

AN ACT concerning regulation.

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

Section 5. The Pyrotechnic Distributor and Operator Licensing Act is amended by changing Sections 5, 10, 30, 35, 50, 57, 60, 90 and by adding Sections 95 and 97 as follows:

(225 ILCS 227/5)

Sec. 5. Definitions. In this Act:

"1.3G fireworks" means fireworks that are 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.

"BATFE" means the federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms and Explosives Enforcement.

"Consumer fireworks" means 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" does not include a substance or article exempted under the Pyrotechnic Fireworks Use Act.

"Display fireworks" means 1.3G explosive or special

effects fireworks.

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

"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 NFPA 160.

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

"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.

"Production company" means any person in the film, digital and video media, television, commercial, and theatrical stage industry who provides pyrotechnic services or pyrotechnic display services as part of a film, digital and video media, television, commercial, or theatrical production in the State

of Illinois.

"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.

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

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

"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.

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

(225 ILCS 227/10)

Sec. 10. License; enforcement. No person may act as a pyrotechnic distributor, production company, or lead pyrotechnic operator, or advertise or use any title implying that the person is a pyrotechnic distributor, production company, or lead pyrotechnic operator, unless licensed by the Office under this Act. An out-of-state person hired for or engaged in pyrotechnic services or a pyrotechnic display must be employed by a licensed ~~have a~~ pyrotechnic distributor or licensed production company and hold a lead pyrotechnic operator license issued by the Office. No pyrotechnic services or pyrotechnic display shall be conducted without a person licensed under this Act as a lead pyrotechnic operator supervising the display. 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 been issued a license or whose license has been suspended, revoked, or not renewed, from practicing a licensed activity. Upon filing a verified petition in court, the court, if satisfied by affidavit, or otherwise, that the person is or has been practicing in violation of this Act, may enter a temporary restraining order or preliminary injunction, without bond, enjoining the defendant from further unlicensed 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 unlicensed activity if it is established that the defendant has been or is practicing 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.

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

(225 ILCS 227/30)

Sec. 30. Rules. The State Fire Marshal shall adopt all rules necessary to carry out its responsibilities under this Act including rules requiring the training, examination, and licensing of production companies, pyrotechnic distributors and lead pyrotechnic operators. The rules of the State Fire Marshal shall be based upon nationally recognized standards such as those of the National Fire Protection Association (NFPA) 1123 guidelines for outdoor displays, NFPA 1126 for proximate audience displays, ~~and~~ NFPA 160 for flame effect displays, and NFPA 140 for motion picture and television production studio soundstages, approved production facilities, and production locations. The State Fire Marshal shall conduct the training and examination of pyrotechnic operators and pyrotechnic distributors or may delegate the responsibility to train and examine pyrotechnic distributors and operators to the

Department of Natural Resources.

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

(225 ILCS 227/35)

Sec. 35. Licensure requirements and fees.

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

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

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

(1) A current BATFE license for the type of pyrotechnic service or pyrotechnic display service provided ~~for distribution of display fireworks.~~

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

(3) Proof of \$1,000,000 in general liability insurance that covers the pyrotechnic display service or pyrotechnic service provided.

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

(5) A license fee set by the Office.

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

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

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

(c-3) After January 1, 2010, no production company may provide pyrotechnic display services or pyrotechnic services as part of any production without either (i) obtaining a production company license from the Office under which all pyrotechnic display services and pyrotechnic services are performed by a licensed lead pyrotechnic operator or (ii) hiring a pyrotechnic distributor licensed in accordance with this Act to perform the pyrotechnic display services or pyrotechnic services. Applicants for a production company license must submit to the Office the following:

(1) Proof of \$2,000,000 in commercial general liability insurance that covers any damage or injury resulting from the pyrotechnic display services or pyrotechnic services provided.

(2) Proof of Illinois Worker's Compensation insurance.

(3) A license fee set by the Office.

(4) Proof of a current USDOT Identification Number, unless proof of such is provided by the employed lead pyrotechnic operator.

