



Rep. Robert "Bob" Rita

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1 AMENDMENT TO HOUSE BILL 2851

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2851 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Fireworks Regulation Act of Illinois is  
5 amended by adding the heading of Article 1, by changing  
6 Sections 2, 3.5, and 24, and by adding Section 3.6 and Article  
7 2 as follows:

8 (425 ILCS 30/Art. 1 heading new)

9 ARTICLE 1. FIREWORKS REGULATION

10 (425 ILCS 30/2) (from Ch. 127 1/2, par. 102)

11 Sec. 2. The following words and phrases, when used in this  
12 Article Act, shall for the purpose of this Article Act have the  
13 following definition and meaning:

14 (a) The term fireworks shall mean and include any  
15 explosive composition or any substance or combination of

1 substances, or article prepared for the purpose of producing a  
2 visible or audible effect of a temporary exhibitional nature  
3 by explosion, combustion, deflagration or detonation, and  
4 shall include blank cartridges, toy cannons in which  
5 explosives are used, the type of balloons which require fire  
6 underneath to propel the same, firecrackers, torpedoes, sky  
7 rockets, Roman candles, 7 bombs, 7 or other fireworks of like  
8 construction and any fireworks containing any explosive  
9 compound; or any tablets or other device containing any  
10 explosive substance, or containing combustible substances  
11 producing visual effects. The term "fireworks" shall not  
12 include snake or glow worm pellets; smoke devices; sparklers;  
13 ground-based sparklers, as defined under Article 2 of this  
14 Act, that are nonexplosive and nonaerial, that may produce a  
15 crackling or whistling effect, and that contain 75 grams or  
16 less of pyrotechnic composition per tube or a total of 500  
17 grams or less for multiple tubes (for example, fountains or  
18 cones, including showers of sparks); trick noisemakers known  
19 as "party poppers", "booby traps", "snappers", "trick  
20 matches", "cigarette loads" and "auto burglar alarms"; 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 compound are used, provided they are so  
24 constructed that the hand cannot come in contact with the cap  
25 when in place for the explosion; and toy pistol paper or  
26 plastic caps which contain less than twenty-five hundredths

1 grains of explosive mixture; the sale and use of which shall be  
2 permitted at all times.

3 (b) The term "fireworks plant" shall mean and include all  
4 lands, with buildings thereon, used in connection with the  
5 manufacture or processing of fireworks, as well as storehouses  
6 located thereon for the storage of finished fireworks.

7 (c) The term "fireworks factory building" shall mean any  
8 building or other structure in which the manufacture of  
9 fireworks, or in which any processing involving fireworks is  
10 carried on.

11 (d) The term "magazine" shall mean any building or other  
12 structure used for the storage of explosive raw materials used  
13 in the manufacture of fireworks.

14 (e) The term "Office" shall mean the Office of the State  
15 Fire Marshal.

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

17 (425 ILCS 30/3.5)

18 Sec. 3.5. Use ~~sale and use~~ prohibited on public property.  
19 A municipality may, by ordinance, prohibit the ~~sale and~~ use of  
20 sparklers or ground-based sparklers on public property. In  
21 this Section, "ground-based sparkler" has the meaning given  
22 under Article 2 of this Act.

23 (Source: P.A. 92-93, eff. 1-1-02.)

24 (425 ILCS 30/3.6 new)

1       Sec. 3.6. Sale of ground-based sparklers. The following  
2 may not be sold to a person under the age of 18: any  
3 ground-based sparkler that is nonexplosive and nonaerial, that  
4 may produce a crackling or whistling effect, and that contains  
5 75 grams or less of pyrotechnic composition per tube or a total  
6 of 500 grams or less for multiple tubes (for example,  
7 fountains or cones, including showers of sparks). In this  
8 Section, "ground-based sparkler" has the meaning given under  
9 Article 2 of this Act.

10           (425 ILCS 30/24) (from Ch. 127 1/2, par. 124)

11       Sec. 24. The provisions of this Act shall not be construed  
12 or held to abrogate or in any way affect the power of cities,  
13 villages, and incorporated towns to regulate, restrain and  
14 prohibit the use of fireworks, firecrackers, torpedoes, Roman  
15 candles, skyrockets, ground-based sparklers, and other  
16 pyrotechnic displays within their corporate limits. The  
17 sections of this Act and every part of such sections are hereby  
18 declared to be independent sections and parts of sections, and  
19 the invalidity of any section or part thereof shall not affect  
20 any other section or part of a section. However, the retail  
21 sales of ground-based sparklers may not be further regulated,  
22 restrained, or prohibited, provided that the ground-based  
23 sparkler retailer, as defined in Section 202, complies with  
24 the National Fire Protection Association standard NFPA 1124,  
25 Code for the Manufacture, Transportation, Storage, and Retail

1 Sales of Fireworks and Pyrotechnic Articles (2006 Edition).

2 (Source: Laws 1935, p. 881.)

