



Adopted in House Comm. on May 19, 2004

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1 AMENDMENT TO SENATE BILL 2299

2 AMENDMENT NO. _____. Amend Senate Bill 2299 by replacing
3 everything after the enacting clause with the following:

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

1 otherwise defined as an explosive, provided that the finished
2 product, as mixed and packaged for use or shipment, cannot be
3 detonated by means of a No. 8 blasting cap, as defined by the
4 Bureau of Alcohol, Tobacco and Firearms, U.S. Department of
5 Treasury, when unconfined.

6 (e) "Detonator" means any device containing any initiating
7 or primary explosive that is used for initiating detonation. A
8 detonator may not contain more than 10 grams of total
9 explosives by weight, excluding ignition or delay charges.

10 (f) "Highway" means any public street, public highway, or
11 public alley.

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

17 (h) "Building" means and includes any building regularly
18 occupied, in whole or in part, as a habitation for human
19 beings, and any church, schoolhouse, railway station or other
20 building where people are accustomed to assemble, but does not
21 mean or include any buildings of a mine or quarry or any of the
22 buildings of a manufacturing plant where the business of
23 manufacturing explosive materials is conducted.

24 (i) "Factory building" means any building or other
25 structure in which the manufacture or any part of the
26 manufacture of explosive materials is conducted.

27 (j) "Magazine" means any building or other structure or
28 container, other than a factory building, used to store
29 explosive materials. Where mobile or portable type 5 magazines
30 are permissible and used, "magazine", for the purpose of
31 obtaining certificates and calculating fees, means the site on
32 which such magazines are located.

33 (k) "Magazine keeper" means a qualified supervisory person
34 responsible for the inventory and safe storage of explosive

1 materials, including the proper maintenance of explosive
2 materials, storage magazines and surrounding areas.

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

6 (m) "Municipality" includes cities, villages, and
7 incorporated towns and townships.

8 (n) "Fugitive from justice" means any individual who has
9 fled from the jurisdiction of any court of record to avoid
10 prosecution for any crime or to avoid giving testimony in any
11 criminal proceeding. This term shall also include any
12 individual who has been convicted of any crime and has fled to
13 avoid imprisonment.

14 (o) "Department" means the Department of Natural
15 Resources.

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

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

18 (r) "Storage certificate" means the certificate issued by
19 the Department under Article 3 of this Act that authorizes the
20 holder to store explosive materials in the magazine for which
21 the certificate is issued.

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

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

27 (225 ILCS 210/2001) (from Ch. 96 1/2, par. 1-2001)

28 Sec. 2001. No person shall possess, use, purchase or
29 transfer explosive materials unless licensed by the Department
30 except as otherwise provided by this Act and the Pyrotechnic
31 Distributor and Operator Licensing Act.

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

1 Section 10. The Pyrotechnic Operator Licensing Act is
2 amended by changing Sections 1, 5, 10, 30, 35, 50, 65, 75, and
3 90 and adding Section 57 as follows:

4 (225 ILCS 227/1)

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

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

8 (225 ILCS 227/5)

9 Sec. 5. Definitions. In this Act:

10 "Display fireworks" means any substance or article defined
11 as a Division 1.3G or 1.4 explosive by the United States
12 Department of Transportation under 49 CFR 173.50, except a
13 substance or article exempted under the Fireworks Use Act.

14 "Fireworks" has the meaning given to that term in the
15 Fireworks Use Act.

16 "Lead pyrotechnic operator" means the individual with
17 overall responsibility for the safety, setup, discharge, and
18 supervision of a pyrotechnic display.

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

20 "Person" means an individual, firm, corporation,
21 association, partnership, company, consortium, joint venture,
22 commercial entity, state, municipality, or political
23 subdivision of a state or any agency, department, or
24 instrumentality of the United States and any officer, agent, or
25 employee of these entities.

26 "Pyrotechnic display" or "display" means the detonation,
27 ignition, or deflagration of display fireworks to produce a
28 visual or audible effect of an exhibitional nature before the
29 public, invitees, or licensees, regardless of whether
30 admission is charged.

31 "Pyrotechnic distributor" means any person, company,
32 association, group of persons, or corporation who distributes

1 display fireworks for sale in the State of Illinois or provides
2 them as part of a pyrotechnic display service in the State of
3 Illinois.

