



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB4128

Introduced 1/22/2020, by Rep. Joe Sosnowski

#### SYNOPSIS AS INTRODUCED:

New Act  
225 ILCS 227/5  
425 ILCS 35/Act rep.

Creates the Pyrotechnic Use Act of 2020. Provides that display fireworks shall only be offered for sale, exposed for sale, sold at retail, or kept with intent to sell, possess, use, or explode under a permit with specific requirements, a specific license, or for a specific use. Provides requirements for selling consumer fireworks. Provides that the State Fire Marshal may revoke the registration of any seller of consumer fireworks if the seller violates the requirements. Provides the requirements for use of consumer fireworks. Provides exemptions. Provides the procedure regarding the seizure and sale of fireworks that are stored and held in violation of the Act. Provides requirements for the storage of consumer fireworks and display fireworks. Defines terms. Makes conforming changes. Repeals the Pyrotechnic Use Act. Effective immediately.

LRB101 16460 CPF 65839 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Pyrotechnic Use Act of 2020.

6 Section 5. Definitions. As used in this Act:

7 "Competent display operator" means a Bureau of Alcohol,  
8 Tobacco, Firearms, and Explosives licensee who has  
9 participated as an assistant in at least 5 public displays of  
10 fireworks with overall responsibility for the operation and  
11 safety of a fireworks display.

12 "Consumer fireworks" means fireworks that are suitable for  
13 use by the public, designed primarily to produce visible  
14 effects by combustion, and that comply with the construction,  
15 chemical composition, and labeling regulations of the United  
16 States Consumer Product Safety Commission. "Consumer  
17 fireworks" also means fireworks classified as Division 1.4G  
18 explosives by the United States Department of Transportation  
19 under 16 CFR Part 1507, 27 CFR Part 555, or 49 CFR 173.56.  
20 "Consumer fireworks" shall not include: snake or glow worm  
21 pellets; smoke devices; trick noisemakers known as "party  
22 poppers", "booby traps", "snappers", "trick matches",  
23 "cigarette loads", and "auto burglar alarms"; sparklers; toy

1 pistols, toy canes, toy guns, or other devices in which paper  
2 or plastic caps containing twenty-five hundredths grains or  
3 less of explosive mixture are used, provided they are so  
4 constructed that the hand cannot come in contact with the cap  
5 when in place for the explosion; and toy pistol paper or  
6 plastic caps that contain less than twenty hundredths grains of  
7 explosive mixture; the sale and use of which shall be permitted  
8 at all times.

9 "Display fireworks" means pyrotechnic devices or large  
10 fireworks designed primarily to produce visible or audible  
11 effects by combustion, deflagration, or detonation. "Display  
12 fireworks" also means fireworks classified as Division 1.3G  
13 explosives by the United States Department of Transportation  
14 under 16 CFR Part 1507, 27 CFR Part 555, or 49 CFR 173.56.

15 "Public display of fireworks" means the use of pyrotechnic  
16 devices or pyrotechnic materials before a proximate audience,  
17 whether indoors or outdoors.

18 "Seasonal retailers" means any person, firm,  
19 co-partnership, nonprofit, or corporation intending to sell  
20 consumer fireworks between June 10 and July 7, or December 26  
21 and January 4 of each year or both, and shall include permanent  
22 businesses, temporary businesses, stores, stands, or tents.

23 Section 10. Legality of consumer fireworks and display  
24 fireworks.

25 (a) Consumer fireworks are legal for retail sale provided

1 all applicable federal and State requirements are met.

2 (b) Display fireworks are not legal for retail sale unless  
3 granted a permit under Section 15.

4 Section 15. Sale or use of display fireworks. No person,  
5 firm, co-partnership, nonprofit, or corporation shall offer  
6 for sale, expose for sale, sell at retail, keep with intent to  
7 sell, possess, use, or explode any display fireworks, except:

8 (a) in municipalities the chief of the fire department,  
9 or the mayor or village president where there is no fire  
10 department, and in counties outside of municipalities the  
11 county board or the board of commissioners of the county,  
12 may grant permits for supervised public displays of  
13 fireworks by municipalities, fair associations, amusement  
14 parks, and other organizations or groups of individuals,  
15 if:

