

Legal First-Aide for the Hobbyist

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Just a few moments ago I finished writing an another affidavit for another attorney representing yet another fireworks hobbyist. Once again, the facts of this case and its result sadly points out the need for better information among hobbyist experimenters. While I do not have time to give the subject the full attention it deserves, I will take time to outline a few of the most important points. (However, note that I am not a lawyer and these are only my personal opinions.)

- 1) If you are a hobbyist experimenter, you should have in your possession, a copy of the ATF Newsletter ([June 2004 issue, p.5](#)) documenting the BATF's position that a federal license is not required in many cases.
- 2) You should know that, just because you may not need a federal license, that does not mean you do not need a state license. However, in several states that is now easier and cheaper to get than you might think.
- 3) It is generally a minor accident or a nervous neighbor that draws the attention of law enforcement officials. Thus, being extremely safe and not conducting yourself in a manner that raises concern with neighbors is essential. (If you do not have the requisite safety knowledge and a proper place to work, you should not be working with pyrotechnics.)
- 4) Do not rely upon the law enforcement officers to know about the legal status of hobbyists, or to be able to properly identify fireworks items as being fireworks (and not as bombs or incendiary devices). When you are only trained to look for bombs, many things look like bombs.
- 5) Many, hobby experimenters are guilty of something: state or local regulations, endangerment of neighbors (or your own minor children), improper storage, improper use of fireworks, etc.. Thus you need to identify and eliminate these potential problems BEFORE pursuing your activities.
- 6) In most instances, when a hobbyist has a legal problem, the prosecution will charge them with just about everything they can think of, even if there is little chance of winning on all of the charges. (I think this is sometimes done to put you in the mood to accept their version of an appropriate plea bargain.)
- 7) If you do find yourself needing a lawyer, seek advice on who to hire before actually hiring the criminal defense attorney that will represent you; they are not all equally skilled or well motivated. (This is not easy advice to follow; there seems to be something about sitting in a jail cell that creates a powerful sense of urgency.)
- 8) Do not pay an attorney a fixed price for a package of his services. You will need to establish a trust account to guarantee payment of the attorney, but draws on this account should be made as the individual services are performed. This will help keep the attorney's interest where it belongs, on your interests and not on wrapping things up as quickly as possible.
- 9) A trial will be very expensive, will put you and your family through hell for several months (preparation and trial), and is a crap-shoot with no guarantees. Do not accept a poor plea bargain, but do not be too idealistic either.

10) If you do decide it is in your best interests to plead guilty, try to only plead guilty to those things to which you actually are guilty of, e.g., making fireworks, endangerment, improper storage, etc. (Your attorney should get good advice early in the process. It is likely this will be the first fireworks or explosives case they will have worked on. A mistake or missed opportunity may cost you much and there usually is no second chance.)

11) If you plead guilty, try to get deferred sentencing (called various things in different states) as part of the plea bargain. This will mean that all records of your conviction will be sealed (will essentially go away) at the completion of your sentence (often just probation for several years) if you do not have further legal trouble during that time.

12) If you do have to serve some time in jail, try get work release as part of the plea bargain. This will allow you to keep your job (in the unlikely event that they do not fire you), and you will only spend evenings and weekends in jail.

At the very least, having legal trouble as a result of your hobby experimenting, will be embarrassing and VERY expensive. At most it will cast a serious shadow over the rest of your life. Do not be so foolish as to think these problems will not happen to you, or that because you personally feel that fireworks laws are unjust you have a right to ignore them, or that after you get in trouble there will be some magic cure that will get you off. In recent years I have assisted one or two hobbyists per year; in most cases it has been a truly sad experience. Sad, because, for the most part, these have been good people who end up paying a terrible price for their hobby.

PLEASE, TAKE THE STEPS NOW TO CONDUCT YOUR ACTIVITIES LEGALLY AND SAFELY.