



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5099

Introduced 2/18/2020, by Rep. Dave Severin

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 16842 SPS 66241 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 participated
9 as an assistant in at least 5 public displays of fireworks with
10 overall responsibility for the operation and safety of a
11 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 (1) 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 (A) 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 (B) at least one competent display operator is on
23 site during display setup 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 (C) permits are filed with the State Fire Marshal
5 at least 15 days in advance of the date of the display;
6 and

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

12 (2) the sale, at wholesale, of any display fireworks
13 for permitted displays by any resident manufacturer,
14 wholesaler, dealer, or jobber, in accordance with
15 regulations of the United States Bureau of Alcohol,
16 Tobacco, Firearms and Explosives if the sale is to the
17 person holding a display permit as prescribed in paragraph
18 (1);

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

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

25 (5) the use of fuses and railway torpedoes by
26 railroads;

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

4 (7) the use of any pyrotechnic device by military
5 organizations; or

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

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

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

17 (a) Consumer fireworks may be offered for sale, sold at
18 retail, or kept with the intent to sell only if the
19 requirements of this Section are met.

20 (b) Any person, firm, co-partnership, nonprofit, or
21 business intending to sell consumer fireworks shall register
22 annually with the State Fire Marshal, who may assess a fee of
23 no more than \$25 for each site at which fireworks shall be
24 sold. This registration requirement does not apply to permanent
25 business establishments that are open year-round and in which

1 the sale of fireworks is ancillary to the primary course of
2 business.

3 (c) Permanent business establishments open year-round and
4 in which the sale of consumer fireworks is ancillary to the
5 primary course of business shall either meet the definition of
6 "seasonal retailer" or be permitted to sell the following
7 consumer fireworks:

8 (1) dipped stick-sparklers or wire sparklers;

9 (2) cylindrical fountains;

10 (3) cone fountains;

11 (4) illuminating torches;

12 (5) wheels;

13 (6) ground spinners;

14 (7) flitter sparklers; or

15 (8) toy smoke devices.

16 (d) A seasonal retailer shall register with the State Fire
17 Marshal, who may assess a fee of no more than \$250 for each
18 site at which fireworks shall be sold.

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

24 (f) The annual registration required by this Section shall
25 be received by the State Fire Marshal at least 15 days prior to
26 offering fireworks for sale at the site for which the

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

5 (g) Each site at which fireworks are offered for sale shall
6 have its registration certificate displayed in a conspicuous
7 location at the site.

8 (h) No person or business shall give, offer for sale, or
9 sell any consumer fireworks to any person under 18 years of
10 age.

11 (i) No person under 18 years of age may be employed by a
12 fireworks distribution facility or manufacturing facility.

13 (j) No person under 18 years of age shall sell consumer
14 fireworks at a consumer fireworks retail sales facility
15 registered under this Section unless the individual is
16 supervised by a parent or guardian.

17 (k) A person lawfully possessing consumer fireworks may use
18 those items if:

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

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

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

24 (l) The State Fire Marshal may revoke the registration of
25 any site that is in violation of a requirement of this Section
26 or any other requirement provided by this Act. If the violation

1 renders any property especially susceptible to fire loss and
2 there is present such hazard to human life or limb that the
3 public safety imperatively requires emergency action, the
4 State Fire Marshal may take that action.

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

15 Section 30. Exemptions. Nothing in this Act prevents the
16 retail sale and use of explosives or signaling flares used in
17 the course of ordinary business or industry, snake or glow worm
18 pellets, smoke devices, trick noisemakers known as "party
19 poppers", "booby traps", "snappers", "trick matches",
20 "cigarette loads", and "auto burglar alarms", sparklers, toy
21 pistols, toy canes, toy guns, or other devices in which paper
22 or plastic caps containing twenty-five hundredths grains or
23 less of explosive mixture are used, provided they are so
24 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 that contain less than twenty hundredths grains of
3 explosive mixture, shells or cartridges used as ammunition in
4 firearms, blank cartridges for a show or theater, signal or
5 ceremonial purposes in athletics or sports, use by military
6 organizations, or the sale of any kind of fireworks provided
7 the same are to be shipped by the seller directly out of the
8 State.

9 Section 35. Seizure and sale of fireworks.

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

17 (b) After a period of 60 days, the seized fireworks may be
18 offered for sale by closed bid to a properly certified
19 manufacturer, distributor, or wholesaler. All seized fireworks
20 or explosives with a Division 1.3G or display firework
21 designation shall require the notification of the United States
22 Bureau of Alcohol, Tobacco, Firearms and Explosives. The State
23 Fire Marshal shall provide the owner or possessor a receipt
24 containing the complete inventory of any fireworks seized
25 within 5 business days of the seizure.

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

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

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

25 (d) Nothing in this Act restricts a county or municipality
26 from enacting ordinances that affect the sale or use of

1 fireworks within its jurisdiction.

2 Section 40. Storage of consumer fireworks and display
3 fireworks.

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

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

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

22 (b) Seasonal retailers shall submit, at least 15 days prior
23 to opening for sale each year, a report to the State Fire
24 Marshal and the local fire chief of the jurisdiction
25 identifying:

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

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

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

13 Section 45. Rulemaking. The State Fire Marshal shall adopt
14 such rules as may be necessary for the implementation of this
15 Act.

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

18 (225 ILCS 227/5)

19 Sec. 5. Definitions. In this Act:

20 "1.3G fireworks" means fireworks that are used for
21 professional outdoor displays and classified as fireworks
22 UN0333, UN0334, or UN0335 by the United States Department of
23 Transportation under 49 C.F.R. 172.101.

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

4 "BATFE" means the federal Bureau of Alcohol, Tobacco,
5 Firearms and Explosives.

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

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

21 "Cover licensor representative" means a licensed lead
22 pyrotechnic operator, either employed by the cover licensor or
23 insured as an additional named insured on the cover licensor's
24 general liability and product liability insurance, as
25 applicable, who is responsible for supervising the safety and
26 regulatory compliance of the touring lead pyrotechnic

1 operators and touring technicians during a pyrotechnic display
2 or pyrotechnic service.

3 "Display fireworks" means 1.3G explosive or special
4 effects fireworks.

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

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

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

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

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

24 "Person" means an individual, firm, corporation,
25 association, partnership, company, consortium, joint venture,
26 commercial entity, state, municipality, or political

1 subdivision of a state or any agency, department, or
2 instrumentality of the United States and any officer, agent, or
3 employee of these entities.

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

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

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

19 "Pyrotechnic service" means the detonation, ignition, or
20 deflagration of display fireworks, special effects, or flame
21 effects to produce a visual or audible effect.

22 "Special effects fireworks" means pyrotechnic devices used
23 for special effects by professionals in the performing arts in
24 conjunction with theatrical, musical, or other productions
25 that are similar to consumer fireworks in chemical compositions
26 and construction, but are not intended for consumer use and are

1 not labeled as such or identified as "intended for indoor use".
2 "Special effects fireworks" are classified as fireworks UN0431
3 or UN0432 by the United States Department of Transportation
4 under 49 C.F.R. 172.101.

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

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

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

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

21 (425 ILCS 35/Act rep.)

22 Section 75. The Pyrotechnic Use Act is repealed.

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.