

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 226

Representatives Seitz, Sweeney

**Cosponsors: Representatives Dean, Becker, Thompson, Goodman, Stein,
Reineke, Blessing, Koehler**

A BILL

To amend sections 1705.48, 3737.51, 3737.71, 1
3737.99, 3743.04, 3743.17, 3743.44, 3743.45, 2
3743.60, 3743.61, 3743.63, 3743.65, 3743.75, 3
3743.99, 5703.052, 5703.053, 5703.19, 5703.70, 4
and 5703.77 and to enact sections 3737.04, 5
3737.05, 3737.06, 3737.07, 3737.08, 3737.09, 6
3737.10, 3737.11, 3737.12, 3743.46, 3743.47, 7
3743.591, and 3743.67 of the Revised Code to 8
establish a fireworks study group to review and 9
make recommendations regarding the Fireworks 10
Law, to extend to July 1, 2020, the moratorium 11
on issuing fireworks manufacturer and wholesaler 12
licenses, to eliminate, beginning January 1, 13
2021, the moratorium on geographic transfer of 14
fireworks manufacturer and wholesaler licenses, 15
and, beginning July 1, 2020, to impose a fee on 16
the retail sale of consumer grade fireworks in 17
this state and to expand the ability of 18
individuals to obtain 1.3G display fireworks and 19
obtain and use 1.4G consumer fireworks. 20

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1705.48, 3737.51, 3737.71, 21
3737.99, 3743.04, 3743.17, 3743.44, 3743.45, 3743.60, 3743.61, 22
3743.63, 3743.65, 3743.75, 3743.99, 5703.052, 5703.053, 5703.19, 23
5703.70, and 5703.77 be amended and sections 3737.04, 3737.05, 24
3737.06, 3737.07, 3737.08, 3737.09, 3737.10, 3737.11, 3737.12, 25
3743.46, 3743.47, 3743.591, and 3743.67 of the Revised Code be 26
enacted to read as follows: 27

Sec. 1705.48. Except as otherwise provided by this chapter 28
or any other provision of the Revised Code, including, but not 29
limited to, sections 3734.908, 3737.10, 5739.33, 5743.57, 30
5747.07, and 5753.02 of the Revised Code, all of the following 31
apply: 32

(A) The debts, obligations, and liabilities of a limited 33
liability company, whether arising in contract, tort, or 34
otherwise, are solely the debts, obligations, and liabilities of 35
the limited liability company. 36

(B) No member, manager, or officer of a limited liability 37
company is personally liable to satisfy any judgment, decree, or 38
order of a court for, or is personally liable to satisfy in any 39
other manner, a debt, obligation, or liability of the company 40
solely by reason of being a member, manager, or officer of the 41
limited liability company. 42

(C) The failure of a limited liability company or any of 43
its members, managers, or officers to observe any formalities 44
relating to the exercise of the limited liability company's 45
powers or the management of its activities is not a factor to 46
consider in, or a ground for, imposing liability on the members, 47
managers, or officers for the debts, obligations, or other 48
liabilities of the company. 49

(D) Nothing in this chapter affects any personal liability 50
of any member, any manager, or any officer of a limited 51
liability company for the member's, manager's, or officer's own 52
actions or omissions. 53

(E) This chapter does not affect any statutory or common 54
law of this or another state that pertains to the relationship 55
between an individual who renders a professional service and a 56
recipient of that service, including, but not limited to, any 57
contract or tort liability arising out of acts or omissions 58
committed or omitted during the course of rendering the 59
professional service. 60

Sec. 3737.04. Terms used in sections 3737.04 to 3737.12 of 61
the Revised Code have the same meanings as in section 5739.01 of 62
the Revised Code. As used in sections 3737.04 to 3737.12 of the 63
Revised Code: 64

(A) "1.4G fireworks," "licensed wholesaler," and "licensed 65
manufacturer" have the same meanings as in section 3743.01 of 66
the Revised Code. 67

(B) "Fireworks vendor" means a licensed wholesaler or 68
licensed manufacturer engaged in the sale of 1.4G fireworks in 69
this state that holds a license issued under section 5739.17 of 70
the Revised Code. 71

Sec. 3737.05. For the purpose of providing revenue to fund 72
firefighter training programs and the enforcement and regulation 73
of the fireworks industry, a fee is imposed on the retail sale 74
in this state of 1.4G fireworks sold on and after January 1, 75
2021. The fee shall equal four per cent of the price of such 76
fireworks. All proceeds from the fee shall be credited to the 77
fireworks fee receipts fund, which is hereby created in the 78

state treasury. After the director of budget and management 79
transfers money from the fireworks fee receipts fund as required 80
in division (C) of section 3737.11 of the Revised Code, money 81
remaining in the fireworks fee receipts fund shall be credited 82
to the state fire marshal's fund created in section 3737.71 of 83
the Revised Code. 84

Sec. 3737.06. The tax commissioner shall administer 85
sections 3737.04 to 3737.12 of the Revised Code in the same 86
manner as the commissioner administers the tax levied under 87
section 5739.02 of the Revised Code, except as otherwise 88
provided in sections 3737.04 to 3737.12 of the Revised Code. The 89
commissioner may adopt rules as the commissioner finds necessary 90
for the administration and enforcement of the fee imposed by 91
section 3737.05 of the Revised Code. 92

No person shall knowingly violate a rule adopted pursuant 93
to this section. 94

Sec. 3737.07. The requirements, procedures, limitations, 95
and penalties prescribed in Chapter 5703. of the Revised Code 96
apply to the administration, collection, payment, and 97
enforcement of the fee imposed under section 3737.05 of the 98
Revised Code in the same manner and with the same effect as with 99
other laws that the tax commissioner is required to administer 100
and enforce. 101

Sec. 3737.08. (A) The fee imposed by section 3737.05 of 102
the Revised Code shall be paid by a consumer to the fireworks 103
vendor, and each fireworks vendor shall collect from the 104
consumer, as a trustee for the state, the full and exact amount 105
of the fee payable on each sale of 1.4G fireworks in the same 106
manner and at the same times prescribed in section 5739.03 of 107
the Revised Code for the tax levied under section 5739.02 of the 108

Revised Code. 109

(B) Whenever a fireworks vendor refunds the price of 1.4G fireworks on which the fee imposed under section 3737.05 of the Revised Code has been paid, the vendor shall also refund the amount of the fee paid. 110
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(C) No person shall knowingly violate this section. 114

Sec. 3737.09. (A) Each fireworks vendor shall make and file a return for the preceding month in the form prescribed by the tax commissioner, and shall make payment of the full amount of the fee due for the preceding month. The return shall be signed by the person required to file it, or an authorized employee, officer, or agent. The return is filed when it is received by the tax commissioner. 115
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(B) The commissioner may require a fireworks vendor that fails to file such a return within the period prescribed to pay an additional charge of fifty dollars or ten per cent of the fee required to be paid for the reporting period, whichever is greater. The commissioner may collect the additional charge by assessment pursuant to section 3737.10 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating thereto. 122
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(C) If any fee due is not paid timely in accordance with this section, the person liable for the fee under section 3737.10 of the Revised Code shall pay interest, calculated at the rate per annum as prescribed by section 5703.47 of the Revised Code, from the date the fee payment was due to the date of payment or to the date an assessment is issued, whichever occurs first. Interest shall be paid in the same manner as the fee, and the commissioner may collect the interest by assessment 130
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pursuant to section 3737.10 of the Revised Code. 138

(D) If, in the estimation of the tax commissioner, the 139
average amount of fees remitted by a fireworks vendor monthly 140
does not merit monthly filing, the commissioner may authorize 141
that vendor to file and pay at less frequent intervals. Returns 142
are due by the twenty-third day of the month following the close 143
of the applicable reporting period authorized under this 144
division. 145

(E) Each fireworks vendor shall keep complete and accurate 146
records of sales of 1.4G fireworks, together with a record of 147
the fee collected on the sales and shall keep all invoices, 148
bills of lading, and other such pertinent documents. The records 149
shall be available for inspection by the commissioner or the 150
commissioner's authorized agent and shall be preserved for four 151
years after the return was due or filed, whichever is later. 152

(F) All money collected by the tax commissioner under this 153
section shall be considered as revenue arising from the fee 154
imposed by section 3737.05 of the Revised Code. 155

(G) No person shall knowingly violate this section or a 156
rule adopted to implement this section. 157

Sec. 3737.10. (A) If any fireworks vendor collects the fee 158
imposed by section 3737.05 of the Revised Code and fails to 159
remit the fee to the state as prescribed, the vendor shall be 160
personally liable for any tax collected and not remitted. The 161
tax commissioner may make an assessment against the vendor based 162
upon any information in the commissioner's possession. 163

If any fireworks vendor fails to collect the fee or any 164
consumer fails to pay that fee on any transaction subject to the 165
tax, the vendor or consumer shall be personally liable for the 166

amount of the fee applicable to the transaction. The 167
commissioner may make an assessment against either the fireworks 168
vendor or consumer, as the facts may require, based upon any 169
information in the commissioner's possession. 170

An assessment against a fireworks vendor when the fee has 171
not been collected or paid shall not discharge the consumer's 172
liability to reimburse the fireworks vendor for fees applicable 173
to the transaction. 174

An assessment issued against a fireworks vendor or 175
consumer under this section shall not be considered an election 176
of remedies, nor a bar to an assessment against the other for 177
the fee applicable to the same transaction, provided that no 178
assessment shall be issued against any person for the fee due on 179
a particular transaction if the fee on that transaction actually 180
has been paid by another. 181

The commissioner may make an assessment against any 182
fireworks vendor who fails to file a return or remit the proper 183
amount of fees, or against any consumer who fails to pay the 184
proper amount of fees. When information in the possession of the 185
commissioner indicates that the amount required to be collected 186
or paid under sections 3737.04 to 3737.12 of the Revised Code is 187
greater than the amount remitted by the fireworks vendor or paid 188
by the consumer, the commissioner may audit a sample of the 189
vendor's sales or the consumer's purchases for a representative 190
period and may issue an assessment based on the audit. The 191
commissioner shall make a good faith effort to reach agreement 192
with the vendor or consumer in selecting a representative 193
sample. 194

The commissioner may issue an assessment on any 195
transaction for which a fee imposed by section 3737.05 of the 196

Revised Code was due and unpaid on the date the fireworks vendor 197
or consumer was informed by an agent of the commissioner of an 198
investigation or audit. If the vendor or consumer remits any 199
payment of the fee for the period covered by the assessment 200
after the vendor or consumer was informed of the investigation 201
or audit, the payment shall be credited against the amount of 202
the assessment. 203

The commissioner shall give the party assessed written 204
notice of the assessment in the manner provided in section 205
5703.37 of the Revised Code. With the notice, the commissioner 206
shall provide instructions on how to petition for reassessment 207
and request a hearing on the petition. 208

