

1 AN ACT in relation to fireworks.

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 Operator Licensing Act.

6 Section 5. Definitions. In this Act:

7 "Display fireworks" means any substance or article
8 defined as a Division 1.3G or 1.4 explosive by the United
9 States Department of Transportation under 49 CFR 173.50,
10 except a substance or article exempted under the Fireworks
11 Use Act.

12 "Fireworks" has the meaning given to that term in the
13 Fireworks Use Act.

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

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

18 "Person" means an individual, firm, corporation,
19 association, partnership, company, consortium, joint venture,
20 commercial entity, state, municipality, or political
21 subdivision of a state or any agency, department, or
22 instrumentality of the United States and any officer, agent,
23 or employee of these entities.

24 "Pyrotechnic display" or "display" means the detonation,
25 ignition, or deflagration of display fireworks to produce a
26 visual or audible effect of an exhibitional nature before the
27 public, invitees, or licensees, regardless of whether
28 admission is charged.

29 Section 10. License; enforcement. No person may act as a
30 lead pyrotechnic operator, or advertise or use any title

1 implying that the person is a lead pyrotechnic operator,
2 unless licensed by the Office under this Act. An out-of-state
3 person hired for or engaged in a pyrotechnic display must
4 have a person licensed under this Act as a lead pyrotechnic
5 operator supervising the display. The State Fire Marshal, in
6 the name of the People, through the Attorney General, the
7 State's Attorney of any county, any resident of the State, or
8 any legal entity within the State may apply for injunctive
9 relief in any court to enjoin any person who has not been
10 issued a license or whose license has been suspended,
11 revoked, or not renewed, from practicing a licensed activity.
12 Upon filing a verified petition in court, the court, if
13 satisfied by affidavit, or otherwise, that the person is or
14 has been practicing in violation of this Act, may enter a
15 temporary restraining order or preliminary injunction,
16 without bond, enjoining the defendant from further unlicensed
17 activity. A copy of the verified complaint shall be served
18 upon the defendant and the proceedings are to be conducted as
19 in other civil cases. The court may enter a judgment
20 permanently enjoining a defendant from further unlicensed
21 activity if it is established that the defendant has been or
22 is practicing in violation of this Act. In case of violation
23 of any injunctive order or judgment entered under this
24 Section, the court may summarily try and punish the offender
25 for contempt of court. Injunctive proceedings are in addition
26 to all penalties and other remedies in this Act.

27 Section 15. Deposit of fees. All fees collected under
28 this Act shall be deposited into the Fire Prevention Fund.

29 Section 30. Rules. The State Fire Marshal shall adopt
30 all rules necessary to carry out its responsibilities under
31 this Act including rules requiring the training, examination,
32 and licensing of lead pyrotechnic operators engaging in or

1 responsible for the handling and use of Division 1.3G (Class
2 B) and 1.4 (Class C) explosives. The test shall incorporate
3 the rules of the State Fire Marshal, which shall be based
4 upon nationally recognized standards such as those of the
5 National Fire Protection Association (NFPA) 1123 guidelines
6 for outdoor displays and NFPA 1126 for indoor displays. The
7 Fire Marshal shall adopt rules as required for the licensing
8 of a lead pyrotechnic operator involved in an outdoor or
9 indoor pyrotechnic display.

10 Section 35. Licensure requirements and fees.

11 (a) Each application for a license to practice under
12 this Act shall be in writing and signed by the applicant on
13 forms provided by the Office. The Office shall have the
14 testing procedures for licensing as a lead pyrotechnic
15 operator developed by October 1, 2004.

16 (b) After April 1, 2005, all pyrotechnic displays, both
17 indoor and outdoor, must comply with the requirements set
18 forth in this Act.

19 (c) After April 1, 2005, no individual may act as a lead
20 operator in a pyrotechnic display without first applying for
21 and obtaining a lead pyrotechnic operator's license from the
22 Office. The Office shall establish separate licenses for lead
23 pyrotechnic operators for indoor and outdoor pyrotechnic
24 displays. Applicants for a license must:

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

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

28 (3) Pass the examination presented by the Office.

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

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

33 (2) Has not willfully violated any provisions of

1 this Act.

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

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

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

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

14 (7) Is not a fugitive from justice.

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

17 (1) Is at least 18 years of age.

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

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

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

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

29 (6) Is not a fugitive from justice.