16 (1) every display is handled by a competent display  
17 operator to be approved by the public official by whom  
18 the permit is granted, and shall be of such character,  
19 as in the opinion of the official, after proper  
20 inspection, to not be hazardous to property or endanger  
21 any person;

22 (2) at least one competent display operator is on  
23 site during display set-up and firing and he or she  
24 maintains a copy of the permit application, as signed  
25 by the local authority having jurisdiction, on site and

1 at all times the display is in place, which shall be  
2 presented on demand of the State Fire Marshal or local  
3 fire chief;

4 (3) permits are filed with the State Fire Marshal  
5 at least 15 days in advance of the date of the display;  
6 and

7 (4) any person remaining within the display area is  
8 identified as licensed by the Bureau of Alcohol,  
9 Tobacco, Firearms, and Explosives, an employee  
10 thereof, or be an assistant in training to become a  
11 competent display operator and is at least 18 years of  
12 age;

13 (b) the sale, at wholesale, of any display fireworks  
14 for permitted displays by any resident manufacturer,  
15 wholesaler, dealer, or jobber, in accordance with  
16 regulations of the United States Bureau of Alcohol,  
17 Tobacco, Firearms and Explosives if the sale is to the  
18 person holding a display permit as prescribed in subsection  
19 (a);

20 (c) the sale of display fireworks in accordance with a  
21 license issued by the United States Bureau of Alcohol,  
22 Tobacco, Firearms and Explosives;

23 (d) the sale and use in emergency situations of  
24 pyrotechnic signaling devices and distress signals for  
25 marine, aviation, and highway use;

26 (e) the use of fuses and railway torpedoes by

1           railroads;

2           (f) the sale and use of blank cartridges for use in a  
3           show or theater or for signal or ceremonial purpose in  
4           athletics or sports;

5           (g) the use of any pyrotechnic device by military  
6           organizations; or

7           (h) the use of fireworks for agricultural purposes  
8           under the direct supervision of the United States  
9           Department of the Interior or any equivalent or local  
10          agency.

11          Nothing in this Section shall prohibit a person, firm,  
12          co-partnership, nonprofit, or corporation from offering for  
13          sale, exposing for sale, selling at retail, keeping with intent  
14          to sell, possessing or using consumer fireworks as permitted by  
15          Section 20.

16          Section 20. Requirements for sale of consumer fireworks;  
17          revocation of registration; use of consumer fireworks.

18          (a) Consumer fireworks may be offered for sale, sold at  
19          retail, or kept with the intent to sell, only if the following  
20          requirements are met:

21               (1) any person, firm, co-partnership, nonprofit, or  
22               business intending to sell consumer fireworks shall  
23               register annually with the State Fire Marshal, who may  
24               assess a fee of no more than \$25 for each site at which  
25               fireworks shall be sold. The registration requirement

1 under this Section shall not apply to permanent business  
2 establishments which are open year round and in which the  
3 sale of fireworks is ancillary to the primary course of  
4 business;

5 (2) permanent business establishments open year-round  
6 and in which the sale of consumer fireworks is ancillary to  
7 the primary course of business shall meet the criteria for  
8 "seasonal retailer" or shall only be permitted to sell the  
9 following consumer fireworks:

- 10 (i) dipped stick-sparklers or wire sparklers;
- 11 (ii) cylindrical fountains;
- 12 (iii) cone fountains;
- 13 (iv) illuminating torches;
- 14 (v) wheels;
- 15 (vi) ground spinners;
- 16 (vii) flitter sparklers; or
- 17 (viii) toy smoke devices;

18 (3) a seasonal retailer shall register with the State  
19 Fire Marshal, who may assess a fee of no more than \$250 for  
20 each site at which fireworks shall be sold;

21 (4) any person, firm, co-partnership, nonprofit, or  
22 corporation intending to sell consumer fireworks as the  
23 primary source of business, shall register with the State  
24 Fire Marshal, who may assess a fee of no more than \$500 for  
25 each site at which fireworks will be sold;

26 (5) the annual registration required by this Section

1 shall be received by the State Fire Marshal at least 15  
2 days prior to offering fireworks for sale at the site for  
3 which the registration is intended. If the registration is  
4 received less than 15 days prior to offering fireworks for  
5 sale at the site for which registration is intended, an  
6 additional assessment of \$100 shall be added to the initial  
7 fee;

8 (6) each site at which fireworks are offered for sale  
9 shall have its registration certificate displayed in a  
10 conspicuous location at the site;

11 (7) no person or business shall give, offer for sale,  
12 or sell any consumer fireworks to any person under 18 years  
13 of age; and

14 (8) no person under 18 years of age may be employed by  
15 a fireworks distribution facility or manufacturing  
16 facility. No person under 18 years of age shall sell  
17 consumer fireworks at a consumer fireworks retail sales  
18 facility registered under this Section unless the  
19 individual is supervised by a parent or guardian.