(5) Proof of a current USDOT Hazardous Materials Registration Number, unless proof of such is provided by the employed lead pyrotechnic operator.

(6) Identification of the licensed lead pyrotechnic operator being employed by the company.

The insurer shall not cancel the insured's coverage or remove an additional insured from the policy coverage without notifying the Office in writing at least 15 days before cancellation.

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

(1) Pay the fees set by the Office.

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

(3) (Blank).

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

(1) Is at least 21 years of age.

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

(3) Has not made any material misstatement or knowingly

withheld information in connection with any original or renewal application.

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

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

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

(7) Is not a fugitive from justice.

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

(9) If a lead pyrotechnic operator is employed by a political subdivision of the State or by a licensed production company, he or she shall have a BATFE license for the pyrotechnic services or pyrotechnic display services provided.

(10) If a production company has not provided proof of a current USDOT Identification Number and a current USDOT Hazardous Materials Registration Number, as required by paragraphs (5) and (6) of subsection (c-3) of this Section, then the lead pyrotechnic operator which it employs shall provide such proof to the Office.

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

(1) Is at least 18 years of age.

(2) Has not willfully violated any provision of this Act.

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

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

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

(6) Is not a fugitive from justice.

(7) Is employed as an employee of the licensed pyrotechnic distributor or the licensed production company.

(8) Has been registered with the Office by the licensed distributor or the licensed production company on a form provided by the Office prior to the time when the assistant begins work as an employee on the pyrotechnic display or pyrotechnic service.

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

(225 ILCS 227/50)

Sec. 50. Issuance of license; renewal; fees nonrefundable.

(a) The Office, upon the applicant's satisfactory completion of the requirements imposed under this Act and upon

receipt of the requisite fees, shall issue the appropriate license showing the name, address, and photograph of the licensee and the dates of issuance and expiration. The license shall include the name of the pyrotechnic distributor or production company employing the lead pyrotechnic operator. A lead pyrotechnic operator is required to have a separate license for each pyrotechnic distributor or production company who employs the lead pyrotechnic operator.

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

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

(d) A production company licensed under this Act shall pay all applicable licensing fees for each lead pyrotechnic operator it employs.

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

(225 ILCS 227/57)

Sec. 57. Training; additional lead pyrotechnic operators. No pyrotechnic distributor or production company shall allow any person in the pyrotechnic distributor's or production company's employ to act as a lead pyrotechnic operator until the person has obtained a lead pyrotechnic operator's license from the Office. Nothing in this Section shall prevent an assistant from acting as a lead pyrotechnic operator under the direct supervision of a licensed lead pyrotechnic operator for training purposes.

(Source: P.A. 94-385, eff. 7-29-05.)

(225 ILCS 227/60)

Sec. 60. Conditions of renewal; change of address; duplicate license; inspection.

(a) As a condition of renewal of a license, the Office may require the licensee to report information pertaining to the person's practice in relation to this Act that the Office determines to be in the interest of public safety.

(b) A licensee shall report a change in home or office address within 10 days of the change.

(c) The licensee shall carry his or her license at all times when engaging in a pyrotechnic service or pyrotechnic display activity.

(d) If a license or certificate is lost, a duplicate shall be issued upon payment of the required fee to be established by the Office. If a licensee wishes to change his or her name, the Office shall issue a license in the new name upon satisfactory proof that the change of name was done in accordance with law and upon payment of the required fee.

(e) Each licensee shall permit his or her facilities to be inspected by representatives of the Office for the purpose of administering this Act.

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

(225 ILCS 227/90)

Sec. 90. Penalties. Any natural person who violates any of the following provisions is guilty of a Class A misdemeanor for the first offense and a corporation or other entity that violates any of the following provision commits a business offense punishable by a fine not to exceed \$5,000; a second or subsequent offense in violation of any Section of this Act, including this Section, is a Class 4 felony if committed by a natural person, or a business offense punishable by a fine of up to \$10,000 if committed by a corporation or other business entity:

(1) Practicing or attempting to practice as a pyrotechnic distributor or production company, or lead pyrotechnic operator without a license;

(2) Obtaining or attempting to obtain a license,

practice or business, or any other thing of value by fraudulent representation;

(3) Permitting, directing, or authorizing any person in one's employ or under one's direction or supervision to work or serve as a licensee if that individual does not possess an appropriate valid license.