30 Section 40. Fingerprint card; fees. The Office may
31 require each applicant to file with his or her application a
32 fingerprint card in the form and manner required by the
33 Department of State Police to enable the Department of State

1 Police to conduct a criminal history check on the applicant.

2 The Office may require each applicant to submit, in
3 addition to the license fee, a fee specified by the
4 Department of State Police for processing fingerprint cards,
5 which may be made payable to the State Police Services Fund
6 and shall be remitted to the Department of State Police for
7 deposit into that Fund.

8 Section 45. Investigation. Upon receipt of an
9 application, the Office shall investigate the eligibility of
10 the applicant. The Office has authority to request and
11 receive from any federal, state or local governmental agency
12 such information and assistance as will enable it to carry
13 out its powers and duties under this Act. The Department of
14 State Police shall cause the fingerprints of each applicant
15 to be compared with fingerprints of criminals filed with the
16 Department of State Police or with federal law enforcement
17 agencies maintaining official fingerprint files.

18 Section 50. Issuance of license; renewal; fees
19 nonrefundable.

20 (a) The Office, upon the applicant's satisfactory
21 completion of the requirements imposed under this Act and
22 upon receipt of the requisite fees, shall issue the
23 appropriate license showing the name, address, and photograph
24 of the licensee and the dates of issuance and expiration.

25 (b) Each licensee may apply for renewal of his or her
26 license upon payment of the applicable fees. The expiration
27 date and renewal period for each license issued under this
28 Act shall be set by rule. Failure to renew within 60 days of
29 the expiration date results in lapse of the license. A lapsed
30 license may not be reinstated until a written application is
31 filed, the renewal fee is paid, and the reinstatement fee
32 established by the Office is paid. Renewal and reinstatement

1 fees shall be waived for persons who did not renew while on
2 active duty in the military and who file for renewal or
3 restoration within one year after discharge from the service.
4 A lapsed license may not be reinstated after 5 years have
5 elapsed except upon passing an examination to determine
6 fitness to have the license restored and by paying the
7 required fees.

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

9 Section 55. Insufficient funds checks. Any person who on
10 2 occasions issues or delivers a check or other order to the
11 Office that is not honored by the financial institution upon
12 which it is drawn because of insufficient funds on account
13 shall pay to the Office, in addition to the amount owing upon
14 the check or other order, a fee of \$50. If the check or other
15 order was issued or delivered in payment of a renewal fee and
16 the licensee whose license has lapsed continues to practice
17 without paying the renewal fee and the \$50 fee required under
18 this Section, an additional fee of \$100 is imposed for
19 practicing without a current license. The Office may revoke
20 or refuse to issue the license or licenses of any person who
21 fails to pay the requisite fees.

22 Section 60. Conditions of renewal; change of address;
23 duplicate license; inspection.

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

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

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

32 (d) If a license or certificate is lost, a duplicate

1 shall be issued upon payment of the required fee to be
2 established by the Office. If a licensee wishes to change his
3 or her name, the Office shall issue a license in the new name
4 upon satisfactory proof that the change of name was done in
5 accordance with law and upon payment of the required fee.

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

9 Section 65. Grounds for discipline. Licensees subject to
10 this Act shall conduct their practice in accordance with this
11 Act and the rules promulgated under this Act. A licensee is
12 subject to disciplinary sanctions enumerated in this Act if
13 the State Fire Marshal finds that the licensee is guilty of
14 any of the following:

15 (1) Fraud or material deception in obtaining or
16 renewing a license.

17 (2) Engaging in dishonorable, unethical, or
18 unprofessional conduct of a character likely to deceive,
19 defraud, or harm the public in the course of professional
20 services or activities.

21 (3) Conviction of any crime that has a substantial
22 relationship to his or her practice or an essential
23 element of which is misstatement, fraud, dishonesty, or
24 conviction in this or another state of any crime that is
25 a felony under the laws of Illinois or conviction of a
26 felony in a federal court, unless the licensee
27 demonstrates that he or she has been sufficiently
28 rehabilitated to warrant the public trust.

29 (4) Performing any service in a grossly negligent
30 manner or permitting any licensed employee to perform a
31 service in a grossly negligent manner, regardless of
32 whether actual damage or damage to the public is
33 established.

1 (5) Addiction to or dependency on alcohol or drugs
2 or use of alcohol or drugs that is likely to endanger the
3 public at a pyrotechnic display.

4 (6) Willfully receiving direct or indirect
5 compensation for any professional service not actually
6 rendered.

7 (7) Having disciplinary action taken against his or
8 her license in another state.

9 (8) Making differential treatment against any
10 person to his or her detriment because of race, color,
11 creed, sex, religion, or national origin.

