

AN ACT

To amend sections 3743.01, 3743.04, 3743.08, 3743.17, 3743.21, 3743.25, 3743.44, 3743.45, 3743.57, 3743.59, 3743.60, 3743.61, 3743.63, 3743.65, 3743.75, 3743.80, 3743.99, and 5703.21 and to enact sections 3743.021, 3743.041, 3743.151, 3743.171, 3743.22, 3743.26, 3743.27, 3743.28, 3743.29, 3743.451, 3743.46, 3743.47, and 3743.67 of the Revised Code to revise the Fireworks Law and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3743.01, 3743.04, 3743.08, 3743.17, 3743.21, 3743.25, 3743.44, 3743.45, 3743.57, 3743.59, 3743.60, 3743.61, 3743.63, 3743.65, 3743.75, 3743.80, 3743.99, and 5703.21 be amended and sections 3743.021, 3743.041, 3743.151, 3743.171, 3743.22, 3743.26, 3743.27, 3743.28, 3743.29, 3743.451, 3743.46, 3743.47, and 3743.67 of the Revised Code be enacted to read as follows:

Sec. 3743.01. As used in this chapter:

(A) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

(B) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.

(C) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(D)(1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.

(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.

(E) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(F) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in section 3743.80 of the Revised Code.

(G) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(H) "Fountain device" means a specific type of 1.4G firework that meets all of the following criteria:

(1) It is nonaerial and nonreport producing.

(2) It is recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition).

(3) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke.

(4) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.

(I) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.

(H)-(J) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to sections 3743.50 to 3743.55 of the Revised Code.

(F)-(K) "Licensed fountain device retailer" or "licensed retailer" means a person licensed pursuant to section 3743.26 of the Revised Code.

(L) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to sections 3743.02 to 3743.08 of the Revised Code.

(K)-(M) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Revised Code.

(E)-(N) "List of licensed exhibitors" means the list required by division (C) of section 3743.51 of the Revised Code.

(M)-(O) "List of licensed manufacturers" means the list required by division (C) of section 3743.03 of the Revised Code.

(N)-(P) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Revised Code.

(O)-(Q) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.

(P)-(R) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

(Q)-(S) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(R)-(T) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(S)-(U) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(T)-(V) "Railroad" means any railway or railroad that carries freight or passengers for hire,

but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

~~(U)~~~~(W)~~ "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

~~(V)~~~~(X)~~ "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

~~(W)~~~~(Y)~~ "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

~~(X)~~~~(Z)~~ "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

~~(Y)~~~~(AA)~~ "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

~~(Z)~~~~(BB)~~ "Wire sparkler" means a sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

~~(AA)~~~~(CC)~~ "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

~~(BB)~~~~(DD)~~ "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

~~(CC)~~~~(EE)~~ "Licensed building" means a building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

~~(DD)~~~~(FF)~~ "Fireworks incident" means any action or omission that occurs at a fireworks exhibition, that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:

(1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

(2) The failure of any person to comply with any applicable requirement imposed by this chapter or any applicable rule adopted under this chapter.

~~(EE)~~~~(GG)~~ "Discharge site" means an area immediately surrounding the mortars used to fire aerial shells.

~~(FF)~~~~(HH)~~ "Fireworks incident site" means a discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

~~(GG)~~~~(II)~~ "Storage location" means a single parcel or contiguous parcels of real estate approved by the state fire marshal pursuant to division (I) of section 3743.04 of the Revised Code or division (F) of section 3743.17 of the Revised Code that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

Sec. 3743.021. Notwithstanding the deadline in division (A) of section 3743.02 of the Revised Code, any person who wishes to be a licensed manufacturer of fireworks in this state on January 1, 2023, and who does not already hold a license as a manufacturer of fireworks that will run through that date, may submit an application for licensure, pursuant to section 3743.02 of the Revised Code, not later than November 1, 2022.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December, and the state fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 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, to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, or to relocate its fireworks plant to a new licensed premises, 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, change in manufacturing of fireworks, or new licensed premises, 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, change in manufacturing of fireworks, or new licensed premises.

Upon receipt of the notification and additional documentation required by the state fire marshal, the state fire marshal shall inspect the existing premises of the fireworks plant, or proposed new licensed premises, to determine if the proposed construction, location, relocation, structural change or renovation, change in manufacturing of fireworks, or new licensed premises conform 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, change in manufacturing of fireworks, or new licensed premises, if the state fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, change in manufacturing of fireworks, or new licensed premises conform to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the state fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed and to which the public has access, interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of industrial compliance, and shall comply with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and

superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

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

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

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

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the state fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to ~~out-of-state residents~~ persons in accordance with ~~section sections 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 to 3743.46 of the Revised Code,~~ or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

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

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this division, the license is not transferable or assignable.