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

5 (225 ILCS 227/10)

6 Sec. 10. License; enforcement. No person may act as a
7 pyrotechnic distributor or lead pyrotechnic operator, or
8 advertise or use any title implying that the person is a
9 pyrotechnic distributor or lead pyrotechnic operator, unless
10 licensed by the Office under this Act. An out-of-state person
11 hired for or engaged in a pyrotechnic display must have a
12 pyrotechnic distributor license issued by the Office and a
13 person licensed under this Act as a lead pyrotechnic operator
14 supervising the display. The State Fire Marshal, in the name of
15 the People, through the Attorney General, the State's Attorney
16 of any county, any resident of the State, or any legal entity
17 within the State may apply for injunctive relief in any court
18 to enjoin any person who has not been issued a license or whose
19 license has been suspended, revoked, or not renewed, from
20 practicing a licensed activity. Upon filing a verified petition
21 in court, the court, if satisfied by affidavit, or otherwise,
22 that the person is or has been practicing in violation of this
23 Act, may enter a temporary restraining order or preliminary
24 injunction, without bond, enjoining the defendant from further
25 unlicensed activity. A copy of the verified complaint shall be
26 served upon the defendant and the proceedings are to be
27 conducted as in other civil cases. The court may enter a
28 judgment permanently enjoining a defendant from further
29 unlicensed activity if it is established that the defendant has
30 been or is practicing in violation of this Act. In case of
31 violation of any injunctive order or judgment entered under
32 this Section, the court may summarily try and punish the
33 offender for contempt of court. Injunctive proceedings are in

1 addition to all penalties and other remedies in this Act.

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

3 (225 ILCS 227/30)

4 Sec. 30. Rules. The State Fire Marshal shall adopt all
5 rules necessary to carry out its responsibilities under this
6 Act including rules concerning pyrotechnic distributors and
7 rules requiring the training, examination, and licensing of
8 lead pyrotechnic operators engaging in or responsible for the
9 handling and use of Division 1.3G (Class B) and 1.4 (Class C)
10 explosives. The pyrotechnic distributor's training program
11 ~~test~~ shall incorporate the rules of the State Fire Marshal,
12 which shall be based upon nationally recognized standards such
13 as those of the National Fire Protection Association (NFPA)
14 1123 guidelines for outdoor displays and NFPA 1126 for indoor
15 displays. The Fire Marshal shall adopt rules as required for
16 the licensing of all pyrotechnic distributors and a lead
17 pyrotechnic operators ~~operator~~ involved in an outdoor or indoor
18 pyrotechnic display.

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

20 (225 ILCS 227/35)

21 Sec. 35. Licensure requirements and fees.

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

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

30 (c) After April 1, 2005, no person ~~individual~~ may engage in
31 pyrotechnic distribution without first applying for and
32 obtaining a license from the Office. Applicants for a license

1 must submit to the Office the following:

2 (1) A current BATFE license for distribution of display
3 fireworks.

4 (2) Proof of \$1,000,000 in product liability
5 insurance.

6 (3) Proof of \$1,000,000 in general liability
7 insurance.

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

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

11 (6) Proof of a current United States Department of
12 Transportation (DOT) Identification Number.

13 (7) Proof of a current USDOT Hazardous Materials
14 Registration Number.

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

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

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

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

25 (d) A person is qualified to receive a license under this
26 Act if the person meets all of the following minimum
27 requirements:

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

29 (2) Has not willfully violated any provisions of this
30 Act.

31 (3) Has not made any material misstatement or knowingly
32 withheld information in connection with any original or
33 renewal application.

34 (4) Has not been declared incompetent by any competent

1 court by reasons of mental or physical defect or disease
2 unless a court has since declared the person competent.

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

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

8 (7) Is not a fugitive from justice.

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

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

12 (2) Has not willfully violated any provision of this
13 Act.

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

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

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

22 (6) Is not a fugitive from justice.

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

24 (225 ILCS 227/50)

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

26 (a) The Office, upon the applicant's satisfactory
27 completion of the requirements imposed under this Act and upon
28 receipt of the requisite fees, shall issue the appropriate
29 license showing the name, address, and photograph of the
30 licensee and the dates of issuance and expiration. The license
31 shall include the name of the pyrotechnic distributor employing
32 the lead pyrotechnic operator. A lead pyrotechnic operator is
33 required to have a separate license for each pyrotechnic

1 distributor who employs the lead pyrotechnic operator.