20 (b) The State Fire Marshal may revoke the registration of  
21 any site which is in violation of a requirement of this Section  
22 or any other requirement provided by this Act. If the violation  
23 renders any property especially susceptible to fire loss, and  
24 there is present such hazard to human life or limb that the  
25 public safety imperatively requires emergency action, the  
26 State Fire Marshal may take that action.



1 (c) A person lawfully possessing consumer fireworks may use  
2 those items if:

3 (1) he or she is at least 18 years of age;

4 (2) the fireworks are not ignited within 200 feet of  
5 any structure, vehicle, or any other person; and

6 (3) use of the fireworks does not place him or her in  
7 violation of any local ordinance.

8 Section 25. Insurance coverage. No permit shall be issued  
9 under this Act unless the applicant shall show proof of  
10 insurance as required under Section 12 of the Pyrotechnic  
11 Distributor and Operator Licensing Act. However, the local fire  
12 chief or State Fire Marshal may require a larger amount if, in  
13 his or her judgment, the situation requires it, conditioned for  
14 the payment of all damages which may be caused thereby either  
15 to a person or to property by reason of the permitted display,  
16 and arising from any acts of the licensee, his or her agents,  
17 employees, or subcontractors.

18 Section 30. Exemptions. Nothing in this Act shall prevent  
19 the retail sale and use of explosives or signaling flares used  
20 in the course of ordinary business or industry, snake or glow  
21 worm pellets, smoke devices, trick noisemakers known as "party  
22 poppers", "booby traps", "snappers", "trick matches",  
23 "cigarette loads", and "auto burglar alarms", sparklers, toy  
24 pistols, toy canes, toy guns, or other devices in which paper

1 or plastic caps containing twenty-five hundredths grains or  
2 less of explosive mixture are used, provided they are so  
3 constructed that the hand cannot come in contact with the cap  
4 when in place for the explosion, and toy pistol paper or  
5 plastic caps that contain less than twenty hundredths grains of  
6 explosive mixture, shells or cartridges used as ammunition in  
7 firearms, blank cartridges for a show or theatre, signal or  
8 ceremonial purposes in athletics or sports, use by military  
9 organizations, or the sale of any kind of fireworks provided  
10 the same are to be shipped by the seller directly out of the  
11 State.

12 Section 35. Seizure and sale of fireworks.

13 (a) The State Fire Marshal, or any fire department having  
14 jurisdiction which has been deputized to act on behalf of the  
15 State Fire Marshal, shall cause to be removed at the expense of  
16 the owner all stocks of fireworks which are stored and held in  
17 violation of this Act. After a period of 60 days, the seized  
18 fireworks may be offered for sale by closed bid to a properly  
19 certified fireworks wholesaler.

20 (b) After a period of 60 days, the seized fireworks may be  
21 offered for sale by closed bid to a properly certified  
22 manufacturer, distributor, or wholesaler. All seized fireworks  
23 or explosives with a Division 1.3G or display firework  
24 designation shall require the notification of the United States  
25 Bureau of Alcohol, Tobacco, Firearms and Explosives. The State

1 Fire Marshal shall provide the owner or possessor a receipt  
2 containing the complete inventory of any fireworks seized  
3 within 5 business days of the seizure.