(B) A penalty of up to fifteen per cent may be added to 209
all amounts assessed under this section. The commissioner may 210
adopt rules providing for the imposition and remission of the 211
penalties. 212

(C) Unless the person assessed files with the commissioner 213
within sixty days after service of the notice of assessment, 214
either personally or by certified mail, a written petition for 215
reassessment signed by the person assessed or that person's 216
authorized agent having knowledge of the facts, the assessment 217
becomes final and the amount of the assessment is due and 218
payable from the person assessed to the treasurer of state. The 219
petition shall indicate the objections of the person assessed, 220
but additional objections may be raised in writing if received 221
by the commissioner prior to the date shown on the final 222
determination. If the petition has been properly filed, the 223
commissioner shall proceed under section 5703.60 of the Revised 224
Code. 225

(D) After an assessment becomes final, if any portion of 226

the assessment, including accrued interest, remains unpaid, a 227
certified copy of the tax commissioner's entry making the 228
assessment final may be filed in the office of the clerk of the 229
court of common pleas in the county in which the person assessed 230
resides or in which the person's business is conducted. If the 231
person assessed maintains no place of business in this state and 232
is not a resident of this state, the certified copy of the entry 233
may be filed in the office of the clerk of the court of common 234
pleas of Franklin county. 235

Immediately upon the filing of the entry, the clerk shall 236
enter a judgment for the state against the person assessed in 237
the amount shown on the entry. The judgment may be filed by the 238
clerk in a loose-leaf book entitled "special judgments for state 239
fireworks fee," and shall have the same effect as other 240
judgments. Execution shall issue upon the judgment upon the 241
request of the tax commissioner, and all laws applicable to 242
sales on execution shall apply to sales made under the judgment. 243

If the assessment is not paid in its entirety within sixty 244
days after the day the assessment was issued, the portion of the 245
assessment consisting of the fee due shall bear interest at the 246
rate per annum prescribed by section 5703.47 of the Revised Code 247
from the day the commissioner issues the assessment until the 248
day the assessment is paid or until it is certified to the 249
attorney general for collection under section 131.02 of the 250
Revised Code, whichever comes first. If the unpaid portion of 251
the assessment is certified to the attorney general for 252
collection, the entire unpaid portion of the assessment shall 253
bear interest at the rate per annum prescribed by section 254
5703.47 of the Revised Code from the date of certification until 255
the date it is paid in its entirety. Interest shall be paid in 256
the same manner as the fee and may be collected by the issuance 257

of an assessment under this section. 258

(E) If the commissioner believes that collection of the 259
fee will be jeopardized unless proceedings to collect or secure 260
collection of the fee are instituted without delay, the 261
commissioner may issue a jeopardy assessment against the 262
consumer or the fireworks vendor liable for paying or remitting 263
the fee. Immediately upon the issuance of the jeopardy 264
assessment, the commissioner shall file an entry with the clerk 265
of the court of common pleas in the manner prescribed by 266
division (D) of this section. Notice of the jeopardy assessment 267
shall be served on the person assessed or the person's legal 268
representative, as provided in section 5703.37 of the Revised 269
Code, within five days of the filing of the entry with the 270
clerk. The total amount assessed is immediately due and payable, 271
unless the person assessed files a petition for reassessment in 272
accordance with division (C) of this section and provides 273
security in a form satisfactory to the commissioner and in an 274
amount sufficient to satisfy the unpaid balance of the 275
assessment. Full or partial payment of the assessment does not 276
prejudice the commissioner's consideration of the petition for 277
reassessment. 278

(F) If any corporation, limited liability company, or 279
business trust required to file returns pursuant to section 280
3737.09 of the Revised Code fails to remit to the state any fee 281
due under section 3737.05 of the Revised Code, each of its 282
employees having control or supervision of or charged with the 283
responsibility of filing returns and making payments, and each 284
of its officers, members, managers, trustees, or other persons 285
responsible for the execution of the corporation's, limited 286
liability company's, or business trust's fiscal 287
responsibilities, is personally liable for the failure to remit 288

the fee. The dissolution, termination, or bankruptcy of the 289
corporation, limited liability company, or business trust does 290
not discharge a responsible person's liability for the 291
corporation's, limited liability company's, or business trust's 292
failure to remit the fee due. The tax commissioner may assess a 293
responsible person under this section. 294

(G) Except for assessments against responsible persons 295
under division (F) of this section, no assessment of the fee 296
imposed by section 3737.05 of the Revised Code shall be made by 297
the tax commissioner more than four years after the date on 298
which the return for the period assessed was due or was filed, 299
whichever date is later. This section does not bar an assessment 300
when any of the following occur: 301

(1) The person assessed failed to file a return required 302
by section 3737.09 of the Revised Code. 303

(2) The person assessed knowingly filed a false or 304
fraudulent return. 305

(3) The person assessed and the tax commissioner have 306
waived in writing the time limitation. 307

(H) All money collected by the tax commissioner under this 308
section shall be considered as revenue arising from the fee 309
imposed by section 3737.05 of the Revised Code. 310

(I) No person shall knowingly violate this section or a 311
rule adopted to implement this section. 312

Sec. 3737.11. (A) The tax commissioner shall refund the 313
fee imposed by section 3737.05 of the Revised Code paid 314
illegally or erroneously, or paid on an illegal or erroneous 315
assessment in the same manner prescribed under section 5739.07 316
of the Revised Code for the tax levied under section 5739.02 of 317

the Revised Code. Applications for refund shall be filed with 318
the tax commissioner on a form prescribed by the commissioner, 319
within four years of the illegal or erroneous payment of the 320
fee. 321

On the filing of the application, the commissioner shall 322
determine the amount of refund to which the applicant is 323
entitled. If the amount is not less than that claimed, the 324
commissioner shall certify the amount to the director of budget 325
and management for payment from the tax refund fund created by 326
section 5703.052 of the Revised Code. If the amount is less than 327
that claimed, the commissioner shall proceed in accordance with 328
section 5703.70 of the Revised Code. 329

The certified amount shall include interest calculated at 330
the rate per annum prescribed by section 5703.47 of the Revised 331
Code from the date of overpayment to the date of the 332
commissioner's certification. 333

(B) If any person entitled to a refund of fees under this 334
section or section 5703.70 of the Revised Code is indebted to 335
the state for any tax or fee administered by the tax 336
commissioner, or any charge, penalties, or interest arising from 337
such a tax or fee, the amount allowable on the application for 338
refund first shall be applied in satisfaction of the debt. 339

(C) The director of budget and management shall transfer 340
from the fireworks fee receipts fund to the tax refund fund 341
amounts equal to the refunds certified by the commissioner under 342
this section. 343

Sec. 3737.12. No person shall knowingly fail to file any 344
return or report required to be filed under section 3737.09 of 345
the Revised Code, or file or cause to be filed any incomplete, 346

false, or fraudulent return, report, or statement, or aid or 347
abet another in the filing of any false or fraudulent return, 348
report, or statement. 349

Sec. 3737.51. (A) No person shall knowingly violate any 350
provision of the state fire code or any order made pursuant to 351
it. 352

(B) Any person who has received a citation for a serious 353
violation of the fire code or any order issued pursuant to it, 354
shall be assessed a civil penalty of not more than one thousand 355
dollars for each such violation. 356

(C) Any person who has received a citation for a violation 357
of the fire code or any order issued pursuant to it, and such 358
violation is specifically determined not to be of a serious 359
nature, may be assessed a civil penalty of not more than one 360
thousand dollars for each such violation. 361

(D) Any person who fails to correct a violation for which 362
a citation has been issued within the period permitted for its 363
correction, may be assessed a civil penalty of not more than one 364
thousand dollars for each day during which such failure or 365
violation continues. 366

(E) Any person who violates any of the posting 367
requirements, as prescribed by division (C) of section 3737.42 368
of the Revised Code, shall be assessed a civil penalty of not 369
more than one thousand dollars for each violation. 370

(F) Due consideration to the appropriateness of the 371
penalty with respect to the gravity of the violation, the good 372
faith of the person being charged, and the history of previous 373
violations shall be given whenever a penalty is assessed under 374
this chapter. 375

(G) For purposes of this section, a serious violation 376
shall be considered to exist if there is a substantial 377
probability that an occurrence causing death or serious physical 378
harm to persons could result from a condition which exists, or 379
from one or more practices, means, methods, operations, or 380
processes which have been adopted or are in use, unless the 381
person did not and could not with the exercise of reasonable 382
diligence, know of the presence of the violation. 383

(H) Civil penalties imposed by this chapter, except 384
penalties imposed under sections 3737.04 to 3737.12 of the 385
Revised Code, shall be paid to the state fire marshal for 386
deposit into the general revenue fund. Such penalties may be 387
recovered in a civil action in the name of the state brought in 388
the court of common pleas of the county where the violation is 389
alleged to have occurred. 390

Sec. 3737.71. Each insurance company doing business in 391
this state shall pay to the state in installments, at the time 392
of making the payments required by section 5729.05 of the 393
Revised Code, in addition to the taxes required to be paid by 394
it, three-fourths of one per cent on the gross premium receipts 395
derived from fire insurance and that portion of the premium 396
reasonably allocable to insurance against the hazard of fire 397
included in other coverages except life and sickness and 398
accident insurance, after deducting return premiums paid and 399
considerations received for reinsurances as shown by the annual 400
statement of such company made pursuant to sections 3929.30, 401
3931.06, and 5729.02 of the Revised Code. The money received 402
shall be paid into the state treasury to the credit of the state 403
fire marshal's fund, which is hereby created. The fund shall be 404
used for the maintenance and administration of the office of the 405
state fire marshal and the Ohio fire academy established by 406

section 3737.33 of the Revised Code, except for any balance 407
credited to the fund from the fee imposed by section 3737.05 of 408
the Revised Code. Seven-eighths of the balance credited to the 409
fund from that fee shall be used solely to fund firefighter 410
training programs and one-eighth of that balance shall be used 411
solely to fund activities and operations of the state fire 412
marshal related to the regulation and enforcement of the 413
fireworks industry. If the director of commerce certifies to the 414
director of budget and management that the cash balance in the 415
state fire marshal's fund, exclusive of any balance credited to 416
the fund from the fee imposed by section 3737.05 of the Revised 417
Code, is in excess of the amount needed to pay ongoing operating 418
expenses, the director of commerce, with the approval of the 419
director of budget and management, may use the excess amount to 420
acquire by purchase, lease, or otherwise, real property or 421
interests in real property to be used for the benefit of the 422
office of the state fire marshal, or to construct, acquire, 423
enlarge, equip, furnish, or improve the state fire marshal's 424
office facilities or the facilities of the Ohio fire academy. 425
The state fire marshal's fund shall be assessed a proportionate 426
share of the administrative costs of the department of commerce 427
in accordance with procedures prescribed by the director of 428
commerce and approved by the director of budget and management. 429
Such assessment shall be paid from the state fire marshal's fund 430
to the division of administration fund. 431