3 (425 ILCS 30/Art. 2 heading new)

4 ARTICLE 2. GROUND-BASED SPARKLER PURCHASER EXCISE TAX

5 (425 ILCS 30/201 new)

6 Sec. 201. References to Article. This Article may be  
7 referred to as the Ground-Based Sparkler Purchaser Excise Tax  
8 Law.

9 (425 ILCS 30/202 new)

10 Sec. 202. Definitions. In this Article:

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

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

19 "Department" means the Department of Revenue.

20 "Director" means the Director of Revenue.

21 "Ground-based sparkler" means any ground-based sparkler  
22 that is nonexplosive and nonaerial, that may produce a  
23 crackling or whistling effect, and that contains 75 grams or

1 less of pyrotechnic composition per tube or a total of 500  
2 grams or less for multiple tubes (for example, fountains or  
3 cones, including showers of sparks).

4 "Ground-based sparkler retailer" or "retailer" means any  
5 person that transfers the ownership of or title to  
6 ground-based sparklers to a purchaser, for the purpose of use,  
7 and not for the purpose of resale, for a valuable  
8 consideration.

9 "Person" means a natural individual, firm, partnership,  
10 association, joint stock company, joint adventure, public or  
11 private corporation, limited liability company, or a receiver,  
12 executor, trustee, guardian, or other representative appointed  
13 by order of any court.

14 "Purchase price" means the consideration paid for a  
15 purchase of ground-based sparklers, valued in money, whether  
16 received in money or otherwise, including cash, gift cards,  
17 credits, and property and shall be determined without any  
18 deduction on account of the cost of materials used, labor or  
19 service costs, or any other expense whatsoever. However,  
20 "purchase price" does not include consideration paid for:

21 (1) any charge for a payment that is not honored by a  
22 financial institution;

23 (2) any finance or credit charge, penalty or charge  
24 for delayed payment, or discount for prompt payment; and

25 (3) any amounts added to a purchaser's bill because of  
26 charges made under the tax imposed by this Article, the

1 Retailers' Occupation Tax Act, the Use Tax Act, the  
2 Service Occupation Tax Act, the Service Use Tax Act, or  
3 any locally imposed occupation or use tax.

4 "Purchaser" means a person who, through a sale at retail,  
5 acquires ground-based sparklers for a valuable consideration.

6 "Taxpayer" means a ground-based sparkler retailer who is  
7 required to collect the tax imposed under this Article.

8 (425 ILCS 30/203 new)

9 Sec. 203. Tax imposed.

10 (a) Beginning December 1, 2026, a tax is imposed upon  
11 purchasers for the privilege of using ground-based sparklers,  
12 which are purchased not for the purpose of resale, at the rate  
13 of 6% of the purchase price of the ground-based sparklers.

14 (b) The tax imposed under this Article shall be in  
15 addition to all other occupation, privilege, or excise taxes  
16 imposed by the State of Illinois or by any municipal  
17 corporation or political subdivision thereof.

18 (c) The tax imposed under this Article shall not be  
19 imposed on any purchase by a purchaser if the retailer is  
20 prohibited by federal or State Constitution, treaty,  
21 convention, statute, or court decision from collecting the tax  
22 from the purchaser.

23 (425 ILCS 30/204 new)

24 Sec. 204. Bundling of taxable and nontaxable items;

1 prohibition; taxation. A retailer is prohibited from selling  
2 ground-based sparklers in combination or bundled with any  
3 other items not subject to tax under this Article for one  
4 price, and each ground-based sparkler must be separately  
5 identified by quantity and price on the receipt.

6 If a retailer sells ground-based sparklers in combination  
7 or bundled with items that are not subject to tax under this  
8 Article for one price in violation of the prohibition on this  
9 activity, then the tax under this Article is imposed on the  
10 purchase price of the entire bundled product.

11 (425 ILCS 30/205 new)

12 Sec. 205. Collection of tax.

13 (a) The tax imposed by this Article shall be collected  
14 from the purchaser by the retailer at the rate stated in  
15 Section 203 with respect to ground-based sparklers sold by the  
16 retailer to the purchaser, and shall be remitted to the  
17 Department as provided in Section 208. Retailers shall collect  
18 the tax from purchasers by adding the tax to the amount of the  
19 purchase price received from the purchaser for selling  
20 ground-based sparklers to the purchaser. The tax imposed by  
21 this Article shall, when collected, be stated as a distinct  
22 item separate and apart from the purchase price of the  
23 ground-based sparklers.