4 (c) Before any seized fireworks may be disposed of:

5 (1) if the owner of the seized fireworks is known to  
6 the State Fire Marshal, the State Fire Marshal shall give  
7 notice by registered mail or personal service to the owner  
8 of the State Fire Marshal's intention to dispose of the  
9 fireworks. The notice shall inform the owner of the State  
10 Fire Marshal's intent. The Office of the State Fire Marshal  
11 shall conduct an administrative hearing under the  
12 provisions of the Illinois Administrative Procedure Act;  
13 or

14 (2) if the identity of the owner of any seized  
15 fireworks is not known to the State Fire Marshal, the State  
16 Fire Marshal shall cause to be published, in a newspaper of  
17 general circulation in the county in which the seizure was  
18 made, notice of the seizure, and of the State Fire  
19 Marshal's intention to dispose of the fireworks. The notice  
20 shall be published once each week for 3 consecutive weeks.  
21 If no person claims ownership of the fireworks within 10  
22 days of the date of the last publication, the State Fire  
23 Marshal may proceed with disposal of the fireworks. If the  
24 owner does claim the fireworks within 10 days of the date  
25 of the last publication, the Office of the State Fire  
26 Marshal shall conduct an administrative hearing under the

1 provisions of the Illinois Administrative Procedure Act.

2 (d) Nothing in this Act shall restrict a county or  
3 municipality from enacting ordinances that affect the sale or  
4 use of fireworks within its jurisdiction.

5 Section 40. Storage of consumer fireworks and display  
6 fireworks.

7 (a) The storage of consumer fireworks or display fireworks  
8 at retail, wholesale, storage, or manufacturing facilities  
9 shall be reported in writing to the State Fire Marshal and the  
10 local fire chief of the jurisdiction where the facilities are  
11 located.

12 (1) The report shall be completed by the owner or  
13 lessee of the property or the supplier of the fireworks,  
14 and shall include the address of the facility, the location  
15 of the fireworks to be stored, a copy of the shipping bill,  
16 and whether they are consumer fireworks or display  
17 fireworks.

18 (2) The initial report for permanent business  
19 establishments open year round shall be submitted between  
20 January 1, 2021, and January 31, 2021, for existing  
21 business and 15 days before storage begins for new  
22 businesses. The report for permanent business  
23 establishments open year round shall be updated annually  
24 and upon a change in location of the stored items.

25 (b) Seasonal retailers shall submit, at least 15 days prior

1 to opening for sale each year, a report to the State Fire  
2 Marshal and the local fire chief of the jurisdiction  
3 identifying:

- 4 (1) the address where the sales will be taking place;
- 5 (2) the address where the fireworks will be stored; and
- 6 (3) a description of how the fireworks will be stored.

7 Only one report is due if the seasonal retailer stores the  
8 same product at the same location for both the June 10 through  
9 July 7 and December 26 through January 4 seasons.

10 (c) Failure to submit a report required under this Section  
11 shall be cause to cease and desist operation of the facility or  
12 site until the required information is properly submitted.  
13 Inspectors shall notify the permit holder in writing and may  
14 allow 24 hours to remedy the violation, unless the violation  
15 poses a distinct fire hazard.

16 Section 45. Rulemaking. The State Fire Marshal shall adopt  
17 such rules as may be necessary for the implementation of this  
18 Act.

19 Section 70. The Pyrotechnic Distributor and Operator  
20 Licensing Act is amended by changing Section 5 as follows:

21 (225 ILCS 227/5)

22 Sec. 5. Definitions. In this Act:

23 "1.3G fireworks" means fireworks that are used for

1 professional outdoor displays and classified as fireworks  
2 UN0333, UN0334, or UN0335 by the United States Department of  
3 Transportation under 49 C.F.R. 172.101.

4 "Assistant" means an individual supervised by a lead  
5 pyrotechnic operator, who assists with the safety, setup,  
6 discharge, and removal of a pyrotechnic display.

7 "BATFE" means the federal Bureau of Alcohol, Tobacco,  
8 Firearms and Explosives.

9 "Consumer fireworks" means fireworks that must comply with  
10 the construction, chemical composition, and labeling  
11 regulations of the U.S. Consumer Products Safety Commission, as  
12 set forth in 16 C.F.R. Parts 1500 and 1507, and classified as  
13 fireworks UN0336 or UN0337 by the United States Department of  
14 Transportation under 49 C.F.R. 172.101. "Consumer fireworks"  
15 does not include a substance or article exempted under the  
16 Pyrotechnic Use Act of 2020.

17 "Cover licensor" means any pyrotechnic distributor,  
18 licensed under subsection (c) of Section 35 of this Act, or  
19 production company, licensed under subsection (c-3) of Section  
20 35 of this Act, under whose pyrotechnic license a touring  
21 pyrotechnic company and its touring lead pyrotechnic operators  
22 and touring technicians provide pyrotechnic displays or  
23 pyrotechnic services, or both, in the State.

