



Adopted in House Comm. on May 11, 2005

09400SB1821ham001

LRB094 09820 LJB 45895 a

1 AMENDMENT TO SENATE BILL 1821

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1821 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Pyrotechnic Operator Licensing Act is  
5 amended by changing Section 5 as follows:

6 (225 ILCS 227/5)

7 Sec. 5. Definitions. In this Act:

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

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

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

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

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

1 "Pyrotechnic display" or "display" means the detonation,  
2 ignition, or deflagration of display fireworks or flame effects  
3 to produce a visual or audible effect of an exhibitional nature  
4 before the public, invitees, or licensees, regardless of  
5 whether admission is charged.

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

7 Section 10. The Fireworks Use Act is amended by changing  
8 Sections 1, 2, 4.1, and 5 and by adding Sections 2.1, 2.2, and  
9 2.3 as follows:

10 (425 ILCS 35/1) (from Ch. 127 1/2, par. 127)

11 Sec. 1. Definitions. As used in this Act, the following  
12 words shall have the following meanings:

13 "1.3G fireworks" means those fireworks used for  
14 professional outdoor displays and classified as fireworks  
15 UN0333, UN0334, or UN0335 by the United States Department of  
16 Transportation under 49 C.F.R. 172.101.

17 "Consumer distributor" means any person who distributes,  
18 offers for sale, sells, or exchanges for consideration consumer  
19 fireworks in Illinois to another distributor or directly to any  
20 retailer or person for resale.

21 "Consumer fireworks" means those fireworks that must  
22 comply with the construction, chemical composition, and  
23 labeling regulations of the U.S. Consumer Products Safety  
24 Commission, as set forth in 16 C.F.R. Parts 1500 and 1507, and  
25 classified as fireworks UN0336 or UN0337 by the United States  
26 Department of Transportation under 49 C.F.R. 172.101.

27 "Consumer fireworks" shall not include snake or glow worm  
28 pellets; smoke devices; trick noisemakers known as "party  
29 poppers", "booby traps", "snappers", "trick matches",  
30 "cigarette loads", and "auto burglar alarms"; sparklers; toy  
31 pistols, toy canes, toy guns, or other devices in which paper  
32 or plastic caps containing twenty-five hundredths grains or

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

7 "Consumer fireworks display" or "consumer display" means  
8 the detonation, ignition, or deflagration of consumer  
9 fireworks to produce a visual or audible effect.

10 "Consumer operator" means an adult individual who is  
11 responsible for the safety, setup, and discharge of the  
12 consumer fireworks display and who has completed the training  
13 required in Section 2.2 of this Act.

14 "Consumer retailer" means any person who offers for sale,  
15 sells, or exchanges for consideration consumer fireworks in  
16 Illinois directly to any person with a consumer display permit.

17 "Display fireworks" means 1.3G or special effects  
18 fireworks or as further defined in the Pyrotechnic Operator  
19 Licensing Act.

20 "Flame effect" means the detonation, ignition, or  
21 deflagration of flammable gases, liquids, or special materials  
22 to produce a thermal, physical, visual, or audible effect  
23 before the public, invitees, or licensees, regardless of  
24 whether admission is charged, in accordance with National Fire  
25 Protection Association 160 guidelines, and as may be further  
26 defined in the Pyrotechnic Operator Licensing Act.

27 "Lead pyrotechnic operator" means an individual who is  
28 responsible for the safety, setup, and discharge of the  
29 pyrotechnic display and who is licensed pursuant to the  
30 Pyrotechnic Operator Licensing Act.

31 "Person" means an individual, firm, corporation,  
32 association, partnership, company, consortium, joint venture,  
33 or commercial entity.

34 "Pyrotechnic display" means the detonation, ignition, or

1 deflagration of display fireworks or flame effects to produce  
2 visual or audible effects of a exhibitional nature before the  
3 public, invitees, or licensees, regardless of whether  
4 admission is charged, and as may be further defined in the  
5 Pyrotechnic Operator Licensing Act.