Notwithstanding any other provision in this section, if 432
the director of budget and management determines at any time 433
that the money in the state fire marshal's fund exceeds the 434
amount necessary to defray ongoing operating expenses in a 435
fiscal year, the director may transfer the excess, exclusive of 436
any balance credited to the fund from the fee imposed by section 437

3737.05 of the Revised Code, to the general revenue fund. 438

Sec. 3737.99. (A) Whoever violates section 3737.28 of the 439
Revised Code may be summarily punished, by the officer 440
concerned, by a fine of not more than one hundred dollars or 441
commitment to the county jail until that person is willing to 442
comply with the order of such officer. 443

(B) Except as a violation of section 2923.17 of the 444
Revised Code involves subject matter covered by the state fire 445
code and except as such a violation is covered by division (G) 446
of this section, whoever violates division (A) of section 447
3737.51 of the Revised Code is guilty of a misdemeanor of the 448
first degree. 449

(C) Whoever violates section 3737.61 of the Revised Code 450
is guilty of a minor misdemeanor. 451

(D) Whoever violates section 3737.62 or 3737.64 of the 452
Revised Code is guilty of a misdemeanor of the fourth degree. 453

(E) Whoever violates section 3737.63 or division (A) or 454
(B) of section 3737.65 of the Revised Code is guilty of a 455
misdemeanor of the third degree. 456

(F) Whoever violates division (C) (3) or (D) (5) of section 457
3737.73 of the Revised Code shall be fined one thousand dollars. 458

(G) Whoever violates section 3737.66 of the Revised Code 459
is guilty of a misdemeanor of the first degree. 460

(H) Whoever knowingly violates division (C) of section 461
3737.882 of the Revised Code is guilty of an unclassified felony 462
and shall be fined not more than twenty-five thousand dollars or 463
imprisoned for not more than fourteen months, or both. Whoever 464
recklessly violates division (C) of section 3737.882 of the 465

Revised Code is guilty of a misdemeanor of the first degree. 466

(I) Whoever knowingly violates division (F) (1), (2), or 467
(3) of section 3737.881 or section 3737.93 of the Revised Code 468
is guilty of a misdemeanor of the fourth degree. 469

(J) Whoever knowingly violates division (B) or (C) of 470
section 3737.91 of the Revised Code is guilty of a misdemeanor 471
of the second degree. 472

(K) Except as prescribed in division (L) of this section, 473
whoever violates any provision of section 3737.08, 3737.09, 474
3737.10, or 3737.12 of the Revised Code, or any rule adopted by 475
the tax commissioner under section 3737.06, 3737.09, or 3737.10 476
of the Revised Code, is guilty of a misdemeanor of the first 477
degree on a first offense; on each subsequent offense, the 478
person is guilty of a felony of the fourth degree. 479

(L) Whoever violates section 3737.09 of the Revised Code 480
by failing to remit to the state fees collected under section 481
3737.05 of the Revised Code is guilty of a felony of the fourth 482
degree and shall suffer the loss of the person's vendor's 483
license issued under section 5739.17 of the Revised Code. A 484
person shall not be eligible for a vendor's license for two 485
years following conviction or the plea of guilty. 486

Sec. 3743.04. (A) The license of a manufacturer of 487
fireworks is effective for one year beginning on the first day 488
of December. The state fire marshal shall issue or renew a 489
license only on that date and at no other time. If a 490
manufacturer of fireworks wishes to continue manufacturing 491
fireworks at the designated fireworks plant after its then 492
effective license expires, it shall apply no later than the 493
first day of October for a new license pursuant to section 494

3743.02 of the Revised Code. The state fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the state fire marshal in writing. The state fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if the state fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the state fire marshal, the state fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code. The state fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks if the state fire marshal determines, upon the inspection and a review of

submitted documentation, that the construction, location, 526
relocation, structural change or renovation, or change in 527
manufacturing of fireworks conforms to those sections and rules. 528
Upon authorizing a change in manufacturing of fireworks to 529
include the processing of fireworks, the state fire marshal 530
shall make notations on the manufacturer's license and in the 531
list of licensed manufacturers in accordance with section 532
3743.03 of the Revised Code. 533

On or before June 1, 1998, a licensed manufacturer shall 534
install, in every licensed building in which fireworks are 535
manufactured, stored, or displayed and to which the public has 536
access, interlinked fire detection, smoke exhaust, and smoke 537
evacuation systems that are approved by the superintendent of 538
industrial compliance, and shall comply with floor plans showing 539
occupancy load limits and internal circulation and egress 540
patterns that are approved by the state fire marshal and 541
superintendent, and that are submitted under seal as required by 542
section 3791.04 of the Revised Code. Notwithstanding section 543
3743.59 of the Revised Code, the construction and safety 544
requirements established in this division are not subject to any 545
variance, waiver, or exclusion. 546

(C) The license of a manufacturer of fireworks authorizes 547
the manufacturer to engage only in the following activities: 548

(1) The manufacturing of fireworks on the premises of the 549
fireworks plant as described in the application for licensure or 550
in the notification submitted under division (B) of this 551
section, except that a licensed manufacturer shall not engage in 552
the processing of fireworks unless authorized to do so by its 553
license. 554

(2) To possess for sale at wholesale and sell at wholesale 555

the fireworks manufactured by the manufacturer, to persons who 556
are licensed wholesalers of fireworks, to ~~out-of-state residents-~~ 557
~~persons~~ in accordance with ~~section-sections~~ 3743.44 of the 558
~~Revised Code, to residents of this state in accordance with-~~ 559
~~section 3743.45 to 3743.46~~ of the Revised Code, or to persons 560
located in another state provided the fireworks are shipped 561
directly out of this state to them by the manufacturer. A person 562
who is licensed as a manufacturer of fireworks on June 14, 1988, 563
also may possess for sale and sell pursuant to division (C) (2) 564
of this section fireworks other than those the person 565
manufactures. The possession for sale shall be on the premises 566
of the fireworks plant described in the application for 567
licensure or in the notification submitted under division (B) of 568
this section, and the sale shall be from the inside of a 569
licensed building and from no other structure or device outside 570
a licensed building. At no time shall a licensed manufacturer 571
sell any class of fireworks outside a licensed building. 572

(3) Possess for sale at retail and sell at retail the 573
fireworks manufactured by the manufacturer, other than 1.4G 574
fireworks as designated by the state fire marshal in rules 575
adopted pursuant to division (A) of section 3743.05 of the 576
Revised Code, to licensed exhibitors in accordance with sections 577
3743.50 to 3743.55 of the Revised Code, and possess for sale at 578
retail and sell at retail the fireworks manufactured by the 579
manufacturer, including 1.4G fireworks, to ~~out-of-state-~~ 580
~~residents persons~~ in accordance with ~~section-sections~~ 3743.44 of 581
~~the Revised Code, to residents of this state in accordance with-~~ 582
~~section 3743.45 to 3743.46~~ of the Revised Code, or to persons 583
located in another state provided the fireworks are shipped 584
directly out of this state to them by the manufacturer. A person 585
who is licensed as a manufacturer of fireworks on June 14, 1988, 586

may also possess for sale and sell pursuant to division (C) (3) 587
of this section fireworks other than those the person 588
manufactures. The possession for sale shall be on the premises 589
of the fireworks plant described in the application for 590
licensure or in the notification submitted under division (B) of 591
this section, and the sale shall be from the inside of a 592
licensed building and from no other structure or device outside 593
a licensed building. At no time shall a licensed manufacturer 594
sell any class of fireworks outside a licensed building. 595

A licensed manufacturer of fireworks shall sell under 596
division (C) of this section only fireworks that meet the 597
standards set by the consumer product safety commission or by 598
the American fireworks standard laboratories or that have 599
received an EX number from the United States department of 600
transportation. 601

(D) The license of a manufacturer of fireworks shall be 602
protected under glass and posted in a conspicuous place on the 603
premises of the fireworks plant. Except as otherwise provided in 604
this division, the license is not transferable or assignable. A 605
license may be transferred to another person for the same 606
fireworks plant for which the license was issued if the assets 607
of the plant are transferred to that person by inheritance or by 608
a sale approved by the state fire marshal. The license is 609
subject to revocation in accordance with section 3743.08 of the 610
Revised Code. 611

(E) The state fire marshal shall not place the license of 612
a manufacturer of fireworks in a temporarily inactive status 613
while the holder of the license is attempting to qualify to 614
retain the license. 615

(F) Each licensed manufacturer of fireworks that possesses 616

fireworks for sale and sells fireworks under division (C) of 617
section 3743.04 of the Revised Code, or a designee of the 618
manufacturer, whose identity is provided to the state fire 619
marshal by the manufacturer, annually shall attend a continuing 620
education program. The state fire marshal shall develop the 621
program and the state fire marshal or a person or public agency 622
approved by the state fire marshal shall conduct it. A licensed 623
manufacturer or the manufacturer's designee who attends a 624
program as required under this division, within one year after 625
attending the program, shall conduct in-service training as 626
approved by the state fire marshal for other employees of the 627
licensed manufacturer regarding the information obtained in the 628
program. A licensed manufacturer shall provide the state fire 629
marshal with notice of the date, time, and place of all in- 630
service training. For any program conducted under this division, 631
the state fire marshal shall, in accordance with rules adopted 632
by the state fire marshal under Chapter 119. of the Revised 633
Code, establish the subjects to be taught, the length of 634
classes, the standards for approval, and time periods for 635
notification by the licensee to the state fire marshal of any 636
in-service training. 637

(G) A licensed manufacturer shall maintain comprehensive 638
general liability insurance coverage in the amount and type 639
specified under division (B) (2) of section 3743.02 of the 640
Revised Code at all times. Each policy of insurance required 641
under this division shall contain a provision requiring the 642
insurer to give not less than fifteen days' prior written notice 643
to the state fire marshal before termination, lapse, or 644
cancellation of the policy, or any change in the policy that 645
reduces the coverage below the minimum required under this 646
division. Prior to canceling or reducing the amount of coverage 647

of any comprehensive general liability insurance coverage 648
required under this division, a licensed manufacturer shall 649
secure supplemental insurance in an amount and type that 650
satisfies the requirements of this division so that no lapse in 651
coverage occurs at any time. A licensed manufacturer who secures 652
supplemental insurance shall file evidence of the supplemental 653
insurance with the state fire marshal prior to canceling or 654
reducing the amount of coverage of any comprehensive general 655
liability insurance coverage required under this division. 656

(H) The state fire marshal shall adopt rules for the 657
expansion or contraction of a licensed premises and for approval 658
of such expansions or contractions. The boundaries of a licensed 659
premises, including any geographic expansion or contraction of 660
those boundaries, shall be approved by the state fire marshal in 661
accordance with rules the state fire marshal adopts. If the 662
licensed premises consists of more than one parcel of real 663
estate, those parcels shall be contiguous unless an exception is 664
allowed pursuant to division (I) of this section. 665

