence Day celebration for the good track record.

"The city of Concord really offers an alternative to backyard fireworks that you just can't begin to replicate," he said. "And not only a fireworks display, but a whole day of activities that attract a bunch of people. That

helps reduce the number of amateur fireworks set off here."

The city has "been very lucky" to avoid serious accidents in recent years, but Andrus said he would stand behind Degnan if the fire marshal wanted to ban reloadable mortars.

"The fire marshal has had two incidents in two years now that involve the same device," Andrus said. "We'd like to have discussions about it, but it's really too early to say what will come of it."

Cities have authority

In New Hampshire, local city and town governments have the authority to ban or regulate firework use with local ordinances. Before his department would bring forward specific proposals to the city council, Andrus said they would need to make a strong case for why the reloadable mortars are more dangerous than other kinds and why the council needs to take action. At this time, they're not prepared to make a statement about it, but Andrus said he looks forward to discussing it with Degnan and learning more about the issue.

Degnan said safety is the top priority, and there are other measures that could be taken at the local level to keep users safe if a statewide ban isn't feasible. Local committees could organize a process for users to apply for permits to be sure they have the proper training before using reloadable mortars, he said, but that would be logistically impossible to coordinate at the state level.

Ban all fireworks?

He said ideally, he would like to see a ban on all consumer fireworks, which would include everything except the official displays executed by professionals, even though he recognizes that a total ban would be unrealistic.

No matter what the law is, fireworks need to be taken very seriously as a matter of public safety, Andrus said.

"These are not toys. These are explosives," he said. "My advice is just to keep kids away from this stuff. I'm appalled when I hear stories about children getting injured across the country every year. You wouldn't give your child gunpowder or a hand grenade, so why would you give them a firework?"

(Ann Marie Jakubowski can be reached at 369-3302 or ajakubowski@cmonitor.com or on Twitter @AMJakubowski.)

PELHAM

2 injured in July 4th fireworks accident

New Hampshire officials said two people were injured – one of them severely – in a fireworks accident Friday in Pelham.

Authorities are not immediately releasing the names of the injured adults. State Fire Marshal William Degnan and Pelham fire Chief James Midgley said one of the adults was transferred to Massachusetts General Hospital.

Midgley said the incident

involved “reloadable mortar” fireworks – the same model that sent 13 people to the hospital after an explosion in Pelham on July 3, 2012.

Officials said the investigation into Friday’s explosion is just beginning.

Degnan said people should attend professional displays rather than risk using the potentially deadly fireworks that are legal in New Hampshire.

The U.S. Consumer Product Safety Commission reported that fireworks caused 11,400 injuries in 2013.

Associated Press

B.J. ALAN COMPANY

Distributors of Phantom® and Wolf Pack® Brand Fireworks

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555 Martin Luther King, Jr. Blvd.
Youngstown, Ohio 44502-1102
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March 3, 2015

House Criminal Justice and Public Safety Committee
107 North Main St.
Concord, NH 03301
Re: HB 490 *An Act Prohibiting the Sale of Reloadable Aerial Shell Fireworks*

Dear Chairman Tholl, Vice-Chairman Welch and members of the committee,

My name is Danial Peart, Director of Showroom Operations for Phantom Fireworks, the nation's leading retailer of 1.4g consumer fireworks. Phantom Fireworks has 69 permanent showrooms across 15 states, and has operated in New Hampshire for more than 20 years. Thank you for the opportunity to address your committee today regarding House Bill 490, *An Act Prohibiting the Sale of Reloadable Aerial Shell Fireworks*.

The topic of which consumer fireworks should be legal for sale in New Hampshire is one that has been widely discussed in the last two years. In fact, today's committee hearing marks the fourth time fireworks legislation has been discussed in New Hampshire since January 29, 2013, when HB 336, *An Act Prohibiting the Sale of Certain Fireworks Devices* had its initial public hearing.

As with any piece of new legislation, the first question that must be asked is "what is the basis for the proposed legislative change?" Drawing on past experiences, the impetus seems to be that "federal government should not dictate what should be sold in New Hampshire."