2 (b) Each licensee may apply for renewal of his or her
3 license upon payment of the applicable fees. The expiration
4 date and renewal period for each license issued under this Act
5 shall be set by rule. Failure to renew within 60 days of the
6 expiration date results in lapse of the license. A lapsed
7 license may not be reinstated until a written application is
8 filed, the renewal fee is paid, and the reinstatement fee
9 established by the Office is paid. Renewal and reinstatement
10 fees shall be waived for persons who did not renew while on
11 active duty in the military and who file for renewal or
12 restoration within one year after discharge from the service. A
13 lapsed license may not be reinstated after 5 years have elapsed
14 except upon passing an examination to determine fitness to have
15 the license restored and by paying the required fees.

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

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

18 (225 ILCS 227/57 new)

19 Sec. 57. Training; additional lead pyrotechnic operators.
20 No pyrotechnic distributor shall allow any person in the
21 pyrotechnic distributor's employ to act as a lead pyrotechnic
22 operator until the person has obtained a lead pyrotechnic
23 operator's license from the Office.

24 (225 ILCS 227/65)

25 Sec. 65. Grounds for discipline. Licensees subject to this
26 Act shall conduct their practice in accordance with this Act
27 and the rules promulgated under this Act. A licensee is subject
28 to disciplinary sanctions enumerated in this Act if the State
29 Fire Marshal finds that the licensee is guilty of any of the
30 following:

31 (1) Fraud or material deception in obtaining or
32 renewing a license.

1 (2) Engaging in dishonorable, unethical, or
2 unprofessional conduct of a character likely to deceive,
3 defraud, or harm the public in the course of professional
4 services or activities.

5 (3) Conviction of any crime that has a substantial
6 relationship to his or her practice or an essential element
7 of which is misstatement, fraud, dishonesty, or conviction
8 in this or another state of any crime that is a felony
9 under the laws of Illinois or conviction of a felony in a
10 federal court, unless the licensee demonstrates that he or
11 she has been sufficiently rehabilitated to warrant the
12 public trust.

13 (4) Performing any service in a grossly negligent
14 manner or permitting any lead pyrotechnic operator
15 ~~licensed employee~~ to perform a service in a grossly
16 negligent manner, regardless of whether actual damage or
17 damage to the public is established.

18 (5) Addiction to or dependency on alcohol or drugs or
19 use of alcohol or drugs that is likely to endanger the
20 public at a pyrotechnic display.

21 (6) Willfully receiving direct or indirect
22 compensation for any professional service not actually
23 rendered.

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

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

29 (9) Engaging in unprofessional conduct.

30 (10) Engaging in false or misleading advertising.

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

34 (12) Permitting the use of his or her license to enable

1 an unlicensed person or agency to operate as a licensee.

2 (13) Performing and charging for a service without
3 having the authorization to do so from the member of the
4 public being served.

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

7 (15) Conducting business regulated by this Act without
8 a currently valid license in those circumstances where a
9 license is required.

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

11 (225 ILCS 227/75)

12 Sec. 75. Formal charges; hearing.

13 (a) The Office may file formal charges against a licensee.
14 The formal charges, at a minimum, shall inform the licensee of
15 the specific facts that are the basis of the charge to enable
16 the licensee to defend himself or herself.

17 (b) Each licensee whose conduct is the subject of a formal
18 charge that seeks to impose disciplinary action against the
19 licensee shall be served notice of the formal charge at least
20 30 days before the date of the hearing. The hearing shall be
21 presided over by the Office or a hearing officer authorized by
22 the Office in compliance with the Illinois Administrative
23 Procedure Act. Service shall be considered to have been given
24 if the notice was personally received by the licensee or if the
25 notice was mailed certified, return requested, to the licensee
26 at the licensee's last known address as listed with the Office.

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

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

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

32 (3) A statement that the licensee has the right to
33 produce witnesses and evidence in his or her behalf and the

1 right to cross-examine witnesses and evidence produced
2 against him or her.

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

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

9 (6) A statement that the hearing officer authorized by
10 the Office shall preside at the hearing and, following the
11 conclusion of the hearing, make findings of fact,
12 conclusions of law, and recommendations, separately
13 stated, to the Office as to what disciplinary action, if
14 any, should be imposed on the licensee.

15 (7) A statement that the Office may continue the
16 hearing.

17 (d) The Office or the hearing officer authorized by the
18 Office shall hear evidence produced in support of the formal
19 charges and contrary evidence produced by the licensee, if any.
20 If the hearing is conducted by a hearing officer, at the
21 conclusion of the hearing, the hearing officer shall make
22 findings of fact, conclusions of law, and recommendations,
23 separately stated, and submit them to the Office and to all
24 parties to the proceeding. Submission to the licensee shall be
25 considered as having been made if done in a similar fashion as
26 service of the notice of formal charges. Within 20 days after
27 the service, any party to the proceeding may present to the
28 Office a motion, in writing, for a rehearing. The written
29 motion shall specify the particular grounds for the rehearing.