(I) (1) A licensed manufacturer may expand its licensed 666
premises within this state to include not more than two storage 667
locations that are located upon one or more real estate parcels 668
that are noncontiguous to the licensed premises as that licensed 669
premises exists on the date a licensee submits an application as 670
described below, if all of the following apply: 671

(a) The licensee submits an application to the state fire 672
marshal and an application fee of one hundred dollars per 673
storage location for which the licensee is requesting approval. 674

(b) The identity of the holder of the license remains the 675
same at the storage location. 676

(c) The storage location has received a valid certificate 677
of zoning compliance as applicable and a valid certificate of 678
occupancy for each building or structure at the storage location 679
issued by the authority having jurisdiction to issue the 680
certificate for the storage location, and those certificates 681
permit the distribution and storage of fireworks regulated under 682
this chapter at the storage location and in the buildings or 683
structures. The storage location shall be in compliance with all 684
other applicable federal, state, and local laws and regulations. 685

(d) Every building or structure located upon the storage 686
location is separated from occupied residential and 687
nonresidential buildings or structures, railroads, highways, or 688
any other buildings or structures on the licensed premises in 689
accordance with the distances specified in the rules adopted by 690
the state fire marshal pursuant to section 3743.05 of the 691
Revised Code. 692

(e) Neither the licensee nor any person holding, owning, 693
or controlling a five per cent or greater beneficial or equity 694
interest in the licensee has been convicted of or pleaded guilty 695
to a felony under the laws of this state, any other state, or 696
the United States, after September 29, 2005. 697

(f) The state fire marshal approves the application for 698
expansion. 699

(2) The state fire marshal shall approve an application 700
for expansion requested under division (I) (1) of this section if 701
the state fire marshal receives the application fee and proof 702
that the requirements of divisions (I) (1) (b) to (e) of this 703
section are satisfied. The storage location shall be considered 704
part of the original licensed premises and shall use the same 705
distinct number assigned to the original licensed premises with 706

any additional designations as the state fire marshal deems 707
necessary in accordance with section 3743.03 of the Revised 708
Code. 709

(J) (1) A licensee who obtains approval for the use of a 710
storage location in accordance with division (I) of this section 711
shall use the storage location exclusively for the following 712
activities, in accordance with division (C) of this section: 713

(a) The packaging, assembling, or storing of fireworks, 714
which shall only occur in buildings or structures approved for 715
such hazardous uses by the building code official having 716
jurisdiction for the storage location or, for 1.4G fireworks, in 717
containers or trailers approved for such hazardous uses by the 718
state fire marshal if such containers or trailers are not 719
subject to regulation by the building code adopted in accordance 720
with Chapter 3781. of the Revised Code. All such storage shall 721
be in accordance with the rules adopted by the state fire 722
marshal under division (G) of section 3743.05 of the Revised 723
Code for the packaging, assembling, and storage of fireworks. 724

(b) Distributing fireworks to other parcels of real estate 725
located on the manufacturer's licensed premises, to licensed 726
wholesalers or other licensed manufacturers in this state or to 727
similarly licensed persons located in another state or country; 728

(c) Distributing fireworks to a licensed exhibitor of 729
fireworks pursuant to a properly issued permit in accordance 730
with section 3743.54 of the Revised Code. 731

(2) A licensed manufacturer shall not engage in any sales 732
activity, including the retail sale of fireworks otherwise 733
permitted under division (C) (2) or (C) (3) of this section, or 734
pursuant to section 3743.44 or 3743.45 of the Revised Code, at 735

the storage location approved under this section. 736

(3) A storage location may not be relocated for a minimum 737
period of five years after the storage location is approved by 738
the state fire marshal in accordance with division (I) of this 739
section. 740

(K) The licensee shall prohibit public access to the 741
storage location. The state fire marshal shall adopt rules to 742
describe the acceptable measures a manufacturer shall use to 743
prohibit access to the storage site. 744

Sec. 3743.17. (A) The license of a wholesaler of fireworks 745
is effective for one year beginning on the first day of 746
December. The state fire marshal shall issue or renew a license 747
only on that date and at no other time. If a wholesaler of 748
fireworks wishes to continue engaging in the wholesale sale of 749
fireworks at the particular location after its then effective 750
license expires, it shall apply not later than the first day of 751
October for a new license pursuant to section 3743.15 of the 752
Revised Code. The state fire marshal shall send a written notice 753
of the expiration of its license to a licensed wholesaler at 754
least three months before the expiration date. 755

(B) If, during the effective period of its licensure, a 756
licensed wholesaler of fireworks wishes to perform any 757
construction, or make any structural change or renovation, on 758
the premises on which the fireworks are sold, the wholesaler 759
shall notify the state fire marshal in writing. The state fire 760
marshal may require a licensed wholesaler also to submit 761
documentation, including, but not limited to, plans covering the 762
proposed construction or structural change or renovation, if the 763
state fire marshal determines the documentation is necessary for 764
evaluation purposes in light of the proposed construction or 765

structural change or renovation. 766

Upon receipt of the notification and additional 767
documentation required by the state fire marshal, the state fire 768
marshal shall inspect the premises on which the fireworks are 769
sold to determine if the proposed construction or structural 770
change or renovation conforms to sections 3743.15 to 3743.21 of 771
the Revised Code and the rules adopted by the state fire marshal 772
pursuant to section 3743.18 of the Revised Code. The state fire 773
marshal shall issue a written authorization to the wholesaler 774
for the construction or structural change or renovation if the 775
state fire marshal determines, upon the inspection and a review 776
of submitted documentation, that the construction or structural 777
change or renovation conforms to those sections and rules. 778

(C) The license of a wholesaler of fireworks authorizes 779
the wholesaler to engage only in the following activities: 780

(1) Possess for sale at wholesale and sell at wholesale 781
fireworks to persons who are licensed wholesalers of fireworks, 782
to ~~out-of-state residents persons~~ in accordance with ~~section-~~ 783
~~sections~~ 3743.44 ~~of the Revised Code, to residents of this state-~~ 784
~~in accordance with section 3743.45 to 3743.46~~ of the Revised 785
Code, or to persons located in another state provided the 786
fireworks are shipped directly out of this state to them by the 787
wholesaler. The possession for sale shall be at the location 788
described in the application for licensure or in the 789
notification submitted under division (B) of this section, and 790
the sale shall be from the inside of a licensed building and 791
from no structure or device outside a licensed building. At no 792
time shall a licensed wholesaler sell any class of fireworks 793
outside a licensed building. 794

(2) Possess for sale at retail and sell at retail 795

fireworks, other than 1.4G fireworks as designated by the state 796
fire marshal in rules adopted pursuant to division (A) of 797
section 3743.05 of the Revised Code, to licensed exhibitors in 798
accordance with sections 3743.50 to 3743.55 of the Revised Code, 799
and possess for sale at retail and sell at retail fireworks, 800
including 1.4G fireworks, to ~~out of state residents~~ persons in 801
accordance with ~~section sections~~ 3743.44 ~~of the Revised Code, to~~ 802
~~residents of this state in accordance with section 3743.45 to~~ 803
3743.46 of the Revised Code, or to persons located in another 804
state provided the fireworks are shipped directly out of this 805
state to them by the wholesaler. The possession for sale shall 806
be at the location described in the application for licensure or 807
in the notification submitted under division (B) of this 808
section, and the sale shall be from the inside of the licensed 809
building and from no other structure or device outside this 810
licensed building. At no time shall a licensed wholesaler sell 811
any class of fireworks outside a licensed building. 812

A licensed wholesaler of fireworks shall sell under 813
division (C) of this section only fireworks that meet the 814
standards set by the consumer product safety commission or by 815
the American fireworks standard laboratories or that have 816
received an EX number from the United States department of 817
transportation. 818

(D) The license of a wholesaler of fireworks shall be 819
protected under glass and posted in a conspicuous place at the 820
location described in the application for licensure or in the 821
notification submitted under division (B) of this section. 822
Except as otherwise provided in this section, the license is not 823
transferable or assignable. A license may be transferred to 824
another person for the same location for which the license was 825
issued if the assets of the wholesaler are transferred to that 826

person by inheritance or by a sale approved by the state fire 827
marshal. The license is subject to revocation in accordance with 828
section 3743.21 of the Revised Code. 829

(E) The state fire marshal shall adopt rules for the 830
expansion or contraction of a licensed premises and for the 831
approval of an expansion or contraction. The boundaries of a 832
licensed premises, including any geographic expansion or 833
contraction of those boundaries, shall be approved by the state 834
fire marshal in accordance with rules the state fire marshal 835
adopts. If the licensed premises of a licensed wholesaler from 836
which the wholesaler operates consists of more than one parcel 837
of real estate, those parcels must be contiguous, unless an 838
exception is allowed pursuant to division (G) of this section. 839

(F) (1) Upon application by a licensed wholesaler of 840
fireworks, a wholesaler license may be transferred from one 841
geographic location to another within the same municipal 842
corporation or within the unincorporated area of the same 843
township, ~~but only~~ if all of the following apply: 844

(a) The identity of the holder of the license remains the 845
same in the new location. 846

(b) The former location is closed prior to the opening of 847
the new location and no fireworks business of any kind is 848
conducted at the former location after the transfer of the 849
license. 850

(c) The new location has received a local certificate of 851
zoning compliance and a local certificate of occupancy, and 852
otherwise is in compliance with all local building regulations. 853

(d) Every building or structure at the new location is 854
separated from occupied residential and nonresidential buildings 855

or structures, railroads, highways, or any other buildings or 856
structures located on the licensed premises in accordance with 857
the distances specified in the rules adopted by the state fire 858
marshal pursuant to section 3743.18 of the Revised Code. If the 859
licensee fails to comply with the requirements of division (F) 860
(1)(d) of this section by the licensee's own act, the license at 861
the new location is forfeited. 862

(e) Neither the licensee nor any person holding, owning, 863
or controlling a five per cent or greater beneficial or equity 864
interest in the licensee has been convicted of or has pleaded 865
guilty to a felony under the laws of this state, any other 866
state, or the United States after June 30, 1997. 867

(f) The state fire marshal approves the request for the 868
transfer. 869

(2) The new location shall comply with the requirements 870
specified in divisions (C)(1) and (2) of section 3743.25 of the 871
Revised Code whether or not the fireworks showroom at the new 872
location is constructed, expanded, or first begins operating on 873
and after June 30, 1997. 874

(G)(1) A licensed wholesaler may expand its licensed 875
premises within this state to include not more than two storage 876
locations that are located upon one or more real estate parcels 877
that are noncontiguous to the licensed premises as that licensed 878
premises exists on the date a licensee submits an application as 879
described below, if all of the following apply: 880

(a) The licensee submits an application to the state fire 881
marshal requesting the expansion and an application fee of one 882
hundred dollars per storage location for which the licensee is 883
requesting approval. 884