24 (b) If a retailer collects the Ground-based Sparkler  
25 Purchaser Excise Tax measured by a purchase price that is not

1 subject to Ground-based Sparkler Purchaser Excise Tax, or if a  
2 retailer, in collecting the Ground-based Sparkler Purchaser  
3 Excise Tax measured by a purchase price that is subject to tax  
4 under this Article, collects more from the purchaser than the  
5 required amount of the Ground-based Sparkler Purchaser Excise  
6 Tax on the transaction, the purchaser shall have a legal right  
7 to claim a refund of that amount from the retailer. If,  
8 however, that amount is not refunded to the purchaser for any  
9 reason, the retailer is liable to pay that amount to the  
10 Department.

11 (c) Any person purchasing ground-based sparklers subject  
12 to tax under this Article as to which there has been no charge  
13 made to them of the tax imposed by Section 203 shall make  
14 payment of the tax imposed by Section 203 in the form and  
15 manner provided by the Department not later than the 20th day  
16 of the month following the month of purchase of the sparklers.

17 (425 ILCS 30/206 new)

18 Sec. 206. Registration of ground-based sparkler retailers.  
19 Every retailer required to collect the tax under this Article  
20 shall apply to the Department for a certificate of  
21 registration under this Article. All applications for  
22 registration under this Article shall be made by electronic  
23 means in the form and manner required by the Department. For  
24 that purpose, the provisions of Section 2a of the Retailers'  
25 Occupation Tax Act are incorporated into this Article to the

1 extent not inconsistent with this Article. In addition, no  
2 certificate of registration shall be issued under this Article  
3 unless the applicant is licensed under the Retailers'  
4 Occupation Tax Act.

5 (425 ILCS 30/207 new)

6 Sec. 207. Tax collected as debt owed to State. Any  
7 retailer required to collect the tax imposed by this Article  
8 shall be liable to the Department for the tax, whether or not  
9 the tax has been collected by the retailer, and any such tax  
10 shall constitute a debt owed by the retailer to this State. To  
11 the extent that a retailer required to collect the tax imposed  
12 by this Act has actually collected that tax, the tax is held in  
13 trust for the benefit of the Department.

14 (425 ILCS 30/208 new)

15 Sec. 208. Return and payment of tax by retailer. Each  
16 retailer that is required or authorized to collect the tax  
17 imposed by this Article shall make a return to the Department,  
18 by electronic means, on or before the 20th day of each month  
19 for the preceding calendar month stating the following:

20 (1) the retailer's name;

21 (2) the address of the retailer's principal place of  
22 business and the address of the principal place of  
23 business (if that is a different address) from which the  
24 retailer is engaged in the business of selling

1 ground-based sparklers subject to tax under this Article;

2 (3) the total purchase price received by the retailer  
3 for ground-based sparklers subject to tax under this  
4 Article;

5 (4) the amount of tax due;

6 (5) the signature of the retailer; and

7 (6) any other information as the Department may  
8 reasonably require.

9 All returns required to be filed and payments required to  
10 be made under this Article shall be by electronic means.  
11 Retailers who demonstrate hardship in paying electronically  
12 may petition the Department to waive the electronic payment  
13 requirement.

14 Any amount that is required to be shown or reported on any  
15 return or other document under this Article shall, if the  
16 amount is not a whole-dollar amount, be increased to the  
17 nearest whole-dollar amount if the fractional part of a dollar  
18 is \$0.50 or more and decreased to the nearest whole-dollar  
19 amount if the fractional part of a dollar is less than \$0.50.  
20 If a total amount of less than \$1 is payable, refundable, or  
21 creditable, the amount shall be disregarded if it is less than  
22 \$0.50 and shall be increased to \$1 if it is \$0.50 or more.

23 The retailer making the return provided for in this  
24 Section shall also pay to the Department, in accordance with  
25 this Section, the amount of tax imposed by this Article, less a  
26 discount of 1.75%, but not to exceed \$1,000 per return period,

1 which is allowed to reimburse the retailer for the expenses  
2 incurred in keeping records, collecting tax, preparing and  
3 filing returns, remitting the tax, and supplying data to the  
4 Department upon request. No discount may be claimed by a  
5 retailer on returns not timely filed and for taxes not timely  
6 remitted. No discount may be claimed by a taxpayer for any  
7 return that is not filed electronically. No discount may be  
8 claimed by a taxpayer for any payment that is not made  
9 electronically, unless a waiver has been granted under this  
10 Section.

