

AN ACT concerning regulation.

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

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

(225 ILCS 227/5)

Sec. 5. Definitions. In this Act:

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

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

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

"Office" means Office of the State Fire Marshal.

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

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

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

Section 10. The Fireworks Use Act is amended by changing

Sections 1, 2, 4.1, and 5 and by adding Sections 2.1, 2.2, and 2.3 as follows:

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

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

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

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

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

"Consumer fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads", and "auto burglar alarms"; sparklers; toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps that contain less than twenty hundredths grains of explosive mixture; the sale and use of which shall be permitted at all times.

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

"Consumer operator" means an adult individual who is

responsible for the safety, setup, and discharge of the consumer fireworks display and who has completed the training required in Section 2.2 of this Act.

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

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

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

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

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

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

"Special effects fireworks" means pyrotechnic devices used for special effects by professionals in the performing arts in conjunction with theatrical, musical, or other productions that are similar to consumer fireworks in chemical compositions and construction, but are not intended for consumer use and are not labeled as such or identified as "intended for indoor use".
"Special effects fireworks" are classified as fireworks UN0431

or UN0432 by the United States Department of Transportation under 49 C.F.R. 172.101.

~~The term fireworks shall mean and include any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration or detonation, and shall include blank cartridges, toy cannons, in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrocketes, Roman candles, bombs, or other fireworks of like construction and any fireworks containing any explosive compound, or any tablets or other device containing any explosive substance, or containing combustible substances producing visual effects: provided, however, that the term "fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads" and "auto burglar alarms"; sparklers; toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing twenty five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps which contain less than twenty hundredths grains of explosive mixture; the sale and use of which shall be permitted at all times.~~

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

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

Sec. 2. Possession, sale, and use of fireworks. Except as hereinafter provided it shall be unlawful for any person, firm, co-partnership, or corporation to knowingly possess, offer for sale, expose for sale, sell at retail, or use or explode any display fireworks, flame effects, or consumer fireworks; provided that city councils in cities, the president and board of trustees in villages and incorporated towns, and outside the

corporate limits of cities, villages and incorporated towns, the county board, shall have power to adopt reasonable rules and regulations for the granting of permits for pyrotechnic and consumer displays. ~~supervised public displays of fireworks. Every such display shall be handled by a competent individual who is licensed as a lead pyrotechnic operator. Application for permits shall be made in writing at least 15 days in advance of the date of the display and action shall be taken on such application within 48 hours after such application is made. After such privilege shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.~~

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

~~The governing body shall require proof of insurance from the permit applicant in a sum not less than \$1,000,000 conditioned on compliance with the provisions of this law and the regulations of the State Fire Marshal adopted hereunder, except that no municipality shall be required to provide evidence of insurance.~~

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

~~All indoor pyrotechnic displays shall be conducted in buildings protected by automatic sprinkler systems.~~

~~The chief of the fire department providing fire protection~~

~~coverage to the area of display, or his or her designee, shall sign the permit.~~

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

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

(425 ILCS 35/2.1 new)

Sec. 2.1. Pyrotechnic displays. Each pyrotechnic display shall be conducted by a licensed lead pyrotechnic operator. Applications for a pyrotechnic display permit shall be made in writing at least 15 days in advance of the date of the pyrotechnic display, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display will occur. After a permit has been granted, sales, possession, use, and distribution of display fireworks for the display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

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

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

A permit shall be issued only after the chief of the fire department providing fire protection coverage to the area of display, or his or her designee, has inspected the site and determined that the display can be performed in full compliance with the rules adopted by the State Fire Marshal and that the display shall not be hazardous to property or endanger any

person or persons. Nothing in this Section shall prohibit the issuer of a permit from adopting more stringent rules.

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

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

(425 ILCS 35/2.2 new)

Sec. 2.2. Consumer displays. Each consumer display shall be handled by a competent individual who has received training from a consumer fireworks training class approved by the Office of the State Fire Marshal. Applications for consumer display permits shall be made in writing at least 15 days in advance of the date of the display, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display will occur. After a permit has been granted, sales, possession, use, and distribution of consumer fireworks for display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

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

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

(425 ILCS 35/2.3 new)

Sec. 2.3. Consumer distributors and retailers. No person may act as a consumer distributor or retailer or advertise or use any title implying that the person is a consumer distributor or retailer unless registered with the Office of the State Fire Marshal. No consumer fireworks may be distributed, sold, transferred, or provided free of charge to an individual who has not been issued a permit in accordance with Section 2.2 of this Act or has not registered with the Office of the State Fire Marshal in accordance with this Section. No person may sell to a single individual a quantity of consumer fireworks exceeding 499 pounds without prior approval by the Office of the State Fire Marshal. The State Fire Marshal, in the name of the People, through the Attorney General, the State's Attorney of any county, any resident of the State, or any legal entity within the State may apply for injunctive relief in any court to enjoin any person who has not registered from distributing or selling consumer fireworks. Upon filing a verified petition in court, the court, if satisfied by affidavit, or otherwise, that the person is or has been distributing in violation of this Act, may enter a temporary restraining order or preliminary injunction, without bond, enjoining the defendant from further activity. A copy of the verified complaint shall be served upon the defendant and the proceedings are to be conducted as in other civil cases. The court may enter a judgment permanently enjoining a defendant from further unregistered activity if it is established that the defendant has been or is distributing in violation of this Act. In case of violation of any injunctive order or judgment entered under this Section, the court may summarily try and punish the offender for contempt of court. Injunctive proceedings are in addition to all penalties and other remedies in this Act.

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

Sec. 4.1. The State Fire Marshal may adopt necessary rules

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

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

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

(Source: P.A. 81-623.)

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

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

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

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

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

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

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

(Source: P.A. 82-620.)