(b) The identity of the holder of the license remains the same at the storage location. 885
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(c) The storage location has received a valid certificate of zoning compliance, as applicable, and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations. 887
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(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, and any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the state fire marshal pursuant to section 3743.18 of the Revised Code. 896
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(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after September 29, 2005. 903
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(f) The state fire marshal approves the application for expansion. 908
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(2) The state fire marshal shall approve an application for expansion requested under division (G)(1) of this section if the state fire marshal receives the application fee and proof that the requirements of divisions (G)(1)(b) to (e) of this 910
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section are satisfied. The storage location shall be considered 914
part of the original licensed premises and shall use the same 915
distinct number assigned to the original licensed premises with 916
any additional designations as the state fire marshal deems 917
necessary in accordance with section 3743.16 of the Revised 918
Code. 919

(H) (1) A licensee who obtains approval for use of a 920
storage location in accordance with division (G) of this section 921
shall use the site exclusively for the following activities, in 922
accordance with division (C) (1) of this section: 923

(a) Packaging, assembling, or storing fireworks, which 924
shall occur only in buildings or structures approved for such 925
hazardous uses by the building code official having jurisdiction 926
for the storage location or, for 1.4G fireworks, in containers 927
or trailers approved for such hazardous uses by the state fire 928
marshal if such containers or trailers are not subject to 929
regulation by the building code adopted in accordance with 930
Chapter 3781. of the Revised Code. All such storage shall be in 931
accordance with the rules adopted by the state fire marshal 932
under division (B) (4) of section 3743.18 of the Revised Code for 933
the packaging, assembling, and storage of fireworks. 934

(b) Distributing fireworks to other parcels of real estate 935
located on the wholesaler's licensed premises, to licensed 936
manufacturers or other licensed wholesalers in this state or to 937
similarly licensed persons located in another state or country; 938

(c) Distributing fireworks to a licensed exhibitor of 939
fireworks pursuant to a properly issued permit in accordance 940
with section 3743.54 of the Revised Code. 941

(2) A licensed wholesaler shall not engage in any sales 942

activity, including the retail sale of fireworks otherwise 943
permitted under division (C) (2) of this section or pursuant to 944
section 3743.44 or 3743.45 of the Revised Code, at a storage 945
location approved under this section. 946

(3) A storage location may not be relocated for a minimum 947
period of five years after the storage location is approved by 948
the state fire marshal in accordance with division (G) of this 949
section. 950

(I) A licensee shall prohibit public access to all storage 951
locations it uses. The state fire marshal shall adopt rules 952
establishing acceptable measures a wholesaler shall use to 953
prohibit access to storage sites. 954

(J) The state fire marshal shall not place the license of 955
a wholesaler of fireworks in temporarily inactive status while 956
the holder of the license is attempting to qualify to retain the 957
license. 958

(K) Each licensed wholesaler of fireworks or a designee of 959
the wholesaler, whose identity is provided to the state fire 960
marshal by the wholesaler, annually shall attend a continuing 961
education program. The state fire marshal shall develop the 962
program and the state fire marshal or a person or public agency 963
approved by the state fire marshal shall conduct it. A licensed 964
wholesaler or the wholesaler's designee who attends a program as 965
required under this division, within one year after attending 966
the program, shall conduct in-service training as approved by 967
the state fire marshal for other employees of the licensed 968
wholesaler regarding the information obtained in the program. A 969
licensed wholesaler shall provide the state fire marshal with 970
notice of the date, time, and place of all in-service training. 971
For any program conducted under this division, the state fire 972

marshal shall, in accordance with rules adopted by the state 973
fire marshal under Chapter 119. of the Revised Code, establish 974
the subjects to be taught, the length of classes, the standards 975
for approval, and time periods for notification by the licensee 976
to the state fire marshal of any in-service training. 977

(L) A licensed wholesaler shall maintain comprehensive 978
general liability insurance coverage in the amount and type 979
specified under division (B) (2) of section 3743.15 of the 980
Revised Code at all times. Each policy of insurance required 981
under this division shall contain a provision requiring the 982
insurer to give not less than fifteen days' prior written notice 983
to the state fire marshal before termination, lapse, or 984
cancellation of the policy, or any change in the policy that 985
reduces the coverage below the minimum required under this 986
division. Prior to canceling or reducing the amount of coverage 987
of any comprehensive general liability insurance coverage 988
required under this division, a licensed wholesaler shall secure 989
supplemental insurance in an amount and type that satisfies the 990
requirements of this division so that no lapse in coverage 991
occurs at any time. A licensed wholesaler who secures 992
supplemental insurance shall file evidence of the supplemental 993
insurance with the state fire marshal prior to canceling or 994
reducing the amount of coverage of any comprehensive general 995
liability insurance coverage required under this division. 996

Sec. 3743.44. (A) Any person who ~~resides in another state~~ 997
~~and who~~ intends to obtain possession in this state of 1.3G 998
fireworks purchased in this state shall obtain possession of the 999
1.3G fireworks only from a licensed manufacturer or licensed 1000
~~wholesaler and only possess the fireworks in this state while in~~ 1001
~~the course of directly transporting them out of this state.~~ 1002

No licensed manufacturer or licensed wholesaler shall sell 1003
1.3G fireworks to a person ~~who resides in another state unless~~ 1004
that person has been issued a license or permit in the state of 1005
the person's residence that authorizes the person to engage in 1006
the manufacture, wholesale sale, or retail sale of 1.3G 1007
fireworks or that authorizes the person to conduct 1.3G 1008
fireworks exhibitions in that state and that person presents a 1009
certified copy of the license. 1010

~~No licensed manufacturer or licensed wholesaler shall sell~~ 1011
~~fireworks to a person who resides in another state unless that~~ 1012
~~person has been issued a license or permit in the state of the~~ 1013
~~person's residence that authorizes the person to engage in the~~ 1014
~~manufacture, wholesale sale, or retail sale of fireworks in that~~ 1015
~~state or that authorizes the person to conduct fireworks~~ 1016
~~exhibitions in that state and that person presents a certified~~ 1017
~~copy of the license, or, if that person does not possess a~~ 1018
~~license or permit of that nature, only if the person presents a~~ 1019
~~current valid motor vehicle operator's license issued to the~~ 1020
~~person in the person's state of residence, or, if that person~~ 1021
~~does not possess a motor vehicle operator's license issued in~~ 1022
~~that state, an identification card issued to the person by a~~ 1023
~~governmental agency in the person's state of residence~~ 1024
~~indicating that the person is a resident of that state. If a~~ 1025
~~person who is required to present a motor vehicle operator's~~ 1026
~~license or other identification card intends to transport the~~ 1027
~~fireworks purchased directly out of this state by a motor~~ 1028
~~vehicle and the person will not also be the operator of that~~ 1029
~~motor vehicle while so transporting the fireworks, the operator~~ 1030
~~of the motor vehicle also shall present the operator's motor~~ 1031
~~vehicle operator's license.~~ 1032

(B) Each purchaser of person who resides in another state 1033

who purchases fireworks under this section shall transport the 1034
fireworks so purchased directly out of this state within forty- 1035
eight hours after the time of their purchase. 1036

~~This section regulates wholesale sales and retail sales of~~ 1037
~~fireworks in this state only insofar as purchasers of fireworks~~ 1038
~~are residents of other states and will be obtaining possession~~ 1039
~~in this state of purchased fireworks.~~ (C) This section does not 1040
prohibit licensed manufacturers or wholesalers from selling 1041
fireworks, in accordance with section 3743.04 or sections 1042
3743.17 and 3743.25 of the Revised Code, to a resident of 1043
another state and from shipping the purchased fireworks directly 1044
out of this state to the purchaser. 1045

Sec. 3743.45. (A) Any person who ~~resides in this state and~~ 1046
~~who~~ intends to obtain possession in this state of 1.4G fireworks 1047
purchased in this state shall obtain possession of the 1.4G 1048
fireworks only from a licensed manufacturer or licensed 1049
wholesaler and shall be subject to this section. 1050

~~Each purchaser of 1.4G fireworks under this division shall~~ 1051
~~transport the fireworks so purchased directly out of this state~~ 1052
~~within forty eight hours after the time of their purchase.~~ 1053

This division does not apply to a person ~~who resides in~~ 1054
~~this state and~~ who is also a licensed manufacturer, licensed 1055
wholesaler, or licensed exhibitor of fireworks in this state. 1056

(B) ~~No licensed manufacturer or licensed wholesaler shall~~ 1057
~~sell 1.3G fireworks to a person who resides in this state unless~~ 1058
~~that person is a licensed manufacturer, licensed wholesaler, or~~ 1059
~~licensed exhibitor of fireworks in this state~~ A licensed 1060
manufacturer or licensed wholesaler selling 1.4G fireworks under 1061
this division shall have safety glasses available for a nominal 1062

charge or free at the site of the 1.4G fireworks purchase. 1063

(C) Any person authorized under this section to possess 1064
1.4G fireworks in this state may discharge, ignite, or explode 1065
those fireworks in either of the following locations in this 1066
state: 1067

(1) On the property of the purchaser; 1068

(2) On the property of another person who has given 1069
permission to the purchaser. 1070

(D) Fireworks discharged, ignited, or exploded pursuant to 1071
this section shall not be considered a public exhibition. 1072

(E) A county, with respect to the unincorporated territory 1073
of the county, a township, with respect to the unincorporated 1074
territory of the township, or a municipal corporation may do 1075
either of the following: 1076

(1) Restrict the dates and times a person may discharge, 1077
ignite, or explode fireworks purchased pursuant to this section; 1078

(2) Ban the discharge, ignition, or explosion of fireworks 1079
purchased pursuant to this section. 1080

A resolution adopted by a board of township trustees under 1081
this division prevails over a conflicting resolution adopted 1082
under this division by the board of county commissioners in the 1083
county within which the township is located. 1084

(F) This section does not limit the enforcement of any 1085
ordinance, resolution, or statute that regulates noise, 1086
disturbance of the peace, or disorderly conduct. 1087

Sec. 3743.46. (A) Except as otherwise provided in section 1088
3743.44 or 3743.45 of the Revised Code, no licensed manufacturer 1089

or licensed wholesaler shall sell fireworks to a person who 1090
resides in another state unless one of the following applies: 1091

(1) The person has been issued a license or permit in the 1092
state of the person's residence that authorizes the person to 1093
engage in the manufacture, wholesale sale, or retail sale of 1094
fireworks in that state or that authorizes the person to conduct 1095
fireworks exhibitions in that state and that person presents a 1096
certified copy of the license. 1097

(2) If the person does not possess a license or permit 1098
described in division (A)(1) of this section, the person 1099
presents a current valid motor vehicle operator's license issued 1100
to the person in the person's state of residence. 1101

(3) If the person does not possess a license or permit 1102
issued in that state as described in division (A)(1) or (2) of 1103
this section, the person presents an identification card issued 1104
to the person by a governmental agency in the person's state of 1105
residence indicating that the person is a resident of that 1106
state. 1107