The fact of the matter is that the Federal Government, nor its standards, dictate what fireworks are legal for sale in New Hampshire or any state in the country. The Federal Government governs consumer fireworks by way of composition weight, and develops the criteria necessary to import consumer fireworks into the country.

States that allow consumer fireworks sales can be grouped into two categories: states that allow only ground-based consumer fireworks and novelties, and states that allow the full line of consumer fireworks. Those states that allow the full line of consumer fireworks typically do not ban certain categories when doing so. To my knowledge, those provisions are unique to Nebraska, New Hampshire and Maine. (Maine opened up to consumer fireworks sales and use in 2011, and modeled its law after New Hampshire due to comfort and familiarity)

Pennsylvania, Ohio, Michigan, Indiana, Tennessee, Kentucky, Florida, Wisconsin, Missouri, New Mexico, South Carolina, North Dakota, Wyoming, Nevada and Texas, fifteen (15) states in all, are examples of states that do permit the full line of consumer fireworks to be sold, and do so without such wholesale restrictions on the categories of fireworks allowed.

New Hampshire's fireworks statute details a provision that allows for the emergency removal of any "consumer fireworks that pose an imminent threat to life or property" by the Commissioner of Safety. The statute reads as follows (copy attached):

160-C:16 Emergency Removal From Retail Sale of Permissible Fireworks.

I. (a) The commissioner may, upon the recommendation of the state fire marshal or the director of state police, at any time and with notice to the permissible fireworks advisory committee, suspend from retail sale or otherwise order the removal from retail sale of any permissible firework item pose an imminent threat to life and property.

(b) The commissioner shall, within 15 days of action taken pursuant to this paragraph, file a report and request a finding from the federal Consumer Product Safety Commission, a determination on the legal status of the permissible consumer firework item being suspended or removed by the commissioner from retail sale.

(c) The commissioner's suspension or removal of any such firework items shall continue in force and effect until such time as a determination can be made and shall not supersede any finding by the Consumer Product Safety Commission pursuant to the commissioner's report and request.

II. Upon notification by the commissioner or designee that a permissible firework is prohibited from being sold, a person licensed to sell permissible fireworks shall remove the item from the public sales area

and shall not sell the item to any person.

III. Any person who sells a permissible firework item after being notified by the commissioner or designee that the item is prohibited from being sold shall be guilty of a class B misdemeanor. In addition, the commissioner may revoke the violator's license for a minimum period of 10 consecutive days, but not to exceed 30 days. On the third violation of this section, the commissioner shall revoke the license for the remainder of the licensure term.

IV. Any license holder or certificate holder aggrieved by the action of the commissioner pursuant to this section may appeal pursuant to RSA 541.

In the thirteen years that I have worked for Phantom Fireworks, this authority has not been exercised once. In 2011, HB 291 was passed and expanded the types of fireworks allowed to be sold and used in New Hampshire. Reloadable aerial shells were among those newly legalized items in 2011, and subsequently proposed for a statutory ban in 2013 pursuant to HB 336. HB 336 was unanimously voted “inexpedient to legislate” in the Criminal Justice and Public Safety Committee on September 18, 2013, and upheld through a unanimous voice vote on the floor of the House without debate or discussion.

Last year, *HB 1241 An Act Relative to the Sale of Consumer Fireworks*, was introduced and sought to create a “Permissible Fireworks Board,” and give that board the authority to, again, circumvent the authority of the Commissioner of Safety and determine what items should be legal for sale and use in the state. HB 1241 was a word-for-word copy of an amendment to HB 336.

Reloadable aerial shells, nor any other consumer fireworks, have been declared an imminent threat to life and property by the Commissioner of Safety and subjected to his emergency removal authority. However, HB 336 (2013), HB 1241 (2014), and now HB 490 have all been proposed to eliminate certain types of consumer fireworks in New Hampshire; all of this absent any qualification or data as to why they should be removed. Where is the imperative for this multi-year strategy to alter the consumer fireworks industry in New Hampshire?