30 (e) The Office, following the time allowed for filing a
31 motion for rehearing, shall review the hearing officer's
32 findings of fact, conclusions of law, recommendations, and any
33 motions filed subsequent to the hearing. After review of the
34 information the Office may hear oral arguments and thereafter

1 issue an order. The report of findings of fact, conclusions of
2 law, and recommendations of the hearing officer shall be the
3 basis for the Office's order. If the Office finds that
4 substantial justice was not done, it may issue an order in
5 contravention of the hearing officer's findings.

6 (f) All proceedings under this Section are matters of
7 public record and a record of the proceedings shall be
8 preserved.

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

10 (225 ILCS 227/90)

11 Sec. 90. Penalties. Any natural person who violates any of
12 the following provisions is guilty of a Class A misdemeanor for
13 the first offense and a corporation or other entity that
14 violates any of the following provision commits a business
15 offense punishable by a fine not to exceed \$5,000; a second or
16 subsequent offense in violation of any Section of this Act,
17 including this Section, is a Class 4 felony if committed by a
18 natural person, or a business offense punishable by a fine of
19 up to \$10,000 if committed by a corporation or other business
20 entity:

21 (1) Practicing or attempting to practice as a
22 pyrotechnic distributor or lead pyrotechnic operator
23 without a license;

24 (2) Obtaining or attempting to obtain a license,
25 practice or business, or any other thing of value by
26 fraudulent representation;

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

31 Whenever any person is punished as a repeat offender under
32 this Section, the Office may proceed to obtain a permanent
33 injunction against the person under Section 10. If any person

1 in making any oath or affidavit required by this Act swears
2 falsely, the person is guilty of perjury and upon conviction
3 may be punished accordingly.

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

5 Section 15. The Fireworks Use Act is amended by changing
6 Section 2 as follows:

7 (425 ILCS 35/2) (from Ch. 127 1/2, par. 128)

8 Sec. 2. Except as hereinafter provided it shall be unlawful
9 for any person, firm, co-partnership, or corporation to
10 knowingly possess, offer for sale, expose for sale, sell at
11 retail, or use or explode any fireworks; provided that city
12 councils in cities, the president and board of trustees in
13 villages and incorporated towns, and outside the corporate
14 limits of cities, villages and incorporated towns, the county
15 board, shall have power to adopt reasonable rules and
16 regulations for the granting of permits for supervised public
17 displays of fireworks. Every such display shall be handled by a
18 competent individual who is licensed as a lead pyrotechnic
19 operator. Application for permits shall be made in writing at
20 least 15 days in advance of the date of the display and action
21 shall be taken on such application within 48 hours after such
22 application is made. After such privilege shall have been
23 granted, sales, possession, use and distribution of fireworks
24 for such display shall be lawful for that purpose only. No
25 permit granted hereunder shall be transferable.

26 Permits may be granted hereunder to any groups of 3 or more
27 adult individuals applying therefor. No permit shall be
28 required, under the provisions of this Act, for supervised
29 public displays by State or County fair associations.

30 The governing body shall require proof of insurance from
31 the permit applicant in a sum not less than \$1,000,000
32 conditioned on compliance with the provisions of this law and

1 the regulations of the State Fire Marshal adopted hereunder,
2 except that no municipality shall be required to provide
3 evidence of insurance.

4 Such permit shall be issued only after inspection of the
5 display site by the issuing officer, to determine that such
6 display shall be in full compliance with the rules of the State
7 Fire Marshal, which shall be based upon nationally recognized
8 standards such as those of the National Fire Protection
9 Association (NFPA) 1123 guidelines for outdoor displays and
10 NFPA 1126 guidelines for indoor displays and shall not be
11 hazardous to property or endanger any person or persons.
12 Nothing in this Section shall prohibit the issuer of the permit
13 from adopting more stringent rules.

14 All indoor pyrotechnic displays shall be conducted in
15 buildings fully protected by automatic sprinkler systems.

16 The chief of the fire department providing fire protection
17 coverage to the area of display, or his or her designee, shall
18 sign the permit.

19 Possession by any party holding a certificate of
20 registration under "The Fireworks Regulation Act of Illinois",
21 filed July 20, 1935, or by any employee or agent of such party
22 or by any person transporting fireworks for such party, shall
23 not be a violation, provided such possession is within the
24 scope of business of the fireworks plant registered under that
25 Act.

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

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."