

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. 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.
- (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.

(b1) The Commissioner may issue a Limited Pyrotechnic Operator license to an individual meeting all the requirements of subsection (b) of this section with the exception of the "Employer Possessor Letter of Clearance" required by subdivision (6) of subsection (b) of this section if 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), and is not otherwise prohibited from possessing pyrotechnic materials by any provision of 18 U.S.C. Chapter 40, Section 842(i).

(c), (d) Repealed by Session Laws 2010-22, s. 6, effective October 1, 2010.

(e) Public exhibitions consisting of materials exempted by G.S. 14-414 are exempt from the operator license requirements. (2009-507, s. 3; 2010-22, s. 6; 2013-275, s. 3.)

**§ 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 a minimum 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 be in the presence of the pyrotechnic materials without signing 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), or is not otherwise prohibited from possessing pyrotechnic materials by any provision of 18 U.S.C. Chapter 40, Section 842(i). The event employee shall not be allowed to discharge or be in the presence of the pyrotechnic materials unless under direct supervision of a licensed pyrotechnic operator or an on-site representative as provided in G.S. 14-410(a1)(2). 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; 2013-275, s. 4.)

#### **§ 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.)