

FIREWORKS - NOTICE TO LAW ENFORCEMENT AGENCIES

The Illinois Legislature amended the Pyrotechnic Use Act (425 ILCS 35), effective July 25, 2005, and the Pyrotechnic Distributor and Operator Licensing Act (225 ILCS 227), effective January 1, 2006. The Office of the State Fire Marshal (OSFM) has placed copies of these Acts and the rules implementing them on our web-site, www.sfm.illinois.gov. (The information can be found on the Pyrotechnics/Fireworks page of the Fire Prevention Division.) This letter will briefly discuss how these two Acts apply to the use of fireworks in your jurisdiction, and identify the potential criminal penalties for violating these Acts.

PYROTECHNIC AND CONSUMER DISPLAYS IN YOUR JURISDICTION

As used in this letter, the term "Pyrotechnic Display" refers to all displays using 1.3G fireworks, display fireworks, and flame effects. In other words, these are displays using professional grade fireworks, regardless of who performs the display. The term "Consumer Display" refers to all displays using consumer fireworks.

Section 2 of the Pyrotechnic Use Act states "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.**"

Thus, Pyrotechnic Displays and Consumer Displays are permitted in municipalities and counties that have passed Ordinances allowing such displays, and ONLY in those locations. To the extent that your jurisdiction permits Pyrotechnic and Consumer Displays, they must be performed in compliance with the rules adopted by OSFM, and the reasonable rules and regulations for the granting of permits that have been adopted by your jurisdiction.

SALE OF PROFESSIONAL AND CONSUMER FIREWORKS IN YOUR JURISDICTION

Only Pyrotechnic Distributors licensed by OSFM may distribute or sell professional grade fireworks in Illinois. Only Consumer Distributors or Retailers registered with OSFM may distribute or sell consumer fireworks in Illinois. No distributor may sell or transfer professional grade or consumer fireworks to any person who does not possess a valid display permit. The law prohibits the purchase of fireworks, in or out-of-state, by a person who, intending on possessing and displaying fireworks in Illinois, does not possess a valid display permit. In addition, the law prohibits the purchase of fireworks from an unregistered Consumer Fireworks Distributor/Retailer or an unlicensed Pyrotechnic Distributor.

CONSUMER FIREWORKS DISPLAYS

In order to operate a Consumer Fireworks Display, an adult must:

1. Attend training conducted at a designated local governmental agency, usually the fire department. OSFM has provided this Consumer Fireworks Safety Training to each jurisdiction requesting it.
2. Apply for a site inspection by the local fire department.

3. Apply for a permit issued by the appropriate unit of local government. OSFM does not issue fireworks permits. According to the Pyrotechnic Use Act, these applications “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.”
4. Once your jurisdiction issues the permit, the Consumer may purchase **approved consumer fireworks** from a registered Consumer Fireworks Distributor/Retailer. This classification of fireworks is not all-inclusive and reference to the approved list published by the OSFM is required. The law prohibits the sale of consumer fireworks other than those approved by OSFM.

A Consumer Fireworks Display Permit, issued by your jurisdiction, is not transferable to another person or entity. The sale, possession, use and distribution of consumer fireworks for display are lawful only for the purpose given by the permit. While the Pyrotechnic Use Act does not require insurance coverage for Consumer Displays, your local jurisdiction may require it. Your jurisdiction has the authority to conduct a criminal background check on the applicant as a condition of issuing a permit. In addition, your jurisdiction has the authority to adopt rules regarding Consumer Displays that are more stringent than those adopted by the OSFM.

APPROVED CONSUMER FIREWORKS

As defined by the Act, all Consumer Fireworks 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.

In addition, Consumer Fireworks must meet the following requirements to be approved by OSFM:

1. The Consumer Fireworks must be labeled “1.4G Consumer” or must be 1.4S fireworks classified as UN0337 intended for outdoor consumer use.
2. The American Fireworks Standards Laboratory (AFSL) must have inspected the Consumer Fireworks. It is the Consumer Distributor’s and Consumer Retailer’s responsibility to insure that the Consumer Fireworks he or she distributes, sells, offers for sale, exchanges for consideration, transfers, or provides have been AFSL tested. The Consumer Distributor and the Consumer Retailer shall maintain records verifying that such testing has occurred on the Consumer Fireworks he or she distributes, sells, offers for sale, exchanges for consideration, transfers, or provides.
3. The Consumer Fireworks must be ground mounted. **No hand held Consumer Fireworks shall be approved.**

Approved Consumer Fireworks are limited to the following types of fireworks:

1. **Cones including Showers of Sparks, Fountains, and Repeaters (also known as *Cakes)**
Single tube fountains must not contain more than 75 grams total of pyrotechnic composition. Cone fountains must not contain more than 50 grams total of pyrotechnic composition. Multiple-tube fountains must not contain more than 200 grams total of pyrotechnic composition.

