

**OPINION**  
**52-67**

April 28, 1952 (OPINION)

FIREWORKS

RE: Definition Under 1951 Amendment

RE: Section 23-1501 of the 1947 Session Laws as amended by Chapter 1  
Session Laws - FIREWORKS

In 1947 the Legislature passed an act defining "fireworks". That act was as follows:

Section 23-1501. FIREWORKS DEFINED. As used in this Act (chapter), the term 'fireworks' means any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by explosion, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or compound, or any tablets or other device containing any explosive substance and commonly used as fireworks. The term 'fireworks' shall not include toy pistols, toy guns, in which paper caps containing twenty-five hundredths grains or less of explosive compound are used and toy pistol caps which contain less than twenty hundredths grains of explosive mixture, or Chinese made firecrackers of not more than 1 1/2 inches in length and 1/4 inch in outside diameter."

In 1951 this Act was amended. The 1951 amendment withdrew the permission to sell Chinese made firecrackers of not more than 1 1/2 inches in length and 1/4 inch in outside diameter. Concerning the 1947 Act an Attorney General's opinion held that any resident wholesaler, dealer, or jobber selling at wholesale, fireworks, is not prohibited from selling fireworks which do not create any audible effect by combustion, the deflagration kind or type, sparklers, and inflammable compounds and that such fireworks are not within the general prohibition of fireworks as used in section 23-1501.

Since the 1951 amendment did not change any portion but that set out above, that opinion has been adopted by this office as a continuing interpretation of section 23-1501. Therefore, a fireworks dealer may sell any type of fireworks that could legally be sold under the 1947 Act with the exception of Chinese made firecrackers as defined in section 23-1501 as set forth herein.

ELMO T. CHRISTIANSON

Attorney General