

FIREWORKS – NOTICE TO MUNICIPALITIES

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 posted copies of these Acts, the Administrative Rules implementing these Acts, and a Frequently Asked Questions document on our website, <http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/index.aspx>. As we approach the Fireworks season, these documents contain information that is important to all fire protection jurisdictions in the State of Illinois. This information pertains to all fireworks displays, including those that are operated on a voluntary basis. OSFM is providing this letter to assist your jurisdiction in understanding 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 Villages, Counties and Municipalities 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

As stated above, it is unlawful for anyone to “knowingly possess, offer for sale, expose for sale, sell at retail . . . any display fireworks, flame effects, or consumer fireworks” unless specifically permitted by your jurisdiction. As used in the above-referenced Acts, two general types of fireworks exist: (1) professional grade fireworks that the Acts define as display fireworks, 1.3G fireworks, and special effects fireworks; and (2) consumer fireworks. 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. Out-of-state distributors of fireworks must obtain a license or register with the OSFM, depending on the type of fireworks they distribute. No distributor may sell or transfer fireworks to any person who does not possess a valid display permit. The law prohibits the possession of fireworks in Illinois, whether purchased in or out-of-state, by a person who does

not possess a valid display permit. In addition, the law prohibits the purchase of fireworks from an unregistered Consumer Retailer or an unlicensed Pyrotechnic Distributor. Please report violations to the local law enforcement or to the Office of the State Fire Marshal.

OSFM has posted a copy of the application for a Pyrotechnic Distributor's license, including application instructions, and of the application to register as a Consumer Distributor/Consumer Retailer on its website, <http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/index.aspx>

CONSUMER FIREWORKS

Section 4.1 of the Pyrotechnic Use Act requires the OSFM to prepare and maintain a list of approved consumer fireworks. This list is posted on the OSFM website at <http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/index.aspx>

The Pyrotechnic Use Act specifically excludes the following from the definition of consumer fireworks: "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." These are considered novelty fireworks. The Pyrotechnic Use Act states that the sale and use of these items shall be permitted at all times. The Pyrotechnic Use Act further states "**a municipality may, by ordinance, prohibit the sale and use of sparklers on public property.**"

CONSUMER FIREWORKS DISPLAYS

Consumer fireworks displays are permitted in Villages, Counties and Municipalities that have passed Ordinances allowing such displays and ONLY in those locations. In order to operate a consumer display, an adult must:

1. Attend training conducted at the local fire department. OSFM sends this Consumer Fireworks Training information to each jurisdiction that permits consumer fireworks displays and has requested the training.
2. Apply for a site inspection by the local fire department.
3. Apply for a permit issued by the appropriate unit of local government. (The 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. Any sale of consumer fireworks other than on the list is prohibited by law.

Once your jurisdiction has issued a permit, it 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 your 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.

The OSFM to obtain the Consumer Fireworks Training and testing materials. OSFM will send one set of materials to each jurisdiction for use. **Please send us the name of your contact person, complete address, e-mail address, and telephone number. We prefer that you e-mail this information to SFM.FirePrevention@Illinois.gov** In the event you do not have e-mail, please address your request to the Office of the State Fire Marshal, Attn: Fire Prevention Division, 1035 Stevenson Drive, Springfield, IL 62703.

PYROTECHNIC DISTRIBUTOR'S LICENSE

OSFM has posted a copy of the application for a Pyrotechnic Distributor's license, including application instructions, on its website, <http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/index.aspx>

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.

If a municipality or fire protection district (i.e., a political subdivision of the State) is the entity actually applying for the Distributor's license, it may request a fee reduction to \$50, from \$500.00, for the application fee. In the event a municipality or fire protection district requests such a reduction in fee, its Pyrotechnic Distributor's License will be considered a limited license that will permit it to perform only 3 Pyrotechnic Displays a calendar year.

The requirements for a Pyrotechnic Distributor's License include:

1. A current license from the Federal Bureau of Alcohol Tobacco and Firearms. Pursuant to Section 845(a)(3) of the Federal Explosives Law, 40 C.F.R. §845(a)(3), political subdivisions of the State are exempt from having such a license.
2. Proof of training conducted by Illinois Department of Natural Resources
3. Fingerprint background check conducted by a third party vendor for the OSFM
4. Proof of Illinois Worker's Compensation Insurance unless covered by one of the exemptions to the Worker's Compensation Act
5. Proof of Product Liability and General Liability Insurance coverage in the amount of \$1,000,000 minimum. Municipalities and other political subdivisions of the State that are self-insured may provide OSFM with a sworn statement attesting to its self-insurance status.
6. Proof of a current Identification Number, and a current Hazardous Materials Registration Number from the United States Department of Transportation (USDOT)
7. Payment to the OSFM of the \$500.00 fee for the three-year Pyrotechnic Distributor's License, or of the \$50.00 fee for the three-year limited Pyrotechnic Distributor's License available for political subdivisions of the State

Items 1 through 7 must be completed to obtain the Pyrotechnic Distributor's license. Because the person is transporting and handling professional grade fireworks, the USDOT Identification and Hazardous Materials Registration numbers are required unless the person is having a USDOT identified and registered carrier deliver the fireworks to the display site for the show. The Pyrotechnic Distributor's

license and a Lead Pyrotechnic Operator's license must be obtained before the site inspection, issuance of a permit, purchase of display fireworks, and the Pyrotechnic Display can occur.