(B) If a person who is required to present a motor vehicle 1108
operator's license or other identification card intends to 1109
transport the fireworks purchased directly out of this state by 1110
a motor vehicle and the person will not also be the operator of 1111
that motor vehicle while so transporting the fireworks, the 1112
operator of the motor vehicle also shall present the operator's 1113
motor vehicle operator's license. 1114

Sec. 3743.47. (A) The state fire marshal shall prepare a 1115
pamphlet that explains how to use 1.4G fireworks safely. The 1116
state fire marshal shall distribute the pamphlet to all licensed 1117
wholesalers and licensed manufacturers who sell 1.4G fireworks. 1118

(B) A licensed manufacturer or licensed wholesaler shall 1119
furnish a copy of the pamphlet prepared pursuant to division (A) 1120
of this section to each purchaser of 1.4G fireworks. 1121

This division does not apply when a purchaser is a 1122
licensed manufacturer, licensed wholesaler, or licensed 1123
exhibitor of fireworks in this state. 1124

Sec. 3743.591. (A) Not later than January 1, 2021, the 1125
state fire marshal shall adopt rules, in consultation with the 1126
fireworks industry and other interested parties, that allow a 1127
licensed manufacturer or licensed wholesaler of fireworks a 1128
period of not less than two years to transfer the manufacturer's 1129
or wholesaler's license from one geographic location to another. 1130

(B) Upon application by a licensed manufacturer or 1131
licensed wholesaler of fireworks to the state fire marshal, a 1132
manufacturer license or wholesaler license may be transferred 1133
from one geographic location to another if the state fire 1134
marshal determines that the licensed wholesaler or licensed 1135
manufacturer has complied with the rules adopted by the state 1136
fire marshal under division (A) of this section. 1137

(C) A wholesaler license may be transferred from one 1138
geographic location to another if the licensed wholesaler 1139
satisfies the requirements specified in division (F) of section 1140
3743.17 of the Revised Code or the rules adopted under division 1141
(A) of this section. 1142

Sec. 3743.60. (A) No person shall manufacture fireworks in 1143
this state unless it is a licensed manufacturer of fireworks, 1144
and no person shall operate a fireworks plant in this state 1145
unless it has been issued a license as a manufacturer of 1146
fireworks for the particular fireworks plant. 1147

(B) No person shall operate a fireworks plant in this 1148
state after its license as a manufacturer of fireworks for the 1149
particular fireworks plant has expired, been denied renewal, or 1150
been revoked, unless a new license has been obtained. 1151

(C) No licensed manufacturer of fireworks, during the 1152
effective period of its licensure, shall construct, locate, or 1153
relocate any buildings or other structures on the premises of 1154
its fireworks plant, make any structural change or renovation in 1155
any building or other structure on the premises of its fireworks 1156
plant, or change the nature of its manufacturing of fireworks so 1157
as to include the processing of fireworks without first 1158
obtaining a written authorization from the state fire marshal 1159
pursuant to division (B) of section 3743.04 of the Revised Code. 1160

(D) No licensed manufacturer of fireworks shall 1161
manufacture fireworks, possess fireworks for sale at wholesale 1162
or retail, or sell fireworks at wholesale or retail, in a manner 1163
not authorized by division (C) of section 3743.04 of the Revised 1164
Code. 1165

(E) No licensed manufacturer of fireworks shall knowingly 1166
fail to comply with the rules adopted by the state fire marshal 1167
pursuant to section 3743.05 of the Revised Code or the 1168
requirements of section 3743.06 of the Revised Code. 1169

(F) No licensed manufacturer of fireworks shall fail to 1170
maintain complete inventory, wholesale sale, and retail records 1171
as required by section 3743.07 of the Revised Code, or to permit 1172
inspection of these records or the premises of a fireworks plant 1173
pursuant to section 3743.08 of the Revised Code. 1174

(G) No licensed manufacturer of fireworks shall fail to 1175
comply with an order of the state fire marshal issued pursuant 1176

to division (B) (1) of section 3743.08 of the Revised Code, 1177
within the specified period of time. 1178

(H) No licensed manufacturer of fireworks shall fail to 1179
comply with an order of the state fire marshal issued pursuant 1180
to division (B) (2) of section 3743.08 of the Revised Code until 1181
the nonconformities are eliminated, corrected, or otherwise 1182
remedied or the seventy-two hour period specified in that 1183
division has expired, whichever first occurs. 1184

(I) No person shall smoke or shall carry a pipe, 1185
cigarette, or cigar, or a match, lighter, other flame-producing 1186
item, or open flame on, or shall carry a concealed source of 1187
ignition into, the premises of a fireworks plant, except as 1188
smoking is authorized in specified lunchrooms or restrooms by a 1189
manufacturer pursuant to division (C) of section 3743.06 of the 1190
Revised Code. 1191

(J) No person shall have possession or control of, or be 1192
under the influence of, any intoxicating liquor, beer, or 1193
controlled substance, while on the premises of a fireworks 1194
plant. 1195

(K) No licensed manufacturer of fireworks shall fail to 1196
furnish a safety pamphlet to a purchaser of 1.4G fireworks as 1197
required by division (B) of section 3743.47 of the Revised Code. 1198

(L) No licensed manufacturer of fireworks shall fail to 1199
have safety glasses available for sale as required by division 1200
(B) of section 3743.45 of the Revised Code. 1201

Sec. 3743.61. (A) No person, except a licensed 1202
manufacturer of fireworks engaging in the wholesale sale of 1203
fireworks as authorized by division (C) (2) of section 3743.04 of 1204
the Revised Code, shall operate as a wholesaler of fireworks in 1205

this state unless it is a licensed wholesaler of fireworks, or 1206
shall operate as a wholesaler of fireworks at any location in 1207
this state unless it has been issued a license as a wholesaler 1208
of fireworks for the particular location. 1209

(B) No person shall operate as a wholesaler of fireworks 1210
at a particular location in this state after its license as a 1211
wholesaler of fireworks for the particular location has expired, 1212
been denied renewal, or been revoked, unless a new license has 1213
been obtained. 1214

(C) No licensed wholesaler of fireworks, during the 1215
effective period of its licensure, shall perform any 1216
construction, or make any structural change or renovation, on 1217
the premises on which the fireworks are sold without first 1218
obtaining a written authorization from the state fire marshal 1219
pursuant to division (B) of section 3743.17 of the Revised Code. 1220

(D) No licensed wholesaler of fireworks shall possess 1221
fireworks for sale at wholesale or retail, or sell fireworks at 1222
wholesale or retail, in a manner not authorized by division (C) 1223
of section 3743.17 of the Revised Code. 1224

(E) No licensed wholesaler of fireworks shall knowingly 1225
fail to comply with the rules adopted by the state fire marshal 1226
pursuant to section 3743.18 or the requirements of section 1227
3743.19 of the Revised Code. 1228

(F) No licensed wholesaler of fireworks shall fail to 1229
maintain complete inventory, wholesale sale, and retail records 1230
as required by section 3743.20 of the Revised Code, or to permit 1231
inspection of these records or the premises of the wholesaler 1232
pursuant to section 3743.21 of the Revised Code. 1233

(G) No licensed wholesaler of fireworks shall fail to 1234

comply with an order of the state fire marshal issued pursuant 1235
to division (B) (1) of section 3743.21 of the Revised Code, 1236
within the specified period of time. 1237

(H) No licensed wholesaler of fireworks shall fail to 1238
comply with an order of the state fire marshal issued pursuant 1239
to division (B) (2) of section 3743.21 of the Revised Code until 1240
the nonconformities are eliminated, corrected, or otherwise 1241
remedied or the seventy-two hour period specified in that 1242
division has expired, whichever first occurs. 1243

(I) No person shall smoke or shall carry a pipe, 1244
cigarette, or cigar, or a match, lighter, other flame-producing 1245
item, or open flame on, or shall carry a concealed source of 1246
ignition into, the premises of a wholesaler of fireworks, except 1247
as smoking is authorized in specified lunchrooms or restrooms by 1248
a wholesaler pursuant to division (D) of section 3743.19 of the 1249
Revised Code. 1250

(J) No person shall have possession or control of, or be 1251
under the influence of, any intoxicating liquor, beer, or 1252
controlled substance, while on the premises of a wholesaler of 1253
fireworks. 1254

(K) No licensed wholesaler of fireworks shall fail to 1255
furnish a safety pamphlet to a purchaser of 1.4G fireworks as 1256
required by division (B) of section 3743.47 of the Revised Code. 1257

(L) No licensed wholesaler of fireworks shall fail to have 1258
safety glasses available for sale as required by division (B) of 1259
section 3743.45 of the Revised Code. 1260

Sec. 3743.63. (A) No person who ~~resides in another state~~ 1261
~~and~~ purchases fireworks in this state shall obtain possession of 1262
the fireworks in this state unless the person complies with 1263

~~section sections 3743.44 to 3743.46~~ of the Revised Code. 1264

(B) ~~No~~ Except for the purchase of 1.4G fireworks made
under section 3743.45 of the Revised Code, no person who resides 1265
in another state and who purchases fireworks in this state shall 1266
obtain possession of fireworks in this state other than from a 1267
licensed manufacturer or wholesaler, or fail, when transporting 1268
1.3G fireworks, to transport them directly out of this state 1269
within seventy-two hours after the time of their purchase. ~~No~~ 1270
~~such person shall give or sell to any other person in this state~~ 1271
~~fireworks that the person has acquired in this state.~~ 1272
1273

(C) ~~No person who resides in this state and purchases~~ 1274
~~fireworks in this state shall obtain possession of the fireworks~~ 1275
~~in this state unless the person complies with section 3743.45 of~~ 1276
~~the Revised Code.~~ 1277

(D) ~~No person who resides in this state and who purchases~~ 1278
~~fireworks in this state under section 3743.45 of the Revised~~ 1279
~~Code shall obtain possession of fireworks in this state other~~ 1280
~~than from a licensed manufacturer or licensed wholesaler, or~~ 1281
~~fail, when transporting the fireworks, to transport them~~ 1282
~~directly out of this state within forty eight hours after the~~ 1283
~~time of their purchase. No such person shall give or sell to any~~ 1284
~~other person in this state fireworks that the person has~~ 1285
~~acquired in this state.~~ 1286

Sec. 3743.65. (A) No person shall possess fireworks in 1287
this state or shall possess for sale or sell fireworks in this 1288
state, except a licensed manufacturer of fireworks as authorized 1289
by sections 3743.02 to 3743.08 of the Revised Code, a licensed 1290
wholesaler of fireworks as authorized by sections 3743.15 to 1291
3743.21 of the Revised Code, a shipping permit holder as 1292
authorized by section 3743.40 of the Revised Code, ~~an out of~~ 1293

