

**MUSIC ENTERTAINMENT PYROTECHNICS TASK FORCE
RECOMMENDATIONS AND FINDINGS**

**HOUSE OF REPRESENTATIVES
DEC 27 2010 -12 04 PM
MARK MAHONEY**

December 2010

MESSAGE FROM THE ILLINOIS STATE FIRE MARSHAL

The Music Entertainment Pyrotechnics Task Force (“Task Force”), its findings and recommendations, target the safe use of pyrotechnic effects at music venues. At the same time, the Task Force seeks to ensure a level playing field within the industry, so that everyone has equal opportunity to gain the necessary training and licensure needed to discharge pyrotechnics in the State of Illinois. The potential for danger in the subject industry rose to nationwide attention with the tragic 2003 fire at The Station, a Rhode Island nightclub. During an indoor concert, a fire was caused by improperly selected and discharged pyrotechnics, resulting in the unfortunate death of 100 concert goers and artists. That a similar disaster has not occurred in Illinois is due, in part, to the State’s statutory system that regulates the use of pyrotechnic devices and the licensure of the individuals tasked with their discharge. Necessary to said system are two key components: (1) training of those tasked with the safety, setup, and discharge of pyrotechnic displays and (2) insurance to safeguard all those potentially affected by a pyrotechnic accident – including the fans, artists, venue owners and the pyrotechnic professionals themselves. The current regulations, the Office of the Illinois State Fire Marshal and the Task Force all share one overarching goal: to insure the safety of the Illinois public and performers at venues where pyrotechnics are used. The recommendations and findings of the Task Force serve to bolster such protections, while providing additional opportunities for individuals to be licensed to perform pyrotechnic displays and services.

I wish to thank the Task Force members and interested parties for their dedication and commitment to this important project. The OSFM appreciates everyone’s willingness to share their time, energy and talent in the furtherance of fire and public safety. Through our partnerships we will continue to strive towards providing safer environments for all of those who live in and visit Illinois.

Sincerely,


Larry Matkaitis
Illinois State Fire Marshal

ACKNOWLEDGEMENTS

This report was developed through the culmination of the outstanding collaborative efforts of the many disciplines involved with the Music Entertainment Pyrotechnics Task Force (“Task Force”).

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The Office of the State Fire Marshal thanks each member, interested parties and their respective organizations for their assistance with this important work.

EXECUTIVE SUMMARY

The Music Entertainment Pyrotechnics Task Force (“Task Force”) was established to study the provision of pyrotechnic displays and pyrotechnic services in the indoor and outdoor music entertainment industry. 225 ILCS 227/97. Specifically, the Task Force was charged with issuing findings and recommendations with respect to the following three issues: (1) who can provide pyrotechnic displays and services for the music entertainment industry in the State of Illinois; (2) studying appropriate insurance policies for pyrotechnic displays and services; and (3) any other changes that may be necessary to the Pyrotechnic Distributor and Operator Licensing Act, 225 ILCS 227/1, *et seq.* (the “Act”). On September 14, 2010, the Task Force convened and, over the course of a three month period, met and produced the following recommendations and findings for submission to, and consideration by, the Illinois House of Representatives.¹ The recommendations proposed herein can be summarized as follows:

- Pyrotechnic displays and services can currently be performed for the music entertainment industry in the State of Illinois by the employees of pyrotechnic distributors. The Task Force recommends that the term “production company” be amended to include individuals working in the music industry, thereby creating additional paths for individuals to provide pyrotechnic displays and services to the music entertainment industry in Illinois.
- Acknowledge that an employer/employee relationship is not necessary to verify that the individuals and/or entities charged with the safety, setup and discharge of pyrotechnics are covered by the statutorily mandated insurance. As proposed, pyrotechnic distributors and production companies will have the option to either employ their lead pyrotechnic operators and assistants, or insure them as Additional Named Insureds on the mandatory general liability and/or product liability policies. The requirement that all individuals involved in providing pyrotechnic displays and pyrotechnic services be covered by Illinois Workers’ Compensation insurance remains unchanged.
- Recognize and formalize the existing “cover license” scenario whereby out-of-state pyrotechnic providers provide pyrotechnic effects under the “cover license” of an Illinois-licensed pyrotechnic distributor or production company. As proposed, the recommendations will insure adequate regulation, oversight and coverage by the statutorily mandated insurance in such situations.

Red-lined versions of both the Act and the related Pyrotechnic Use Act (425 ILCS 35), which reflect the proposed changes recommended by the Task Force, can be found at Appendix A to this Report.

¹ The proceedings of each Task Force meeting were transcribed by court reporter to insure an accurate record of the Task Force deliberations. In the interest of cost and resource conservation, the minutes are not included as appendices to this report. Rather, they can be accessed on and printed from the internet at <http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/MusicEntertainmentPyroTF.aspx>.

HISTORY OF PYROTECHNICS LEGISLATION IN ILLINOIS

The Pyrotechnic Operator Licensing Act, 225 ILCS 227/1, *et seq.*, became effective on July 22, 2003, with the enactment of Public Act 93-263. The catalyst spurring the passage of PA 93-263 was the horrific February 2003 fire at The Station nightclub in West Warwick, Rhode Island, which was caused by the improper use of indoor pyrotechnics and resulted in serious injuries and the death of 100 people. *See*, 93rd Ill. Gen. Assem., Senate Proceedings, May 29, 2003, at 124 (Statements of Senator Link); 93rd Ill. Gen. Assem., House Proceedings, May 31, 2003, at 91 (Statements of Representative Schmitz). PA 93-263 applied to fireworks and pyrotechnics, and required that every pyrotechnic display – including the detonation, ignition, and deflagration of both Class B and Class C explosives – be performed by an individual licensed as a lead pyrotechnic operator. PA 93-263 also made corresponding changes to the Fireworks Use Act, 425 ILCS 35/1, *et seq.*²

The Pyrotechnic Operator Licensing Act was amended effective July 29, 2005, with the enactment of Public Act 94-385. PA 94-385 was the culmination of an agreement between the Office of the Illinois State Fire Marshal (“OSFM”), the pyrotechnic industry, and the Illinois fire service. *See*, 94th Ill. Gen. Assem., House of Representatives Proceedings, May 19, 2005, at 49 (Statements of Representative Saviano).³ PA 94-385 changed the title of the Pyrotechnic Act to the Pyrotechnic Distributor and Operator Licensing Act (hereinafter the “Act”) and made certain, significant changes, for the purposes of the Task Force.