(1) The ownership of a manufacturer of fireworks license may be transferred to another person for the same fireworks plant for which the license was issued, or approved pursuant to division (B) of this section, if the assets of the plant are transferred to that person by inheritance or by a sale approved by the state fire marshal.

(2) The license of a manufacturer of fireworks may be geographically relocated in accordance with division (D) of section 3743.75 of the Revised Code.

(3) The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

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

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the state fire marshal by the manufacturer, annually shall attend a continuing education program. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training as approved by the state fire marshal for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the state fire marshal with notice of the date, time, and place of all in-service training. For any program conducted under this division, the state fire marshal shall, in accordance with rules adopted by the state fire marshal under Chapter 119. of the Revised Code, establish the subjects to be taught, the length of classes, the standards for approval, and time periods for notification by the licensee to the state fire marshal of any in-service training.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the state fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the state fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The state fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the state fire marshal in accordance with rules the state fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception

is allowed pursuant to division (I) of this section.

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

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

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

(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.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or 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 3743.05 of the Revised Code.

(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.

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

(2) The state fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the state fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the state fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

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

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

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

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued

permit in accordance with section 3743.54 of the Revised Code.

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

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

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

Sec. 3743.041. (A) Notwithstanding the requirements, contained in division (A) of section 3743.04 of the Revised Code, that the state fire marshal only issue the license of a manufacturer of fireworks on the first day of December and that the license is effective for one year, an applicant who applies for licensure pursuant to section 3743.021 of the Revised Code, and who meets the requirements for licensure contained in section 3743.03 of the Revised Code, shall be issued the license of a manufacturer of fireworks on January 1, 2023.

(B) A license issued pursuant to division (A) of this section shall be effective through November 30, 2023.

Sec. 3743.08. (A) The state fire marshal may inspect the premises of a fireworks plant, and the inventory, wholesale sale, and retail sale records, of a licensed manufacturer of fireworks during the manufacturer's period of licensure to determine whether the manufacturer is in compliance with Chapter 3743. of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.05 or 3743.22 of the Revised Code.

(B) If the state fire marshal determines during an inspection conducted pursuant to division (A) of this section that a manufacturer is not in compliance with Chapter 3743. of the Revised Code or the rules adopted by the state fire marshal pursuant to section 3743.05 or 3743.22 of the Revised Code, the state fire marshal may take one or more of the following actions, whichever the state fire marshal considers appropriate under the circumstances:

(1) Order, in writing, the manufacturer to eliminate, correct, or otherwise remedy the nonconformities within a specified period of time;

(2) Order, in writing, the manufacturer to immediately cease its operations, if a fire or explosion hazard exists that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied or for a period of seventy-two hours from the time of issuance, whichever first occurs. During the seventy-two hour period, the state fire marshal may obtain from the court of common pleas of Franklin county or of the county in which the fireworks plant is located an injunction restraining the manufacturer from continuing its operations after the seventy-two hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(3) ~~Revoke~~ Suspend, revoke, or deny renewal of the license of the manufacturer in accordance with Chapter 119. of the Revised Code;

(4) Take action as authorized by section 3743.68 of the Revised Code.

(C) This section does not affect the authority conferred by Chapters 3781. and 3791. of the

Revised Code to conduct inspections to determine conformity with those chapters or the rules adopted pursuant to them.

(D) If the license of a manufacturer of fireworks is suspended or revoked or if renewal is denied pursuant to division (B)(3) of this section or section 3743.70 of the Revised Code, the manufacturer shall cease its operations immediately. The manufacturer may not reapply for licensure as a manufacturer of fireworks until two years expire from the date of revocation.

The state fire marshal shall remove from the list of licensed manufacturers the name of a manufacturer whose license has been revoked, and shall notify the law enforcement authorities for the political subdivision in which the manufacturer's fireworks plant is located, of the suspension, revocation, or denial of renewal.

Sec. 3743.151. Notwithstanding the deadline in division (A) of section 3743.15 of the Revised Code, any person who wishes to be a licensed wholesaler of fireworks in this state beginning on January 1, 2023, and who does not already hold a license as a wholesaler of fireworks that will run through that date, may submit an application for licensure, pursuant to section 3743.15 of the Revised Code, not later than November 1, 2022.

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

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

Upon receipt of the notification and additional documentation required by the state fire marshal, the state fire marshal shall inspect the premises on which the fireworks are sold, or the proposed new licensed premises, to determine if the proposed construction, structural change or renovation, or relocation conforms to sections 3743.15 to 3743.21 of the Revised Code, divisions (C) (1) and (2) of section 3743.25 of the Revised Code, and the rules adopted by the state fire marshal pursuant to section 3743.18 of the Revised Code. The state fire marshal shall issue a written authorization to the wholesaler for the construction, structural change or renovation, or new licensed premises if the state fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, structural change or renovation, or new licensed premises conform to those sections and rules.