11 Notwithstanding any other provision of this Article  
12 concerning the time within which a retailer may file a return,  
13 any such retailer who ceases to engage in the kind of business  
14 that makes the person responsible for filing returns under  
15 this Article shall file a final return under this Article with  
16 the Department within one month after discontinuing the  
17 business.

18 If any payment provided for in this Section exceeds the  
19 taxpayer's liabilities under this Article, as shown on an  
20 original monthly return, the Department shall, if requested by  
21 the taxpayer, issue to the taxpayer a credit memorandum no  
22 later than 30 days after the date of payment. The credit  
23 evidenced by the credit memorandum may be assigned by the  
24 taxpayer to a similar taxpayer under this Article, in  
25 accordance with reasonable rules to be prescribed by the  
26 Department. If no such request is made, the taxpayer may

1 credit the excess payment against tax liability subsequently  
2 to be remitted to the Department under this Article, in  
3 accordance with reasonable rules prescribed by the Department.  
4 If the Department subsequently determines that all or any part  
5 of the credit taken was not actually due to the taxpayer, the  
6 taxpayer's discount shall be reduced, if necessary, to reflect  
7 the difference between the credit taken and that actually due,  
8 and that taxpayer shall be liable for penalties and interest  
9 on the difference. If a retailer fails to sign a return within  
10 30 days after the proper notice and demand for signature by the  
11 Department is received by the retailer, the return shall be  
12 considered valid and any amount shown to be due on the return  
13 shall be deemed assessed.

14 (425 ILCS 30/209 new)

15 Sec. 209. Recordkeeping; books and records.

16 (a) Every retailer of ground-based sparklers, whether or  
17 not the retailer has obtained a certificate of registration  
18 under Section 206, shall keep complete and accurate records of  
19 ground-based sparklers held, purchased, sold, or otherwise  
20 disposed of, and shall preserve and keep all invoices, bills  
21 of lading, sales records, and copies of bills of sale,  
22 returns, and other pertinent papers and documents relating to  
23 the purchase, sale, or disposition of ground-based sparklers.  
24 Such records need not be maintained on the licensed premises  
25 but must be maintained in the State of Illinois. However, all

1 original invoices or copies thereof covering purchases of  
2 ground-based sparklers must be retained on the licensed  
3 premises for a period of 90 days after such purchase, unless  
4 the Department has granted a waiver in response to a written  
5 request in cases where records are kept at a central business  
6 location within the State of Illinois. The Department shall  
7 adopt rules regarding the eligibility for a waiver, revocation  
8 of a waiver, and requirements and standards for maintenance  
9 and accessibility of records located at a central location  
10 under a waiver provided under this Section.

11 (b) Books, records, papers, and documents that are  
12 required by this Article to be kept shall, at all times during  
13 the usual business hours of the day, be subject to inspection  
14 by the Department or its duly authorized agents and employees.  
15 The books, records, papers, and documents for any period with  
16 respect to which the Department is authorized to issue a  
17 notice of tax liability shall be preserved until the  
18 expiration of that period.

19 (425 ILCS 30/210 new)

20 Sec. 210. Violations and penalties.

21 (a) When the amount due is under \$300, any retailer of  
22 ground-based sparklers who fails to file a return, willfully  
23 fails or refuses to make any payment to the Department of the  
24 tax imposed by this Article, or files a fraudulent return, or  
25 any officer or agent of a corporation engaged in the business

1 of selling ground-based sparklers to purchasers located in  
2 this State who signs a fraudulent return filed on behalf of the  
3 corporation, or any accountant or other agent who knowingly  
4 enters false information on the return of any taxpayer under  
5 this Article is guilty of a Class 4 felony.

6 (b) When the amount due is \$300 or more, any retailer of  
7 ground-based sparklers who fails to file a return, willfully  
8 fails or refuses to make any payment to the Department of the  
9 tax imposed by this Article, files, or causes to be filed, a  
10 fraudulent return, or any officer or agent of a corporation  
11 engaged in the business of selling ground-based sparklers to  
12 purchasers located in this State who files or causes to be  
13 filed or signs or causes to be signed a fraudulent return filed  
14 on behalf of the corporation, or any accountant or other agent  
15 who knowingly enters false information on the return of any  
16 taxpayer under this Article is guilty of a Class 3 felony.