PA 94-385, for the first time, required all pyrotechnic operators to be licensed through a “pyrotechnic distributor” who would be required to provide the necessary liability and workers’ compensation insurance for its operators. In order to ensure that the necessary insurance was in place for all pyrotechnic operators, PA 94-385 also required that a lead pyrotechnic operator be employed by a pyrotechnic distributor.

In early 2009, the Act was amended with the enactment of Public Act 96-708, which resulted from negotiations between OSFM, the pyrotechnic industry, Theatrical Stagehands Union Local 2, the Motion Picture Studio Mechanics Local 476, and the entertainment industry. The passage of PA 96-708 had several impacts on the pyrotechnics industry. Firstly, a licensing scenario was created for production companies in the film, digital and video media, television,

² The Fireworks Use Act, now called the Pyrotechnic Use Act, 425 ILCS 35/1, *et seq.*, works in conjunction with the Pyrotechnic Operator Licensing Act in governing pyrotechnic displays, such that conforming legislative amendments are typically made to the Fireworks Use Act when the Pyrotechnic Operator Licensing Act is amended.

³ While two identical bills, Senate Bill 926 and House Bill 3167, were initiated in the Senate and the House of Representatives, the former was enacted as PA 94-385.

commercial, and theatrical stage industries to provide pyrotechnic displays and pyrotechnic services without the use of a pyrotechnic distributor, provided that the necessary insurance and safety requirements were met (e.g. pyrotechnic liability insurance, Illinois Workers' Compensation insurance, U.S. Department of Transportation Identification Numbers, and U.S. Hazardous Materials Numbers) by either the production company or the lead pyrotechnic operator. As passed, PA 96-708 did not apply the production company licensing scenario to the music entertainment industry. Secondly, the requirement that lead pyrotechnic operators and assistants be employees of pyrotechnic distributor or production companies remained, given the OSFM's desire for clear and easily discernible lines of indemnification between the distributors or production companies and the individuals actually performing the pyrotechnic displays and services. Thirdly, PA 96-708 changed the title of the Fireworks Use Act to the Pyrotechnic Use Act and made corresponding amendments. Finally, PA 96-708 created the Task Force, and required its membership to be filled by appointments from the Speaker of the House of Representatives (2 members), the Minority Leader of the House of Representatives (2 members) and the OSFM (1 member).

TASK FORCE FINDINGS AND RECOMMENDATIONS

RECOMMENDATION NO. 1 – PASSED NOVEMBER 17, 2010 BY UNANIMOUS VOTE

The majority of the Task Force members recommend that the term “production company,” as currently defined in 225 ILCS 227/5, be expanded to include individuals working in the music entertainment industry. This will permit individuals associated with both pyrotechnic distributors and production companies to gain access, and provide pyrotechnic displays and pyrotechnic services, to the music entertainment industry in the State of Illinois.

FINDINGS IN SUPPORT OF RECOMMENDATION NO. 1

1. The majority of the Task Force finds that expanding the definition of “production company” (as defined at 225 ILCS 227/5) to the music entertainment industry serves to foster additional means by which individuals can obtain the experiences and insurance necessary to, ultimately, obtain licensure as a lead pyrotechnic operator under the Act.
2. Discussions with representatives of Drayton Insurance Brokers and Britton Gallagher and Associates, Inc. confirm that both pyrotechnic distributors and production companies can

obtain the necessary liability insurance to provide pyrotechnic displays and pyrotechnic services to the music entertainment industry in the State of Illinois.

3. The majority of the Task Force finds that the existing insurance requirements in the Act for production companies (\$2 million in commercial general liability) need not include the product liability component required of pyrotechnic distributors as, by definition, production companies neither manufacture nor sell pyrotechnics. (225 ILCS 227/35(c-3)).

RECOMMENDATION NO. 2 – PASSED NOVEMBER 17, 2010 BY UNANIMOUS VOTE

The majority of the Task Force members recommend that, in the name of public safety and public policy, all Illinois-licensed pyrotechnic distributors, Illinois-licensed production companies and Touring Pyrotechnic Companies (as defined in Recommendation No. 5) providing pyrotechnic displays and pyrotechnic services in Illinois carry, at a minimum, the Product Liability, General Liability and Workers' Compensation insurance required by the Act.

FINDINGS IN SUPPORT OF RECOMMENDATION NO. 2

1. The majority of the Task Force members find that the levels of liability insurance mandated by the licensure requirements of both 225 ILCS 227/35 and 41 Ill. Admin. Code 230.100 are adequate, as a minimum, to protect the well-being of the people of the State of Illinois and those non-residents who may provide pyrotechnic displays and pyrotechnic services for the music entertainment industry, view musical events or own venues where musical events are held within the State of Illinois' borders.
2. The majority of the Task Force finds that, pursuant to the proposed amendments, several options exist for pyrotechnic distributors and production companies to cover their lead pyrotechnic operators and/or assistants with the liability insurance mandated by the Act.
 - a. Certificates of Insurance for commercial general liability policies typically identify a "Named Insured" (i.e., the policy holder). In the case of a corporate entity, policy limits are typically extended to all corporate officers, directors, employees and shareholders of the Named Insured. All individuals constituting a Named Insured are covered, by the applicable policy, for the negligent acts of

both the corporation and the individual, provided that the individual's negligence occurs in the scope of the employment relationship with the Named Insured. Acts which are deemed to be beyond the scope of an employment relationship (i.e., gross negligence) are, likely, not covered.

- b. Policy holders can, through an endorsement, and subject to underwriting approval, insure entities and/or individuals as "Additional Named Insureds" which are afforded the same coverage as a Named Insured. That is, both are covered for the negligent acts of the Named Insured and the Additional Named Insured. This finding relies upon the opinion offered by the Illinois Department of Insurance that a policy holder's effort to insure an individual or entity other than corporate officers, directors, employees and shareholders as an "Additional Named Insured" does not violate any Illinois statute or administrative rule. This finding also recognizes that the decision to extend the protections of a commercial general liability policy to the actions of said individual or entity rests with the policy holder and insurance company, and is largely an underwriting issue.
 - c. Policy holders may also insure Additional Insureds who, by definition, are insured against liability for the negligent acts of the Named Insured. A key distinction between an Additional Named Insured and an Additional Insured is that the latter is afforded no insurance coverage for their own negligent acts.
3. The majority of the Task Force finds that, pursuant to the proposed amendments, production companies and pyrotechnic distributors have two options for ensuring that their lead pyrotechnic operators and/or assistants are covered by the statutory insurance.
- a. Engage them as an employee, which provides coverage as a "Named Insured" under the employer's commercial general liability and/or product liability policies required by the Act. The employment relationship, which is currently required by the Act, allows the OSFM to easily verify that the individuals tasked with the safety, setup, discharge and removal of pyrotechnic displays are covered by the necessary Illinois Workers' Compensation, general liability and/or product liability insurance.
 - b. Insure the lead pyrotechnic operators and/or assistants as "Additional Named Insureds" on the necessary commercial general liability policy. By doing so, the

individuals are covered for damages caused by their own negligent acts, and those of the Named Insureds of the pyrotechnic distributor or production company. The existence of such coverage will be readily apparent to the OSFM from the Certificate of Insurance and applicable endorsement that shall be presented pursuant to the permit application for each pyrotechnic event.