The AFSL (American Fireworks Standards Laboratory) is a third-party agency that tests consumer fireworks at the factory level in China to ensure compliance with the conformity requirements of the CPSC (Consumer Product Safety Commission) CPSIA (Consumer Product Safety Improvement Act). The AFSL’s test standards are widely recognized in the fireworks industry and hailed by the CPSC for going above and beyond

the testing protocol prescribed by the CPSC.

In 2014, the AFSL tested eight million (8,000,000) cases of consumer fireworks. 13%, or 1,040,000 cases, were reloadable aerial shells. If you take industry averages, 7 shell reloadable kits packed 12 to a case, that implies 87,360,000 reloadable aerial shells fired each year that have been tested by the AFSL. It should also be mentioned that the AFSL is only one, third party testing agency. There are several recognized by the CPSC, so the numbers mentioned above can be considered as the floor.

There have been no instances in New Hampshire to suggest that any one category of consumer fireworks is more dangerous than another, yet the basis for this bill is that "New Hampshire needs the authority to regulate fireworks based on what they know is best for them." If that is the case, then New Hampshire's fireworks industry would appreciate those that support this bill sharing with us what is known to suggest that additional regulation is needed.

At Phantom, we feel strongly that fireworks safety should be the lynchpin of everything that we do, and we preach as much at every level of our organization. The fireworks we sell, the buildings we build and the messages we deliver to our customers are all centered around fireworks safety. To pass HB 490 absent any quantifiable substantiation sends the message that legislation is enacted or repealed based on nothing more than personal preference. Nothing that has been brought before this committee, or any other, stands as definitive when suggesting that anything in current statute is ineffective or unsafe. I urge you to vote against HB 490.

Thank you for your time, I am,

Very Truly Yours,

Danial Peart, Director of Showroom Operations



STATELINE FIREWORKS

603.239.3500

151 Keene Road, RT10,
Winchester, NH

RELOADABLE ARTILLERY SHELL SAFETY INSTRUCTIONS

Find more information and helpful downloads on our site.

- This device is to be used no less than 150 feet from any occupied dwelling or spectator area.

- Use only the launch tube supplied with your kit. NEVER TRY TO MAKE YOUR OWN LAUNCH TUBES USING ABS OR PVC PLASTIC PIPE.

- Never use a damaged or wet launch tube.

- Use launch tube on solid level ground. HDPE or Fiberglass tubes can be buried in a 5 gallon pail of sand or dirt $\frac{3}{4}$ buried.

- Always make sure the area is clear of overhead obstructions.

- Always keep artillery shells covered in box they are packaged in and away from spectator area when fired from launch tube area.

- Never cut the string loop on the top of the shell that holds the fuse and keeps the shell in it's proper upright loading position.

- Always load the shell into the launch tube first before lighting the fuse. Never ignite the shell outside the launcher.



- Never force the artillery shell down the launch tube. Shell should drop down launch tube freely, with fuse exposed from the top of the launch tube.

- Never load and fire more than one shell at a time from the launch tube. Clean debris from launch tube after each firing.

- Never have any part of your body over the loaded launch tube when lighting the exposed fuse.

- After lighting the shell that is loaded in the launch tube move at least 40' from the launch area.

- Always wait at least 2 minutes between reloading a new shell into an empty launch tube after firing. If your kit comes with more than one launch tube, rotate the firing of each tube.

- If shell fails to fire, never relight the fuse. Wait 20 minutes and then flood the tube with water. You can return the failed device back to us for an exchange or full refund.

- Never experiment or take the shell apart.



NHPYRO.com/SAFETY.html



STATELINE FIREWORKS

603.239.3500

151 Keene Road, RT10,
Winchester, NH

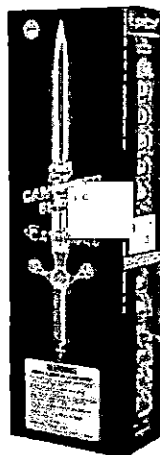


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The #1 selling artillery shell of all time! The Excalibur has been wowing fireworks enthusiasts of all ages for the last decade and will continue to wow them for years to come. 24 of the best quality canister shells on the market and bundled with high-density polyethylene (HDPE) tubes.