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

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

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

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

(D) The license of a wholesaler of fireworks shall be protected under glass and posted in a conspicuous place at the location described in the application for licensure or in the notification submitted under division (B) of this section. Except as otherwise provided in this section, the license is not transferable or assignable.

(1) The ownership of a wholesaler of fireworks license may be transferred to another person for the same location for which the license was issued, or approved pursuant to division (B) of this section, if the assets of the wholesaler are transferred to that person by inheritance or by a sale approved by the state fire marshal.

(2) The license of a wholesaler of fireworks may be geographically relocated in accordance with division (D) of section 3743.75 of the Revised Code.

(3) The license is subject to revocation in accordance with section 3743.21 of the Revised Code.

(E) The state fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for the approval of an expansion or contraction. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the state fire marshal in accordance with rules the state fire marshal adopts. If the licensed premises of a licensed wholesaler from which the wholesaler operates consists of more than one parcel of real

estate, those parcels must be contiguous, unless an exception is allowed pursuant to division (F) of this section.

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

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

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

(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.

(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.

(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.

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

(2) The state fire marshal shall approve an application for expansion requested under division (F)(1) of this section if the state fire marshal receives the application fee and proof that the requirements of divisions (F)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the state fire marshal deems necessary in accordance with section 3743.16 of the Revised Code.

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

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

(b) Distributing fireworks to other parcels of real estate located on the wholesaler's licensed premises, to licensed manufacturers or other licensed wholesalers in this state or to similarly licensed

persons located in another state or country;

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

(2) A licensed wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) of this section or pursuant to section 3743.44 or 3743.45 of the Revised Code, at a storage location approved under this section.

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

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

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

(J) Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the state fire marshal by the wholesaler, annually shall attend a continuing education program. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed wholesaler or the wholesaler's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training as approved by the state fire marshal for other employees of the licensed wholesaler regarding the information obtained in the program. A licensed wholesaler shall provide the state fire marshal with notice of the date, time, and place of all in-service training. For any program conducted under this division, the state fire marshal shall, in accordance with rules adopted by the state fire marshal under Chapter 119. of the Revised Code, establish the subjects to be taught, the length of classes, the standards for approval, and time periods for notification by the licensee to the state fire marshal of any in-service training.

(K) A licensed wholesaler shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.15 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the state fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed wholesaler shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed wholesaler who secures supplemental insurance shall file evidence of the supplemental insurance with the state fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

Sec. 3743.171. (A) Notwithstanding the requirements, contained in division (A) of section 3743.17 of the Revised Code, that the state fire marshal only issue the license of a wholesaler of fireworks on the first day of December and that the license is effective for one year, an applicant who applies pursuant to section 3743.151 of the Revised Code, and who meets the requirements for

licensure contained in section 3743.16 of the Revised Code, shall be issued the license of a wholesaler of fireworks on January 1, 2023.

(B) A license issued pursuant to division (A) of this section shall be effective through November 30, 2023.

Sec. 3743.21. (A) The state fire marshal may inspect the premises, and the inventory, wholesale sale, and retail sale records, of a licensed wholesaler of fireworks during the wholesaler's period of licensure to determine whether the wholesaler is in compliance with Chapter 3743. of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.18 or 3743.22 of the Revised Code.

(B) If the state fire marshal determines during an inspection conducted pursuant to division (A) of this section that a wholesaler is not in compliance with Chapter 3743. of the Revised Code or the rules adopted by the state fire marshal pursuant to section 3743.18 or 3743.22 of the Revised Code, the state fire marshal may take one or more of the following actions, whichever the state fire marshal considers appropriate under the circumstances:

(1) Order, in writing, the wholesaler to eliminate, correct, or otherwise remedy the nonconformities within a specified period of time;

(2) Order, in writing, the wholesaler to immediately cease its operations, if a fire or explosion hazard exists that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied or for a period of seventy-two hours from the time of issuance, whichever first occurs. During the seventy-two hour period, the state fire marshal may obtain from the court of common pleas of Franklin county or of the county in which the premises of the wholesaler are located an injunction restraining the wholesaler from continuing its operations after the seventy-two hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(3) ~~Revoke~~Suspend, revoke, or deny renewal of, the license of the wholesaler in accordance with Chapter 119. of the Revised Code;

(4) Take action as authorized by section 3743.68 of the Revised Code.

(C) This section does not affect the authority conferred by Chapters 3781. and 3791. of the Revised Code to conduct inspections to determine conformity with those chapters or the rules adopted pursuant to them.