24 "Cover licensor representative" means a licensed lead  
25 pyrotechnic operator, either employed by the cover licensor or  
26 insured as an additional named insured on the cover licensor's

1 general liability and product liability insurance, as  
2 applicable, who is responsible for supervising the safety and  
3 regulatory compliance of the touring lead pyrotechnic  
4 operators and touring technicians during a pyrotechnic display  
5 or pyrotechnic service.

6 "Display fireworks" means 1.3G explosive or special  
7 effects fireworks.

8 "Event employee" means an individual who works under the  
9 supervision of the lead pyrotechnic operator and who assists  
10 with the safety, setup, and removal of a pyrotechnic display,  
11 but does not handle live pyrotechnic materials or charged flame  
12 equipment.

13 "Facility" means an area being used for the conducting of a  
14 pyrotechnic display business, but does not include residential  
15 premises except for the portion of any residential premises  
16 that is actually used in the conduct of a pyrotechnic display  
17 business.

18 "Flame effect" means the detonation, ignition, or  
19 deflagration of flammable gases, liquids, or special materials  
20 to produce a thermal, physical, visual, or audible effect  
21 before the public, invitees, or licensees, regardless of  
22 whether admission is charged in accordance with NFPA 160.

23 "Lead pyrotechnic operator" means the individual with  
24 overall responsibility for the safety, setup, discharge, and  
25 supervision of a pyrotechnic display or pyrotechnic service.

26 "Office" means Office of the State Fire Marshal.

1 "Person" means an individual, firm, corporation,  
2 association, partnership, company, consortium, joint venture,  
3 commercial entity, state, municipality, or political  
4 subdivision of a state or any agency, department, or  
5 instrumentality of the United States and any officer, agent, or  
6 employee of these entities.

7 "Production company" means any person in the film, digital  
8 and video media, television, commercial, music, or theatrical  
9 stage industry who provides pyrotechnic services or  
10 pyrotechnic display services as part of a film, digital and  
11 video media, television, commercial, music, or theatrical  
12 production in the State of Illinois.

13 "Pyrotechnic display" or "display" means the detonation,  
14 ignition, or deflagration of display fireworks or flame effects  
15 to produce a visual or audible effect of an exhibitional nature  
16 before the public, invitees, or licensees, regardless of  
17 whether admission is charged.

18 "Pyrotechnic distributor" means any person who distributes  
19 display fireworks for sale in the State of Illinois or provides  
20 them as part of a pyrotechnic display service in the State of  
21 Illinois or provides only pyrotechnic services.

22 "Pyrotechnic service" means the detonation, ignition, or  
23 deflagration of display fireworks, special effects, or flame  
24 effects to produce a visual or audible effect.

25 "Special effects fireworks" means pyrotechnic devices used  
26 for special effects by professionals in the performing arts in



1 conjunction with theatrical, musical, or other productions  
2 that are similar to consumer fireworks in chemical compositions  
3 and construction, but are not intended for consumer use and are  
4 not labeled as such or identified as "intended for indoor use".  
5 "Special effects fireworks" are classified as fireworks UN0431  
6 or UN0432 by the United States Department of Transportation  
7 under 49 C.F.R. 172.101.

8 "Touring lead pyrotechnic operator" means an individual  
9 employed by a touring pyrotechnic company who has overall  
10 responsibility for the safety, setup, discharge, and  
11 supervision of a pyrotechnic display or pyrotechnic service.

12 "Touring pyrotechnic company" means any person that  
13 performs pyrotechnic services or pyrotechnic displays in the  
14 State who lacks a license under subsections (c) or (c-3) of  
15 Section 35 of this Act.

16 "Touring technician" means an individual employed by a  
17 touring pyrotechnic company who is at least 18 years of age,  
18 who is covered by his or her employer's workers' compensation,  
19 product liability, and general liability policies under  
20 Section 35 of this Act and who, under the supervision of the  
21 touring lead pyrotechnic operator, assists with the safety,  
22 setup, discharge, and removal of a pyrotechnical display.

23 (Source: P.A. 96-708, eff. 8-25-09; 97-164, eff. 1-1-12.)

24 (425 ILCS 35/Act rep.)

25 Section 75. The Pyrotechnic Use Act is repealed.

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.