



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 298 [2003 Senate Bill 75]	Municipal Liability Exemption for Legal Issuance of Fireworks Permits
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

Current law generally prohibits the sale of fireworks and the possession of fireworks with the intent to sell them. The exceptions are that fireworks may be sold to a person holding a valid user's permit, to a city, village, or town, or for certain specified purposes such as in a manufacturing process. [s. 167.10, Stats.]

Current law authorizes a city, village, or town to issue a fireworks user's permit if certain requirements are met. Current law also generally limits local government liability for damages, injury, or death to \$50,000. [See s. 893.80 (3), Stats.]

2003 Wisconsin Act 298 provides that no city, village, or town, or committee, official, or employee of a city, village, or town, is civilly liable for damage to any person or property caused by fireworks for the sole reason that the city, village, or town issued a permit in accordance with the requirements of s. 167.10 (3) and any applicable requirements authorized under s. 167.10 (5) that authorized the purchase, possession, or use of the fireworks.

In order for the exemption created by the Act to apply, a city, village, or town must comply with the requirements regarding issuance of fireworks permits set forth in s. 167.10 (3) and (5), Stats., which are described below.

Who May Issue Permits

A fireworks user's permit may only be issued by one of the following:

1. The mayor of the city, president of the village, or chairperson of the town in which the possession or use is to occur.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

2. An official of the city, village, or town designated by the mayor of the city, president of the village, or chairperson of the town in which the possession or use of fireworks is to occur.

3. An employee of the city, village, or town in which the possession or use of fireworks is to occur, designated by the mayor of the city, president of the village, or chairperson of the town.

[s. 167.10 (3) (a), Stats.]

To Whom a Permit May be Issued

A city, village, or town may issue a fireworks user's permit **only** to the following:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. A group of resident or nonresident individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals. (A person issued a permit for crop protection must erect appropriate warning signs disclosing the use of fireworks for crop protection.)

[s. 167.10 (3) (c), Stats.]

In *Wisconsin Dells v. Dells Fireworks, Inc.*, 197 Wis. 2d 1, 539 N.W.2d 916 (Ct. App. 1995), the Wisconsin Court of Appeals ruled that a fireworks user's permit issued to a group authorizes the sale of fireworks only to that group, not to the individual members of the group. A group may authorize individuals to act on its behalf in purchasing fireworks, but a fireworks user's permit may not be issued to any individual other than an agricultural producer for the protection of crops.

Required Elements of a Permit

A fireworks user's permit must specify all of the following:

1. The name and address of the permit holder.
2. The date on and after which fireworks may be purchased.
3. The kind and quantity of fireworks which may be purchased.
4. The date and location that the fireworks purchased pursuant to the permit may be used.
5. Any other special conditions prescribed by local ordinance.

[s. 167.10 (3) (f), Stats.]

Other Permit Requirements

A copy of any fireworks user's permit that is issued must be given to the municipal fire or law enforcement official at least two days before the date of authorized use.

A fireworks user's permit may not be issued to a minor.

[s. 167.10 (3) (g) and (h), Stats.]

In addition, a permit must comply with any applicable local ordinances pertaining to fireworks. Section 167.10 (5), Stats., authorizes a city, village, town, or county to enact ordinances prohibiting or regulating the sale, possession, or use of fireworks.

Effective Date: May 5, 2004

Prepared by: Mary Matthias, Senior Staff Attorney

April 27, 2004

MM:tlujal:wu