4. Should a lead operator and/or assistant be insured as an “Additional Named Insured” under the production company or pyrotechnic distributor’s insurance policy, licensure and/or applicable permits will be withheld by the OSFM pending proof that said operator and/or assistant is covered by Illinois Workers’ Compensation insurance, as required by the Act.

5. The majority of the Task Force members find that Illinois law and public policy support the requirement that all Illinois-licensed pyrotechnic distributors, Illinois-licensed production companies and Touring Pyrotechnic Companies (as discussed in Recommendation No. 3) obtain Workers’ Compensation policies for those employees who perform employment-related services in Illinois. The Illinois Workers’ Compensation Act (820 ILCS 305) requires employers to pay Workers’ Compensation insurance premiums for those employees performing work-related duties in the State of Illinois. Failure to pay Workers’ Compensation premiums on behalf of an employee performing Illinois-based duties does not preclude said employee from seeking Illinois Workers’ Compensation benefits. In fact, given the generous nature of Illinois benefits, out-of-state employees injured in Illinois will, typically, seek Illinois Workers’ Compensation benefits over those offered by their state of residence. Discussions with the Illinois Workers’ Compensation Commission indicate that public policy precludes an employer from requesting and/or requiring its employees to waive the right to seek Illinois Workers’ Compensation benefits in the case of injury in Illinois. Said policy is based upon an employee’s “right” under the Workers’ Compensation Act to seek such benefits, regardless of whether or not premiums had been paid by the employer, on the employee’s behalf. As such, to not require proof of Illinois Workers’ Compensation insurance coverage over all individuals performing pyrotechnic displays and services in the State of Illinois could, unnecessarily, drain public funds and resources.

6. The majority of the Task Force Members find that means exist for out-of-state Touring Pyrotechnic Companies to obtain Illinois workers' compensation insurance for their employees performing employment-related services in the State of Illinois.

RECOMMENDATION NO. 3 – PASSED DECEMBER 1, 2010 BY UNANIMOUS VOTE⁴

The majority of the Task Force members recommend that the Act be amended to recognize, formalize and regulate the practice by which out-of-state persons or entities perform pyrotechnic services within the State of Illinois under both the license and supervision of an Illinois-licensed pyrotechnic distributor. In addition to the relevant definitions articulated in Recommendation No. 5, the Task Force proposes that that the following language be included within the Act in a new section entitled "Cover License":

(225 ILCS 227/12)

Sec. 12. Cover License

- a) Prior to engaging in the setup, discharge and supervision of a pyrotechnic display or pyrotechnic service in Illinois, all Touring Pyrotechnic Companies that lack an Illinois license for pyrotechnic services shall associate themselves with a Cover Licensor in accordance with this section of the Act. Such association shall be at the discretion of the Cover Licensor, and no Touring Pyrotechnic Company that lacks an Illinois license for pyrotechnic services may setup or discharge a pyrotechnic display or pyrotechnic service in Illinois without such an association.
- b) Prior to associating itself with a Cover Licensor in accordance with this section of the Act, the Touring Pyrotechnic Company shall send the Cover Licensor the following pre-permitting information a minimum of 20 business days before the event:
 - 1) A Pyrotechnic Plan for the event that meets the specifications of the most current edition of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, Sections 6.2 and 6.3 and/or NFPA 160, Standard for the Use of Flame Effects Before an Audience, Section 5.3.
 - 2) Certificate of Insurance showing proof of not less than \$1,000,000 in product liability insurance and \$1,000,000 in general liability insurance that both covers the pyrotechnic service or pyrotechnic service provided and which names the Cover Licensor as an additional insured. The product and general liability insurance coverage shall be an occurrence based policy, or its equivalent, and it

⁴ Recommendation No. 3 was passed by the unanimous vote of all four Task Force members present on December 1, 2010, a meeting added to the Task Force calendar after the initial schedule had been cleared with Task Force member availability. While Task Force member Mark Grega was not present at the meeting, he attended previous Task Force meetings, at which he approved prior versions of Recommendation No. 3.

shall cover all periods of time during which pyrotechnical materials, including flame effect materials, are in the insured's actual or constructive possession, including those times when the materials are being stored, transported, handled, used, discharged and displayed.

- 3) Proof of Illinois workers' compensation insurance held by Touring Pyrotechnic Company for all periods of time during which Touring Pyrotechnic Company employees are engaged in employment-related activities in the State of Illinois.
- c) After reviewing the sufficiency of the Touring Pyrotechnic Company's pre-permitting information, the Cover Licensor shall be obligated to contact the Office of the State Fire Marshal and any authority having jurisdictions over the venue or location of the Illinois-based pyrotechnic display or pyrotechnic service with the following information a minimum of 15 days before the event:
- 1) A Pyrotechnic Plan for the event that meets the specifications of the most current edition of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, Sections 6.2 and 6.3 and/or NFPA 160, Standard for the Use of Flame Effects Before an Audience, Section 5.3.
 - 2) Cover Licensor's own Certificate of Insurance showing proof of the necessary insurance coverage as provided in Section 35 of the Act that covers the pyrotechnic service or pyrotechnic display provided and names the Touring Pyrotechnic Company as an additional insured, and proof of Illinois workers' compensation insurance.
 - 3) Touring Pyrotechnic Company Certificate of Insurance showing proof of not less than \$1,000,000 in product liability insurance, and \$1,000,000 in general liability insurance that covers the pyrotechnic service or pyrotechnic display provided each of which name the Cover Licensor as an additional insured.
 - 4) Touring Pyrotechnic Company proof of Illinois workers' compensation insurance for all periods of time during which Touring Pyrotechnic Company employees are engaged in employment-related activities in the State of Illinois.
 - 5) Touring Pyrotechnic Company contact information.
- d) Questions or concerns raised by either the Office of the State Fire Marshal or the authority having jurisdiction regarding the information submitted by the Touring Pyrotechnic Company shall be directed to, and resolved by, the Touring Pyrotechnic Company prior to the event.
- e) The Cover Licensor Representative shall be present during, and shall personally supervise, all phases of the pyrotechnic display or pyrotechnic service subject to the Cover License. The Cover Licensor Representative shall personally supervise all Touring Lead Pyrotechnic Operators, Touring Technicians, Assistants and Event Employees.