12 (9) Engaging in unprofessional conduct.

13 (10) Engaging in false or misleading advertising.

14 (11) Contracting or assisting an unlicensed person
15 to perform services for which a license is required under
16 this Act.

17 (12) Permitting the use of his or her license to
18 enable an unlicensed person or agency to operate as a
19 licensee.

20 (13) Performing and charging for a service without
21 having the authorization to do so from the member of the
22 public being served.

23 (14) Failure to comply with any provision of this
24 Act or the rules promulgated under this Act.

25 (15) Conducting business regulated by this Act
26 without a currently valid license.

27 Section 75. Formal charges; hearing.

28 (a) The Office may file formal charges against a
29 licensee. The formal charges, at a minimum, shall inform the
30 licensee of the specific facts that are the basis of the
31 charge to enable the licensee to defend himself or herself.

32 (b) Each licensee whose conduct is the subject of a
33 formal charge that seeks to impose disciplinary action

1 against the licensee shall be served notice of the formal
2 charge at least 30 days before the date of the hearing. The
3 hearing shall be presided over by the Office or a hearing
4 officer authorized by the Office in compliance with the
5 Illinois Administrative Procedure Act. Service shall be
6 considered to have been given if the notice was personally
7 received by the licensee or if the notice was mailed
8 certified, return requested, to the licensee at the
9 licensee's last known address as listed with the Office.

10 (c) The notice of a formal charge shall consist, at a
11 minimum, of the following information:

12 (1) The time and date of the hearing.

13 (2) A statement that the licensee may appear
14 personally at the hearing and may be represented by
15 counsel.

16 (3) A statement that the licensee has the right to
17 produce witnesses and evidence in his or her behalf and
18 the right to cross-examine witnesses and evidence
19 produced against him or her.

20 (4) A statement that the hearing can result in
21 disciplinary action being taken against his or her
22 license.

23 (5) A statement that rules for the conduct of these
24 hearings exist and that it may be in his or her best
25 interest to obtain a copy.

26 (6) A statement that the hearing officer authorized
27 by the Office shall preside at the hearing and, following
28 the conclusion of the hearing, make findings of fact,
29 conclusions of law, and recommendations, separately
30 stated, to the Office as to what disciplinary action, if
31 any, should be imposed on the licensee.

32 (7) A statement that the Office may continue the
33 hearing.

34 (d) The Office or the hearing officer authorized by the

1 Office shall hear evidence produced in support of the formal
2 charges and contrary evidence produced by the licensee, if
3 any. If the hearing is conducted by a hearing officer, at the
4 conclusion of the hearing, the hearing officer shall make
5 findings of fact, conclusions of law, and recommendations,
6 separately stated, and submit them to the Office and to all
7 parties to the proceeding. Submission to the licensee shall
8 be considered as having been made if done in a similar
9 fashion as service of the notice of formal charges. Within 20
10 days after the service, any party to the proceeding may
11 present to the Office a motion, in writing, for a rehearing.
12 The written motion shall specify the particular grounds for
13 the rehearing.

14 (e) The Office, following the time allowed for filing a
15 motion for rehearing, shall review the hearing officer's
16 findings of fact, conclusions of law, recommendations, and
17 any motions filed subsequent to the hearing. After review of
18 the information the Office may hear oral arguments and
19 thereafter issue an order. The report of findings of fact,
20 conclusions of law, and recommendations of the hearing
21 officer shall be the basis for the Office's order. If the
22 Office finds that substantial justice was not done, it may
23 issue an order in contravention of the hearing officer's
24 findings.

25 (f) All proceedings under this Section are matters of
26 public record and a record of the proceedings shall be
27 preserved.

28 Section 80. Sanctions.

29 (a) The Office shall impose any of the following
30 sanctions, singularly or in combination, when it finds that a
31 licensee or applicant is guilty of any offense described in
32 this Act:

33 (1) revocation;