(D) If the license of a wholesaler of fireworks is suspended or revoked or if renewal is denied pursuant to division (B)(3) of this section or section 3743.70 of the Revised Code, the wholesaler shall cease its operations immediately. The wholesaler may not reapply for licensure as a wholesaler of fireworks until two years expire from the date of revocation.

The state fire marshal shall remove from the list of licensed wholesalers the name of a wholesaler whose license has been revoked, and shall notify the law enforcement authorities for the political subdivision in which the wholesaler's premises are located, of the suspension, revocation, or denial of renewal.

Sec. 3743.22. (A) As used in this section:

(1) "Fee period" means the period beginning on the first day of October and ending on the thirtieth day of the following September.

(2) "Gross receipts" excludes the amount of taxes a licensed retailer, licensed manufacturer, or licensed wholesaler collects from a consumer under Chapter 5739. of the Revised Code on behalf of the state or a political subdivision.

(B) For the purpose of providing revenue to fund firefighter training programs and the enforcement and regulation of the fireworks industry, a fee is imposed on licensed retailers, licensed manufacturers, and licensed wholesalers selling 1.4G fireworks in this state. The fee shall equal four per cent of the gross receipts of a licensed manufacturer or licensed wholesaler from retail sales of 1.4G fireworks in this state made one hundred or more days after the effective date of this section. For the purpose of this section, a retail sale of 1.4G fireworks is made in this state only if the purchaser intends to use the fireworks, and not resell them, and receives the 1.4G fireworks at a location in this state.

The fee shall be reported, on a form prescribed by the state fire marshal, and remitted to the state fire marshal on or before the twenty-third day after the last day of each fee period. The amount of the fee due shall be computed on the basis of gross receipts from retail sales made in each fee period. A licensed retailer, licensed manufacturer, or licensed wholesaler whose license is issued, canceled or revoked, or not renewed after expiration during a fee period shall report and remit the fee based on sales of 1.4G fireworks made in that fee period as required under this section. A licensed retailer, licensed manufacturer, or licensed wholesaler may separately or proportionately bill or invoice a fee imposed under this section to another person.

(C) All money collected under this section shall be credited to the fireworks fee receipts fund, which is hereby created in the state treasury. Seven-eighths of the money in the fund shall be used by the state fire marshal solely to fund firefighter training programs. Remaining money in the fund shall be used solely to pay expenses of the state fire marshal in performing the duties prescribed by this chapter.

(D) If the state fire marshal determines that a licensed retailer, licensed manufacturer, or licensed wholesaler fails to timely report and remit the full amount of the fee as required by this section, the state fire marshal may do either of the following:

(1) Order, in writing, the retailer, wholesaler, or manufacturer to report and remit to the state fire marshal, within a specified period of time, any such underpayment;

(2) Revoke or deny renewal of the license of the retailer, manufacturer, or wholesaler, which shall subject a manufacturer or wholesaler to the consequences prescribed in division (D) of section 3743.08 of the Revised Code or division (D) of section 3743.21 of the Revised Code.

(E) The state fire marshal may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer and enforce the fee imposed under this section.

Sec. 3743.25. (A)(1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Revised Code and rules adopted by the state fire

marshal under Chapter 119. of the Revised Code. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under section 3743.51 of the Revised Code, that the exhibitor possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

- (1) The direct sale and shipment of fireworks to a person outside of this state;
- (2) From an approved retail sales showroom as described in this section;
- (3) From a representative sample showroom as described in this section;
- (4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

(5) Any other method as described in rules adopted by the state fire marshal under Chapter 119. of the Revised Code.

(C) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

A representative sample showroom shall consist of a structure constructed and maintained in accordance with the nonresidential building code adopted under Chapter 3781. of the Revised Code and the fire code adopted under section 3737.82 of the Revised Code for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the state fire marshal pursuant to Chapter 119. of the Revised Code.

If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of industrial compliance in the department of commerce.

~~(2)-(2)(a)~~ A fireworks showroom that first begins to operate on or after June 30, 1997, or that resumes operations at any time after a period of inactive status of licensure greater than one year, and to which the public has access for retail purposes shall not exceed five-seven thousand five hundred square feet in floor area.

(b) A fireworks showroom that, through construction of a new showroom, expansion of an existing showroom, or similar means, first exceeds five thousand square feet, to which the public has

access for retail purposes, after the effective date of this amendment shall be equipped with a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)."

(c) Notwithstanding division (D) of this section, the state fire marshal may provide a variance to the requirements of division (C)(2)(b) of this section pursuant to section 3743.59 of the Revised Code for a sprinkler system that matches or exceeds the degree of safety provided by a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)."

(3) A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

Sec. 3743.26. (A)(1) Except as provided in divisions (C) and (D) of this section, in a given year, any person who wishes to be a licensed fountain device retailer in this state shall submit an application for licensure to the state fire marshal before the first day of October. The application shall be on a form prescribed by the state fire marshal.