- f) Representatives of the Office of the State Fire Marshal, the authority having jurisdiction, and the Cover Licensor Representative each possess the authority to halt any pyrotechnic display or pyrotechnic service governed by the Cover License should questions arise about failures to follow industry standards and safety guidelines, including the most current edition of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, and NFPA 160, Standard for the Use of Flame Effects Before an Audience,. Pyrotechnic displays and pyrotechnic services halted due to safety concerns can only resume with the express written approval of both the Cover Licensor Representative and the authority having jurisdiction.

FINDINGS IN SUPPORT OF RECOMMENDATION NO. 3

1. The majority of Task Force members recognize the industry-wide practice by which out-of-state persons or entities perform pyrotechnic services within the State of Illinois under both the license and supervision of an Illinois-licensed pyrotechnic distributor. Said practice is largely unregulated, and not specifically addressed by the existing rules or regulations. The majority of the Task Force members agree that the proposed definitions and language concerning “Cover Licenses” insures adequate regulation, oversight and coverage by the necessary insurance (including mandatory Workers’ Compensation) in such situations.
2. As proposed, those out-of-state Touring Pyrotechnic Companies seeking to work in the State of Illinois under the Illinois pyrotechnic license held by either a pyrotechnic distributor or production company will be required to carry the insurance mandated by the Act, and any Touring Lead Pyrotechnic Operators and Touring Technicians shall be employees of the Touring Pyrotechnic Company.
3. The majority of Task Force members recognize that the Cover License scenario permits companies that have not taken the steps to achieve Illinois pyrotechnics licensure (“Touring Pyrotechnic Companies”) to provide pyrotechnic displays and pyrotechnic services in the State of Illinois. However, the burden assumed by the Illinois-licensed company assigning its Illinois pyrotechnic license (the “Cover Licensor”) to a Touring Pyrotechnic Company is substantial. The Cover Licensor risks its own license (and reputation) should it allow either a disreputable or unqualified Touring Pyrotechnic Company to perform pyrotechnic services in the State of Illinois. The proposed amendments formalize such risk by requiring the Cover Licensor to assign a representative (“Cover Licensor Representative”) who is “responsible for supervising the safety and regulatory compliance of the Touring Lead Pyrotechnic Operator(s) and

Touring Technician(s) during a pyrotechnic display or pyrotechnic service.” As part of the Representative’s duties, he or she “shall be present during, and shall personally supervise, all phases of the pyrotechnic display or pyrotechnic service subject to the Cover License. The Cover Licensor Representative shall personally supervise all Touring Lead Pyrotechnic Operators, Touring Technicians, Assistants and Event Employees.” The Task Force feels that, as drafted, the proposed amendments provide sufficient oversight and supervision over Touring Production Companies providing pyrotechnic displays and services in the State of Illinois.

RECOMMENDATION NO. 4 – PASSED DECEMBER 1, 2010 BY UNANIMOUS VOTE⁵

The Task Force recognizes the need for the music entertainment pyrotechnics industry to be as inclusive as possible. As such, the majority of the Task Force members recommend that the Act, as proposed, permits the following individuals to provide pyrotechnic displays and pyrotechnic services for the music entertainment industry in the State of Illinois: (1) lead pyrotechnic operator(s) and assistant(s) employed by an Illinois-licensed pyrotechnic distributor or Illinois-licensed production company, (2) lead pyrotechnic operator(s) and assistant(s) insured as Additional Named Insured on an Illinois-licensed pyrotechnic distributor’s or Illinois-licensed production company’s general liability and/or product liability policies as required under 225 ILCS 227/35, and (3) touring lead pyrotechnic operator(s) and touring technician(s) employed by a Touring Pyrotechnic Company working in conjunction with a Cover Licensor through either an Illinois-licensed pyrotechnic distributor or Illinois-licensed production company.

FINDINGS IN SUPPORT OF RECOMMENDATION NO. 4

1. By definition, anyone employed or insured as an Additional Named Insured by a licensed pyrotechnic distributor or production company as a lead pyrotechnic operator has overall responsibility for the safety, setup, discharge and supervision of a pyrotechnic display or pyrotechnic service. (225 ILCS 227/5 and 227/35)

⁵ Recommendation No. 4 was passed by the unanimous vote of all four Task Force members present on December 1, 2010, a meeting added to the Task Force calendar after the initial schedule had been cleared with Task Force member availability. While Task Force member Mark Grega was not present at the meeting, he attended previous Task Force meetings, at which he approved prior versions of Recommendation No. 4.

2. The majority of the Task Force members find that, pursuant to the proposed amendments, the Act provides several active pathways for anyone to ultimately provide pyrotechnic displays and pyrotechnic services for the music entertainment industry in the State of Illinois. These pathways necessarily hinge upon the acquisition of the necessary training/qualifications and insurance required by the Act.
 - a. Employment by an Illinois-licensed pyrotechnic distributor or Illinois-licensed production company. This relationship is one means through which the necessary insurance (including workers' compensation) can be assured. It also provides the opportunity – at the employer's discretion – for the employee to gain the experiences necessary to ultimately become a licensed pyrotechnic operator and/or licensed flame effect operator. A current example of this pathway in action is the process by which Hi-Tech F/X, an Illinois-licensed pyrotechnic distributor, employs members of Local 2 as both lead pyrotechnic operators and assistants.
 - b. The second path allows qualified individuals insured as an Additional Named Insured to the product liability and/or general liability policies required of all Illinois-licensed pyrotechnic distributors or production companies to become licensed as a lead operator or to perform services as an "assistant," as defined by the Act. As provided by the Act, any individual pursuing this pathway will have to present proof of Illinois Workers' Compensation coverage as well.
 - c. The proposed Cover License scenario will permit those employees of out-of-state pyrotechnic distributors and production companies to perform pyrotechnic displays and services within the State of Illinois.
 - d. Out-of-state productions need not secure the services of a cover licensor in order to supplement their performances with pyrotechnic services. Rather, the touring company has the option of becoming a licensed pyrotechnic distributor or production company pursuant to both 225 ILCS 227/35 and 41 Ill. Admin. Code 230.100.

