



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5928

by Rep. Barbara Wheeler

SYNOPSIS AS INTRODUCED:

New Act
225 ILCS 227/5
425 ILCS 35/Act rep.

Creates the Pyrotechnic Use Act of 2018. 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.

LRB100 22521 LNS 41417 b

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 2018.

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
9 participated as an assistant in at least 5 public displays of
10 fireworks with overall responsibility for the operation and
11 safety of a 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 C.F.R. Part 1507, 27 C.F.R. Part 555, or 49 C.F.R.
20 173.56. "Consumer fireworks" shall not include: snake or glow
21 worm 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 C.F.R. Part 1507, 27 C.F.R. Part 555, or 49 C.F.R.
15 173.56.

16 "Public display of fireworks" means the use of pyrotechnic
17 devices or pyrotechnic materials before a proximate audience,
18 whether indoors or outdoors.

19 "Seasonal retailers" means any person, firm,
20 co-partnership, nonprofit, or corporation intending to sell
21 consumer fireworks between June 10 and July 7, or December 26
22 and January 4 of each year or both, and shall include permanent
23 businesses, temporary businesses, stores, stands, or tents.

24 Section 10. Legality of consumer fireworks and display
25 fireworks.

1 (a) Consumer fireworks are legal for retail sale provided
2 all applicable federal and State requirements are met.

3 (b) Display fireworks are not legal for retail sale unless
4 granted a permit under Section 15.

5 Section 15. Sale or use of display fireworks. No person,
6 firm, co-partnership, nonprofit, or corporation shall offer
7 for sale, expose for sale, sell at retail, keep with intent to
8 sell, possess, use, or explode any display fireworks, except:

9 (a) in municipalities the chief of the fire department,
10 or the mayor or village president where there is no fire
11 department, and in counties outside of municipalities the
12 county board or the board of commissioners of the county,
13 may grant permits for supervised public displays of
14 fireworks by municipalities, fair associations, amusement
15 parks, and other organizations or groups of individuals,
16 if:

17 (1) every display is handled by a competent display
18 operator to be approved by the public official by whom
19 the permit is granted, and shall be of such character,
20 as in the opinion of the official, after proper
21 inspection, to not be hazardous to property or endanger
22 any person;

23 (2) at least one competent display operator is on
24 site during display set-up and firing and he or she
25 maintains a copy of the permit application, as signed

1 by the local authority having jurisdiction, on site and
2 at all times the display is in place, which shall be
3 presented on demand of the State Fire Marshal or local
4 fire chief;

5 (3) permits are filed with the State Fire Marshal
6 at least 15 days in advance of the date of the display;
7 and

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

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

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

24 (d) the sale and use in emergency situations of
25 pyrotechnic signaling devices and distress signals for
26 marine, aviation, and highway use;

1 (e) the use of fuses and railway torpedoes by
2 railroads;

3 (f) the sale and use of blank cartridges for use in a
4 show or theater or for signal or ceremonial purpose in
5 athletics or sports;

6 (g) the use of any pyrotechnic device by military
7 organizations; or

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

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

17 Section 20. Requirements for sale of consumer fireworks;
18 revocation of registration; use of consumer fireworks.

19 (a) Consumer fireworks may be offered for sale, sold at
20 retail, or kept with the intent to sell, only if the following
21 requirements are met:

22 (1) any person, firm, co-partnership, nonprofit, or
23 business intending to sell consumer fireworks shall
24 register annually with the State Fire Marshal, who may
25 assess a fee of no more than \$25 for each site at which

1 fireworks shall be sold. The registration requirement
2 under this Section shall not apply to permanent business
3 establishments which are open year round and in which the
4 sale of fireworks is ancillary to the primary course of
5 business;

6 (2) permanent business establishments open year-round
7 and in which the sale of consumer fireworks is ancillary to
8 the primary course of business shall meet the criteria for
9 "seasonal retailer" or shall only be permitted to sell the
10 following consumer fireworks:

11 (i) dipped stick-sparklers or wire sparklers;

12 (ii) cylindrical fountains;

13 (iii) cone fountains;

14 (iv) illuminating torches;

15 (v) wheels;

16 (vi) ground spinners;

17 (vii) flutter sparklers; or

18 (viii) toy smoke devices;

19 (3) a seasonal retailer shall register with the State
20 Fire Marshal, who may assess a fee of no more than \$250 for
21 each site at which fireworks shall be sold;

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

1 (5) the annual registration required by this Section
2 shall be received by the State Fire Marshal at least 15
3 days prior to offering fireworks for sale at the site for
4 which the registration is intended. If the registration is
5 received less than 15 days prior to offering fireworks for
6 sale at the site for which registration is intended, an
7 additional assessment of \$100 shall be added to the initial
8 fee;

9 (6) each site at which fireworks are offered for sale
10 shall have its registration certificate displayed in a
11 conspicuous location at the site;

12 (7) no person or business shall give, offer for sale,
13 or sell any consumer fireworks to any person under 18 years
14 of age; and

15 (8) no person under 18 years of age may be employed by
16 a fireworks distribution facility or manufacturing
17 facility. No person under 18 years of age shall sell
18 consumer fireworks at a consumer fireworks retail sales
19 facility registered under this Section unless the
20 individual is supervised by a parent or guardian.