The state fire marshal shall prescribe a form for applications to become a licensed retailer and make a copy of the form available, upon request, to persons who seek a license.

(2) An applicant for licensure as a fountain device retailer shall submit all of the following with the application:

(a) A license fee in an amount set by the state fire marshal, not to exceed twenty-five dollars;

(b) An affidavit affirming that the applicant is in compliance with the national fire protection association standard "NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (2006 Edition)," or will be in compliance before engaging in the storage or retail sale of fountain devices;

(c) Proof of insurance in an amount and of a type specified by the state fire marshal in rules adopted pursuant to section 3743.28 of the Revised Code.

(3) A separate application for licensure as a fountain device retailer shall be submitted for each location at which a person wishes to engage in the retail sale of fountain devices.

(B)(1) If a person submits a timely application to become a licensed fountain device retailer, together with the materials required by division (A)(2) of this section, the state fire marshal shall review the application and accompanying materials and determine if they comply with this section. If the state fire marshal concludes that the application and accompanying matter comply with this

section, the state fire marshal shall, on the first day of December and, except as provided in divisions (C) and (D) of this section, at no other time, issue the applicant a license to sell fountain devices at retail.

(2) Except as provided in divisions (C) and (D) of this section, a licensed retailer's license is effective for one year beginning on the first day of December. If a licensed retailer wishes to continue engaging in the retail sale of fountain devices at the particular location after the then effective license expires, the licensee shall apply before the first day of October for a new license pursuant to this section. The state fire marshal shall send a written notice of the expiration of a license to a licensed retailer not later than the first day of September.

(C)(1) Any person who wishes to be a licensed retailer of fountain devices in this state who was not yet open for business, at the location the person seeks to be licensed, before the first day of the preceding October may submit an application pursuant to divisions (A)(2) and (3) of this section at any time after the person opens for business but before the first day of the following October.

(2) If the state fire marshal determines that an application submitted pursuant to division (C) (1) of this section meets the requirements of this section, the state fire marshal shall issue the applicant a license as follows:

(a) If the application was submitted between the first day of October and the last day of November, not earlier than the first day of December but not later than two months after receiving the application;

(b) If division (D)(2)(a) of this section does not apply, not later than two months after receiving the application.

(3) A license issued pursuant to division (C)(2) of this section is effective through the last day of the following November.

(D)(1) Any person who wishes to be a licensed retailer of fountain devices in this state beginning two hundred sixty days after the effective date of this section, shall submit an application pursuant to divisions (A)(2) and (3) of this section not later than one hundred ninety days after the effective date of this section.

(2) The state fire marshal shall issue a license two hundred sixty days after the effective date of this section, to any person who submits an application pursuant to division (D)(1) of this section if the state fire marshal determines that the application meets the requirements of this section. A license issued pursuant to this division is effective as follows:

(a) If the two hundred sixtieth day after the effective date of this section is in January, February, March, April, or May, a license issued pursuant to division (D)(2) of this section shall be effective through the end of November in the same calendar year.

(b) If the two hundred sixtieth day after the effective date of this section is in June, July, August, September, October, November, or December, a license issued pursuant to division (D)(2) of this section shall be effective through the end of November in the subsequent calendar year.

Sec. 3743.27. (A) A licensed fountain device retailer is authorized to possess fountain devices and sell fountain devices at retail pursuant to this section:

(1) A licensed retailer's displays for fountain devices shall be limited to three hundred square feet. No single fountain device display shall exceed one hundred fifty square feet, and each display must be placed at least twenty-five feet from any other highly flammable materials.

(2) A licensed retailer's possession and storage of fountain devices shall comply with the national fire protection association standard "NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (2006 Edition)."

(3) A licensed retailer shall only possess and sell fountain devices as packaged merchandise with covered fuses.

(4) A licensed retailer's fountain devices that are displayed for sale shall be under the visual supervision of an employee of the licensed retailer or other responsible party while the licensed retail location is open to the public.

(5) A licensed retailer's possession, storage, and sale of fountain devices shall comply with the state fire marshal's rules adopted pursuant to section 3743.28 of the Revised Code.

(6) No licensed retailer shall sell fountain devices to a person who is under eighteen years of age.

(7) No licensed retailer shall knowingly sell fountain devices to a person who is obviously under the influence of alcohol or a drug of abuse, as defined in section 4506.01 of the Revised Code.

(8) A licensed retailer shall comply with divisions (A) and (B) of section 3743.47 of the Revised Code.

(9) A licensed retailer shall possess and sell fountain devices only at the location described in the application for licensure and the sale shall be from the inside of a licensed building and from no structure or device outside a licensed building. At no time shall a licensed retailer sell fountain devices outside of a licensed building.