- 1 (2) suspension for any period of time;
- 2 (3) reprimand or censure;
- 3 (4) place on probationary status and require the
- 4 submission of any of the following:
- 5 (i) report regularly to the Office upon
- 6 matters that are the basis of the probation;
- 7 (ii) continue or renew professional education
- 8 until a satisfactory degree of skill has been
- 9 attained in those areas that are the basis of the
- 10 probation; or
- 11 (iii) such other reasonable requirements or
- 12 restrictions as are proper;
- 13 (5) refuse to issue, renew, or restore; or
- 14 (6) revoke probation that has been granted and
- 15 impose any other discipline in this subsection (a) when
- 16 the requirements of probation have not been fulfilled or
- 17 have been violated.
- 18 (b) The State Fire Marshal may summarily suspend a
- 19 license under this Act, without a hearing, simultaneously
- 20 with the filing of a formal complaint and notice for a
- 21 hearing provided under this Section if the State Fire Marshal
- 22 finds that the continued operations of the individual would
- 23 constitute an immediate danger to the public. In the event
- 24 the State Fire Marshal suspends a license under this
- 25 subsection, a hearing by the hearing officer designated by
- 26 the State Fire Marshal shall begin within 20 days after the
- 27 suspension begins, unless continued at the request of the
- 28 licensee.
- 29 (c) Disposition may be made of any formal complaint by
- 30 consent order between the State Fire Marshal and the
- 31 licensee, but the Office must be apprised of the full consent
- 32 order in a timely way.
- 33 (d) The Office shall reinstate any license to good
- 34 standing under this Act, upon recommendation to the Office,

1 after a hearing before the hearing officer authorized by the
2 Office. The Office shall be satisfied that the applicant's
3 renewed practice is not contrary to the public interest.

4 (e) The Office may conduct hearings and issue cease and
5 desist orders to persons who engage in activities prohibited
6 by this Act without having a valid license, certificate, or
7 registration. Any person in violation of a cease and desist
8 order entered by the Office is subject to all of the remedies
9 provided by law, and in addition, is subject to a civil
10 penalty payable to the party injured by the violation.

11 Section 85. Subpoena; production of evidence; records;
12 administrative review; license suspension; revocation.

13 (a) The Office has the power to subpoena and bring
14 before it any person in this State and to take testimony
15 either orally or by deposition, or both, with the same fees
16 and mileage and in the same manner as is prescribed by law
17 for judicial proceedings in civil cases. The State Fire
18 Marshal, the Office, and the hearing officer approved by the
19 Office, have the power to administer oaths at any hearing
20 that the Office is authorized to conduct.

21 (b) Any circuit court, upon the application of the
22 licensee, the Office, or the State Fire Marshal, may order
23 the attendance of witnesses and the production of relevant
24 books and papers in any hearing under this Act. The court may
25 compel obedience to its order by proceedings for contempt.

26 (c) The Office of the State Fire Marshal, at its
27 expense, shall provide a stenographer or a mechanical
28 recording device to record the testimony and preserve a
29 record of all proceedings at the hearing of any case in which
30 a license may be revoked, suspended, placed on probationary
31 status, or other disciplinary action taken with regard to the
32 license. The notice of hearing, complaint, and all other
33 documents in the nature of pleadings and written motions

1 filed in the proceedings, the transcript of testimony, the
2 report of the hearing officer and the orders of the State
3 Fire Marshal shall constitute the record of the proceedings.
4 The Office shall furnish a transcript of the record to any
5 interested person upon payment of the costs of copying and
6 transmitting the record.

7 (d) All final administrative decisions of the Office are
8 subject to judicial review under the Administrative Review
9 Law and the rules adopted under that Law. Proceedings for
10 judicial review shall be commenced in the circuit court of
11 the county in which the party applying for review resides;
12 but if the party is not a resident of Illinois, the venue is
13 in Sangamon County. The State Fire Marshal is not required to
14 certify any record to the court or file any answer in court
15 or otherwise appear in any court in a judicial review
16 proceeding, unless there is filed in the court with the
17 complaint a receipt from the Office acknowledging payment of
18 the costs of furnishing and certifying the record. Those
19 costs shall be computed at the cost of preparing the record.
20 Exhibits shall be certified without cost. Failure on the part
21 of the licensee to file the receipt in court is a ground for
22 dismissal of the action. During all judicial proceedings
23 incident to a disciplinary action, the sanctions imposed upon
24 the accused by the Office remain in effect, unless the court
25 feels justice requires a stay of the order.

26 (e) An order of revocation, suspension, placing the
27 license on probationary status, or other formal disciplinary
28 action as the State Fire Marshal may consider proper, or a
29 certified copy of the order over the seal of the Office and
30 purporting to be signed by the State Fire Marshal, is prima
31 facie proof that:

32 (1) the signature is that of the State Fire
33 Marshal;

34 (2) the State Fire Marshal is qualified to Act; and

1 (3) the hearing officer is qualified to Act on
2 behalf of the Office.

