

(S. B. 1476)

(No. 153)

(Approved August 8, 2006)

AN ACT

To amend Sections 1, 2, and 3 and to add Sections 5, 6 and 7 to Act No. 83 of June 25, 1963, as amended, known as the “Puerto Rico Pyrotechnics Act,” in order to update its provisions, increase the penalties and update the inventory of approved and illegal products.

STATEMENT OF MOTIVES

Act No. 83 of June 25, 1963, as amended, known as the “Puerto Rico Pyrotechnics Act,” regulates approved and illegal pyrotechnic products in this country and at the same time provides the guidelines, fines and penalties with respect to mismanagement of such items.

In the last thirty-three (33) years, the Puerto Rico Police, the body in charge of the enforcement of the provisions of this Act, has found that as years go by and with the clandestine evolution and distribution of illegal pyrotechnic material, it is necessary to update said Act to increase the list and the pyrotechnic components that are cataloged at both the state and federal levels.

It is also necessary to increase the penalties for the massive trafficking and illegal use of pyrotechnic products, to update the products that are no longer illegal because they have quality control safeguards, to establish mechanisms for the legal sales of the products so that the applicable taxes are paid, and to eradicate the illegal sale of such products.

At present, approximately one hundred thousand (100,000) pounds of illegal material divided into some three million sixty-four thousand seven

hundred thirty-seven (3,064,737) pieces of illegal pyrotechnics with an estimated market value of ten million dollars (\$10,000,000) have been seized.

Each year, the Puerto Rico Police seizes around twenty-five thousand (25,000) pounds of pyrotechnic material, which represents approximately ten percent (10%) of what is illegally introduced into the Island. If a calculation is made of the possible collections for such material, we would be speaking of some twenty-five million dollars (\$25,000,000) per year that are introduced into the island and are not a part of the formal economy that contributes to the public treasury.

Updating the provisions of law in effect shall not only give the Puerto Rico Police the necessary tools to take cases before the authorities with an updated list of illegal material, but also to update the lists of approved products in a manner similar to that of forty-seven (47) states in the United States. To the present, the code of law allows the use of approved products in the jurisdictions of Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Mississippi, Michigan, Indiana, Kentucky, Tennessee, Alabama, Ohio, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Pennsylvania, Washington D.C., Delaware, New Hampshire, Vermont, Alaska, Hawaii and Maine. In all of these jurisdictions, the illegal marketing of pyrotechnics was reduced once the citizens were offered a legal alternative for festivities.

Finally, the safety of the citizens is ensured at the same time as the products sold pay taxes and are calculated for the benefit of both Puerto Rico and the Puerto Rico Police.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 1 of Act No. 83 of June 25, 1963, as amended, known as the "Puerto Rico Pyrotechnics Act," is hereby amended to read as follows:

"Section 1.- Pyrotechnics, prohibited acts

It is hereby prohibited to possess, use, manufacture, cause to be manufactured, import, sell or have for sale, offer, deliver to any person, or dispose of any pyrotechnic contrivance or product, it being understood by pyrotechnics the art, science or industry of making fireworks, skyrockets, firecrackers, string of firecrackers, nigger chasers, Roman candles, and any other similar contrivances, whether aerial or explosives such as, for example but not limited to, mortar, batteries, strings of firecrackers, carpets, big bomb, saturn missile, little rockets, flash cracker, artillery shell, pulling firecrackers, thunder bomb firecracker, and whistling moon traveler, among others, in which any chemical compound or mechanical mixture containing any oxidizing and combustible units or other ingredients is used, or any substance that by itself or mixed with another may be inflammable, no matter the amounts or proportions these chemical compounds or mechanical mixtures may contain, or the form or design of those products or contrivances that, on being ignited by fire, friction, concussion, percussion or detonator, any part of the compound or mixture may cause a sudden generation of gases capable of producing sound or fire or both."

Section 2.- Section 2 of Act No. 83 of June 25, 1963, as amended, known as the "Puerto Rico Pyrotechnics Act," is hereby amended to read as follows:

“ Section 2. - Toy revolvers or pistols and approved products

The provisions of this Act shall not be applicable to the manufacture, import, sale and use of pyrotechnic contrivances or products known as skyrocket and fireworks approved by the authorities for public displays, nor to non aerial non explosive products that contain one hundred (100) grams of mixture, such as wood stick or wire sparklers, or ground base sparkler products, that are non aerial non explosives, which in some cases whistle or make a noise similar to a screech, with a composition of up to 75 grams per tube or in multiple tubes that shall not exceed 500 grams of pyrotechnic mixture, such as, for example, throw-down snaps, wire sparklers, and party poppers, whose packages contain up to 25/100 grams of mixture, nor roll caps, which are usually used with toy guns and pistols, as well as smoke balls.”

Section 3.- Section 3, of Act No. 83 of June 25, 1963, as amended, known as the “Pyrotechnics Act of Puerto Rico,” is hereby amended to read as follows:

“Section 3.- Penalties

Any person who violates the provisions of this Act, in cases in which there is an intervention against an individual found in possession of 10 units or less of pyrotechnic material, shall be subject to the penalties for a misdemeanor, as provided in Act No. 149 of June 18, 2004, as amended, known as the Penal Code of Puerto Rico, provided, that any fine shall be of not less than five hundred (500) dollars; in those cases in which more than (10) units of pyrotechnic material are seized from an individual or individuals, they shall be subject to the penalties for a fourth degree felony, as provided in the Penal Code, provided that any fine shall be of not less than five thousand (5,000) dollars. For purposes of this Section, “unit” shall

mean any pyrotechnic contrivance or material composed of several integrated items of a same class in a single package for retail sale.”

Section 4.- A new Section 5 is hereby added to Act No. 83 of June 25, 1963, as amended, known as the “Pyrotechnics Act of Puerto Rico,” to read as follows:

“Section 5.- Distribution of funds

Fifty percent (50%) of the funds collected from any tax levied as provided in the Internal Revenue Code, or to be provided in the future, or imposed by special legislation on pyrotechnic products approved by this Act and for the payment of fines with respect to the provisions of this Act, shall be covered to the Puerto Rico Police to defray expenses for efforts against crime in Puerto Rico, and the remainder thereof shall be covered into the General Fund.”

Section 5.- A new Section 6 is hereby added to Act No. 83 of June 25, 1963, as amended, known as the “Puerto Rico Pyrotechnics Act,” to read as follows:

“Section 6.- Authorized period for the sale, distribution and use of approved products

The authorized period for the sale, and distribution of approved products shall be divided into two (2) segments: (a) from June 1 to July 31 of each year, for the celebration of the Independence of the United States (July 4) and the Constitution of the Commonwealth of Puerto Rico (July 25); and (b) from November 15 up to January 10 of each year for the celebration of the Christmas Season, New Year’s Eve and Three Kings Day.”

Section 6.- A new Section 7 is hereby added to Act No. 83 of June 25, 1963, as amended, known as the “Puerto Rico Pyrotechnics Act,” to read as follows:

“Section 7.- The Department of the Treasury is hereby exempted from compliance with Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act,” with respect to the creation of the Special Fund to be used by the Puerto Rico Police in order to comply with the purposes of this Act.”

Section 7.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 153 (S.B. 1476) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Sections 1, 2, and 3 and to add Sections 5, 6 and 7 to Act No. 83 of June 25, 1963, as amended, known as the “Puerto Rico Pyrotechnics Act,” in order to update its provisions, increase the penalties and update the inventory of approved and illegal products,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 15th of December of 2006.

Francisco J. Domenech
Director