



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2298

Introduced 1/28/2004, by Denny Jacobs

SYNOPSIS AS INTRODUCED:

New Act
225 ILCS 227/30
425 ILCS 35/Act rep.

Creates the Fireworks Sales Act. Sets forth the requirements and procedures for the licensing of fireworks sellers. Sets forth the type of fireworks that are permitted in the State. Sets forth procedures for the storage, display, and sale of fireworks. Provides penalties for violations of the Act. Contains other provisions. Amends the Pyrotechnic Operator Licensing Act. Deletes the provision that the State Fire Marshal must adopt rules concerning the handling and use of Division 1.4 (Class C) explosives. Repeals the Fireworks Use Act. Effective immediately.

LRB093 19656 AMC 45397 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning fireworks regulation.

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

4 ARTICLE 1. GENERAL PROVISIONS

5 Section 1-1. Short title. This Act may be cited as the
6 Fireworks Sales Act.

7 Section 1-5. Definitions. As used in this Act:

8 "Consumer Fireworks" means all fireworks classified as
9 Consumer Fireworks or as 1.4G fireworks in the regulations of
10 the U.S. Department of Transportation, excluding wire
11 sparklers.

12 "Display Fireworks" means all fireworks classified as
13 Display Fireworks or as 1.3G fireworks in the regulations of
14 the U.S. Department of Transportation.

15 "Fireworks" has the same definition as set forth in Section
16 2 of the Fireworks Regulation Act of Illinois.

17 "Importer" means any person engaged in the business of
18 making sales of fireworks to a wholesaler.

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

20 "Person" means any individual, partnership, limited
21 liability company, limited liability partnership, corporation,
22 or other legal entity.

23 "Retailer" means any person who sells or offers fireworks
24 for sale for use or consumption and not for resale in any form.

25 "Sale" means any transfer, exchange, or barter of fireworks
26 for money and each transaction made by any person or his or her
27 agent or employee.

28 "Wholesaler" means any person engaged in the business of
29 selling fireworks to a retailer.

30 Section 1-10. Applicability.

1 (a) The term "fireworks" does not include toy paper pistol
2 caps that contain less than 25/100 grains of explosive
3 compounds, model rockets, emergency signal flares, and
4 matches, the sale and use of which shall be permitted at all
5 times without a special fireworks license. Party stores are
6 also exempt from the fireworks license requirement when selling
7 party poppers and morning glory sparklers.

8 (b) Nothing in this Act shall be construed as applying to:
9 (i) the manufacture, storage, sale, or use of signals necessary
10 for the operation of railroads or other classes of public or
11 private transportation; (ii) the military or naval forces of
12 the United States or of this State or to peace officers; or
13 (iii) the sale or use of blank cartridges for ceremonial,
14 theatrical, or athletic events.

15 (c) This Act does not affect the validity of any local law
16 further prohibiting or restricting the sale or use of
17 fireworks.

18 Section 1-15. Enforcement. The State Fire Marshal may
19 designate a deputy fire marshal as the "Fireworks Enforcement
20 Officer", who shall have the responsibility of directing
21 enforcement of the State fireworks laws. The Office is charged
22 with the enforcement of this Act and may call upon any State,
23 county, or municipal peace officer for assistance in the
24 enforcement of this Act.

25 ARTICLE 2. LICENSES

26 Section 2-5. License required. It is unlawful for any
27 person or his or her agent or employee to act as an importer,
28 wholesaler, or retailer of fireworks in this State without
29 having first secured a license from the Office in accordance
30 with this Act.

31 It is unlawful for any person to engage in the shipment of
32 fireworks into the State without having first secured a license
33 from the Office in accordance with this Act.

1 No person may deliver, sell, or ship fireworks into or
2 within the State of Illinois unless the receiver produces the
3 required license or evidence that the consignee holds the
4 license.

5 Section 2-10. Licenses and fees.

6 (a) Licenses issued by the Office shall be of the following
7 classes:

- 8 (1) importer;
9 (2) wholesaler; and
10 (3) retailer.

11 If a person acts in more than one capacity as an importer,
12 wholesaler or retailer, then that person must have the
13 appropriate license for each capacity in which he or she acts.
14 A person must have a separate license for each location where
15 he or she conducts business as an importer, wholesaler, or
16 retailer.

17 (b) All licenses shall be for the calendar year or any
18 fraction thereof and shall expire on December 31 of each year.

19 (c) The State Fire Marshal is authorized and directed to
20 charge for licenses issued as follows:

- 21 (1) importer, \$3,500;
22 (2) wholesaler, \$1,000; and
23 (3) retailer, \$25.

24 (d) The State Fire Marshal shall deposit \$200,000 of the
25 amount received each fiscal year as license fees under this Act
26 into the Fire Prevention Fund to be used (i) for fire
27 prevention programs and (ii) for the costs of enforcing this
28 Act. The State Fire Marshal shall deposit the remainder of the
29 amount received as license fees under this Act into the General
30 Revenue Fund.