17 (c) Any person who violates any provision of Section 206  
18 or fails to keep books and records as required under this  
19 Article, is guilty of a Class 4 felony. A person commits a  
20 separate offense on each day that the person engages in  
21 business in violation of Section 206. If a person fails to  
22 produce the books and records for inspection by the Department  
23 upon request, a prima facie presumption shall arise that the  
24 person has failed to keep books and records as required under  
25 this Article. A person who is unable to rebut this presumption  
26 is in violation of this Article and is subject to the penalties

1 provided in this Section.

2 (d) Any person who willfully violates a rule of the  
3 Department for the administration and enforcement of this  
4 Article, is guilty of a business offense and may be fined up to  
5 \$5,000. A person commits a separate offense on each day that  
6 the person engages in business in violation of a rule of the  
7 Department for the administration and enforcement of this  
8 Article.

9 (e) Any taxpayer or agent of a taxpayer who with the intent  
10 to defraud purports to make a payment due to the Department by  
11 issuing or delivering a check or other order upon a real or  
12 fictitious depository for the payment of money, knowing that  
13 it will not be paid by the depository, is guilty of a deceptive  
14 practice in violation of Section 17-1 of the Criminal Code of  
15 2012.

16 (f) Any person who fails to keep books and records or fails  
17 to produce books and records for inspection, as required by  
18 Section 209, is liable to pay to the Department, for deposit in  
19 the Tax Compliance and Administration Fund, a penalty of  
20 \$1,000 for the first failure to keep books and records or  
21 failure to produce books and records for inspection, as  
22 required by Section 209, and \$3,000 for each subsequent  
23 failure to keep books and records or failure to produce books  
24 and records for inspection, as required by Section 209.

25 (g) Any person who knowingly acts as a ground-based  
26 sparkler retailer in this State without first having obtained

1 a certificate of registration to do so in compliance with  
2 Section 207 of this Article shall be guilty of a Class 4  
3 felony.

4 (h) A person commits the offense of tax evasion under this  
5 Article when a person knowingly attempts in any manner to  
6 evade or defeat the tax imposed on him or her or on any other  
7 person, or the payment thereof, and a person commits an  
8 affirmative act in furtherance of the evasion. As used in this  
9 Section, "affirmative act in furtherance of the evasion" means  
10 an act designed in whole or in part to (i) conceal,  
11 misrepresent, falsify, or manipulate any material fact or (ii)  
12 tamper with or destroy documents or materials related to a  
13 person's tax liability under this Article. Two or more acts of  
14 sales tax evasion may be charged as a single count in any  
15 indictment, information, or complaint and the amount of tax  
16 deficiency may be aggregated for purposes of determining the  
17 amount of tax that is attempted to be or is evaded and the  
18 period between the first and last acts may be alleged as the  
19 date of the offense.

20 (1) When the amount of tax, the assessment or payment  
21 of which is attempted to be or is evaded is less than \$500,  
22 a person is guilty of a Class 4 felony.

23 (2) When the amount of tax, the assessment or payment  
24 of which is attempted to be or is evaded is \$500 or more  
25 but less than \$10,000, a person is guilty of a Class 3  
26 felony.

1           (3) When the amount of tax, the assessment or payment  
2           of which is attempted to be or is evaded is \$10,000 or more  
3           but less than \$100,000, a person is guilty of a Class 2  
4           felony.

5           (4) When the amount of tax, the assessment or payment  
6           of which is attempted to be or is evaded is \$100,000 or  
7           more, a person is guilty of a Class 1 felony. Any person  
8           who knowingly sells, purchases, installs, transfers,  
9           possesses, uses, or accesses any automated sales  
10           suppression device, zapper, or phantom-ware in this State  
11           is guilty of a Class 3 felony.

12           As used in this subsection (h):

13           "Automated sales suppression device" or "zapper" means a  
14           software program that falsifies the electronic records of an  
15           electronic cash register or other point-of-sale system,  
16           including, but not limited to, transaction data and  
17           transaction reports. The term includes the software program,  
18           any device that carries the software program, or an Internet  
19           link to the software program.

20           "Phantom-ware" means a hidden programming option embedded  
21           in the operating system of an electronic cash register or  
22           hardwired into an electronic cash register that can be used to  
23           create a second set of records or that can eliminate or  
24           manipulate transaction records in an electronic cash register.

25           "Electronic cash register" means a device that keeps a  
26           register or supporting documents through the use of an

1 electronic device or computer system designed to record  
2 transaction data for the purpose of computing, compiling, or  
3 processing retail sales transaction data in any manner.

