

1 AN ACT in relation to fireworks.

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

4 Section 5. The Illinois Explosives Act is amended by
5 changing Sections 1003 and 2001 as follows:

6 (225 ILCS 210/1003) (from Ch. 96 1/2, par. 1-1003)

7 Sec. 1003. Definitions. As used in this Act:

8 (a) "Person" means any individual, corporation, company,
9 association, partnership, or other legal entity.

10 (b) "Explosive materials" means explosives, blasting
11 agents, and detonators.

12 (c) "Explosive" means any chemical compound, mixture or
13 device, the primary or common purpose of which is to function
14 by explosion and includes high or low explosives. Manufactured
15 articles, including, but not limited to, display fireworks as
16 defined in the Pyrotechnic Distributor and Operator Licensing
17 Act, fixed ammunition for small arms, fire crackers, safety
18 fuses, and matches are not explosives when the individual units
19 contain explosives in such limited quantity and of such nature
20 or in such packing that it is impossible to produce a
21 simultaneous or a destructive explosion of such units which
22 would be injurious to life, limb or property.

23 (d) "Blasting agent" means any material or mixture
24 consisting of a fuel and oxidizer intended for blasting, not
25 otherwise defined as an explosive, provided that the finished
26 product, as mixed and packaged for use or shipment, cannot be
27 detonated by means of a No. 8 blasting cap, as defined by the
28 Bureau of Alcohol, Tobacco and Firearms, U.S. Department of
29 Treasury, when unconfined.

30 (e) "Detonator" means any device containing any initiating
31 or primary explosive that is used for initiating detonation. A
32 detonator may not contain more than 10 grams of total

1 explosives by weight, excluding ignition or delay charges.

2 (f) "Highway" means any public street, public highway, or
3 public alley.

4 (g) "Railroad" or "railway" means any public steam,
5 electric or other railroad or rail system which carries
6 passengers for hire, but shall not include auxiliary tracks,
7 spurs and sidings installed and primarily used in serving any
8 mine, quarry or plant.

9 (h) "Building" means and includes any building regularly
10 occupied, in whole or in part, as a habitation for human
11 beings, and any church, schoolhouse, railway station or other
12 building where people are accustomed to assemble, but does not
13 mean or include any buildings of a mine or quarry or any of the
14 buildings of a manufacturing plant where the business of
15 manufacturing explosive materials is conducted.

16 (i) "Factory building" means any building or other
17 structure in which the manufacture or any part of the
18 manufacture of explosive materials is conducted.

19 (j) "Magazine" means any building or other structure or
20 container, other than a factory building, used to store
21 explosive materials. Where mobile or portable type 5 magazines
22 are permissible and used, "magazine", for the purpose of
23 obtaining certificates and calculating fees, means the site on
24 which such magazines are located.

25 (k) "Magazine keeper" means a qualified supervisory person
26 responsible for the inventory and safe storage of explosive
27 materials, including the proper maintenance of explosive
28 materials, storage magazines and surrounding areas.

29 (l) "Black powder" means a deflagrating or low explosive
30 compound of an intimate mixture of sulfur, charcoal and an
31 alkali nitrate, usually potassium or sodium nitrate.

32 (m) "Municipality" includes cities, villages, and
33 incorporated towns and townships.

34 (n) "Fugitive from justice" means any individual who has
35 fled from the jurisdiction of any court of record to avoid
36 prosecution for any crime or to avoid giving testimony in any

1 criminal proceeding. This term shall also include any
2 individual who has been convicted of any crime and has fled to
3 avoid imprisonment.

4 (o) "Department" means the Department of Natural
5 Resources.

6 (p) "Small arms" means guns of 50 calibers or less.

7 (q) "Director" means the Director of Natural Resources.

8 (r) "Storage certificate" means the certificate issued by
9 the Department under Article 3 of this Act that authorizes the
10 holder to store explosive materials in the magazine for which
11 the certificate is issued.

12 (s) "License" means that license issued by the Department
13 under Article 2 of this Act authorizing the holder to possess,
14 use, purchase, transfer or dispose of, but not to store,
15 explosive materials.

16 (Source: P.A. 88-599, eff. 9-1-94; 89-445, eff. 2-7-96.)