31 Section 2-15. Application procedures. Applications for a
32 license under this Act must be made to the Office on forms
33 prescribed by the Office and shall be accompanied by the
34 appropriate documentation and the required fee, which shall not

1 be refundable. Every application must require the information
2 that, in the judgment of the Office, will enable the Office to
3 pass on the qualifications of the applicant for a license.

4 Section 2-20. Qualifications.

5 (a) To be eligible to receive and hold a license, the
6 applicant must be located in permanent structure and be open
7 for business 12 months each year. Fireworks stands operated by
8 handicapped or retired persons that generate less than \$15,000
9 gross sales annually and not-for-profit organization retailers
10 are not required to be open 12 months of the year.

11 (b) No license may be issued to an individual under the age
12 of 21 years.

13 Section 2-25. License transfers. No license under this Act
14 may be transferred nor may a person operate under a license
15 issued to any other person or under a license issued for
16 another location, unless the Office has approved that transfer.

17 Section 2-30. License display and numbers.

18 (a) A license issued to a retailer must be displayed in the
19 retailer's place of business. No person may purchase fireworks
20 from an importer or wholesaler without first requiring proof
21 that the seller has obtained the proper license and that it is
22 current and valid.

23 (b) The Office shall assign a number to each license
24 issued, and each licensee must include that number on all
25 purchase orders, delivery receipts, and invoices issued or used
26 by each importer or wholesaler.

27 Section 2-35. License revocation.

28 (a) The State Fire Marshal may revoke or suspend any
29 license issued under the provisions of this Act upon a finding
30 that the licensee has violated any of the provisions of this
31 Act. Before a license may be revoked or suspended, the Office
32 must provide the licensee with notice stating the grounds for

1 the revocation or suspension and an opportunity for a hearing.
2 The Office must promulgate rules concerning license revocation
3 and suspension procedures.

4 (b) The State Fire Marshal, in his or her discretion, may
5 refuse to issue, for a period not to exceed one year, another
6 license to the holder of a license that has been cancelled or
7 revoked for the possession or sale of illegal fireworks.

8 Section 2-40. Construction with State and local laws. The
9 issuance of the license under this Act does not replace or
10 relieve any person from obtaining any other State, county, or
11 municipal privilege licenses as required by law.

12 Section 2-45. Display fireworks. Nothing in this Act shall
13 be construed as applying to the shipping, sale, possession, and
14 use of Display Fireworks for public displays by holders of a
15 permit for a public display. Application for a State permit for
16 public display must be made in writing to the Office at least
17 10 days before the display date. The application must show that
18 the proposed display is to be so located and supervised that it
19 will not be hazardous to property and that it will not endanger
20 human lives. If the display is to be performed within the
21 limits of a municipality, the application shall so state and
22 shall bear the signed approval of the chief supervisory
23 official of the fire or police department of the municipality.
24 Permits issued shall be limited to the time specified therein
25 and shall not be transferable.

26 ARTICLE 3. PERMITTED FIREWORKS

27 Section 3-5. Permitted fireworks.

28 (a) Subject to the provisions of this Act, it is lawful for
29 any person to possess, sell, or use within the State of
30 Illinois, or ship into the State of Illinois, any fireworks
31 that are Consumer Fireworks or those items that comply with the
32 construction, chemical composition, and labeling regulations

1 promulgated by the U.S. Consumer Product Safety Commission and
2 permitted for use by the general public under their
3 regulations.

4 Permitted fireworks designed to produce an audible effect
5 are confined to (i) small ground items including firecrackers
6 not over 1 1/2" in length and 1/4" in diameter and containing
7 50 milligrams or less of explosive composition and (ii) aerial
8 devices containing 130 milligrams or less of explosive
9 composition. Propelling or expelling charges consisting of a
10 mixture of charcoal, sulfur, and potassium nitrate are not
11 considered as designed to produce an audible effect.

12 (b) Additional permitted fireworks for which a license is
13 required shall include:

14 (1) Related items not classified by the as Consumer
15 Fireworks, but that are identified under federal
16 regulations as trick noisemakers, toy novelties, toy smoke
17 devices, and sparklers.

18 (2) Toy snakes, snappers, auto burglar alarms, smoke
19 balls, smoke novelty items, party poppers, trick matches,
20 cigarette loads, and morning glory sparklers containing
21 not over 100 grams of composition per item.

22 Sparklers containing any chlorate or perchlorate salts may
23 not exceed 5 grams of composition per item. Morning glory
24 sparklers containing any chlorate or perchlorate salts may not
25 exceed 5 grams of composition per item.

26 Section 3-10. Prohibited fireworks. Except as provided in
27 Section 2-45, all items of Display Fireworks-type ground
28 salutes commonly known as "cherry bombs", various tubular
29 salutes that exceed the limits of permitted Consumer Fireworks
30 as to size or explosive composition that are designed to
31 produce an audible effect referred to in Section 3-10, and wire
32 sparklers are expressly prohibited from shipment into and
33 possession, sale, and use within the State of Illinois for any
34 purpose.

