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Celebrate the Fourth of July Safely and Legally

Columbus City Code prohibits most persons from having or using fireworks

It is that time of year again – the sound of birds chirping, the wind gently blowing, kids playing, and thunderous explosions from your neighbor's midnight Fourth of July amateur pyrotechnic display. Whether you intend to use fireworks yourself or put an end to your neighbor's fireworks show, you need to know whether using fireworks in Columbus is legal.

The Columbus City Code prohibits most persons from having or using fireworks. Fireworks are defined as "any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation...." However, an exception is made for novelties and trick noisemakers. Thus, whereas snakes, smoke devices, wire sparklers, party poppers and snappers can legally be used inside the

Columbus city limits, firecrackers and bottle rockets cannot.

You can purchase firecrackers and bottle rockets in Ohio, but you cannot use them in Ohio. In fact, if you purchase firecrackers or bottle rockets in Ohio, the seller will make you sign a purchaser's form, wherein you must state that you will transport the fireworks out of state within 48 hours. Knowingly making a false statement on the purchaser's form is a misdemeanor criminal offense.

Bear in mind that each community can pass its own laws relating to novelties and trick noisemakers, so make sure you check with your local government to make sure that they are permitted in your community.

By Mark C. Melko

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Featured Attorneys



Lauren S. Brill

Lauren is a litigator whose practice focuses primarily on civil defense litigation and appellate advocacy. She received her J.D., magna cum laude in 2003 from Capital University where she was a member of the Law Review.

Lauren is a member of the Columbus, Ohio State and American Bar Associations, and Women Lawyers of Franklin County. She also serves as Program Chair for the Westerville chapter of Amspirit Business Connections and is a Columbus Zoo FACES volunteer. In her spare time, Lauren enjoys riding motocross and flying her father's Citabria.



Neil C. Sander

Neil is a member of the Debtor-Creditor Law practice group specializing in collections and civil litigation. A 2004 law school graduate, Neil holds his J.D. from Capital University. He is a member of the Columbus and Ohio State Bar Associations.

He resides in Powell with his wife, Christine, and their daughter, Lia, and serves as assistant coach of the Thomas Worthington High School hockey team.

Internet, E-mail and Computer Use Policies

Every business needs an employee Internet and e-mail policy. Traditionally, these policies helped ensure that the employees were not using the Internet or company computers inappropriately or wasting time surfing when they should be working. However, in today's world of increasingly sophisticated 'hackers,' an appropriately worded Internet policy can also ensure your network's security and can assist in protecting confidential and proprietary business information.

You should be aware of the potential risks and problems that employee personal Internet use can cause. It's not simply a matter of lost productivity while your employee shops or surfs on-line. Gambling or pornography sites, use of harassing speech and improper sharing of copyrighted files are all areas of concern for an employer.

Your company's Internet and e-mail policy should contain or address all of the following:

- **"Acceptable use" of Internet and e-mail:** many employers wish to allow their employees reasonable access to personal

matters on their work computers. Your Internet and e-mail policy needs to clearly define what is considered an "acceptable use" yet still permit the employer ultimate discretion in determining what is an "acceptable use".

- **"Unacceptable use" of Internet and e-mail:** conversely, your Internet and e-mail policy should also set forth clear-cut examples of what is deemed "unacceptable use" of company computers, Internet and e-mail. However, the employer should likewise retain the ultimate discretion in determining what is an "unacceptable use".
- **Software:** your policy should also prohibit unauthorized downloads, uploads, applications or demos and should cover issues such as an employee's use of disks or software brought from home and possession of USB memory sticks, which could be used to download large amounts of a company's confidential information in a short period of time.
- **Network Security:** in order to ensure the security of your network and computer systems, your Internet and e-mail policy

should include guidelines that your employees must follow at all times. For example, your employees should be advised to open e-mail attachments with extreme care, to not send files or send data to unauthorized persons and to not access "pop-ups" or advertisements while on the web.

- **Signed, Written Acknowledgement:** every employee should be required to acknowledge that they have read and received your company's Internet and e-mail policy. Before distributing to your employees, make sure you have an attorney review your policy to ensure that you are not inadvertently creating a contract for employment!

In addition, you will also need to take appropriate equipment compliance steps such as making sure your spyware, filtering, blocking virus protection and other protection tools are installed and working properly. If you are interested in creating a new Internet and e-mail policy or would like someone to review and revise your current policy, please contact Lauren Brill.

Compliance with the Fair Debt Collection Practices Act

Does your business use its own employees to contact customers who are late on their payments? Does your business provide collection services on behalf of others? If so, you should be familiar with the Fair Debt Collection Practices Act ("FDCPA"). The FDCPA, 15 USC §1692, *et seq.*, was enacted by the United States Congress in 1977 to help prevent debt collectors from resorting to abusive and deceptive debt collection practices. The FDCPA only applies to consumer debt (debt that was incurred for personal, family, or household purposes) as opposed to commercial debt. Furthermore, the FDCPA only applies to a debt collector, which is defined as any person whose business is the collection of debts, directly or indirectly, that are owed or due to another. The term "debt collector" also includes a creditor that uses a name other than its own in the course of collecting its debts. In other words, a properly identified creditor is exempt from the FDCPA if its

own employees or officers attempt to collect its debts that are due and owing.

However, many creditors do not have the resources or expertise available "in-house" to effectively collect outstanding debts. Thus, creditors often enlist a collection attorney and/or agency to facilitate and administer collection activities on their behalf. A collection attorney and/or agency often fall square within the definition of a "debt collector" and therefore they must be cognizant of the various provisions that comprise the FDCPA. This is important because if a debt collector violates any provision of the FDCPA, the debtor may be entitled to an award of damages that can include the actual damages incurred, additional damages of up to \$1,000 per violation, plus reasonable attorney fees. The following are examples of violations under the FDCPA that could subject the debt collector to an adverse award:

- Contacting the debtor at any unusual time or place.
- Contacting the debtor at his/her place of employment if it is known that the debtor is not permitted to receive such communications at work.
- Contacting a third-party to obtain information regarding the debtor (subject to certain exceptions).
- Misrepresenting the amount, character or legal status of the debt.
- Threatening to take any action that cannot legally be taken or that is not intended to be taken.
- Failing to validate the debt as statutorily required.

For more information regarding compliance with the FDCPA, or regarding various debt collection services available from Wiles, Boyle, Burkholder & Bringardner, please contact Mark Sheriff or Neil Sander.

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