4 "Transaction data" includes: items purchased by a  
5 purchaser; the price of each item; a taxability determination  
6 for each item; a segregated tax amount for each taxed item; the  
7 amount of cash or credit tendered; the net amount returned to  
8 the customer in change; the date and time of the purchase; the  
9 name, address, and identification number of the vendor; and  
10 the receipt or invoice number of the transaction.

11 "Transaction report" means a report that documents,  
12 without limitation, the sales, taxes, or fees collected, media  
13 totals, and discount voids at an electronic cash register and  
14 that is printed on a cash register tape at the end of a day or  
15 shift, or a report that documents every action at an  
16 electronic cash register and is stored electronically.

17 A prosecution for any act in violation of this subsection  
18 (h) may be commenced at any time within 5 years of the  
19 commission of that act.

20 (i) The Department may adopt rules to administer the  
21 penalties under this Section.

22 (j) Any person whose principal place of business is in  
23 this State and who is charged with a violation under this  
24 Section shall be tried in the county where his or her principal  
25 place of business is located unless he or she asserts a right  
26 to be tried in another venue.

1       (k) Except as otherwise provided in subsection (h), a  
2 prosecution for a violation described in this Section may be  
3 commenced within 3 years after the commission of the act  
4 constituting the violation.

5           (425 ILCS 30/211 new)

6       Sec. 211. Department administration and enforcement. The  
7 Department shall have full power to administer and enforce  
8 this Article, to collect all taxes and penalties due  
9 hereunder, to dispose of taxes and penalties so collected in  
10 the manner hereinafter provided, and to determine all rights  
11 to credit memoranda, arising on account of the erroneous  
12 payment of tax or penalty hereunder.

13       In the administration of, and compliance with, this  
14 Article, the Department and persons who are subject to this  
15 Article shall have the same rights, remedies, privileges,  
16 immunities, powers, and duties, and be subject to the same  
17 conditions, restrictions, limitations, penalties, and  
18 definitions of terms, and employ the same modes of procedure,  
19 as are prescribed in Sections 2, 3-55, 3a, 4, 5, 7, 10a, 11,  
20 12a, 12b, 14, 15, 19, 20, 21, and 22 of the Use Tax Act and  
21 Sections 1, 2-12, 2b, 4 (except that the time limitation  
22 provisions shall run from the date when the tax is due rather  
23 than from the date when gross receipts are received), 5  
24 (except that the time limitation provisions on the issuance of  
25 notices of tax liability shall run from the date when the tax

1 is due rather than from the date when gross receipts are  
2 received and except that in the case of a failure to file a  
3 return required by this Act, no notice of tax liability shall  
4 be issued on and after each July 1 and January 1 covering tax  
5 due with that return during any month or period more than 6  
6 years before that July 1 or January 1, respectively), 5a, 5b,  
7 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6d, 7, 8, 9, 10, 11, and 12 of the  
8 Retailers' Occupation Tax Act and all of the provisions of the  
9 Uniform Penalty and Interest Act, which are not inconsistent  
10 with this Article, as fully as if those provisions were set  
11 forth herein. References in the incorporated Sections of the  
12 Retailers' Occupation Tax Act and the Use Tax Act to  
13 retailers, to sellers, or to persons engaged in the business  
14 of selling tangible personal property mean ground-based  
15 sparkler retailers when used in this Article. References in  
16 the incorporated Sections to sales of tangible personal  
17 property mean sales of ground-based sparklers subject to tax  
18 under this Article when used in this Article.

19 (425 ILCS 30/212 new)

20 Sec. 212. Arrest; search and seizure without warrant. Any  
21 duly authorized employee of the Department:

22 (1) may arrest without warrant any person committing  
23 in their presence a violation of any of the provisions of  
24 this Article;

25 (2) may without a search warrant inspect all

1 ground-based sparklers located in any place of the  
2 business; and

3 (3) may seize any ground-based sparklers in the  
4 possession of the retailer in violation of this Act. The  
5 ground-based sparklers so seized are subject to  
6 confiscation and forfeiture as provided in Sections 213  
7 and 214.

8 (425 ILCS 30/213 new)

9 Sec. 213. Seizure and forfeiture.

10 (a) After seizing any ground-based sparklers as provided  
11 in Section 212, the Department must hold a hearing and  
12 determine whether:

13 (1) the retailer was properly registered to sell the  
14 ground-based sparklers;

15 (2) the retailer possessed the ground-based sparklers  
16 in violation of this Act; or

17 (3) the retailer possessed the ground-based sparklers  
18 in violation of any reasonable rule or regulation adopted  
19 by the Department for the enforcement of this Act at the  
20 time of its seizure by the Department.