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Each box contains a great variety of 12 different 40 gram single break ball artillery shells. All 12 shells contain great crackling dragon tails that follow each sky as they rise into the air. Each shell rises to over 150 feet and breaks with some of the best symmetry you will see in a 1.75 inch commercial grade shell.

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Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 490-FN

BILL TITLE: prohibiting the retail sale of reloadable aerial shell fireworks.

DATE: 3/3/15

LOB ROOM: 204

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Burt

Seconded by Rep. Welch

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.


Seconded by Rep.

Vote: 16-5 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Dennis Fields, Clerk

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Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. BAAT

Seconded by Rep. WELCH

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep. Dennis Fields, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/8/2015 1:43:23 PM
Roll Call Committee Registers
Report

2015 SESSION

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: 490-FN Title: _____

PH Date: 2/17/15 Exec Session Date: 3/3/15

Motion: ITK Amendment #: _____

MEMBER	YEAS	NAYS
Tholl, John E., Chairman	1	
Welch, David A., V Chairman	1	
Fields, Dennis H., Clerk	1	
Fesh, Robert M.	1	
Marston, Dick	1	
Burt, John A.	1	
Sweeney, Shawn P.	1	
Barnes, Arthur E.		1
Comeau, Ed	1	
Fisher, Robert Z.	ABSENT	
Martin, John F.	1	
Pantelakos, Laura C.	1	1
Berube, Roger R.	ABSENT	
Robertson, Timothy N.		1
Cushing, Robert R.		1
Hirsch, Geoffrey D.	1	
O'Hearne, Andrew S.	ABSENT	
Mangipudi, Latha D.		1
DiSesa, Len	1	
TOTAL VOTE:	YEAS 10	5 NAYS

Committee Report

REGULAR CALENDAR

March 4, 2015

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB490-FN,

AN ACT prohibiting the retail sale of reloadable aerial shell fireworks. Having considered the same, report the same with the following Resolution: **RESOLVED**, That it is **INEXPEDIENT TO LEGISLATE**.

Rep. John A. Burt

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	CRIMINAL JUSTICE AND PUBLIC SAFETY
Bill Number:	HB490-FN
Title:	prohibiting the retail sale of reloadable aerial shell fireworks.
Date:	March 4, 2015
Consent Calendar:	NO
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The Majority of the committee agreed that this bill is not needed. NH towns and cities currently have the power to make local ordinances on fireworks. This bill was for one incident that was the home owners fault.

Vote 10-6.

Rep. John A. Burt
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB490-FN, prohibiting the retail sale of reloadable aerial shell fireworks. **INEXPEDIENT TO LEGISLATE.**

Rep. John A. Burt for **CRIMINAL JUSTICE AND PUBLIC SAFETY**. The Majority of the committee agreed that this bill is not needed. NH towns and cities currently have the power to make local ordinances on fireworks. This bill was for one incident that was the home owners fault. **Vote 10-6.**

Blurb HB 490-FN

ITL

RC 10-6

2015 Session

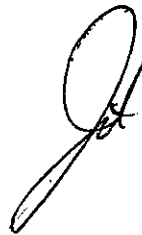
3/03/2015

AN ACT prohibiting the retail sale of reloadable aerial shell fireworks.

Rep John Burt for the majority of Criminal Justice and Public Safety:

The Majority of the committee agreed that this bill is not needed. NH towns and cities currently have the power to make local ordinances on fireworks. This bill was for one incident that was the home owners fault.

Sincerely,
NH Representative
John A. Burt
Goffstown

A handwritten signature in black ink, appearing to be 'John A. Burt', written in a cursive style.

COMMITTEE REPORT

COMMITTEE: Criminal Justice

BILL NUMBER: 490 FN

TITLE: _____

DATE: 3/3/15 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

e-mailed

COMMITTEE VOTE: 10 yeas 6 nays 10-6

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,
Rep. *John A. Bonar*
For the Committee