

One Minute Brief

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NUMBER: 2025-04

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DATE: Jun. 13, 2025

TOPIC: Laws Relating to Fireworks

ISSUE: What laws regulate the possession, sale, distribution and use of fireworks?

Fireworks are regulated by state law under Health & Safety Code Sections 12500-12728, and may also be regulated under local county code or city ordinance.

Following are some of the California Health & Safety Code sections related to fireworks.

- "Dangerous fireworks" include firecrackers, roman candles, sparklers more than ten inches in length or one-fourth inch in diameter, fireworks kits, and all devices that move through the air or move across the surface of the ground during discharge. (H&S § 12505.)
- It is unlawful to possess, use, transport or sell anything other than "safe and sane" fireworks anywhere in the state, unless the persons involved are permitted for "dangerous fireworks." (H&S §§ 12529, 12676, 12677.)
- It is unlawful for any person to sell, give, or deliver any "dangerous fireworks" to a person under 18 years of age. (H&S § 12689.)
- It is only legal to sell "safe and sane" fireworks with an active retail license and during the period of 12 noon on the 28th of June through 12 noon on the 6th of July. (H&S §§ 12599, 12672.) Sales must be at the fixed place of business for which the permit was issued. (H&S § 12781.)
- It is illegal to use or possess "dangerous fireworks" in all parts of the state. (H&S § 12676.) Whether it is legal to use and/or possess "safe and sane" fireworks depends upon local ordinance.
- It is unlawful to store any fireworks without a valid permit. (H&S § 12673, 12679.)
- It is unlawful to store, sell, or discharge any type of firework in or within 100 feet of a location where gasoline or any other flammable liquids are stored or dispensed. (H&S § 12679.)
- It is unlawful to place, throw, discharge, ignite, or fire dangerous fireworks at or near any person or group of persons where there is a likelihood of injury to that person or group of persons, or where there is intent to create chaos, fear or panic. (H&S § 12680.)
- It is unlawful for any person to conduct a public fireworks display without a valid permit for that purpose. (H&S § 12685.)

- Violation of most of the above sections is a misdemeanor punishable by up to one year in jail. (H&S § 12700.)
- A second or subsequent conviction of § 12702 (selling, giving or delivering dangerous fireworks to a person under 18) carries an additional fine of \$10,000 and is not probation eligible. (H&S §§ 12700, 12702.)
- Possession of more than 5,000 pounds (including packaging) of unaltered, "dangerous fireworks" without a valid license is punishable as a misdemeanor or as a felony. (H&S § 12700(b)(4).)

Local cities and counties may have more restrictive rules than state law but may not authorize any activity that is prohibited by state law. (H&S § 12541.)

State law permits the sale, possession and use of "safe and sane" fireworks but local ordinance may restrict even "safe and sane" fireworks.

A link to California communities permitting the use of "safe and sane" fireworks can be found at: <https://ca-fireworks.presskit247.com>.

For assistance with fireworks confiscation please contact your local fire department.

Arson: Use of fireworks resulting in a fire can support charges of arson in violation of Penal Code § 451, where the use of the fireworks is intentional, even if the resulting fire was not intentional. Where the intentional use of the fireworks created a hazard and a reasonable person would realize that a direct, natural, and highly probable consequence of throwing lit firecrackers onto dry brush would be that it would cause a fire, the malice required for arson will be implied. *In re V.V.* (2011) 51 Cal.4th 1020.

Assault: Use of fireworks may also support assault charges pursuant to Penal Code § 245 subdivisions (a)(1), (a)(4), or subdivision (c) when committed on the person of a peace officer or firefighter engaged in the performance of his or her duties.

BOTTOM LINE:

Infractions and misdemeanors can vary from municipality to municipality. But state law, both with respect to the fireworks-specific sections of the Health & Safety Code, and the generally applicable felonies of assault and arson, apply statewide.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.