Types of Pyrotechnic Distributor and Operator Licenses:

Three basic types of Pyrotechnic Distributor and Pyrotechnic Operator licenses exist: Outdoor Professional, Proximate Audience and Flame Effect. As discussed below, a Pyrotechnic Operator must be employed by a Pyrotechnic Distributor. The Pyrotechnic Distributor must be licensed to perform the types of effects its Pyrotechnic Operators are licensed to perform. For instance, if a company performs a display in close proximity to an audience, either indoor or outdoor, using both special effects fireworks and flame effects, both the Pyrotechnic Distributor and the Pyrotechnic Operator must be licensed to perform Proximate Audience and Flame Effect displays. To determine whether or not a Pyrotechnic Distributor and a Pyrotechnic Operator are licensed or have temporary authorization to perform a display, OSFM maintains a list at: <http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/index.aspx>

PYROTECHNIC OPERATOR'S LICENSE (Displays Using Professional Grade Fireworks)

OSFM has posted a copy of the Pyrotechnic Operator's license application, including application instructions, and a copy of the Assistant's Registration form on its website, <http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/index.aspx>

Each person who is responsible for the actual setting off of the display must have a Pyrotechnic Operator's license. The requirements for the operator's license include:

1. A license or letter of clearance from the Federal Bureau of Alcohol Tobacco and Firearms
2. Proof of training conducted by Illinois Department of Natural Resources for an Outdoor Pyrotechnic Operator's License or an Indoor Proximate Audience Operator's License
3. Applicants for an Indoor Proximate Audience Operator's License or an Indoor Flame Effect Operator's License must also pass a test administered by the OSFM, and provide additional evidence of experience.
4. Fingerprint background check conducted by a third party vendor for the OSFM
5. Payment to the OSFM of the required fee for each type of Pyrotechnic Operator's license requested

The Pyrotechnic Operator 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. 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 the OSFM. There is no fee for registering Assistants. While the Pyrotechnic Distributor and Operator Licensing Act permits assistants to be 18 years of age, Section 4003 of the Illinois Explosives Act, 225 ILCS 210/4003, prohibits explosive licensees from giving explosive material to any person under 21 years of age. Assistants between the ages of 18 and 21 may not handle the display fireworks. They may, however, perform many other functions at the display site that do not require them to handle the fireworks.

PYROTECHNIC DISPLAYS (DISPLAYS USING PROFESSIONAL GRADE FIREWORKS)

Pyrotechnic displays are permitted in Villages, Counties and Municipalities that have passed Ordinances allowing such displays and ONLY in those locations. 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 the OSFM.

INDOOR PYROTECHNIC DISPLAYS

The OSFM requires local fire jurisdictions that will be inspecting and approving indoor pyrotechnic displays to attend a half-day of training, provided through OSFM, to familiarize the inspectors with the new rules and proper methods for setting up an indoor pyrotechnic display. **We ask that each fire department or fire protection district that requires this training contact OSFM. Please send us the name of your contact person, complete address, e-mail address, telephone number, and the number of inspectors who will be requiring training. We prefer that you e-mail this information to SFM.FirePrevention@Illinois.gov** In the event you do not have e-mail, please send your information to the Office of the State Fire Marshal, Attn. Fire Prevention Division, 1035 Stevenson Drive, Springfield, IL 62703.

STATE AND COUNTY FAIR ASSOCIATIONS

No permit is required for supervised public displays by a State or County fair association. This permit exception applies to pyrotechnic displays sponsored by the State or County fair association. This permit exception does **not** apply to a pyrotechnic display that is being sponsored by another entity on the State or County fairgrounds. While a State or County fair association is not required to obtain a permit for a supervised public display it is sponsoring, the State or County fair association must still use an OSFM licensed Pyrotechnic Distributor to perform the display. Moreover, for public safety reasons, OSFM suggests that State and County fair associations have the fire department providing fire protection coverage to the fairgrounds inspect the display site and determine that the display can be performed in full compliance with OSFM's rules and that the display shall not be hazardous to property or endanger any person.

ADDITIONAL QUESTIONS

The majority of questions you or your constituents have about fireworks displays can be answered by this letter and by reading the Acts, the Emergency Rules, the Frequently Asked Questions, and the other documents on OSFM's website,

<http://www.sfm.illinois.gov/commercial/pyrotechnicsfireworks/index.aspx>.

For questions not covered by the above you can call 217-785-4714. Please be specific with your questions when you call so that you can be directed to the proper person to answer your questions.