(10) A licensed retailer shall prohibit smoking in the licensed location.

(B) No licensed fountain device retailer shall negligently fail to furnish a safety pamphlet to a purchaser of 1.4G fireworks as required by division (A) of section 3743.47 of the Revised Code.

(C) No licensed fountain device retailer shall negligently fail to have safety glasses available for sale as required by division (B) of section 3743.47 of the Revised Code.

Sec. 3743.28. (A) The state fire marshal shall adopt rules pursuant to Chapter 119. of the Revised Code governing the storage of fireworks by and the business operations of licensed fountain device retailers. The rules shall be designed to promote the safety and security of employees of retailers, members of the public, and the premises upon which fireworks are sold.

The state fire marshal shall file the rules required by this division with the joint committee on agency rule review pursuant to division (C) of section 119.03 of the Revised Code not later than one hundred eighty days after the effective date of this section.

(B) The rules shall be consistent with sections 3743.26 to 3743.29 of the Revised Code and the national fire protection association standard "NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (2006 Edition)" and shall apply to, but not be limited to, the following subject matters:

(1) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures on a retailer's premises;

(2) The manner in which fountain devices are to be stored;

(3) Insurance to be maintained by licensed fountain device retailers.

Sec. 3743.29. (A) The state fire marshal may inspect the premises, the inventory, and retail sale records, of a licensed fountain device retailer during the retailer's period of licensure to determine whether the retailer is in compliance with Chapter 3743. of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.28 of the Revised Code.

(B) If the state fire marshal determines during an inspection conducted pursuant to division (A) of this section that a licensed fountain device retailer is not in compliance with Chapter 3743. of the Revised Code or the rules adopted by the state fire marshal pursuant to section 3743.28 of the Revised Code, the state fire marshal may take one or more of the following actions, whichever the state fire marshal considers appropriate under the circumstances:

(1) Order, in writing, the retailer to eliminate, correct, or otherwise remedy the nonconformities within a specified period of time;

(2) Order, in writing, the retailer to immediately cease the storage and related sale of fountains.

(3) Revoke, or deny renewal of, the license of the retailers in accordance with Chapter 119. of the Revised Code.

(C) This section does not affect the authority conferred by Chapters 3781. and 3791. of the Revised Code to conduct inspections to determine conformity with those chapters or the rules adopted pursuant to them.

The state fire marshal shall remove from the list of licensed retailers the name of a retailer whose license has been revoked, and shall notify the law enforcement authorities for the political subdivision in which the retailer's premises are located, of the revocation or denial of renewal.

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

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

~~No licensed manufacturer or licensed wholesaler shall sell fireworks to a person who resides in another state unless that person has been issued a license or permit in the state of the person's residence that authorizes the person to engage in the manufacture, wholesale sale, or retail sale of fireworks in that state or that authorizes the person to conduct fireworks exhibitions in that state and that person presents a certified copy of the license, or, if that person does not possess a license or permit of that nature, only if the person presents a current valid motor vehicle operator's license issued to the person in the person's state of residence, or, if that person does not possess a motor vehicle operator's license issued in that state, an identification card issued to the person by a governmental agency in the person's state of residence indicating that the person is a resident of that state. If a person who is required to present a motor vehicle operator's license or other identification card intends to transport the fireworks purchased directly out of this state by a motor vehicle and the person will not also be the operator of that motor vehicle while so transporting the fireworks, the~~

~~operator of the motor vehicle also shall present the operator's motor vehicle operator's license.~~

~~(B) Each purchaser of fireworks under this section shall transport the fireworks so purchased directly out of this state within forty-eight hours after the time of their purchase.~~

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

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

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

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

~~(B) No licensed manufacturer or licensed wholesaler shall sell 1.3G fireworks to a person who resides in this state unless that person is a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state. Any person authorized under this section to possess 1.4G fireworks in this state may discharge, ignite, or explode those fireworks on private property, with authorization from the property owner, on the following days each year:~~

~~(1) The first day of January;~~

~~(2) Chinese new year's day;~~

~~(3) The fifth day of May;~~

~~(4) The last Monday in May, and the Saturday and Sunday immediately preceding that day;~~

~~(5) The nineteenth day of June;~~

~~(6) The third, fourth, and fifth days of July;~~

~~(7) The first Friday, Saturday, and Sunday before and after the fourth day of July;~~

~~(8) The first Monday of September, and the Saturday and Sunday immediately preceding that day;~~

~~(9) Diwali;~~

~~(10) The thirty-first day of December.~~

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

~~(D) A county, with respect to the unincorporated territory of the county, a township, with respect to the unincorporated territory of the township, or a municipal corporation may do either of the following:~~

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

~~(2) Ban the discharge, ignition, or explosion of fireworks purchased pursuant to this section.~~
~~A resolution adopted by a board of township trustees under this division prevails over a conflicting~~

resolution adopted under this division by the board of county commissioners in the county within which the township is located.

