



Rep. Daniel J. Burke

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1 AMENDMENT TO HOUSE BILL 1734

2 AMENDMENT NO. _____. Amend House Bill 1734 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Pyrotechnic Distributor and Operator
5 Licensing Act is amended by changing Sections 5, 10, 35, and 50
6 as follows:

7 (225 ILCS 227/5)

8 Sec. 5. Definitions. In this Act:

9 "1.3G fireworks" means fireworks that are used for
10 professional outdoor displays and classified as fireworks
11 UN0333, UN0334, or UN0335 by the United States Department of
12 Transportation under 49 C.F.R. 172.101.

13 "BATFE" means the federal Bureau of Alcohol, Tobacco and
14 Firearms Enforcement.

15 "Consumer fireworks" means fireworks that must comply with
16 the construction, chemical composition, and labeling

1 regulations of the U.S. Consumer Products Safety Commission, as
2 set forth in 16 C.F.R. Parts 1500 and 1507, and classified as
3 fireworks UN0336 or UN0337 by the United States Department of
4 Transportation under 49 C.F.R. 172.101. "Consumer fireworks"
5 does not include a substance or article exempted under the
6 Fireworks Use Act.

7 "Display fireworks" means 1.3G explosive or special
8 effects fireworks.

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

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

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

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

23 "Person" means an individual, firm, corporation,
24 association, partnership, company, consortium, joint venture,
25 commercial entity, state, municipality, or political
26 subdivision of a state or any agency, department, or

1 instrumentality of the United States and any officer, agent, or
2 employee of these entities.

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

8 "Pyrotechnic distributor" means any person, company,
9 association, group of persons, or corporation who distributes
10 display fireworks for sale in the State of Illinois or provides
11 them as part of a pyrotechnic display service in the State of
12 Illinois ~~or provides only pyrotechnic services.~~

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

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

22 (Source: P.A. 94-385, eff. 7-29-05; 94-658, eff. 1-1-06;
23 95-331, eff. 8-21-07.)

24 (225 ILCS 227/10)

25 Sec. 10. License; enforcement. No person may act as a

1 pyrotechnic distributor or lead pyrotechnic operator, or
2 advertise or use any title implying that the person is a
3 pyrotechnic distributor or lead pyrotechnic operator, unless
4 licensed by the Office under this Act. Except as provided in
5 subsection (a-5) of Section 50 of this Act, an ~~An~~ out-of-state
6 person who distributes or provides display fireworks as part of
7 ~~hired for or engaged in~~ a pyrotechnic display must have a
8 pyrotechnic distributor license issued by the Office. An
9 out-of-state person hired for or engaged in the safety, setup,
10 discharge, or supervision of a pyrotechnic display must have a
11 lead pyrotechnic operator license issued by the Office. No
12 pyrotechnic display shall be conducted without a person
13 licensed under this Act as a lead pyrotechnic operator
14 supervising the display. The State Fire Marshal, in the name of
15 the People, through the Attorney General, the State's Attorney
16 of any county, any resident of the State, or any legal entity
17 within the State may apply for injunctive relief in any court
18 to enjoin any person who has not been issued a license or whose
19 license has been suspended, revoked, or not renewed, from
20 practicing a licensed activity. Upon filing a verified petition
21 in court, the court, if satisfied by affidavit, or otherwise,
22 that the person is or has been practicing in violation of this
23 Act, may enter a temporary restraining order or preliminary
24 injunction, without bond, enjoining the defendant from further
25 unlicensed activity. A copy of the verified complaint shall be
26 served upon the defendant and the proceedings are to be

1 conducted as in other civil cases. The court may enter a
2 judgment permanently enjoining a defendant from further
3 unlicensed activity if it is established that the defendant has
4 been or is practicing in violation of this Act. In case of
5 violation of any injunctive order or judgment entered under
6 this Section, the court may summarily try and punish the
7 offender for contempt of court. Injunctive proceedings are in
8 addition to all penalties and other remedies in this Act.

9 (Source: P.A. 93-263, eff. 7-22-03; 94-385, eff. 7-29-05.)

10 (225 ILCS 227/35)

11 Sec. 35. Licensure requirements and fees.

12 (a) Each application for a license to practice under this
13 Act shall be in writing and signed by the applicant on forms
14 provided by the Office.

15 (b) After January 1, 2006, all pyrotechnic displays, both
16 indoor and outdoor, must comply with the requirements set forth
17 in this Act.