RECOMMENDATION NO. 5 – PASSED DECEMBER 15, 2010 BY A VOTE OF 4 TO 1

The majority of Task Force members recommend that the following modifications to the definitions included in the Pyrotechnic Distributor and Operator Licensing Act, 225 ILCS 227/5, be considered and accepted by the Speaker of the House, for the reasons given herein:

Terms/Definitions

- “Touring Lead Pyrotechnic Operator” – means an individual employed by a Touring Pyrotechnic Company who has overall responsibility for the safety, setup, discharge, and supervision of a pyrotechnic display or pyrotechnic service.
- “Touring Technician” means an individual employed by a Touring Pyrotechnic Company who is at least 18 years of age, who is covered by his/her employer’s Workers’ Compensation, Product Liability and General Liability policies pursuant to 225 ILCS 227/35 and who, under the supervision of the Touring Lead Pyrotechnic Operator, assists with the safety, setup, discharge and removal of a pyrotechnical display.
- “Touring Pyrotechnic Company” – means any person or entity that performs pyrotechnic services or pyrotechnic displays in more than one geographic location.
- “Cover Licensor” – means any Illinois-licensed pyrotechnic distributor or Illinois-licensed production company under whose pyrotechnic license a Touring Pyrotechnic Company and its Touring Lead Pyrotechnic Operator(s) and Touring Technician(s) provide pyrotechnic displays and/or pyrotechnic services in the State of Illinois.
- “Cover Licensor Representative” – means a licensed lead pyrotechnic operator either employed by the Cover Licensor or insured as an Additional Named Insured on the Cover Licensor’s general liability and product liability insurance, as applicable, who is responsible for supervising the safety and regulatory compliance of Touring Lead Pyrotechnic Operator(s) and Touring Technician(s) during a pyrotechnic display or pyrotechnic service.
- “Assistant” – means an individual supervised by a lead pyrotechnic operator, who assists with the safety, setup, discharge and removal of a pyrotechnic display.
- “Event Employee” – means an individual who works under the supervision of the lead pyrotechnic operator and who assists with the safety, setup and removal of a pyrotechnic display but does not handle live pyrotechnic materials or charged flame equipment.
- “Production Company” – means any person in the film, digital and video media, television, commercial, music, and theatrical stage industries who provides pyrotechnic services or pyrotechnic display services as part of a film, digital and video media, television, commercial, music, or theatrical production in the State of Illinois.

FINDINGS IN SUPPORT OF RECOMMENDATION NO. 5

1. The majority of the Task Force members feel that the above-referenced definitions of “Touring Pyrotechnic Company,” “Touring Lead Pyrotechnic Operator,” and “Touring Technician” are necessary not only to formalize the Cover License scenario, but also to delineate the separation of powers between the Touring Lead Pyrotechnic Operator (whose training and personal experiences elevates him or her to a supervisory position) and the “Touring Technician” who is tasked with “assisting” in the safety, setup, discharge and removal of pyrotechnic devices. The two definitions track the language of the existing “Lead Pyrotechnic Operator” definition and the proposed definition of “Assistant.”
2. The majority of the Task Force members feel that the proposed definitions of “Cover Licensor” and “Cover Licensor Representative” are necessary to formalize the relationship between the Cover Licensor (and its representatives) and not only the Touring Production Company, but also its Touring Lead Pyrotechnic Operator, Touring Technician and any Event Employee who may be present at the display.
3. The majority of the Task Force members feel that the proposed definition for “Assistant” is necessary to formalize the relationship between the supervisory Lead Pyrotechnic Operator and the subordinate Assistant, as the existing Act contains no such definition.
4. The majority of the Task Force members recognize that any number of individuals may assist in the “safety, set up and removal” of a pyrotechnic display without actually handling live pyrotechnic materials and charged flame equipment or discharging same. Said individuals do not require the training, certification or insurance as required by the Act. By defining “Event Employee,” the proposed Act will insure a bright line between those who lack the necessary insurance to handle/discharge live pyrotechnic devices and those who do (i.e., lead pyrotechnic operators and assistants). As such, lead pyrotechnic operators and assistants are subject to the insurance requirements of the Act, while event employees are not.

5. The majority of the Task Force members feel that the proposed revision to the definition of “Production Company” sufficiently conveys its intent to foster additional means by which individuals can obtain the experiences and insurance necessary to, ultimately, obtain licensure as a lead pyrotechnic operator under the Act. One Task Force member, Mark Grega, objected to the proposed definition given its use of the term “provides.” In Mr. Grega’s opinion, the definition is not sufficiently clear as to how a production company operates, given the fact that situations may arise where the production company is not the entity actually “providing” the pyrotechnic services and/or displays. That is, the production company may lack the necessary licensure and/or insurance, and hire an outside individual or entity with the necessary qualifications/insurance to handle and discharge live pyrotechnic devices.

6. The majority of the Task Force feels that the term “Production Company,” as both defined in the proposed amendments, and in light of the nature and scope of the Act, permits a production company to “provide” pyrotechnic services and displays in several situations, including the following:
 - a. Where the production company maintains the necessary licensure and insurance to handle and discharge live pyrotechnic devices;
 - b. Where the production company employs individuals with the necessary licensure and insurance to handle and discharge live pyrotechnic devices; or
 - c. Where the production company insures, as an Additional Named Insured, the individual with the licensure necessary to handle and discharge live pyrotechnic devices.

APPENDIX A

PROFESSIONS AND OCCUPATIONS

(225 ILCS 227/) Pyrotechnic Distributor and Operator Licensing Act.

(225 ILCS 227/1)

Sec. 1. Short title. This Act may be cited as the Pyrotechnic Distributor and Operator Licensing Act.

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

(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.

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

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

"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 Use Act.

"Cover Licensor" means any Illinois-licensed pyrotechnic distributor or Illinois-licensed production company under whose pyrotechnic license a Touring Pyrotechnic Company and its Touring Lead Pyrotechnic Operator(s) and Touring Technician(s) provide pyrotechnic displays and/or pyrotechnic services in the State of Illinois.

"Cover Licensor Representative" – means a licensed lead pyrotechnic operator either employed by the Cover Licensor or insured as an Additional Named Insured on the Cover Licensor's general liability and product liability insurance, as applicable, who is responsible for supervising the safety and regulatory compliance of Touring Lead Pyrotechnic Operator(s) and Touring Technician(s) during a pyrotechnic display or pyrotechnic service.