6 "Special effects fireworks" means pyrotechnic devices used  
7 for special effects by professionals in the performing arts in  
8 conjunction with theatrical, musical, or other productions  
9 that are similar to consumer fireworks in chemical compositions  
10 and construction, but are not intended for consumer use and are  
11 not labeled as such or identified as "intended for indoor use".

12 "Special effects fireworks" are classified as fireworks UN0431  
13 or UN0432 by the United States Department of Transportation  
14 under 49 C.F.R. 172.101.

15 ~~The term fireworks shall mean and include any explosive~~  
16 ~~composition, or any substance or combination of substances, or~~  
17 ~~article prepared for the purpose of producing a visible or~~  
18 ~~audible effect of a temporary exhibitional nature by explosion,~~  
19 ~~combustion, deflagration or detonation, and shall include~~  
20 ~~blank cartridges, toy cannons, in which explosives are used,~~  
21 ~~the type of balloons which require fire underneath to propel~~  
22 ~~the same, firecrackers, torpedoes, skyrockets, Roman candles,~~  
23 ~~bombs, or other fireworks of like construction and any~~  
24 ~~fireworks containing any explosive compound, or any tablets or~~  
25 ~~other device containing any explosive substance, or containing~~  
26 ~~combustible substances producing visual effects: provided,~~  
27 ~~however, that the term "fireworks" shall not include snake or~~  
28 ~~glow worm pellets; smoke devices; trick noisemakers known as~~  
29 ~~"party poppers", "booby traps", "snappers", "trick matches",~~  
30 ~~"cigarette loads" and "auto burglar alarms"; sparklers; toy~~  
31 ~~pistols, toy canes, toy guns, or other devices in which paper~~  
32 ~~or plastic caps containing twenty five hundredths grains or~~  
33 ~~less of explosive compound are used, providing they are so~~  
34 ~~constructed that the hand cannot come in contact with the cap~~

1 ~~when in place for the explosion; and toy pistol paper or~~  
2 ~~plastic caps which contain less than twenty hundredths grains~~  
3 ~~of explosive mixture; the sale and use of which shall be~~  
4 ~~permitted at all times.~~

5 (Source: P.A. 83-474.)

6 (425 ILCS 35/2) (from Ch. 127 1/2, par. 128)

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

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

31 ~~The governing body shall require proof of insurance from~~  
32 ~~the permit applicant in a sum not less than \$1,000,000~~  
33 ~~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 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 (425 ILCS 35/2.1 new)

28 Sec. 2.1. Pyrotechnic displays. Each pyrotechnic display  
29 shall be conducted by a licensed lead pyrotechnic operator.  
30 Applications for a pyrotechnic display permit shall be made in  
31 writing at least 15 days in advance of the date of the  
32 pyrotechnic display, unless agreed to otherwise by the local  
33 jurisdiction issuing the permit and the fire chief of the

1 jurisdiction in which the display will occur. After a permit  
2 has been granted, sales, possession, use, and distribution of  
3 display fireworks for the display shall be lawful for that  
4 purpose only. No permit granted hereunder shall be  
5 transferable.

6 Pyrotechnic display permits may be granted hereunder to any  
7 adult individual applying therefor. No permit shall be required  
8 under the provisions of this Act for supervised public displays  
9 by State or County fair associations.

10 The applicant seeking the pyrotechnic display permit must  
11 provide proof of liability insurance in a sum not less than  
12 \$1,000,000 to the local governmental entity issuing the permit.

13 A permit shall be issued only after the chief of the fire  
14 department providing fire protection coverage to the area of  
15 display, or his or her designee, has inspected the site and  
16 determined that the display can be performed in full compliance  
17 with the rules adopted by the State Fire Marshal and that the  
18 display shall not be hazardous to property or endanger any  
19 person or persons. Nothing in this Section shall prohibit the  
20 issuer of a permit from adopting more stringent rules.

21 All indoor pyrotechnic displays shall be conducted in  
22 buildings protected by automatic sprinkler systems and meeting  
23 the requirements of rules adopted by the State Fire Marshal  
24 pursuant to this Act.

25 Permits shall be signed by the chief of the fire department  
26 providing fire protection to the area of display, or his or her  
27 designee, and must identify the lead pyrotechnic operator.

