

Article 82A.

Pyrotechnics Training and Permitting.

§ 58-82A-1. State Fire Marshal establish pyrotechnic safety guidelines.

- (a) Guidelines. – The Commissioner of Insurance through the Office of the State Fire Marshal, in consultation with the State Fire and Rescue Commission, must establish guidelines, testing, and training requirements for the following:
 - (1) Individuals who assist a display operator with the exhibition, use, handling, or discharge of pyrotechnics in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes.
 - (2) Individuals seeking to obtain a display operator license, proximate audience display operator license, or assistant display operator license under this Article.
- (b) Definitions. – The definitions in G.S. 14-410 apply in this Article.
- (c) Rule making. – The Commissioner may adopt rules to implement this Article. (2009-507, s. 3; 2010-22, s. 1.)

§ 58-82A-1.1. Definitions.

The following definitions apply in this Article:

- (1) Assistant display operator. – An individual who, under the supervision of the display operator, assists with the safety, setup, and discharge of a pyrotechnic display and who is licensed pursuant to this Article.
- (2) Event employee. – An individual who works under the supervision of the display operator and who assists with the safety, setup, and discharge of a pyrotechnic display but does not handle the pyrotechnic materials.
- (3) Outdoor pyrotechnics display. – A pyrotechnic display that is outdoors and uses 1.4G, 1.3G, 1.2G, and 1.1G pyrotechnics and is a minimum of 75 feet from the audience in accordance with NFPA 1123.
- (4) Proximate audience display. – A display of pyrotechnics that occurs within a building or structure or that occurs outside before an audience within 75 feet of the pyrotechnics in accordance with NFPA 1126.
- (5) Proximate audience display operator. – An individual who is responsible for the safety, setup, and discharge of the proximate audience display and who is licensed under this Article.
- (6) Pyrotechnics. – All fireworks not exempted by G.S. 14-414 and that are used for professional outdoor displays and classified as fireworks by UN0333 (1.1G), UN0334 (1.2G), UN0335 (1.3G), or UN0336 (1.4G) by the United States Department of Transportation under 49 C.F.R. § 172.101.
- (7) Pyrotechnics display operator. – An individual who is responsible for the safety, setup, and discharge of the pyrotechnic display, who is responsible for the supervision of personnel at the pyrotechnic display, and who is licensed under this Article.
- (8) Supervision. – The direction and management of the activities of personnel in the safety, setup, handling, and display of an outdoor pyrotechnic display, a proximate audience display, or a flame effect display. (2010-22, s. 2.)

§ 58-82A-1.5. Commissioner of Insurance to administer Article; rules; employees; evidence of Commissioner's action.

- (a) The Commissioner shall have full power and authority to administer the provisions of this Article, which establishes guidelines for the use, handling, exhibiting, or discharge of pyrotechnics in connection with a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, and to license and regulate pyrotechnic operators. The Commissioner shall adopt any rules necessary to enforce the purposes and provisions of this Article.
- (b) Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the Commissioner, or any record of the Commissioner authenticated under the head of the Commissioner by the seal of the Commissioner's office, shall be accepted by all courts of this State as prima facie evidence of the contents thereof. (2010-22, s. 3.)

§ 58-82A-2. (Effective February 1, 2010) Individual training requirements.

An individual may not use, handle, exhibit, or discharge pyrotechnics in connection with a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, unless the individual successfully completes the training approved or offered by the Commissioner of Insurance through the Office of State Fire Marshal or meets all of the following conditions:

- (1) Is an active member in good standing with a local fire or rescue department and has experience in pyrotechnics or explosives, as verified by the State Fire Marshal.
- (2) Possesses the professional qualifications required by the State Fire Marshal or the professional qualifications required by the jurisdiction where permitting is being sought, whichever is greater. The professional qualifications set by the State Fire Marshal may not be less than the voluntary minimum professional qualifications for all levels of fire service and rescue service personnel established by the State Fire and Rescue Commission under G.S. 58-78-5. (2009-507, s. 3.)

§ 58-82A-2.1. Require licenses.

- (a) No person shall obtain a pyrotechnics permit under Article 54 of Chapter 14 of the General Statutes unless the person possesses the appropriate license, as provided by this Article.
- (b) An applicant for a license authorized by this Article shall apply on forms supplied by the Commissioner. The Commissioner shall inquire as to the applicant's qualifications and other matters relative to the applicant's fitness to be licensed or to continue to be licensed.
- (c) When a license is issued under this section, the Commissioner shall issue to the licensee an identification card approved by the Commissioner. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license terminates or is terminated shall surrender the identification card to the Commissioner, when requested by the Commissioner. The Commissioner may contract directly with persons for the processing and issuance of identification cards required by this section and may charge a reasonable fee in addition to the license fee in an amount that offsets the cost of the service, including the costs associated with the contract authorized by this subsection. Contracts entered into

under this subsection shall not be subject to Article 3 of Chapter 143 of the General Statutes. (2010-22, s. 4.)