~~state resident a person~~ as authorized by ~~section sections~~ 1294
3743.44 of the Revised Code, ~~a resident of this state as~~ 1295
~~authorized by section 3743.45 to 3743.46~~ of the Revised Code, or 1296
a licensed exhibitor of fireworks as authorized by sections 1297
3743.50 to 3743.55 of the Revised Code, and except as provided 1298
in section 3743.80 of the Revised Code. 1299

(B) Except as provided in ~~section sections~~ 3743.45 and 1300
3743.80 of the Revised Code and except for licensed exhibitors 1301
of fireworks authorized to conduct a fireworks exhibition 1302
pursuant to sections 3743.50 to 3743.55 of the Revised Code, no 1303
person shall discharge, ignite, or explode any fireworks in this 1304
state. 1305

(C) No person shall use in a theater or public hall, what 1306
is technically known as fireworks showers, or a mixture 1307
containing potassium chlorate and sulphur. 1308

(D) No person shall sell fireworks of any kind to a person 1309
under eighteen years of age. No person under eighteen years of 1310
age shall enter a fireworks sales showroom unless that person is 1311
accompanied by a parent, legal guardian, or other responsible 1312
adult. No person under eighteen years of age shall touch or 1313
possess fireworks on a licensed premises without the consent of 1314
the licensee. A licensee may eject any person from a licensed 1315
premises that is in any way disruptive to the safe operation of 1316
the premises. 1317

(E) Except as otherwise provided in section 3743.44 of the 1318
Revised Code, no person, other than a licensed manufacturer, 1319
licensed wholesaler, licensed exhibitor, or shipping permit 1320
holder, shall possess 1.3G fireworks in this state. 1321

(F) Except as otherwise provided in division (J) of 1322

section 3743.06 and division (K) of section 3743.19 of the Revised Code, no person shall knowingly disable a fire suppression system as defined in section 3781.108 of the Revised Code on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.

(G) No person shall discharge, ignite, or explode fireworks while in possession or control of, or under the influence of, any intoxicating liquor, beer, or controlled substance.

(H) No person shall discharge, ignite, or explode fireworks on the property of another person without that person's permission to use fireworks on that property.

Sec. 3743.67. (A) A fireworks study group is hereby created to review any sections of Chapter 3743. of the Revised Code and make a recommendation to the legislature. At a minimum, the fireworks study group shall make a recommendation to the general assembly relating to all of the following:

(1) Sections 3743.02, 3743.03, 3743.04, 3743.06, 3743.15, 3743.16, 3743.17, 3743.18, and 3743.19 of the Revised Code relating to the storage of 1.3G fireworks;

(2) Section 3743.45 of the Revised Code relating to the purchase of 1.4G fireworks from licensed manufacturers or wholesalers;

(3) Section 3743.75 of the Revised Code relating to the moratorium on licenses;

(4) State fire marshal rulemaking of building code requirements for 1.3G manufacturing facilities.

(B) The fireworks study group shall meet periodically, 1351
with the first meeting not later than September 30, 2017, and 1352
shall submit their report and recommendations to the general 1353
assembly by July 1, 2019, and periodic reports as appropriate. 1354

(C) The fireworks study group shall be made up of the 1355
following individuals: 1356

(1) Four members of the general assembly; two state 1357
representatives and two senators, one each from the majority and 1358
minority parties, appointed by the speaker of the house of 1359
representatives and senate president, respectively; 1360

(2) The state fire marshal, or the state fire marshal's 1361
designee; 1362

(3) A local fire chief appointed by the state fire 1363
marshal, or appointed by the state fire marshal's designee; 1364

(4) A local police chief appointed by the attorney 1365
general, or the attorney general's designee; 1366

(5) Four members of the Ohio state pyrotechnics 1367
association, appointed by the president of the association, one 1368
of whom shall be a licensed wholesaler, one of whom shall be a 1369
licensed exhibitor, and one of whom shall be a licensed 1370
manufacturer; 1371

(6) One member of prevent blindness Ohio, or the 1372
organization's designee; 1373

(7) One member of the Ohio optometric association or the 1374
association's designee. 1375

Sec. 3743.75. (A) (1) During the period beginning on June 1376
29, 2001, and ending on ~~December 15, 2017~~ July 1, 2020, the 1377
state fire marshal shall not do ~~any~~ either of the following: 1378

~~(1)~~ (a) Issue a license as a manufacturer of fireworks 1379
under sections 3743.02 and 3743.03 of the Revised Code to a 1380
person for a particular fireworks plant unless that person 1381
possessed such a license for that fireworks plant immediately 1382
prior to June 29, 2001; 1383

~~(2)~~ (b) Issue a license as a wholesaler of fireworks under 1384
sections 3743.15 and 3743.16 of the Revised Code to a person for 1385
a particular location unless that person possessed such a 1386
license for that location immediately prior to June 29, 2001~~+~~. 1387

~~(3)~~ (2) Except as provided in division (B) of this 1388
section, during the period beginning on June 29, 2001, and 1389
ending on January 1, 2021, the state fire marshal shall not 1390
approve the geographic transfer of a license as a manufacturer 1391
or wholesaler of fireworks issued under this chapter to any 1392
location other than a location for which a license was issued 1393
under this chapter immediately prior to June 29, 2001. 1394

(B) Division (A) ~~(3)~~ (2) of this section does not apply to 1395
a transfer that the state fire marshal approves under division 1396
(F) of section 3743.17 of the Revised Code. 1397

(C) Notwithstanding section 3743.59 of the Revised Code, 1398
the prohibited activities established in ~~divisions~~ division (A) 1399
(1) ~~and~~ ~~(2)~~ of this section, geographic transfers approved 1400
pursuant to division (F) of section 3743.17 of the Revised Code, 1401
and storage locations allowed pursuant to division (I) of 1402
section 3743.04 of the Revised Code or division (G) of section 1403
3743.17 of the Revised Code are not subject to any variance, 1404
waiver, or exclusion. 1405

(D) As used in division (A) of this section: 1406

(1) "Person" includes any person or entity, in whatever 1407

form or name, that acquires possession of a manufacturer or 1408
wholesaler of fireworks license issued pursuant to this chapter 1409
by transfer of possession of a license, whether that transfer 1410
occurs by purchase, assignment, inheritance, bequest, stock 1411
transfer, or any other type of transfer, on the condition that 1412
the transfer is in accordance with division (D) of section 1413
3743.04 of the Revised Code or division (D) of section 3743.17 1414
of the Revised Code and is approved by the state fire marshal. 1415

(2) "Particular location" includes a licensed premises 1416
and, regardless of when approved, any storage location approved 1417
in accordance with section 3743.04 or 3743.17 of the Revised 1418
Code. 1419

(3) "Such a license" includes a wholesaler of fireworks 1420
license that was issued in place of a manufacturer of fireworks 1421
license that existed prior to June 29, 2001, and was requested 1422
to be canceled by the license holder pursuant to division (D) of 1423
section 3743.03 of the Revised Code. 1424

Sec. 3743.99. (A) Whoever violates division (A) or (B) of 1425
section 3743.60 or division (H) of section 3743.64 of the 1426
Revised Code is guilty of a felony of the third degree. 1427

(B) Whoever violates division (C) or (D) of section 1428
3743.60, division (A), (B), (C), or (D) of section 3743.61, or 1429
division (A) or (B) of section 3743.64 of the Revised Code is 1430
guilty of a felony of the fourth degree. 1431

(C) Whoever violates division (E), (F), (G), (H), (I), or 1432
(J) of section 3743.60, division (E), (F), (G), (H), (I), or (J) 1433
of section 3743.61, section 3743.63, division (D), (E), (F), or 1434
(G) of section 3743.64, division (A), (B), (C), (D), or (E) of 1435
section 3743.65, or section 3743.66 of the Revised Code is 1436

guilty of a misdemeanor of the first degree. If the offender 1437
previously has been convicted of or pleaded guilty to a 1438
violation of division (I) of section 3743.60 or 3743.61 of the 1439
Revised Code, a violation of either of these divisions is a 1440
felony of the fifth degree. 1441

(D) Whoever violates division (C) of section 3743.64 of 1442
the Revised Code is guilty of a misdemeanor of the first degree. 1443
In addition to any other penalties that may be imposed on a 1444
licensed exhibitor of fireworks under this division and unless 1445
the third sentence of this division applies, the person's 1446
license as an exhibitor of fireworks or as an assistant 1447
exhibitor of fireworks shall be suspended, and the person is 1448
ineligible to apply for either type of license, for a period of 1449
five years. If the violation of division (C) of section 3743.64 1450
of the Revised Code results in serious physical harm to persons 1451
or serious physical harm to property, the person's license as an 1452
exhibitor of fireworks or as an assistant exhibitor of fireworks 1453
shall be revoked, and that person is ineligible to apply for a 1454
license as or to be licensed as an exhibitor of fireworks or as 1455
an assistant exhibitor of fireworks in this state. 1456

(E) Whoever violates division (F) of section 3743.65 of 1457
the Revised Code is guilty of a felony of the fifth degree. 1458

(F) Whoever violates division (G) of section 3743.65 of 1459
the Revised Code is guilty of a misdemeanor of the first degree. 1460
Notwithstanding any other provision of law to the contrary, a 1461
person may be convicted at the same trial or proceeding of a 1462
violation of division (G) of section 3743.65 of the Revised Code 1463
and a violation of division (B) of section 2917.11 of the 1464
Revised Code that constitutes the basis of the charge of the 1465
violation of division (G) of section 3743.65 of the Revised 1466

Code. 1467

(G) Whoever violates division (K) or (L) of section 3743.60 or division (K) or (L) of section 3743.61 of the Revised Code is guilty of a misdemeanor of the second degree. 1468
1469
1470

(H) Whoever violates division (H) of section 3743.65 of the Revised Code is guilty of a minor misdemeanor. 1471
1472

Sec. 5703.052. (A) There is hereby created in the state 1473
treasury the tax refund fund, from which refunds shall be paid 1474
for taxes illegally or erroneously assessed or collected, or for 1475
any other reason overpaid, that are levied by Chapter 4301., 1476
4305., 5726., 5728., 5729., 5731., 5733., 5735., 5736., 5739., 1477
5741., 5743., 5747., 5748., 5749., 5751., or 5753. and sections 1478
3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 1479
5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for 1480
fees or wireless 9-1-1 charges illegally or erroneously assessed 1481
or collected, or for any other reason overpaid, that are levied 1482
by sections 128.42~~or~~, 3734.90 to 3734.9014, or 3737.04 to 1483
3737.12 of the Revised Code also shall be paid from the fund. 1484
Refunds for amounts illegally or erroneously assessed or 1485
collected by the tax commissioner, or for any other reason 1486
overpaid, that are due under section 1509.50 of the Revised Code 1487
shall be paid from the fund. However, refunds for taxes levied 1488
under section 5739.101 of the Revised Code shall not be paid 1489
from the tax refund fund, but shall be paid as provided in 1490
section 5739.104 of the Revised Code. 1491