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

Sec. 3743.451. (A)(1) The state fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code regulating the time, manner, and location of 1.4G fireworks discharged, ignited, or exploded under section 3743.45 of the Revised Code. The rules may include provisions requiring that all fireworks be used only in accordance with manufacturer's instructions and provisions for all of the following:

(a) The use of aerial fireworks;

(b) Separation distances between the location of fireworks discharges, ignitions, or explosions and adjacent structures, roadways, railroads, airports, publicly owned or controlled places, and places where hazardous materials are manufactured, used, or stored;

(c) Fireworks usage at common areas of multitenant properties;

(d) The suspension of fireworks discharges, ignitions, or explosions during times of drought or similar conditions;

(e) The proximity of fireworks discharges, ignitions, or explosions to persons under eighteen years of age;

(f) Any other matters similar to those listed in division (A)(1) of this section.

(2) The state fire marshal shall file the rules required by this division with the joint committee on agency rule review pursuant to division (C) of section 119.03 of the Revised Code not later than one hundred eighty days after the effective date of this section.

(B)(1) Nothing in division (A) of this section shall be construed to limit the authority of a county, township, or municipal corporation under division (D) of section 3743.45 of the Revised Code to restrict the dates and times or ban the discharge, ignition, or explosion of fireworks purchased under section 3743.45 of the Revised Code.

(2) Rules adopted pursuant to this section shall permit consumers, who are at least eighteen years of age, to safely and responsibly use 1.4G fireworks on their own private property, or any private property to which they have express consent from the property owner.

(3) Rules adopted pursuant to this section shall not be constructed as a de facto ban on the consumer discharge of fireworks. It is the intent of the general assembly to allow consumers to discharge 1.4G fireworks in a safe and reasonable manner.

Sec. 3743.46. (A) Except as otherwise provided in section 3743.44 or 3743.45 of the Revised Code, no licensed manufacturer or licensed wholesaler shall sell fireworks to a person who resides in another state unless one of the following applies:

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

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

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

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

Sec. 3743.47. (A) A licensed retailer, licensed manufacturer, or licensed wholesaler shall furnish a copy of a safety pamphlet to each purchaser of 1.4G fireworks. In addition to any safety information the licensed retailer, licensed wholesaler, or licensed manufacturer wishes to include, the pamphlet shall include all of the following statements, or substantially similar statements:

"Do not allow children to play with fireworks. Sparklers, a firework often considered by many to be the ideal "safe" device for children, burn at very high temperatures and should not be handled by children. Children may not understand the danger involved with fireworks and may not act appropriately while using the devices or in case of emergency.

Set off fireworks outdoors in a clear area, away from houses, dry leaves, or grass and other flammable materials.

Keep a bucket of water nearby for emergencies and for pouring on fireworks that fail to ignite or explode.

Do not try to relight or handle malfunctioning fireworks. Soak them with water and throw them away.

Be sure other people are out of range before lighting fireworks.

Never light fireworks in a container, especially a glass or metal container.

Keep unused fireworks away from firing areas.

Store fireworks in a cool, dry place.

Check instructions for special storage directions.

Observe state and local law.

Never have any portion of your body directly over a firework while lighting.

Do not experiment with homemade fireworks."

(B) A licensed retailer, licensed manufacturer, or licensed wholesaler selling 1.4G fireworks shall have safety glasses available for a nominal charge or free at the site of the 1.4G fireworks purchase.

(C) Divisions (A) and (B) of this section do not apply when a purchaser is a licensed retailer, licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state.

Sec. 3743.57. (A) All fees collected by the state fire marshal for licenses or permits issued pursuant to this chapter, except the fee imposed under section 3743.22 of the Revised Code, shall be deposited into the state fire marshal's fund, and interest earned on the amounts in the fund shall be credited by the treasurer of state to the fund.

(B) The state fire marshal shall in the state fire marshal's discretion use amounts in the state fire marshal's fund for fireworks training and education purposes, including, but not limited to, the

creation of educational and training programs, attendance by the state fire marshal and the state fire marshal's employees at conferences and seminars, the payment of travel and meal expenses associated with such attendance, participation by the state fire marshal and the state fire marshal's employees in committee meetings and other meetings related to pyrotechnic codes, and the payment of travel and meal expenses associated with such participation. The use of the fund shall comply with rules of the department of commerce, policies and procedures established by the director of budget and management, and all other applicable laws.

Sec. 3743.59. (A) As used in this section, "hobbyist activities" means the manufacture, possession, and use of individual items, each of which meets the definition of either a 1.3G firework or 1.4G firework.