17 (225 ILCS 210/2001) (from Ch. 96 1/2, par. 1-2001)

18 Sec. 2001. No person shall possess, use, purchase or
19 transfer explosive materials unless licensed by the Department
20 except as otherwise provided by this Act and the Pyrotechnic
21 Distributor and Operator Licensing Act.

22 (Source: P.A. 93-263, eff. 7-22-03.)

23 Section 10. The Pyrotechnic Operator Licensing Act is
24 amended by changing Sections 1, 5, 10, 30, 35, 50, 65, 75, and
25 90 and adding Section 57 as follows:

26 (225 ILCS 227/1)

27 Sec. 1. Short title. This Act may be cited as the
28 Pyrotechnic Distributor and Operator Licensing Act.

29 (Source: P.A. 93-263, eff. 7-22-03.)

30 (225 ILCS 227/5)

31 Sec. 5. Definitions. In this Act:

32 "Display fireworks" means any substance or article defined

1 as a Division 1.3G or 1.4 explosive by the United States
2 Department of Transportation under 49 CFR 173.50, except a
3 substance or article exempted under the Fireworks Use Act.

4 "Fireworks" has the meaning given to that term in the
5 Fireworks Use Act.

6 "Lead pyrotechnic operator" means the individual with
7 overall responsibility for the safety, setup, discharge, and
8 supervision of a pyrotechnic display.

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

10 "Person" means an individual, firm, corporation,
11 association, partnership, company, consortium, joint venture,
12 commercial entity, state, municipality, or political
13 subdivision of a state or any agency, department, or
14 instrumentality of the United States and any officer, agent, or
15 employee of these entities.

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

21 "Pyrotechnic distributor" means any person, company,
22 association, group of persons, or corporation who distributes
23 display fireworks for sale in the State of Illinois or provides
24 them as part of a pyrotechnic display service in the State of
25 Illinois.

26 (Source: P.A. 93-263, eff. 7-22-03.)

27 (225 ILCS 227/10)

28 Sec. 10. License; enforcement. No person may act as a
29 pyrotechnic distributor or lead pyrotechnic operator, or
30 advertise or use any title implying that the person is a
31 pyrotechnic distributor or lead pyrotechnic operator, unless
32 licensed by the Office under this Act. An out-of-state person
33 hired for or engaged in a pyrotechnic display must have a
34 pyrotechnic distributor license issued by the Office and a
35 person licensed under this Act as a lead pyrotechnic operator

1 supervising the display. The State Fire Marshal, in the name of
2 the People, through the Attorney General, the State's Attorney
3 of any county, any resident of the State, or any legal entity
4 within the State may apply for injunctive relief in any court
5 to enjoin any person who has not been issued a license or whose
6 license has been suspended, revoked, or not renewed, from
7 practicing a licensed activity. Upon filing a verified petition
8 in court, the court, if satisfied by affidavit, or otherwise,
9 that the person is or has been practicing in violation of this
10 Act, may enter a temporary restraining order or preliminary
11 injunction, without bond, enjoining the defendant from further
12 unlicensed activity. A copy of the verified complaint shall be
13 served upon the defendant and the proceedings are to be
14 conducted as in other civil cases. The court may enter a
15 judgment permanently enjoining a defendant from further
16 unlicensed activity if it is established that the defendant has
17 been or is practicing in violation of this Act. In case of
18 violation of any injunctive order or judgment entered under
19 this Section, the court may summarily try and punish the
20 offender for contempt of court. Injunctive proceedings are in
21 addition to all penalties and other remedies in this Act.

22 (Source: P.A. 93-263, eff. 7-22-03.)

23 (225 ILCS 227/30)

24 Sec. 30. Rules. The State Fire Marshal shall adopt all
25 rules necessary to carry out its responsibilities under this
26 Act including rules concerning pyrotechnic distributors and
27 rules requiring the training, examination, and licensing of
28 lead pyrotechnic operators engaging in or responsible for the
29 handling and use of Division 1.3G (Class B) and 1.4 (Class C)
30 explosives. The pyrotechnic distributor's training program
31 ~~test~~ shall incorporate the rules of the State Fire Marshal,
32 which shall be based upon nationally recognized standards such
33 as those of the National Fire Protection Association (NFPA)
34 1123 guidelines for outdoor displays and NFPA 1126 for indoor
35 displays. The Fire Marshal shall adopt rules as required for

1 the licensing of all pyrotechnic distributors and ~~a~~ lead
2 pyrotechnic operators ~~operator~~ involved in an outdoor or indoor
3 pyrotechnic display.