Whenever any person is punished as a repeat offender under this Section, the Office may proceed to obtain a permanent injunction against the person under Section 10. If any person in making any oath or affidavit required by this Act swears falsely, the person is guilty of perjury and upon conviction may be punished accordingly.

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

(225 ILCS 227/95 new)

Sec. 95. Display Reports. A lead pyrotechnic operator shall file an Illinois Display Report, which shall include the names and signatures of all lead pyrotechnic operators and assistants participating in the pyrotechnic display or pyrotechnic service and the name, department, and signature of the fire protection jurisdiction, with the Office within 30 days following any pyrotechnic display or pyrotechnic service.

(225 ILCS 227/97 new)

(Section scheduled to be repealed on July 1, 2011)

Sec. 97. Music Entertainment Pyrotechnics Task Force. The

Music Entertainment Pyrotechnics Task Force (Task Force) is established for the purposes of studying the provision of pyrotechnic displays and pyrotechnic services in the indoor and outdoor music entertainment industry in the State of Illinois, reviewing present recommendations solely related to who can provide pyrotechnic displays and pyrotechnic services for the music entertainment industry in the State of Illinois, studying appropriate insurance policies for providing pyrotechnic displays and pyrotechnic services, and recommending any changes that may be necessary to the Pyrotechnic Distributor and Operator Licensing Act to the House of Representatives. The Task Force shall consist of 5 members. The Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall each appoint 2 members to the Task Force. The Office of the State Fire Marshal shall appoint one member to the Task Force. The members shall serve without compensation. The Task Force shall meet as necessary. The Office of the State Fire Marshal shall provide all staffing and administrative support for the administration of the Task Force. The Task Force shall report its findings and recommendations to the House of Representatives by filing copies of its report with the Clerk of the House of Representatives no later than January 1, 2011. Upon filing its report, the Task Force is dissolved. This Section is repealed on July 1, 2011.

Section 10. The Fireworks Use Act is amended by changing Sections 0.01, 1, 2.1, and 4.1 as follows:

(425 ILCS 35/0.01) (from Ch. 127 1/2, par. 126.9)

Sec. 0.01. Short title. This Act may be cited as the Pyrotechnic Fireworks Use Act.

(Source: P.A. 86-1324.)

(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 Distributor and 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 Distributor and Operator Licensing Act.

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

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

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

"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 Distributor and Operator Licensing Act.

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

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

"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.

(Source: P.A. 94-658, eff. 1-1-06; 95-331, eff. 8-21-07.)

(425 ILCS 35/2.1)

Sec. 2.1. Pyrotechnic displays or pyrotechnic service.

Each pyrotechnic display or pyrotechnic service shall be conducted by a licensed lead pyrotechnic operator employed by a licensed pyrotechnic distributor or a licensed production company. Applications for a pyrotechnic display permit shall be made in writing at least 15 days in advance of the date of the pyrotechnic display or pyrotechnic service, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display or pyrotechnic service will occur. After a permit has been granted, sales, possession, use, and distribution of display fireworks for the display or pyrotechnic service 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 pyrotechnic service, or his or her designee, has inspected the site and determined that the display or pyrotechnic service can be performed in full compliance with the rules adopted by the State Fire Marshal and that the

display or pyrotechnic service 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 and pyrotechnic services 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. At the time an individual applies for an indoor pyrotechnic display permit from the local jurisdiction, written notice of the permit application and the indoor display or pyrotechnic service information shall be made in writing at least 15 days in advance of the date of the pyrotechnic display or pyrotechnic service to the Office, unless agreed to otherwise by the Office.

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

(Source: P.A. 94-658, eff. 1-1-06.)

(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, and NFPA 140 for motion picture and television production studio soundstages, approved production facilities, and production locations. 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. 94-658, eff. 1-1-06.)

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