28 (425 ILCS 35/2.2 new)

29 Sec. 2.2. Consumer displays. Each consumer display shall be  
30 handled by a competent individual who has received training  
31 from a consumer fireworks training class approved by the Office  
32 of the State Fire Marshal. Applications for consumer display  
33 permits shall be made in writing at least 15 days in advance of

1 the date of the display, unless agreed to otherwise by the  
2 local jurisdiction issuing the permit and the fire chief of the  
3 jurisdiction in which the display will occur. After a permit  
4 has been granted, sales, possession, use, and distribution of  
5 consumer fireworks for display shall be lawful for that purpose  
6 only. No permit granted hereunder shall be transferable.

7 Permits may be granted hereunder to any adult individual  
8 applying for a permit who provides proof that he or she has  
9 received the requisite training. The local jurisdiction  
10 issuing the permit is authorized to conduct a criminal  
11 background check of the applicant as a condition of issuing a  
12 permit.

13 A permit shall be issued only after inspection of the  
14 display site by the fire chief providing fire protection  
15 coverage to the area of display, or his or her designee, to  
16 determine that the display is in full compliance with the rules  
17 adopted by the State Fire Marshal. Nothing in this Section  
18 shall prohibit the issuer of a permit from adopting more  
19 stringent rules.

20 (425 ILCS 35/2.3 new)

21 Sec. 2.3. Consumer distributors and retailers. No person  
22 may act as a consumer distributor or retailer or advertise or  
23 use any title implying that the person is a consumer  
24 distributor or retailer unless registered with the Office of  
25 the State Fire Marshal. No consumer fireworks may be  
26 distributed, sold, transferred, or provided free of charge to  
27 an individual who has not been issued a permit in accordance  
28 with Section 2.2 of this Act or has not registered with the  
29 Office of the State Fire Marshal in accordance with this  
30 Section. No person may sell to a single individual a quantity  
31 of consumer fireworks exceeding 499 pounds without prior  
32 approval by the Office of the State Fire Marshal. The State  
33 Fire Marshal, in the name of the People, through the Attorney



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

20 (425 ILCS 35/4.1) (from Ch. 127 1/2, par. 130.1)

21 Sec. 4.1. The State Fire Marshal may adopt necessary rules  
22 and regulations for the administration of this Act which shall  
23 be based upon nationally recognized standards such as those of  
24 the National Fire Protection Association (NFPA) 1123  
25 guidelines for outdoor displays, NFPA 1126 guidelines for  
26 proximate audience displays, and NFPA 160 guidelines for flame  
27 effects. The State Fire Marshal is authorized to adopt rules  
28 that establish audience proximity distances for consumer  
29 display fireworks.

30 The Office of the State Fire Marshal shall maintain a list  
31 of approved consumer fireworks and update the list annually or  
32 as new consumer fireworks items are submitted to the Office by  
33 consumer distributors.

1       All applications, permits, and site inspection records  
2       shall be on forms approved by the State Fire Marshal.

3       (Source: P.A. 81-623.)

4             (425 ILCS 35/5) (from Ch. 127 1/2, par. 131)

5       Sec. 5. (a) Any person, firm, co-partnership, or  
6       corporation violating the provisions of this Act, ~~except as~~  
7       ~~provided in subsection b,~~ shall be guilty of a Class A B  
8       misdemeanor.

9       ~~(b) The possession, offering for sale, exposing for sale,~~  
10       ~~or selling at retail of fireworks in violation of this Act is:~~

11             ~~(1) a petty offense if involving up to 1 pound of~~  
12       ~~fireworks, exclusive of external packaging; or~~

13             ~~(2) a Class B misdemeanor if involving an amount~~  
14       ~~greater than 1 pound but up to 3 pounds of fireworks, exclusive~~  
15       ~~of external packaging; or~~

16             ~~(3) a Class A misdemeanor if involving an amount~~  
17       ~~greater than 3 pounds of fireworks, exclusive of external~~  
18       ~~packaging.~~

19       ~~"External packaging", for purposes of this subsection,~~  
20       ~~shall mean any materials which are not an integral part of the~~  
21       ~~operative unit of fireworks.~~

22       (Source: P.A. 82-620.)".