4 (Source: P.A. 93-263, eff. 7-22-03.)

5 (225 ILCS 227/35)

6 Sec. 35. Licensure requirements and fees.

7 (a) Each application for a license to practice under this
8 Act shall be in writing and signed by the applicant on forms
9 provided by the Office. The Office shall have the testing
10 procedures for licensing as a lead pyrotechnic operator
11 developed by October 1, 2004.

12 (b) After April 1, 2005, all pyrotechnic displays, both
13 indoor and outdoor, must comply with the requirements set forth
14 in this Act.

15 (c) After April 1, 2005, no person individual may engage in
16 pyrotechnic distribution without first applying for and
17 obtaining a license from the Office. Applicants for a license
18 must submit to the Office the following:

19 (1) A current BATFE license for distribution of display
20 fireworks.

21 (2) Proof of \$1,000,000 in product liability
22 insurance.

23 (3) Proof of \$1,000,000 in general liability
24 insurance.

25 (4) Proof of Illinois Worker's Compensation Insurance.

26 (5) A license fee of \$5,000 for the issuance of a
27 pyrotechnic distributor's license.

28 (6) Proof of a current United States Department of
29 Transportation (DOT) Identification Number.

30 (7) Proof of a current USDOT Hazardous Materials
31 Registration Number.

32 (c-2) An applicant for a license as a pyrotechnic
33 distributor shall not be granted a license if the distributor
34 or any of its officers, if applicable, was convicted of a
35 felony in the 5 years preceding the date of the application.

1 (c-5) After April 1, 2005, no individual may act as a lead
2 operator in a pyrotechnic display without first applying for
3 and obtaining a lead pyrotechnic operator's license from the
4 Office. The Office shall establish separate licenses for lead
5 pyrotechnic operators for indoor and outdoor pyrotechnic
6 displays. Applicants for a license must:

7 (1) Pay the fees set by the Office.

8 (2) Have the requisite training or continuing
9 education as established in the Office's rules.

10 (3) Pass the examination presented by the Office.

11 (d) A person is qualified to receive a license under this
12 Act if the person meets all of the following minimum
13 requirements:

14 (1) Is at least 21 years of age.

15 (2) Has not willfully violated any provisions of this
16 Act.

17 (3) Has not made any material misstatement or knowingly
18 withheld information in connection with any original or
19 renewal application.

20 (4) Has not been declared incompetent by any competent
21 court by reasons of mental or physical defect or disease
22 unless a court has since declared the person competent.

23 (5) Does not have an addiction to or dependency on
24 alcohol or drugs that is likely to endanger the public at a
25 pyrotechnic display.

26 (6) Has not been convicted in any jurisdiction of any
27 felony within the prior 5 years.

28 (7) Is not a fugitive from justice.

29 (e) A person is qualified to assist a lead operator if the
30 person meets all of the following minimum requirements:

31 (1) Is at least 18 years of age.

32 (2) Has not willfully violated any provision of this
33 Act.

34 (3) Has not been declared incompetent by any competent
35 court by reasons of mental or physical defect or disease
36 unless a court has since declared the person competent.

1 (4) Does not have an addiction to or dependency on
2 alcohol or drugs that is likely to endanger the public at a
3 pyrotechnic display.

4 (5) Has not been convicted in any jurisdiction of any
5 felony within the prior 5 years.

6 (6) Is not a fugitive from justice.

7 (Source: P.A. 93-263, eff. 7-22-03.)

8 (225 ILCS 227/50)

9 Sec. 50. Issuance of license; renewal; fees nonrefundable.

10 (a) The Office, upon the applicant's satisfactory
11 completion of the requirements imposed under this Act and upon
12 receipt of the requisite fees, shall issue the appropriate
13 license showing the name, address, and photograph of the
14 licensee and the dates of issuance and expiration. The license
15 shall include the name of the pyrotechnic distributor employing
16 the lead pyrotechnic operator. A lead pyrotechnic operator is
17 required to have a separate license for each pyrotechnic
18 distributor who employs the lead pyrotechnic operator.