1 ARTICLE 4. REGULATIONS

2 Section 4-5. Packing identification. No permissible
3 fireworks defined on Section 3-5 may be sold, offered for sale,
4 possessed within the State, or used within the State, except as
5 provided in Section 2-45, unless it is identified on the
6 shipping cases and by imprinting on the article or retail sales
7 container or unit as "D.O.T. Consumer Fireworks" or other
8 appropriate classification or identification as may be
9 applicable or required by any federal agency having
10 jurisdiction over fireworks or related items. The imprint must
11 be of sufficient size and be positioned so as to be readily
12 recognized by law enforcement authorities and the general
13 public.

14 Section 4-10. Storage and display of fireworks.

15 (a) Placing, storing, locating, or displaying fireworks in
16 any window where the sun may shine through glass onto the
17 fireworks or to permit the presence of lighted cigars,
18 cigarettes, or pipes within 10 feet of where the fireworks are
19 offered for sale is declared unlawful and prohibited. At all
20 places where fireworks are stored or sold, there must be posted
21 signs with the words "Fireworks. No smoking." in letters not
22 less than 4 inches high.

23 (b) No fireworks may be sold at retail at any location
24 where paints, oils, or varnishes are sold or used unless the
25 fireworks are kept in the original unbroken containers.
26 Fireworks may not be placed, stored, or located within 25 feet
27 of where resin, turpentine, gasoline, or other inflammable
28 substance that may generate inflammable vapors is used, stored,
29 or sold.

30 (c) Any fireworks device that is readily accessible to
31 handling by consumers or purchasers must have their fuses
32 protected in a manner that protects against accidental ignition
33 by a spark, cigarette ash, or other ignition source.

34 (d) All retail outlets selling permissible fireworks must

1 have at least one fire extinguisher or several pails of water
2 readily available. No retail license may be issued for the sale
3 of fireworks at retail from tents or from or in a motor vehicle
4 or from a trailer towed by a motor vehicle.

5 Section 4-15. Prohibited sales.

6 (a) It is unlawful to offer for retail sale or to sell any
7 fireworks including wire sparklers to persons under the age of
8 21 years or to any intoxicated person.

9 (b) Any person purchasing fireworks must show a valid
10 driver's license or State-approved identification card.

11 (c) Permitted nonfireworks items identified as snappers,
12 trick noisemakers, toy novelties, toy smoke devices, toy
13 snakes, snappers, auto burglar alarms, smoke balls, smoke
14 novelty items, party poppers, witches whistle, serpent
15 chargers, or trick matches may be sold to persons 8 years old
16 or older.

17 Section 4-20. Prohibited acts.

18 (a) It is unlawful to explode or ignite fireworks within
19 600 feet of any church, hospital, asylum, public school, or
20 enclosed building or within 200 feet of where fireworks are
21 stored, sold, or offered for sale.

22 (b) No person may ignite or discharge any permissible
23 articles or fireworks within or throw them from a motor vehicle
24 while within nor shall any person place or throw any ignited
25 article of fireworks into or at a motor vehicle, or at or near
26 any person or group of people.

27 Section 4-25. Penalties. Any person that violates any
28 provision of this Act is guilty of a Class B misdemeanor. Any
29 person convicted of manufacturing, shipping, possessing, or
30 selling any illegal fireworks described in Section 3-10 of this
31 Act shall, on subsequent violations, be guilty of a Class 4
32 felony.

1 Section 4-30. Seizure of prohibited fireworks. The State
2 Fire Marshal shall seize as contraband any fireworks other than
3 the fireworks permitted under Section 3-5, or fireworks for
4 public displays as provided in Section 2-45, that are sold,
5 displayed, used, or possessed in violation of this Act. The
6 State Fire Marshal is authorized to destroy any illegal
7 fireworks seized.

8 ARTICLE 90. AMENDATORY PROVISIONS

9 Section 90-5. The Pyrotechnic Operator Licensing Act is
10 amended by changing Section 30 as follows:

11 (225 ILCS 227/30)

12 Sec. 30. Rules. The State Fire Marshal shall adopt all
13 rules necessary to carry out its responsibilities under this
14 Act including rules requiring the training, examination, and
15 licensing of lead pyrotechnic operators engaging in or
16 responsible for the handling and use of Division 1.3G (Class B)
17 ~~and 1.4 (Class C)~~ explosives. The test shall incorporate the
18 rules of the State Fire Marshal, which shall be based upon
19 nationally recognized standards such as those of the National
20 Fire Protection Association (NFPA) 1123 guidelines for outdoor
21 displays and NFPA 1126 for indoor displays. The Fire Marshal
22 shall adopt rules as required for the licensing of a lead
23 pyrotechnic operator involved in an outdoor or indoor
24 pyrotechnic display.

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

26 (425 ILCS 35/Act rep.)

27 Section 90-10. The Fireworks Use Act is repealed.

28 ARTICLE 99. EFFECTIVE DATE

29 Section 99-5. Effective date. This Act takes effect upon
30 becoming law.