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

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

"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, music, and theatrical stage industries who provides pyrotechnic services or pyrotechnic display services as part of a film, digital and video media, television, commercial, music, 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 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. 95-331, eff. 8-21-07; 96-708, eff. 8-25-09.)

"Touring Lead Pyrotechnic Operator" means an individual employed by a Touring Pyrotechnic Company who has overall responsibility for the safety, setup, discharge, and supervision of a pyrotechnic display or pyrotechnic service.

"Touring Pyrotechnic Company" means any person or entity that performs pyrotechnic services or pyrotechnic displays in more than one geographic location.

"Touring Technician" means an individual employed by a Touring Pyrotechnic Company who is at least 18 years of age, who is covered by his/her employer's Workers' Compensation, Product Liability and General

Liability policies pursuant to 225 ILCS 227/35 and who, under the supervision of the Touring Lead Pyrotechnic Operator, assists with the safety, setup, discharge and removal of a pyrotechnical display.

(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 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 pyrotechnic display or pyrotechnic service. 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. 96-708, eff. 8-25-09.)

(225 ILCS 227/12)

Sec. 12. Cover License

a) Prior to engaging in the setup, discharge and supervision of a pyrotechnic display or pyrotechnic service in Illinois, all Touring Pyrotechnic Companies that lack an Illinois license for pyrotechnic services shall associate themselves with a Cover Licensor in accordance with this section of the Act. Such association shall be at the discretion of the Cover Licensor, and no Touring Pyrotechnic Company that lacks an Illinois license for pyrotechnic services may setup or discharge a pyrotechnic display or pyrotechnic service in Illinois without such an association.

b) Prior to associating itself with a Cover Licensor in accordance with this section of the Act, the Touring Pyrotechnic Company shall send the Cover Licensor the following pre-permitting information a minimum of 20 business days before the event:

1) A Pyrotechnic Plan for the event that meets the specifications of the most current edition of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, Sections 6.2 and 6.3 and/or NFPA 160, Standard for the Use of Flame Effects Before an Audience, Section 5.3.

2) Certificate of Insurance showing proof of not less than \$1,000,000 in product liability insurance and \$1,000,000 in general liability insurance that both covers the pyrotechnic service or pyrotechnic service provided and which names the Cover Licensor as an additional insured. The product and general liability insurance coverage shall be an occurrence based policy, or its equivalent, and it shall cover all periods of time during which pyrotechnical materials, including flame effect materials, are in the insured's actual or constructive possession, including those times when the materials are being stored, transported, handled, used, discharged and displayed.

3) Proof of Illinois workers' compensation insurance held by Touring Pyrotechnic Company for all periods of time during which Touring Pyrotechnic Company employees are engaged in employment-related activities in the State of Illinois.

c) After reviewing the sufficiency of the Touring Pyrotechnic Company's pre-permitting information, the Cover Licensor shall be obligated to contact the Office of the State Fire Marshal and any authority having jurisdictions over the venue or location of the Illinois-based pyrotechnic display or pyrotechnic service with the following information a minimum of 15 days before the event:

1) A Pyrotechnic Plan for the event that meets the specifications of the most current edition of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, Sections 6.2 and 6.3 and/or NFPA 160, Standard for the Use of Flame Effects Before an Audience, Section 5.3.

2) Cover Licensor's own Certificate of Insurance showing proof of the necessary insurance coverage as provided in Section 35 of the Act that covers the pyrotechnic service or pyrotechnic display provided and names the Touring Pyrotechnic Company as an additional insured, and proof of Illinois workers' compensation insurance.

3) Touring Pyrotechnic Company Certificate of Insurance showing proof of not less than \$1,000,000 in product liability insurance, and

\$1,000,000 in general liability insurance that covers the pyrotechnic service or pyrotechnic display provided each of which name the Cover Licensor as an additional insured.

4) Touring Pyrotechnic Company proof of Illinois workers' compensation insurance for all periods of time during which Touring Pyrotechnic Company employees are engaged in employment-related activities in the State of Illinois.

5) Touring Pyrotechnic Company contact information.

d) Questions or concerns raised by either the Office of the State Fire Marshal or the authority having jurisdiction regarding the information submitted by the Touring Pyrotechnic Company shall be directed to, and resolved by, the Touring Pyrotechnic Company prior to the event.

e) The Cover Licensor Representative shall be present during, and shall personally supervise, all phases of the pyrotechnic display or pyrotechnic service subject to the Cover License. The Cover Licensor Representative shall personally supervise all Touring Lead Pyrotechnic Operators, Touring Technicians, Assistants and Event Employees.

a)f) Representatives of the Office of the State Fire Marshal, the authority having jurisdiction, and the Cover Licensor Representative each possess the authority to halt any pyrotechnic display or pyrotechnic service governed by the Cover License should questions arise about failures to follow industry standards and safety guidelines, including the most current edition of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, and NFPA 160, Standard for the Use of Flame Effects Before an Audience.. Pyrotechnic displays and pyrotechnic services halted due to safety concerns can only resume with the express written approval of both the Cover Licensor Representative and the authority having jurisdiction.

(225 ILCS 227/15)

Sec. 15. Deposit of fees. All fees collected under this Act shall be deposited into the Fire Prevention Fund.
(Source: P.A. 93-263, eff. 7-22-03.)

(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, 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. 96-708, eff. 8-25-09.)

(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 and pyrotechnic services, 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.
- (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' 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 displays ~~services~~ or pyrotechnic services as part of any production without either (i) obtaining a production company license from the Office under which all pyrotechnic displays ~~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 displays ~~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.

(A) proof of such is provided by the lead pyrotechnic operator employed by the production company or insured as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of this subsection; or

(B) the production company certifies under penalty of perjury that it engages only in flame effects and/or never transports materials in quantities that require registration with USDOT.

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

(A) proof of such is provided by the lead pyrotechnic operator employed by the production company or insured as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of this subsection; or

(B) the production company certifies under penalty of perjury that it engages only in flame effects and/or never transports materials in quantities that require registration with USDOT.

(6) Identification of the licensed lead pyrotechnic operator ~~being~~ employed by the production company or insured as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of this subsection.

The insurer shall not cancel the insured's coverage or remove any Additional Named Insured or 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, or insured as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of subsection (c-3) of this Section, 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 employed by the production company or insured as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of subsection (c-3) of this Section, 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, or insured as an Additional Named Insured on the pyrotechnic distributor's product liability and general liability insurance, as required under paragraphs (2) and (3) of subsection (c) of this Section, or insured as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of subsection (c-3) of this Section.

(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. 96-708, eff. 8-25-09.)