21 (b) The State Fire Marshal may revoke the registration of
22 any site which is in violation of a requirement of this Section
23 or any other requirement provided by this Act. If the violation
24 renders any property especially susceptible to fire loss, and
25 there is present such hazard to human life or limb that the
26 public safety imperatively requires emergency action, the

1 State Fire Marshal may take that action.

2 (c) A person lawfully possessing consumer fireworks may use
3 those items if:

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

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

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

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

19 Section 30. Exemptions. Nothing in this Act shall prevent
20 the retail sale and use of explosives or signaling flares used
21 in the course of ordinary business or industry, snake or glow
22 worm pellets, smoke devices, trick noisemakers known as "party
23 poppers", "booby traps", "snappers", "trick matches",
24 "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, shells or cartridges used as ammunition in
8 firearms, blank cartridges for a show or theatre, signal or
9 ceremonial purposes in athletics or sports, use by military
10 organizations, or the sale of any kind of fireworks provided
11 the same are to be shipped by the seller directly out of the
12 State.

13 Section 35. Seizure and sale of fireworks.

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

21 (b) After a period of 60 days, the seized fireworks may be
22 offered for sale by closed bid to a properly certified
23 manufacturer, distributor, or wholesaler. All seized fireworks
24 or explosives with a Division 1.3G or display firework
25 designation shall require the notification of the United States

1 Bureau of Alcohol, Tobacco, Firearms and Explosives. The State
2 Fire Marshal shall provide the owner or possessor a receipt
3 containing the complete inventory of any fireworks seized
4 within 5 business days of the seizure.

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

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

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

1 Marshal shall conduct an administrative hearing under the
2 provisions of the Illinois Administrative Procedure Act.

3 (c) Nothing in this Act shall restrict a county or
4 municipality from enacting ordinances that affect the sale or
5 use of fireworks within its jurisdiction.

6 Section 40. Storage of consumer fireworks and display
7 fireworks.

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

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

19 (2) The initial report for permanent business
20 establishments open year round shall be submitted between
21 January 1, 2019, and January 31, 2019, for existing
22 business and 15 days before storage begins for new
23 businesses. The report for permanent business
24 establishments open year round shall be updated annually
25 and upon a change in location of the stored items.

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

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

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

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

17 Section 45. Rulemaking. The State Fire Marshal shall adopt
18 such rules as may be necessary for the implementation of this
19 Act.

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

22 (225 ILCS 227/5)

23 Sec. 5. Definitions. In this Act:

1 "1.3G fireworks" means fireworks that are used for
2 professional outdoor displays and classified as fireworks
3 UN0333, UN0334, or UN0335 by the United States Department of
4 Transportation under 49 C.F.R. 172.101.

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

8 "BATFE" means the federal Bureau of Alcohol, Tobacco,
9 Firearms and Explosives.

10 "Consumer fireworks" means fireworks that must comply with
11 the construction, chemical composition, and labeling
12 regulations of the U.S. Consumer Products Safety Commission, as
13 set forth in 16 C.F.R. Parts 1500 and 1507, and classified as
14 fireworks UN0336 or UN0337 by the United States Department of
15 Transportation under 49 C.F.R. 172.101. "Consumer fireworks"
16 does not include a substance or article exempted under the
17 Pyrotechnic Use Act of 2018.

18 "Cover licensor" means any pyrotechnic distributor,
19 licensed under subsection (c) of Section 35 of this Act, or
20 production company, licensed under subsection (c-3) of Section
21 35 of this Act, under whose pyrotechnic license a touring
22 pyrotechnic company and its touring lead pyrotechnic operators
23 and touring technicians provide pyrotechnic displays or
24 pyrotechnic services, or both, in the State.

25 "Cover licensor representative" means a licensed lead
26 pyrotechnic operator, either employed by the cover licensor or

1 insured as an additional named insured on the cover licensor's
2 general liability and product liability insurance, as
3 applicable, who is responsible for supervising the safety and
4 regulatory compliance of the touring lead pyrotechnic
5 operators and touring technicians during a pyrotechnic display
6 or pyrotechnic service.

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

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

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

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

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

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

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

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

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

19 "Pyrotechnic distributor" means any person who distributes
20 display fireworks for sale in the State of Illinois or provides
21 them as part of a pyrotechnic display service in the State of
22 Illinois or provides only pyrotechnic services.

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

26 "Special effects fireworks" means pyrotechnic devices used

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

9 "Touring lead pyrotechnic operator" means an individual
10 employed by a touring pyrotechnic company who has overall
11 responsibility for the safety, setup, discharge, and
12 supervision of a pyrotechnic display or pyrotechnic service.

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

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

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

1 Section 75. The Pyrotechnic Use Act is repealed.

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