§ 58-82A-2.5. Terms of licenses.

A license issued to a pyrotechnics display operator, a proximate audience display operator, or an assistant display operator under this Article authorizes the licensee to act in that capacity until the license is suspended, revoked, or not renewed. Upon the suspension or revocation of a license, or the failure to renew a license, the licensee shall return the license to the Commissioner. A pyrotechnics display operator's license, a proximate audience display operator's license, and an assistant display operator's license is valid for three years unless suspended or revoked and may be renewed every three years from the date of issuance upon payment of the applicable renewal fee. (2010-22, s. 5.)

§ 58-82A-3. Pyrotechnics display operator license.

- (a) License Required. – A display operator license issued by the Commissioner is required for an individual to obtain the necessary authorization under Article 54 of Chapter 14 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a concert or public exhibition in this State. A license issued under this section is valid for three years unless it is revoked by the Commissioner.
- (b) Requirements. – The Commissioner may issue a display operator license to an individual if all of the following conditions are met:
 - (1) The individual is at least 21 years of age.
 - (2) The individual has assisted a display operator as an assistant display operator in the exhibition, use, or display of pyrotechnics at a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, on at least three occasions, or is a proximate audience display operator.
 - (3) The individual successfully completes the minimum training requirements established by the State Fire Marshal.
 - (4) The individual successfully passes an examination approved by the State Fire Marshal that demonstrates the individual has the knowledge to safely handle, store, and exhibit Class 1.4g, 1.3g, 1.2g, and 1.1g pyrotechnics or provides satisfactory evidence of current certification by a third party acceptable to the State Fire Marshal.
 - (5) Repealed by Session Laws 2010-22, s. 6, effective October 1, 2010.
 - (6) The individual has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40, Section 842(i).
- (c), (d) Repealed by Session Laws 2010-22, s. 6, effective October 1, 2010. (2009-507, s. 3; 2010-22, s. 6.)

§ 58-82A-10. Proximate audience display operator license.

A proximate audience display operator license issued by the Commissioner is required for an individual to obtain the necessary authorization under Article 54 of Chapter 14 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a concert or public exhibition with a proximate audience display of pyrotechnics in this State. The Commissioner may issue a proximate audience display operator license to an individual who meets all of the following requirements:

- (1) Is at least 21 years of age at the time of application.
- (2) Completes the training program approved by the Commissioner for pyrotechnic proximate audience display operators or another program which the Commissioner determines to be substantially equivalent.
- (3) Successfully passes the written examination provided by the Commissioner.
- (4) Submits evidence of active participation as a display operator in the safe performance of at least three displays or as an assistant display operator in the safe performance of at least three displays under the direct supervision of a display operator.
- (5) Has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40, Section 842(i). (2010-22, s. 7.)

§ 58-82A-15. Assistant display operator license.

- (a) No person shall assist a pyrotechnics display operator or a proximate audience display operator with the exhibition, use, handling, or discharge of pyrotechnics or pyrotechnic effects in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes without an assistant display operator's license issued by the Commissioner.
- (b) The Commissioner may issue an assistant display operator license to an individual who meets all of the following requirements:
 - (1) Is at least 18 years of age.
 - (2) Signs a statement provided by the Commissioner affirming that the individual has read and understands the pyrotechnics safety guidelines established by the Office of the State Fire Marshal.
 - (3) Successfully passes the written examination provided by the Commissioner.
 - (4) Has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40 Section 842(i). (2010-22, s. 7.)

§ 58-82A-20. License fees.

- (a) A nonrefundable license fee of one hundred dollars (\$100.00) shall be paid by the applicant to the Commissioner at the time of each application for a pyrotechnics display operator license.
- (b) A nonrefundable license fee of one hundred dollars (\$100.00) shall be paid by the applicant to the Commissioner at the time of each application for a license as a proximate audience display operator license.
- (c) A nonrefundable license fee of thirty dollars (\$30.00) shall be paid to the Commissioner by the applicant with each application for a license as an assistant display operator. (2010-22, s. 7.)

§ 58-82A-25. Qualifications for event employees.