3 The proof specified in paragraphs (1), (2), and (3) may
4 be rebutted.

5 (f) Upon the suspension or revocation of a license
6 issued under this Act, a licensee shall surrender the license
7 to the Office and upon failure to do so, the Office shall
8 seize the license.

9 (g) The Office, upon request, shall publish a list of
10 the names and addresses of all licensees under the provisions
11 of this Act. The Office shall publish a list of all persons
12 whose licenses have been disciplined within the past year,
13 together with such other information as it may consider of
14 interest to the public.

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

25 (1) Practicing or attempting to practice as a lead
26 pyrotechnic operator without a license;

27 (2) Obtaining or attempting to obtain a license,
28 practice or business, or any other thing of value by
29 fraudulent representation;

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

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

7 Section 905. The Illinois Explosives Act is amended by
8 changing Section 2001 as follows:

9 (225 ILCS 210/2001) (from Ch. 96 1/2, par. 1-2001)

10 Sec. 2001. No person shall possess, use, purchase or
11 transfer explosive materials unless licensed by the
12 Department except as otherwise provided by this Act and the
13 Pyrotechnic Operator Licensing Act.

14 (Source: P.A. 86-364.)

15 Section 910. The Fireworks Use Act is amended by
16 changing Section 2 as follows:

17 (425 ILCS 35/2) (from Ch. 127 1/2, par. 128)

18 Sec. 2. Except as hereinafter provided it shall be
19 unlawful for any person, firm, co-partnership, or corporation
20 to knowingly possess, offer for sale, expose for sale, sell
21 at retail, or use or explode any fireworks; provided that
22 city councils in cities, the president and board of trustees
23 in villages and incorporated towns, and outside the corporate
24 limits of cities, villages and incorporated towns, the county
25 board, shall have power to adopt reasonable rules and
26 regulations for the granting of permits for supervised public
27 displays of fireworks. Every such display shall be handled by
28 a competent individual who is licensed as a lead pyrotechnic
29 operator designated-by-the-local-authorities-herein-specified
30 and--shall--be-of-such-a-character-and-so-located, discharged

1 ~~er-fired, as not to be hazardous to property or endanger any~~
 2 ~~person or persons.~~ Application for permits shall be made in
 3 writing at least 15 days in advance of the date of the
 4 display and action shall be taken on such application within
 5 48 hours after such application is made. After such privilege
 6 shall have been granted, sales, possession, use and
 7 distribution of fireworks for such display shall be lawful
 8 for that purpose only. No permit granted hereunder shall be
 9 transferable.

10 Permits may be granted hereunder to any groups of 3 or
 11 more adult individuals applying therefor. No permit shall be
 12 required, under the provisions of this Act, for supervised
 13 public displays by State or County fair associations.

14 The governing body shall require proof of insurance a
 15 ~~bond~~ from the permit applicant licensee in a sum not less
 16 than \$1,000,000 ~~\$1,000~~ conditioned on compliance with the
 17 provisions of this law and the regulations of the State Fire
 18 Marshal adopted hereunder, except that no municipality shall
 19 be required to provide evidence of insurance ~~file such bond~~.

20 Such permit shall be issued only after inspection of the
 21 display site by the issuing officer, to determine that such
 22 display shall be in full compliance with the rules of the
 23 State Fire Marshal, which shall be based upon nationally
 24 recognized standards such as those of the National Fire
 25 Protection Association (NFPA) 1123 guidelines for outdoor
 26 displays and NFPA 1126 guidelines for indoor displays and
 27 shall not be hazardous to property or endanger any person or
 28 persons. Nothing in this Section shall prohibit the issuer of
 29 the permit from adopting more stringent rules.

30 All indoor pyrotechnic displays shall be conducted in
 31 buildings protected by automatic sprinkler systems.

32 The chief of the fire department providing fire
 33 protection coverage to the area of display, or his or her
 34 designee, shall sign the permit. ~~Forms for such application~~

1 and--permit-may-be-obtained-from-the-Office-of-the-State-Fire
2 Marshal.--One-copy-of-such-permit-shall-be-on-file--with--the
3 issuing--officer,--and-one-copy-forwarded-to-the-Office-of-the
4 State-Fire-Marshal.

5 Possession by any party holding a certificate of
6 registration under "The Fireworks Regulation Act of
7 Illinois", filed July 20, 1935, or by any employee or agent
8 of such party or by any person transporting fireworks for
9 such party, shall not be a violation, provided such
10 possession is within the scope of business of the fireworks
11 plant registered under that Act.

12 (Source: P.A. 86-1028.)

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