19 (b) Each licensee may apply for renewal of his or her
20 license upon payment of the applicable fees. The expiration
21 date and renewal period for each license issued under this Act
22 shall be set by rule. Failure to renew within 60 days of the
23 expiration date results in lapse of the license. A lapsed
24 license may not be reinstated until a written application is
25 filed, the renewal fee is paid, and the reinstatement fee
26 established by the Office is paid. Renewal and reinstatement
27 fees shall be waived for persons who did not renew while on
28 active duty in the military and who file for renewal or
29 restoration within one year after discharge from the service. A
30 lapsed license may not be reinstated after 5 years have elapsed
31 except upon passing an examination to determine fitness to have
32 the license restored and by paying the required fees.

33 (c) All fees paid under this Act are nonrefundable.

34 (Source: P.A. 93-263, eff. 7-22-03.)

1 (225 ILCS 227/57 new)

2 Sec. 57. Training; additional lead pyrotechnic operators.
3 No pyrotechnic distributor shall allow any person in the
4 pyrotechnic distributor's employ to act as a lead pyrotechnic
5 operator until the person has obtained a lead pyrotechnic
6 operator's license from the Office.

7 (225 ILCS 227/65)

8 Sec. 65. Grounds for discipline. Licensees subject to this
9 Act shall conduct their practice in accordance with this Act
10 and the rules promulgated under this Act. A licensee is subject
11 to disciplinary sanctions enumerated in this Act if the State
12 Fire Marshal finds that the licensee is guilty of any of the
13 following:

14 (1) Fraud or material deception in obtaining or
15 renewing a license.

16 (2) Engaging in dishonorable, unethical, or
17 unprofessional conduct of a character likely to deceive,
18 defraud, or harm the public in the course of professional
19 services or activities.

20 (3) Conviction of any crime that has a substantial
21 relationship to his or her practice or an essential element
22 of which is misstatement, fraud, dishonesty, or conviction
23 in this or another state of any crime that is a felony
24 under the laws of Illinois or conviction of a felony in a
25 federal court, unless the licensee demonstrates that he or
26 she has been sufficiently rehabilitated to warrant the
27 public trust.

28 (4) Performing any service in a grossly negligent
29 manner or permitting any lead pyrotechnic operator
30 ~~licensed employee~~ to perform a service in a grossly
31 negligent manner, regardless of whether actual damage or
32 damage to the public is established.

33 (5) Addiction to or dependency on alcohol or drugs or
34 use of alcohol or drugs that is likely to endanger the
35 public at a pyrotechnic display.

1 (6) Willfully receiving direct or indirect
2 compensation for any professional service not actually
3 rendered.

4 (7) Having disciplinary action taken against his or her
5 license in another state.

6 (8) Making differential treatment against any person
7 to his or her detriment because of race, color, creed, sex,
8 religion, or national origin.

9 (9) Engaging in unprofessional conduct.

10 (10) Engaging in false or misleading advertising.

11 (11) Contracting or assisting an unlicensed person to
12 perform services for which a license is required under this
13 Act.

14 (12) Permitting the use of his or her license to enable
15 an unlicensed person or agency to operate as a licensee.

16 (13) Performing and charging for a service without
17 having the authorization to do so from the member of the
18 public being served.

19 (14) Failure to comply with any provision of this Act
20 or the rules promulgated under this Act.

21 (15) Conducting business regulated by this Act without
22 a currently valid license in those circumstances where a
23 license is required.

24 (Source: P.A. 93-263, eff. 7-22-03.)

25 (225 ILCS 227/75)

26 Sec. 75. Formal charges; hearing.

27 (a) The Office may file formal charges against a licensee.
28 The formal charges, at a minimum, shall inform the licensee of
29 the specific facts that are the basis of the charge to enable
30 the licensee to defend himself or herself.