Notwithstanding the provisions of this Article, the Commissioner or the fire code official for the jurisdiction issuing the pyrotechnics permit under G.S. 14-413 may certify an individual as an event employee if the individual meets the following requirements:

- (1) Is at least 18 years of age.
- (2) Possesses and provides a valid drivers license or other state-issued identification card.
- (3) Correctly passes an on-site examination, administered by the Office of the State Fire Marshal or fire code official for the jurisdiction issuing the permit under G.S. 14-413, of five questions to test basic pyrotechnic safety knowledge.
- (4) Provides written confirmation from the licensed display operator or proximate audience display operator that the event employee is working under the supervision of the operator and that the event employee will not handle the pyrotechnic materials. An event employee certification is valid only for the concert or public exhibition listed on the pyrotechnic permit and cannot be renewed. (2010-22, s. 7.)

§ 58-82A-30. Examination fees.

- (a) Each applicant for a license as a pyrotechnic display operator, a proximate audience display operator, or assistant display operator shall take a written examination approved by the Commissioner. The Commissioner may contract with a person to process, administer, and grade the examination in the same manner as for agent examinations under Article 33 of this Chapter. The Commissioner may charge a fee to offset the costs of the contract for examination services.
- (b) The fee for the examination is ten dollars (\$10.00). The examination fee is nonrefundable. (2010-22, s. 7.)

§ 58-82A-35. Renewal fees.

- (a) To renew a license as a pyrotechnics display operator, a proximate audience display operator, or an assistant display operator, a licensee shall make application to the Commissioner upon the renewal application form provided by the Commissioner and attest that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Failure to provide the attestation or providing untrue, incorrect, or incomplete statements shall be grounds for denial, suspension, or revocation of the license.
- (b) Before approving the application for renewal, the Commissioner shall find that the licensee:

- (1) Has not committed any act which is grounds for denial, suspension, nonrenewal, or revocation under this Article.
 - (2) Has not had administrative action taken against a pyrotechnics display operator's license or the equivalent by this or any other state.
 - (3) Has on at least three occasions participated in the use, handling, exhibiting, or discharge of pyrotechnics in connection with a concert or public exhibition pursuant to the terms of the license.
 - (4) Has paid the applicable fees set forth in this Article.
 - (5) Has completed a minimum of 12 hours of continuing education during the previous three-year period.
- (c) The renewal fee for a pyrotechnics display operator license and a proximate audience display operator license is sixty dollars (\$60.00) for each license renewed. The renewal fee for an assistant display operator license is thirty dollars (\$30.00). (2010-22, s. 7.)

§ 58-82A-40. Dual license holding.

If any individual holds more than one license issued under this Article simultaneously, all licenses are considered one license for the purpose of disciplinary actions involving suspension, revocation, or nonrenewal under this Article. Separate fees must be paid for each license. (2010-22, s. 7.)

§ 58-82A-45. Reciprocity.

The Commissioner may issue a license under this Article to an individual who holds a comparable valid permit, license, or certification issued by another state, provided the minimum requirements of that state are at least equal to the minimum requirements under this Article for the specific license issued and the person pays the application fee required under this Article. (2010-22, s. 7.)

§ 58-82A-50. Discipline.

The Commissioner may deny, suspend, revoke, or refuse to renew any license under this Article if any of the following apply:

- (1) The licensee violates any provision of this Article.
- (2) The applicant or licensee violates any requirement of a permit issued under G.S. 14-413.
- (3) The licensed display operator or proximate audience display operator fails to provide direct supervision and control over individuals who assist the licensee in handling, using, exhibiting, or displaying pyrotechnics.
- (4) The licensed display operator, proximate audience display operator, or assistant display operator is convicted of a crime under Article 54 of Chapter 14 of the General Statutes.
- (5) Another state revokes the permit, license, or certification issued to the licensee by that state.
- (6) A material misstatement, misrepresentation, or fraud was committed in obtaining a license under this Article.
- (7) Cheating on an examination required by this Article.
- (8) Knowingly aiding or abetting others to evade or violate the provisions of this Article.

- (9) Any existing cause for which the issuance of the license could have been denied had it been known to the Commissioner at the time of issuance. (2010-22, s. 7.)

§ 58-82A-55. License sanction and denial procedures.

- (a) The suspension or revocation of, or refusal to renew, any license under this Article may be contested in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes.
- (b) Whenever the Commissioner denies an initial application for a license or an application for a reissuance of a license, the Commissioner shall notify the applicant and advise the applicant, in writing, of the reasons for the denial of the license. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under this Article. In order for an applicant to be entitled to a review of the Commissioner's action, the applicant must make a written demand upon the Commissioner for a review no later than 30 days after the service of the notification upon the applicant. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing of the outcome of the review. In order for an applicant who disagrees with the outcome of the review to be entitled to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make a written demand upon the Commissioner for a hearing no later 30 days after service upon the applicant of the Commissioner's decision. (2010-22, s. 7.)

14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; permit required; sale to persons under the age of 16 prohibited.