(225 ILCS 227/40)

Sec. 40. Fingerprint card; fees. The Office may require each applicant to file with his or her application a fingerprint card in the form and manner required by the Department of State Police to enable the Department of State Police to conduct a criminal history check on the applicant.

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

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

(225 ILCS 227/45)

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

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

(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, or insuring the lead pyrotechnic operator as an Additional Named Insured on the pyrotechnic distributor's product liability and general liability insurance, as required under paragraphs (2) and (3) of subsection (c) of this Section, or insuring the lead pyrotechnic operator as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of subsection (c-3) of this Section. A lead pyrotechnic operator is required to have a separate license for each pyrotechnic distributor or production company who employs the lead pyrotechnic operator, or insures the lead pyrotechnic operator as an Additional Named Insured on the pyrotechnic distributor's product liability and general liability insurance, as required under paragraphs (2) and (3) of subsection (c) of this Section, or insures the lead pyrotechnic operator as an Additional Named Insured on the production company's general liability

insurance, as required under paragraph (1) of subsection (c-3) of this Section.

(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 or insures as an Additional Named Insured on the production company's general liability insurance, as required under paragraph (1) of subsection (c-3) of this Section. (Source: P.A. 96-708, eff. 8-25-09.)

(225 ILCS 227/55)

Sec. 55. Insufficient funds checks. Any person who on 2 occasions issues or delivers a check or other order to the Office that is not honored by the financial institution upon which it is drawn because of insufficient funds on account shall pay to the Office, in addition to the amount owing upon the check or other order, a fee of \$50. If the check or other order was issued or delivered in payment of a renewal fee and the licensee whose license has lapsed continues to practice without paying the renewal fee and the \$50 fee required under this Section, an additional fee of \$100 is imposed for practicing without a current license. The Office may revoke or refuse to issue the license or licenses of any person who fails to pay the requisite fees. (Source: P.A. 93-263, eff. 7-22-03.)

(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. 96-708, eff. 8-25-09.)

(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. 96-708, eff. 8-25-09.)

(225 ILCS 227/65)

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

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

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

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

(4) Performing any service in a grossly negligent manner or permitting any lead pyrotechnic operator or assistant to perform a service in a grossly negligent manner, regardless of whether actual damage or damage to the public is established.

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

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

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

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

- (9) Engaging in unprofessional conduct.
 - (10) Engaging in false or misleading advertising.
 - (11) Contracting or assisting an unlicensed person to perform services for which a license is required under this Act.
 - (12) Permitting the use of his or her license to enable an unlicensed person or agency to operate as a licensee.
 - (13) Performing and charging for a service without having the authorization to do so from the member of the public being served.
 - (14) Failure to comply with any provision of this Act or the rules promulgated under this Act.
 - (15) Conducting business regulated by this Act without a currently valid license in those circumstances where a license is required.
- (Source: P.A. 93-263, eff. 7-22-03; 94-385, eff. 7-29-05.)

(225 ILCS 227/75)

Sec. 75. Formal charges; hearing.

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

(b) Each licensee whose conduct is the subject of a formal charge that seeks to impose disciplinary action against the licensee shall be served notice of the formal charge at least 30 days before the date of the hearing. The hearing shall be presided over by the Office or a hearing officer authorized by the Office in compliance with the Illinois Administrative Procedure Act. Service shall be considered to have been given if the notice was personally received by the licensee or if the notice was mailed certified, return requested, to the licensee at the licensee's last known address as listed with the Office.

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

- (1) The time and date of the hearing.
- (2) A statement that the licensee may appear personally at the hearing and may be represented by counsel.
- (3) A statement that the licensee has the right to produce witnesses and evidence in his or her behalf and the right to cross-examine witnesses and evidence produced against him or her.
- (4) A statement that the hearing can result in disciplinary action being taken against the license.
- (5) A statement that rules for the conduct of these hearings exist and that it may be in the licensee's best interest to obtain a copy.
- (6) A statement that the hearing officer authorized by the Office shall preside at the hearing and, following the conclusion of the hearing, make findings of fact, conclusions of law, and

recommendations, separately stated, to the Office as to what disciplinary action, if any, should be imposed on the licensee.

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

(d) The Office or the hearing officer authorized by the Office shall hear evidence produced in support of the formal charges and contrary evidence produced by the licensee, if any. If the hearing is conducted by a hearing officer, at the conclusion of the hearing, the hearing officer shall make findings of fact, conclusions of law, and recommendations, separately stated, and submit them to the Office and to all parties to the proceeding. Submission to the licensee shall be considered as having been made if done in a similar fashion as service of the notice of formal charges. Within 20 days after the service, any party to the proceeding may present to the Office a motion, in writing, for a rehearing. The written motion shall specify the particular grounds for the rehearing.

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

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

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

(225 ILCS 227/80)

Sec. 80. Sanctions.

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

- (1) revocation;
- (2) suspension for any period of time;
- (3) reprimand or censure;
- (4) place on probationary status and require the submission of any of the following:
 - (i) report regularly to the Office upon matters that are the basis of the probation;
 - (ii) continue or renew professional education until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (iii) such other reasonable requirements or restrictions as are proper;
- (5) refuse to issue, renew, or restore; or
- (6) revoke probation that has been granted and

impose any other discipline in this subsection (a) when the requirements of probation have not been fulfilled or have been violated.

(b) The State Fire Marshal may summarily suspend a license under this Act, without a hearing, simultaneously with the filing of a formal complaint and notice for a hearing provided under this Section if the State Fire Marshal finds that the continued operations of the individual would constitute an immediate danger to the public. In the event the State Fire Marshal suspends a license under this subsection, a hearing by the hearing officer designated by the State Fire Marshal shall begin within 20 days after the suspension begins, unless continued at the request of the licensee.

(c) Disposition may be made of any formal complaint by consent order between the State Fire Marshal and the licensee, but the Office must be apprised of the full consent order in a timely way.

(d) The Office shall reinstate any license to good standing under this Act, upon recommendation to the Office, after a hearing before the hearing officer authorized by the Office. The Office shall be satisfied that the applicant's renewed practice is not contrary to the public interest.

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

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

(225 ILCS 227/85)

Sec. 85. Subpoena; production of evidence; records; administrative review; license suspension; revocation.

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

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

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

record of the proceedings. The Office shall furnish a transcript of the record to any interested person upon payment of the costs of copying and transmitting the record.

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

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

- (1) the signature is that of the State Fire Marshal;
- (2) the State Fire Marshal is qualified to act; and
- (3) the hearing officer is qualified to act on behalf of the Office.