18 (c) After January 1, 2006, no person may engage in
19 pyrotechnic distribution without first applying for and
20 obtaining a license from the Office. Applicants for a license
21 must submit to the Office the following:

22 (1) A current BATFE license for distribution of display
23 fireworks.

24 (2) Proof of \$1,000,000 in product liability
25 insurance.

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

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

4 (5) A license fee set by the Office.

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

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

9 (8) Proof of having the requisite knowledge, either
10 through training, examination, or continuing education, as
11 established by Office rule.

12 (c-5) After January 1, 2006, no individual may act as a
13 lead operator in a pyrotechnic display without first applying
14 for and obtaining a lead pyrotechnic operator's license from
15 the Office. The Office shall establish separate licenses for
16 lead pyrotechnic operators for indoor and outdoor pyrotechnic
17 displays. Applicants for a license must:

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

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

21 (3) (Blank).

22 (c-10) Proof of an out-of-state person's knowledge, either
23 through training, examination, or continuing education, as
24 required in paragraph (8) of subsection (c) of this Section,
25 may be certified by the state fire marshal's office of that
26 person's state of residence. The Office shall establish a

1 certification form on which the state fire marshal's office of
2 that out-of-state person's state of residence can attest that
3 the person possesses the requisite knowledge, experience, and
4 training for a lead pyrotechnic operator's license.

5 (d) A person is qualified to receive a license under this
6 Act if the person meets all of the following minimum
7 requirements:

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

9 (2) Has not willfully violated any provisions of this
10 Act.

11 (3) Has not made any material misstatement or knowingly
12 withheld information in connection with any original or
13 renewal application.

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

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

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

22 (7) Is not a fugitive from justice.

23 (8) Has, or has applied for, a BATFE explosives license
24 or a Letter of Clearance from the BATFE.

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

- 1 (1) Is at least 18 years of age.
- 2 (2) Has not willfully violated any provision of this
3 Act.
- 4 (3) Has not been declared incompetent by any competent
5 court by reasons of mental or physical defect or disease
6 unless a court has since declared the person competent.
- 7 (4) Does not have an addiction to or dependency on
8 alcohol or drugs that is likely to endanger the public at a
9 pyrotechnic display.
- 10 (5) Has not been convicted in any jurisdiction of any
11 felony within the prior 5 years.
- 12 (6) Is not a fugitive from justice.
- 13 (Source: P.A. 93-263, eff. 7-22-03; 94-385, eff. 7-29-05.)

14 (225 ILCS 227/50)

15 Sec. 50. Issuance of license; exception for collective
16 bargaining agreements; renewal; fees nonrefundable.

17 (a) The Office, upon the applicant's satisfactory
18 completion of the requirements imposed under this Act and upon
19 receipt of the requisite fees, shall issue the appropriate
20 license showing the name, address, and photograph of the
21 licensee and the dates of issuance and expiration. The license
22 shall include the name of any ~~the~~ pyrotechnic distributor
23 employing the lead pyrotechnic operator. A lead pyrotechnic
24 operator is required to have a separate license for each
25 pyrotechnic distributor who employs the lead pyrotechnic

1 operator.

2 (a-5) A lead pyrotechnic operator, including an
3 out-of-state person, employed pursuant to a collective
4 bargaining agreement in the film, digital and video media,
5 television, commercial, and theatrical stage or music
6 entertainment industry need not be employed by a pyrotechnic
7 distributor so long as the display fireworks used in the
8 pyrotechnic display were provided by:

9 (1) a licensed pyrotechnic distributor; or

10 (2) a lead pyrotechnic operator, including an
11 out-of-state person, who has met the requirements of
12 paragraphs (1), (6), (7) and (8) of subsection (c) of
13 Section 35 and is employed pursuant to a collective
14 bargaining agreement by a producer or production company in
15 the film, digital and video media, television, commercial,
16 and theatrical stage or music entertainment industry that
17 has met the requirements of paragraphs (2), (3), (4) and (5)
18 of subsection (c) of Section 35.

19 The license of a lead pyrotechnic operator, including an
20 out-of-state person, employed pursuant to a collective
21 bargaining agreement need not include the name of a pyrotechnic
22 distributor. A lead pyrotechnic operator, including an
23 out-of-state person, employed pursuant to a collective
24 bargaining agreement need not have a separate license for each
25 pyrotechnic distributor, if any, who employs the lead
26 pyrotechnic operator.

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

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

16 (Source: P.A. 93-263, eff. 7-22-03; 94-385, eff. 7-29-05.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."