21 (b) The Department is not required to hold a hearing under  
22 subsection (a):

23 (1) if the owner of the ground-based sparklers is  
24 known;

25 (2) if a waiver and consent to forfeiture has been

1 executed by the owner of the ground-based sparklers;

2 (3) if the person in whose possession the ground-based  
3 sparklers so taken were found is known;

4 (4) if the owner is known by the person in whose  
5 possession the ground-based sparklers so taken were found;  
6 and

7 (5) if the person in whose possession the ground-based  
8 sparklers so taken were found is not the owner of said  
9 ground-based sparklers.

10 (c) The Department shall give not less than 20 days'  
11 notice of the time and place of the hearing under this Section  
12 to the owner of the ground-based sparklers, if the owner is  
13 known, and also to the person in whose possession the  
14 ground-based sparklers were found, if that person is known and  
15 if the person in possession is not the owner of the  
16 ground-based sparklers. If neither the owner nor the person in  
17 possession of the ground-based sparklers is known, the  
18 Department must cause publication of the time and place of the  
19 hearing to be made at least once in each week for 3 weeks  
20 successively in a newspaper of general circulation in the  
21 county where the hearing is to be held.

22 (d) If, as the result of the hearing, the Department makes  
23 any of the findings listed in subsection (a) or upon receipt of  
24 a properly executed waiver and consent to forfeiture as  
25 provided in this Section, the Department must enter an order  
26 declaring the ground-based sparklers confiscated and forfeited

1 to the State, to be held by the Department for disposal by it  
2 as provided in Section 214. The Department must give notice of  
3 the order to the owner of the ground-based sparklers, if the  
4 owner is known, and also to the person in whose possession the  
5 ground-based sparklers were found, if that person is known and  
6 if the person in possession is not the owner of the  
7 ground-based sparklers. If neither the owner nor the person in  
8 possession of the ground-based sparklers is known, the  
9 Department must cause publication of the order to be made at  
10 least once in each week for 3 weeks successively in a newspaper  
11 of general circulation in the county where the hearing was  
12 held.

13 (425 ILCS 30/214 new)

14 Sec. 214. Search warrant; issuance and return; process;  
15 confiscation of ground-based sparklers; forfeitures.

16 (a) If a peace officer of this State or any duly authorized  
17 officer or employee of the Department has reason to believe  
18 that any violation of this Article or a rule of the Department  
19 for the administration and enforcement of this Article has  
20 occurred and that the person violating this Article or a rule  
21 adopted thereunder has in that person's possession any  
22 ground-based sparklers in violation of this Article or a rule  
23 adopted thereunder, that peace officer or officer or employee  
24 of the Department may file or cause to be filed their complaint  
25 in writing, verified by affidavit, with any court within whose

1 jurisdiction the premises to be searched are situated, stating  
2 the facts upon which the belief is founded, the premises to be  
3 searched, and the property to be seized, and procure a search  
4 warrant and execute that warrant. Upon the execution of the  
5 search warrant, the peace officer, or officer or employee of  
6 the Department, executing the search warrant shall make due  
7 return of the warrant to the court issuing the warrant,  
8 together with an inventory of the property taken under the  
9 warrant. The court must then issue process against the owner  
10 of the property if the owner is known; otherwise, process must  
11 be issued against the person in whose possession the property  
12 is found, if that person is known. In case of inability to  
13 serve process upon the owner or the person in possession of the  
14 property at the time of its seizure, notice of the proceedings  
15 before the court must be given in the same manner as required  
16 by the law governing cases of attachment. Upon the return of  
17 the process duly served or upon the posting or publishing of  
18 notice made, as appropriate, the court or jury, if a jury is  
19 demanding, shall proceed to determine whether the property so  
20 seized was held or possessed in violation of this Article or a  
21 rule adopted thereunder. If a violation is found, judgment  
22 shall be entered confiscating the property and forfeiting it  
23 to the State and ordering its delivery to the Department. In  
24 addition, the court may tax and assess the costs of the  
25 proceedings.

26 (b) When any ground-based sparklers have been declared

1 forfeited to the State by the Department, as provided in  
2 Section 213 and this Section, and when all proceedings for the  
3 judicial review of the Department's decision have terminated,  
4 the Department shall, to the extent that its decision is  
5 sustained on review, destroy such ground-based sparklers.

6 (425 ILCS 30/215 new)

7 Sec. 215. Rulemaking. The Department may adopt rules in  
8 accordance with the Illinois Administrative Procedure Act and  
9 prescribe forms relating to the administration and enforcement  
10 of this Article as it deems appropriate.