31 (b) Each licensee whose conduct is the subject of a formal
32 charge that seeks to impose disciplinary action against the
33 licensee shall be served notice of the formal charge at least
34 30 days before the date of the hearing. The hearing shall be
35 presided over by the Office or a hearing officer authorized by

1 the Office in compliance with the Illinois Administrative
2 Procedure Act. Service shall be considered to have been given
3 if the notice was personally received by the licensee or if the
4 notice was mailed certified, return requested, to the licensee
5 at the licensee's last known address as listed with the Office.

6 (c) The notice of a formal charge shall consist, at a
7 minimum, of the following information:

8 (1) The time and date of the hearing.

9 (2) A statement that the licensee may appear personally
10 at the hearing and may be represented by counsel.

11 (3) A statement that the licensee has the right to
12 produce witnesses and evidence in his or her behalf and the
13 right to cross-examine witnesses and evidence produced
14 against him or her.

15 (4) A statement that the hearing can result in
16 disciplinary action being taken against the ~~his or her~~
17 license.

18 (5) A statement that rules for the conduct of these
19 hearings exist and that it may be in the licensee's ~~his or~~
20 ~~her~~ best interest to obtain a copy.

21 (6) A statement that the hearing officer authorized by
22 the Office shall preside at the hearing and, following the
23 conclusion of the hearing, make findings of fact,
24 conclusions of law, and recommendations, separately
25 stated, to the Office as to what disciplinary action, if
26 any, should be imposed on the licensee.

27 (7) A statement that the Office may continue the
28 hearing.

29 (d) The Office or the hearing officer authorized by the
30 Office shall hear evidence produced in support of the formal
31 charges and contrary evidence produced by the licensee, if any.
32 If the hearing is conducted by a hearing officer, at the
33 conclusion of the hearing, the hearing officer shall make
34 findings of fact, conclusions of law, and recommendations,
35 separately stated, and submit them to the Office and to all
36 parties to the proceeding. Submission to the licensee shall be

1 considered as having been made if done in a similar fashion as
2 service of the notice of formal charges. Within 20 days after
3 the service, any party to the proceeding may present to the
4 Office a motion, in writing, for a rehearing. The written
5 motion shall specify the particular grounds for the rehearing.

6 (e) The Office, following the time allowed for filing a
7 motion for rehearing, shall review the hearing officer's
8 findings of fact, conclusions of law, recommendations, and any
9 motions filed subsequent to the hearing. After review of the
10 information the Office may hear oral arguments and thereafter
11 issue an order. The report of findings of fact, conclusions of
12 law, and recommendations of the hearing officer shall be the
13 basis for the Office's order. If the Office finds that
14 substantial justice was not done, it may issue an order in
15 contravention of the hearing officer's findings.

16 (f) All proceedings under this Section are matters of
17 public record and a record of the proceedings shall be
18 preserved.

19 (Source: P.A. 93-263, eff. 7-22-03.)

20 (225 ILCS 227/90)

21 Sec. 90. Penalties. Any natural person who violates any of
22 the following provisions is guilty of a Class A misdemeanor for
23 the first offense and a corporation or other entity that
24 violates any of the following provision commits a business
25 offense punishable by a fine not to exceed \$5,000; a second or
26 subsequent offense in violation of any Section of this Act,
27 including this Section, is a Class 4 felony if committed by a
28 natural person, or a business offense punishable by a fine of
29 up to \$10,000 if committed by a corporation or other business
30 entity:

31 (1) Practicing or attempting to practice as a
32 pyrotechnic distributor or lead pyrotechnic operator
33 without a license;

34 (2) Obtaining or attempting to obtain a license,
35 practice or business, or any other thing of value by

1 fraudulent representation;

2 (3) Permitting, directing, or authorizing any person
3 in one's employ or under one's direction or supervision to
4 work or serve as a licensee if that individual does not
5 possess an appropriate valid license.

6 Whenever any person is punished as a repeat offender under
7 this Section, the Office may proceed to obtain a permanent
8 injunction against the person under Section 10. If any person
9 in making any oath or affidavit required by this Act swears
10 falsely, the person is guilty of perjury and upon conviction
11 may be punished accordingly.

12 (Source: P.A. 93-263, eff. 7-22-03.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.