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

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

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

(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. 96-708, eff. 8-25-09.)

(225 ILCS 227/95)

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, which shall sign the Illinois Display Report, with the Office within 30 days following any pyrotechnic display or pyrotechnic service.

(Source: P.A. 96-708, eff. 8-25-09.)

(225 ILCS 227/97)

(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.
(Source: P.A. 96-708, eff. 8-25-09.)

FIRE SAFETY
(425 ILCS 35/) Pyrotechnic Use Act.

(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 Use Act.
(Source: P.A. 96-708, eff. 8-25-09.)

(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, 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, music, and theatrical stage industries who provides pyrotechnic services or pyrotechnic display services as part of a film, digital and video media, television, commercial, music, 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 an 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. 95-331, eff. 8-21-07; 96-708, eff. 8-25-09.)

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

Sec. 2. Possession, sale, and use of fireworks. Except as hereinafter provided it shall be unlawful for any person, firm, co-partnership, or corporation to knowingly possess, offer for sale, expose for sale, sell at retail, or use or explode any display fireworks, flame effects, or consumer fireworks; provided that city councils in cities, the president and board of trustees in villages and incorporated towns, and outside the corporate limits of cities, villages and incorporated towns, the county board, shall have power to adopt reasonable rules and regulations for the granting of permits for

pyrotechnic and consumer displays.
(Source: P.A. 93-263, eff. 7-22-03; 94-658, eff. 1-1-06.)

(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, or insured as an Additional Named Insured on the pyrotechnic distributor's product liability and general liability insurance, as required under 225 ILCS 227/35(c)(2) and (3), or insured as an Additional Named Insured on the production company's general liability insurance, as required under 225 ILCS 227/35(c-3)(1). 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. 96-708, eff. 8-25-09.)

(425 ILCS 35/2.2)

Sec. 2.2. Consumer displays. Each consumer display shall be handled by a competent individual who has received training from a consumer fireworks training class approved by the Office of the State Fire Marshal. Applications for consumer display permits shall be made in writing at least 15 days in advance of the date of the display, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display will occur. After a permit has been granted, sales, possession, use, and distribution of consumer fireworks for display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

Permits may be granted hereunder to any adult individual applying for a permit who provides proof that he or she has received the requisite training. The local jurisdiction issuing the permit is authorized to conduct a criminal background check of the applicant as a condition of issuing a permit.

A permit shall be issued only after inspection of the display site by the fire chief providing fire protection coverage to the area of display, or his or her designee, to determine that the display is in full compliance with the rules adopted by the State Fire Marshal. Nothing in this Section shall prohibit the issuer of a permit from adopting more stringent rules.

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

(425 ILCS 35/2.3)

Sec. 2.3. Consumer distributors and retailers. No person may act as a consumer distributor or retailer or advertise or use any title implying that the person is a consumer distributor or retailer unless registered with the Office of the State Fire Marshal. No consumer fireworks may be distributed, sold, transferred, or provided free of charge to an individual who has not been issued a permit in accordance with Section 2.2 of this Act or has not registered with the Office of the State Fire Marshal in accordance with this Section. No person may sell to a single individual a quantity of consumer fireworks exceeding 499 pounds without prior approval by the Office of the State Fire Marshal. 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 registered from distributing or selling consumer fireworks. Upon filing a verified petition in court, the court, if satisfied by affidavit, or otherwise, that the person is or has been distributing in violation of this Act, may enter a temporary restraining order or preliminary injunction, without bond, enjoining the defendant from further 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 unregistered activity if it is established that the defendant has been or is distributing 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. 94-658, eff. 1-1-06.)

(425 ILCS 35/3.1) (from Ch. 127 1/2, par. 129.1)

Sec. 3.1. No fireworks shall be discharged, ignited or exploded at any point in the State within 600 feet of any hospital, asylum or infirmary.
(Source: P.A. 81-623.)

(425 ILCS 35/3.2) (from Ch. 127 1/2, par. 129.2)

Sec. 3.2. The use of what are technically known as fireworks showers or any mixture containing potassium chlorate, and sulphur in theatres or public halls is hereby prohibited.
(Source: P.A. 81-623.)

(425 ILCS 35/3.3) (from Ch. 127 1/2, par. 129.3)

Sec. 3.3. Nothing in these regulations shall be construed as prohibiting the manufacture, storage or use of signals or fuses necessary for the safe operation of railroads, trucks, aircraft, or other instrumentalities of transportation.
(Source: P.A. 81-623.)

(425 ILCS 35/3.4)

Sec. 3.4. Sale and use prohibited on public property. A municipality may, by ordinance, prohibit the sale and use of sparklers on public property.
(Source: P.A. 92-93, eff. 1-1-02.)

(425 ILCS 35/4) (from Ch. 127 1/2, par. 130)

Sec. 4. Whenever any officer or employee of the Office of the State Fire Marshal or the Department of State Police, a Sheriff, a Deputy Sheriff, or a member of any city council or board of trustees of any village or incorporated town or county board has reason to believe that any violation of this Act has occurred within the jurisdiction within which such official is authorized to act and that the person so violating the Act has in his possession fireworks or combustibles, such official may file a complaint in writing, verified by affidavit, with any circuit court within whose jurisdiction the premises to be searched are situated, stating the facts upon which such belief is founded, the premises to be searched, and the property to be seized, and procure a search warrant and execute the same. Upon the execution of such search warrant, the person executing the same shall make due return thereof to the court issuing the same, together with an inventory of the property taken thereunder. The court shall thereupon issue process against the owner of such property if he be known, otherwise against the party in whose possession the property so taken was found, if known. In case of inability to serve such process upon the owner or the person in possession of the property at the time of its seizure, as

hereinbefore provided, notice of the proceedings before the court shall be given as required by the statutes of the State governing cases of attachment. Upon the return of the process duly served or upon the posting or publishing of notice made, as hereinabove provided, the court or jury, if a jury shall be demanded, shall proceed to determine whether or not such property so seized was held or possessed in violation of this Act. In case of a finding that the fireworks or combustibles seized were possessed in violation of this Act, judgment shall be entered confiscating and forfeiting the property and ordering its destruction.

(Source: P.A. 91-357, eff. 7-29-99.)

(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, 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. 96-708, eff. 8-25-09.)

(425 ILCS 35/5) (from Ch. 127 1/2, par. 131)

Sec. 5. Any person, firm, co-partnership, or corporation violating the provisions of this Act shall be guilty of a Class A misdemeanor.

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