2. Mines, Comets, Tubes, Shells, Fancy Florals, and Parachutes

These items are firework devices designed to produce low-level aerial effects, which are propelled into the air by a lift charge. Shells will burst at the peak of flight to create a display of stars, reports or other effects or leave a trail of sparks until exhausted. These items contain a maximum of 40 grams of chemical composition and no more than 20 grains of lift charge.

Consumer Fireworks Retailers/Distributors registered with OSFM may sell Approved Consumer Fireworks to consumers who have and display a valid Fireworks Permit, issued by the local county or municipality to that consumer.

PROHIBITED CONSUMER FIREWORKS

OSFM prohibits all Consumer Fireworks unless they meet the above-listed approval requirements. Prohibited Consumer Fireworks include, but are not limited to, the following:

- Hand held fireworks
- Bottle rockets
- Firecrackers of any size or type
- Sky rockets
- Roman candles
- Chasers
- Buzz bombs
- Ground items other than those identified as Approved Consumer Fireworks
- Helicopters
- Missiles
- Pin wheels or any other twirling device whether on the ground or mounted above the ground
- Planes
- Sky Lanterns, the type of balloon which requires fire underneath to propel same

**This is an increase from the previously approved 200 grams to now allowing up to, not to exceed 500 grams. This was a decision approved by the Consumer Fireworks Review Committee on May 9, 2012.*

PENALTIES FOR VIOLATING THE PYROTECHNIC USE ACT

In addition to injunctive relief and other penalties identified throughout the Pyrotechnic Use Act, Section 5 states “any person, firm, co-partnership, or corporation violating the provisions of this Act shall be guilty of a Class A misdemeanor.”

PYROTECHNIC DISTRIBUTORS AND OPERATORS

As stated above, 1.3G fireworks, also referred to as display fireworks, are professional grade fireworks. The Pyrotechnic Distributor and Operator Licensing Act defines the term “Pyrotechnic Distributor” as anyone “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.” Therefore, the rules require that any person, business, or unit of local government that puts on an outdoor pyrotechnic display using display fireworks must either hire a licensed Pyrotechnic Distributor or apply for a Pyrotechnic Distributor’s license.

All Pyrotechnic Operators must be employed by a Pyrotechnic Distributor. The Pyrotechnic Distributor and Operator may be one and the same person and, in that event, both licenses must be obtained by that person. Only one Pyrotechnic Operator is required for a display. Other employees of the Distributor may act as assistants to the Pyrotechnic Operator. Any assistant used by the Distributor during the display must be at least 18 years old and be registered with OSFM by the licensed

distributor or the licensed production company on a form provided by OSFM prior to the time when the assistant begins work as an employee on the pyrotechnic display or pyrotechnic service.

PYROTECHNIC DISPLAYS (DISPLAYS USING PROFESSIONAL GRADE FIREWORKS)

The local governmental authority may issue a pyrotechnic display permit to any adult applicant that meets the following minimum requirements:

1. The applicant must submit a written application for a permit at least 15 days in advance of the date of the pyrotechnic display.
2. The pyrotechnic display service is provided by a licensed Pyrotechnic Distributor, and the display is conducted by a licensed Lead Pyrotechnic Operator.
3. The applicant shows proof of liability insurance in a sum not less than \$1,000,000 with an insurance company authorized to do business in Illinois.
4. The fire chief of the local jurisdiction or his/her designee must inspect the display site and ensure the display can be performed in full compliance with the NFPA standards adopted and amended by the OSFM Rules, Part 235, for the type of Pyrotechnic Display to be performed. The Chief of the fire department providing fire protection must sign the display permit.

Once your jurisdiction has issued a permit, it is not transferable to another person or entity. The sale, possession, use and distribution of display fireworks for display are lawful only for the purpose given by your permit. Your jurisdiction has the authority to adopt rules regarding Pyrotechnic Displays that are more stringent than those adopted by OSFM.

PENALTIES FOR VIOLATING THE PYROTECHNIC DISTRIBUTOR AND OPERATOR LICENSING ACT

In addition to injunctive relief and other penalties identified throughout the Act, Section 90 of the Pyrotechnic Distributor and Operator Licensing Act identifies the following criminal penalties for violating its provisions:

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 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.