- (a) Except as otherwise provided in this section, it shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use, handle, exhibit, or discharge any pyrotechnics of any description whatsoever within the State of North Carolina.
- (a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:
- (1) The exhibition, use, or discharge is at a concert or public exhibition.
 - (2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training required under G.S. 58-82A-2 and are under the direct supervision and control of a display operator who holds a display operator permit issued by the State Fire Marshal under G.S. 58-82A-3. The display operator must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics.
 - (3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

- (a2) Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.
- (a3) The requirements of this section apply to G.S. 14-413(b) and G.S. 14-413(c).
- (b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to persons under the age of 16.
- (c) The following definitions apply in this Article:
 - (1) Concert or public exhibition. – A fair, carnival, show of any description, or public celebration.
 - (2) Display operator. – An individual issued a display operator permit under G.S. 58-82A-3.
 - (3) State Fire Marshal. – Defined in G.S. 58-80-1. (1947, c. 210, s. 1; 1993 (Reg. Sess., 1994), c. 660, s. 3; 1995, c. 475, s. 1; 2003-298, s. 2; 2007-38, s. 1; 2009-507, s. 1.)

14-411. Sale deemed made at site of delivery.

In case of sale or purchase of pyrotechnics, where the delivery thereof was made by a common or other carrier, the sale shall be deemed to be made in the county wherein the delivery was made by such carrier to the consignee. (1947, c. 210, s. 2.)

14-412. Possession prima facie evidence of violation.

Possession of pyrotechnics by any person, for any purpose other than those permitted under this article, shall be prima facie evidence that such pyrotechnics are kept for the purpose of being manufactured, sold, bartered, exchanged, given away, received, furnished, otherwise disposed of, or used in violation of the provisions of this article. (1947, c. 210, s. 3.)

14-413. Permits for use at public exhibitions.

- (a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any county, or the governing board of a city authorized pursuant to subsection (a1) of this section, may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.
- (a1) For the purpose of enforcing the provisions of this Article, a board of county commissioners may authorize the governing body of any city in the county to issue permits pursuant to the provisions of this Article for pyrotechnics to be exhibited, used, or discharged within the corporate limits of the city for use in connection with the conduct of concerts or public exhibitions. The board of county commissioners

shall adopt a resolution granting the authority to the city, and it shall remain in effect until withdrawn by the board of county commissioners adopting a subsequent resolution withdrawing the authority. If a city lies in more than one county, the board of county commissioners of each county in which the city lies must adopt an authorizing resolution. If any county in which the city lies withdraws the authority of the city to issue permits for the use of pyrotechnics, the authority of the city to issue permits for the use of pyrotechnics will end, and all counties within which the city lies must resume their authority to issue the permits.

- (b) For any indoor use of pyrotechnics at a concert or public exhibition, the board of commissioners or the governing body of an authorized city may not issue any permit unless the local fire marshal or the State Fire Marshal (or in the case of The University of North Carolina or the University of North Carolina at Chapel Hill it may not authorize such concert or public exhibition unless the State Fire Marshal) has certified that:
 - (1) Adequate fire suppression will be used at the site.
 - (2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.
 - (3) Adequate egress from the building is available based on the size of the expected crowd.
 - (c) The requirements of subsection (b) of this section also apply to any city authorized to grant pyrotechnic permits by local act and to the officer delegated the power to grant such permits by local act.
- (d) A board of county commissioners or the governing board of a city shall not issue a permit under this section unless the display operator provides proof of insurance in the amount of at least five hundred thousand dollars (\$500,000) or the minimum amount required under the North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. A board of county commissioners or the governing board of a city may require proof of insurance that exceeds these minimum requirements. (1947, c. 210, s. 4; 1993 (Reg. Sess., 1994), c. 660, s. 3.1; 1995, c. 509, s. 11; 2003-298, s. 1; 2007-38, s. 2; 2009-507, s. 2.)

14-414. Pyrotechnics defined; exceptions.

For the proper construction of the provisions of this Article, "pyrotechnics," as is herein used, shall be deemed to be and include any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes: provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation, and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This Article shall not apply to the sale, use, or possession of the following:

- (1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.
- (2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.

- (3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
- (4) Trick noisemakers which produce a small report designed to surprise the user and which include:
 - a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.
 - b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.
 - c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.
- (5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.
- (6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used. (1947, c. 210, s. 5; 1955, c. 674, s. 1; 1993, c. 437.)

14-415. Violation made misdemeanor.

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a Class 2 misdemeanor, except that it is a Class 1 misdemeanor if the exhibition is indoors. (1947, c. 210, s. 6; 1969, c. 1224, s. 3; 1993, c. 539, s. 288; 1994, Ex. Sess., c. 24, s. 14(c); 2003-298, s. 3.)