(B) (1) Upon certification by the tax commissioner to the 1492
treasurer of state of a tax refund, a wireless 9-1-1 charge 1493
refund, or another amount refunded, or by the superintendent of 1494
insurance of a domestic or foreign insurance tax refund, the 1495
treasurer of state shall place the amount certified to the 1496

credit of the fund. The certified amount transferred shall be 1497
derived from the receipts of the same tax, fee, wireless 9-1-1 1498
charge, or other amount from which the refund arose. 1499

(2) When a refund is for a tax, fee, wireless 9-1-1 1500
charge, or other amount that is not levied by the state or that 1501
was illegally or erroneously distributed to a taxing 1502
jurisdiction, the tax commissioner shall recover the amount of 1503
that refund from the next distribution of that tax, fee, 1504
wireless 9-1-1 charge, or other amount that otherwise would be 1505
made to the taxing jurisdiction. If the amount to be recovered 1506
would exceed twenty-five per cent of the next distribution of 1507
that tax, fee, wireless 9-1-1 charge, or other amount, the 1508
commissioner may spread the recovery over more than one future 1509
distribution, taking into account the amount to be recovered and 1510
the amount of the anticipated future distributions. In no event 1511
may the commissioner spread the recovery over a period to exceed 1512
thirty-six months. 1513

Sec. 5703.053. As used in this section, "postal service" 1514
means the United States postal service. 1515

An application to the tax commissioner for a tax refund 1516
under section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 1517
5728.061, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 1518
5736.08, 5739.07, 5741.10, 5743.05, 5743.53, 5745.11, 5749.08, 1519
or 5751.08 of the Revised Code or division (B) of section 1520
5703.05 of the Revised Code, or a fee refunded under section 1521
3734.905 or 3737.11 of the Revised Code, that is received after 1522
the last day for filing under such section shall be considered 1523
to have been filed in a timely manner if: 1524

(A) The application is delivered by the postal service and 1525
the earliest postal service postmark on the cover in which the 1526

application is enclosed is not later than the last day for 1527
filing the application; 1528

(B) The application is delivered by the postal service, 1529
the only postmark on the cover in which the application is 1530
enclosed was affixed by a private postal meter, the date of that 1531
postmark is not later than the last day for filing the 1532
application, and the application is received within seven days 1533
of such last day; or 1534

(C) The application is delivered by the postal service, no 1535
postmark date was affixed to the cover in which the application 1536
is enclosed or the date of the postmark so affixed is not 1537
legible, and the application is received within seven days of 1538
the last day for making the application. 1539

Sec. 5703.19. (A) To carry out the purposes of the laws 1540
that the tax commissioner is required to administer, the 1541
commissioner or any person employed by the commissioner for that 1542
purpose, upon demand, may inspect books, accounts, records, and 1543
memoranda of any person or public utility subject to those laws, 1544
and may examine under oath any officer, agent, or employee of 1545
that person or public utility. Any person other than the 1546
commissioner who makes a demand pursuant to this section shall 1547
produce the person's authority to make the inspection. 1548

(B) If a person or public utility receives at least ten 1549
days' written notice of a demand made under division (A) of this 1550
section and refuses to comply with that demand, a penalty of 1551
five hundred dollars shall be imposed upon the person or public 1552
utility for each day the person or public utility refuses to 1553
comply with the demand. Penalties imposed under this division 1554
may be assessed and collected in the same manner as assessments 1555
made under Chapter 3769., 4305., 5727., 5728., 5733., 5735., 1556

5736., 5739., 5743., 5745., 5747., 5749., 5751., or 5753., ~~or~~ 1557
sections 3734.90 to 3734.9014, or 3737.04 to 3737.12 of the 1558
Revised Code. 1559

Sec. 5703.70. (A) On the filing of an application for 1560
refund under section 3734.905, 3737.11, 4307.05, 4307.07, 1561
5726.30, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 1562
5735.14, 5735.141, 5735.142, 5735.18, 5736.08, 5739.07, 1563
5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 5749.08, 5751.08, 1564
or 5753.06 of the Revised Code, or an application for 1565
compensation under section 5739.061 of the Revised Code, if the 1566
tax commissioner determines that the amount of the refund or 1567
compensation to which the applicant is entitled is less than the 1568
amount claimed in the application, the commissioner shall give 1569
the applicant written notice by ordinary mail of the amount. The 1570
notice shall be sent to the address shown on the application 1571
unless the applicant notifies the commissioner of a different 1572
address. The applicant shall have sixty days from the date the 1573
commissioner mails the notice to provide additional information 1574
to the commissioner or request a hearing, or both. 1575

(B) If the applicant neither requests a hearing nor 1576
provides additional information to the tax commissioner within 1577
the time prescribed by division (A) of this section, the 1578
commissioner shall take no further action, and the refund or 1579
compensation amount denied becomes final. 1580

(C) (1) If the applicant requests a hearing within the time 1581
prescribed by division (A) of this section, the tax commissioner 1582
shall assign a time and place for the hearing and notify the 1583
applicant of such time and place, but the commissioner may 1584
continue the hearing from time to time as necessary. After the 1585
hearing, the commissioner may make such adjustments to the 1586

refund or compensation as the commissioner finds proper, and 1587
shall issue a final determination thereon. 1588

(2) If the applicant does not request a hearing, but 1589
provides additional information, within the time prescribed by 1590
division (A) of this section, the commissioner shall review the 1591
information, make such adjustments to the refund or compensation 1592
as the commissioner finds proper, and issue a final 1593
determination thereon. 1594

(3) The commissioner shall serve a copy of the final 1595
determination made under division (C)(1) or (2) of this section 1596
on the applicant in the manner provided in section 5703.37 of 1597
the Revised Code, and the decision is final, subject to appeal 1598
under section 5717.02 of the Revised Code. 1599

(D) The tax commissioner shall certify to the director of 1600
budget and management and treasurer of state for payment from 1601
the tax refund fund created by section 5703.052 of the Revised 1602
Code, the amount of the refund to be refunded under division (B) 1603
or (C) of this section. The commissioner also shall certify to 1604
the director and treasurer of state for payment from the general 1605
revenue fund the amount of compensation to be paid under 1606
division (B) or (C) of this section. 1607

Sec. 5703.77. (A) As used in this section: 1608

(1) "Taxpayer" means a person subject to or previously 1609
subject to a tax or fee, a person that remits a tax or fee, or a 1610
person required to or previously required to withhold or collect 1611
and remit a tax or fee on behalf of another person. 1612

(2) "Tax or fee" means a tax or fee administered by the 1613
tax commissioner. 1614

(3) "Credit account balance" means the amount of a tax or 1615

fee that a taxpayer remits to the state in excess of the amount 1616
required to be remitted, after accounting for factors applicable 1617
to the taxpayer such as accelerated payments, estimated 1618
payments, tax credits, and tax credit balances that may be 1619
carried forward. 1620

(4) "Tax debt" means an unpaid tax or fee or any unpaid 1621
penalty, interest, or additional charge on such a tax or fee due 1622
the state. 1623

(B) As soon as practicable, but not later than sixty days 1624
before the expiration of the period of time during which a 1625
taxpayer may file a refund application for a tax or fee, the tax 1626
commissioner shall review the taxpayer's accounts for the tax or 1627
fee and notify the taxpayer of any credit account balance for 1628
which the commissioner is required to issue a refund if the 1629
taxpayer were to file a refund application for that balance, 1630
regardless of whether the taxpayer files a refund application or 1631
amended return with respect to that tax or fee. The notice shall 1632
be made using contact information for the taxpayer on file with 1633
the commissioner. 1634

(C) Notwithstanding sections 128.47, 3734.905, 3737.11, 1635
4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 1636
5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 1637
5749.08, 5751.08, 5753.06, and any other section of the Revised 1638
Code governing refunds of taxes or fees, the commissioner may 1639
apply the amount of any credit account balance for which the 1640
commissioner is required to issue a refund if the taxpayer were 1641
to file a refund application for that balance as a credit 1642
against the taxpayer's liability for the tax or fee in the 1643
taxpayer's next reporting period for that tax or fee or issue a 1644
refund of that credit account balance to the taxpayer, subject 1645

to division (D) of this section. 1646

(D) Before issuing a refund to a taxpayer under division 1647
(C) of this section, the tax commissioner shall withhold from 1648
that refund the amount of any of the taxpayer's tax debt 1649
certified to the attorney general under section 131.02 of the 1650
Revised Code and the amount of the taxpayer's liability, if any, 1651
for a tax or fee. The commissioner shall apply any amount 1652
withheld first in satisfaction of the amount of the taxpayer's 1653
certified tax debt and then in satisfaction of the taxpayer's 1654
liability. 1655

(E) The tax commissioner may adopt rules to administer 1656
this section. 1657

Section 2. That existing sections 1705.48, 3737.51, 1658
3737.71, 3737.99, 3743.04, 3743.17, 3743.44, 3743.45, 3743.60, 1659
3743.61, 3743.63, 3743.65, 3743.75, 3743.99, 5703.052, 5703.053, 1660
5703.19, 5703.70, and 5703.77 of the Revised Code are hereby 1661
repealed. 1662

Section 3. The amendment and enactment of sections 1663
1705.48, 3737.04, 3737.05, 3737.06, 3737.07, 3737.08, 3737.09, 1664
3737.10, 3737.11, 3737.12, 3737.51, 3737.71, 3737.99, 3743.04, 1665
3743.17, 3743.44, 3743.45, 3743.46, 3743.47, 3743.591 3743.60, 1666
3743.61, 3743.63, 3743.65, 3743.99, 5703.052, 5703.053, 5703.19, 1667
5703.70, and 5703.77 of the Revised Code in Sections 1 and 2 of 1668
this act shall take effect July 1, 2020. The enactment of 1669
section 3743.67 of the Revised Code and the amendment to 1670
division (A) of section 3743.75 of the Revised Code in Sections 1671
1 and 2 of this act shall take effect at the earliest time 1672
permitted by law. 1673

Section 4. It is the intent of the General Assembly that 1674

the amendment and enactment of sections 1705.48, 3737.04, 1675
3737.05, 3737.06, 3737.07, 3737.08, 3737.09, 3737.10, 3737.11, 1676
3737.12, 3737.51, 3737.71, 3737.99, 3743.04, 3743.17, 3743.44, 1677
3743.45, 3743.46, 3743.47, 3743.591 3743.60, 3743.61, 3743.63, 1678
3743.65, 3743.99, 5703.052, 5703.053, 5703.19, 5703.70, and 1679
5703.77 of the Revised Code in Sections 1 and 2 of this act 1680
shall take effect July 1, 2020, unless by that date the General 1681
Assembly has enacted other legislation based on recommendations 1682
of the Fireworks Study Group created in section 3743.67 of the 1683
Revised Code enacted in this act. 1684