11 Section 10. The Pyrotechnic Use Act is amended by changing  
12 Section 1 and by adding Section 3.5 as follows:

13 (425 ILCS 35/1) (from Ch. 127 1/2, par. 127)

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

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

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

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

7 "Consumer fireworks" shall not include snake or glow worm  
8 pellets; smoke devices; trick noisemakers known as "party  
9 poppers", "booby traps", "snappers", "trick matches",  
10 "cigarette loads", and "auto burglar alarms"; sparklers;  
11 ground-based sparklers, as defined under the Ground-based  
12 Sparkler Purchaser Excise Tax Law, that are nonexplosive and  
13 nonaerial, that may produce a crackling or whistling effect,  
14 and that contain 75 grams or less of pyrotechnic composition  
15 per tube or a total of 500 grams or less for multiple tubes  
16 (for example, fountains or cones, including showers of  
17 sparks); toy pistols, toy canes, toy guns, or other devices in  
18 which paper or plastic caps containing twenty-five hundredths  
19 grains or less of explosive compound are used, provided they  
20 are so constructed that the hand cannot come in contact with  
21 the cap when in place for the explosion; and toy pistol paper  
22 or plastic caps that contain less than twenty hundredths  
23 grains of explosive mixture; the sale and use of which shall be  
24 permitted at all times.

25 "Consumer fireworks display" or "consumer display" means  
26 the detonation, ignition, or deflagration of consumer

1 fireworks to produce a visual or audible effect.

2 "Consumer operator" means an adult individual who is  
3 responsible for the safety, setup, and discharge of the  
4 consumer fireworks display and who has completed the training  
5 required in Section 2.2 of this Act.

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

10 "Display fireworks" means 1.3G or special effects  
11 fireworks or as further defined in the Pyrotechnic Distributor  
12 and Operator Licensing Act.

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

21 "Lead pyrotechnic operator" means an individual who is  
22 responsible for the safety, setup, and discharge of the  
23 pyrotechnic display or pyrotechnic service and who is licensed  
24 pursuant to the Pyrotechnic Distributor and Operator Licensing  
25 Act.

26 "Person" means an individual, firm, corporation,

1 association, partnership, company, consortium, joint venture,  
2 commercial entity, state, municipality, or political  
3 subdivision of a state or any agency, department, or  
4 instrumentality of the United States and any officer, agent,  
5 or employee of these entities.

6 "Production company" means any person in the film, digital  
7 and video media, television, commercial, music, or theatrical  
8 stage industry who provides pyrotechnic services or  
9 pyrotechnic display services as part of a film, digital and  
10 video media, television, commercial, music, or theatrical  
11 production in the State of Illinois and is licensed by the  
12 Office pursuant to the Pyrotechnic Distributor and Operator  
13 Licensing Act.

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

20 "Pyrotechnic distributor" means any person who distributes  
21 display fireworks for sale in the State of Illinois or  
22 provides them as part of a pyrotechnic display service in the  
23 State of Illinois or provides only pyrotechnic services and is  
24 licensed by the Office pursuant to the Pyrotechnic Distributor  
25 and Operator Licensing Act.

26 "Pyrotechnic service" means the detonation, ignition, or

1 deflagration of display fireworks, special effects, or flame  
2 effects to produce a visual or audible effect.

3 "Special effects fireworks" means pyrotechnic devices used  
4 for special effects by professionals in the performing arts in  
5 conjunction with theatrical, musical, or other productions  
6 that are similar to consumer fireworks in chemical  
7 compositions and construction, but are not intended for  
8 consumer use and are not labeled as such or identified as  
9 "intended for indoor use". "Special effects fireworks" are  
10 classified as fireworks UN0431 or UN0432 by the United States  
11 Department of Transportation under 49 C.F.R. 172.101.

12 (Source: P.A. 99-642, eff. 7-28-16.)

13 (425 ILCS 35/3.5 new)

14 Sec. 3.5. Sale of ground-based sparklers. The following  
15 may not be sold to a person under the age of 18: any  
16 ground-based sparkler that is nonexplosive and nonaerial, that  
17 may produce a crackling or whistling effect, and that contains  
18 75 grams or less of pyrotechnic composition per tube or a total  
19 of 500 grams or less for multiple tubes (for example,  
20 fountains or cones, including showers of sparks). In this  
21 Section, "ground-based sparkler" has the meaning given under  
22 the Ground-Based Sparkler Purchaser Excise Tax Law."