(B) Upon application by an affected party, the fire marshal may grant variances from the requirements of this chapter or from the requirements of rules adopted pursuant to this chapter if the fire marshal determines that a literal enforcement of the requirement will result in practical difficulty in complying with the requirements of this chapter or the rules adopted pursuant to this chapter and that the variance will not be contrary to the public health, safety, or welfare. ~~A~~Except as provided in division (C)(2)(c) of section 3743.25 of the Revised Code, a variance shall not be granted to a person who is initially licensed as a manufacturer or wholesaler of fireworks after June 14, 1988.

~~(B)-(C)~~ The fire marshal may authorize a variance from the prohibitions in this chapter against the possession and use of pyrotechnic compounds to a person who submits proof that the person is certified and in good standing with the Ohio state board of education, provided that the pyrotechnic compounds are used for educational purposes only, or are used only at an authorized educational function approved by the governing board that exercises authority over the educational function.

~~(C)-The (D)(1)~~ Subject to division (D)(2) of this section, the state fire marshal may authorize a variance from the prohibitions in this chapter ~~against the possession and use of pyrotechnic compounds to~~ allow a person who possesses and uses the pyrotechnic compounds for personal and noncommercial purposes as a hobby to engage in hobbyist activities.

(2)(a) A variance allowing hobbyist activities does not at any time permit a person to possess more than five pounds, in total, of explosives, pyrotechnics, or similar raw materials for, and finished 1.3G and 1.4G fireworks manufactured during, hobbyist activities.

(b) A variance allowing hobbyist activities does not affect a person's obligation to comply with federal, state, or local law or regulation outside of this chapter.

(c) The state fire marshal shall not issue a variance allowing hobbyist activities to a person unless the person does all of the following:

(i) Demonstrates that the person has experience, education, and training in pyrotechnics necessary to protect public safety when engaging in hobbyist activities;

(ii) Demonstrates that the person has, compliant with all applicable federal, state, and local laws, proper methods and locations to safely acquire, store, and use explosives, pyrotechnics, or similar raw materials for the manufacture of 1.3G fireworks and 1.4G fireworks;

(iii) Provides any other information or records the state fire marshal considers necessary to protect public safety during the person's hobbyist activities.

(2) The state fire marshal shall not unreasonably withhold a variance allowing hobbyist

activities that the state fire marshal may authorize pursuant to division (D)(1) of this section.

(3) The state fire marshal may rescind a variance ~~authorized~~ authorizing hobbyist activities under this division (D)(1) of this section for cause at any time, ~~exclusively at the fire marshal's discretion.~~

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

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

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

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

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

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

(G) No licensed manufacturer of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to division (B)(1) of section 3743.08 of the Revised Code, within the specified period of time.

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

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

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

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

(L) No licensed manufacturer of fireworks shall negligently fail to have safety glasses

available for sale as required by division (B) of section 3743.47 of the Revised Code.

Sec. 3743.61. (A) No person, except a licensed manufacturer of fireworks engaging in the wholesale sale of fireworks as authorized by division (C)(2) of section 3743.04 of the Revised Code, shall operate as a wholesaler of fireworks in this state unless it is a licensed wholesaler of fireworks, or shall operate as a wholesaler of fireworks at any location in this state unless it has been issued a license as a wholesaler of fireworks for the particular location.

(B) No person shall operate as a wholesaler of fireworks at a particular location in this state after its license as a wholesaler of fireworks for the particular location has expired, is suspended, has been denied renewal, or has been revoked, unless a new license has been obtained or the suspension lifted.

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

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

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

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

(G) No licensed wholesaler of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to division (B)(1) of section 3743.21 of the Revised Code, within the specified period of time.

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

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

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

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

(L) No licensed wholesaler of fireworks shall negligently fail to have safety glasses available for sale as required by division (B) of section 3743.47 of the Revised Code.

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

sections 3743.44 to 3743.46 of the Revised Code.

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

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

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

Sec. 3743.65. (A) No person shall possess fireworks in this state or shall possess for sale or sell fireworks in this state, except a licensed manufacturer of fireworks as authorized by sections 3743.02 to 3743.08 of the Revised Code, a licensed wholesaler of fireworks as authorized by sections 3743.15 to 3743.21 of the Revised Code, a shipping permit holder as authorized by section 3743.40 of the Revised Code, an out-of-state resident a licensed fountain device retailer as authorized by section 3743.27 of the Revised Code, a person as authorized by section sections 3743.44 of the Revised Code, a resident of this state as authorized by section and 3743.45 of the Revised Code, or a licensed exhibitor of fireworks as authorized by sections 3743.50 to 3743.55 of the Revised Code, and except as provided in section 3743.80 of the Revised Code.

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

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

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

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

(F) Except as otherwise provided in division (J) of 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 negligently 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 negligently 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) The Ohio fire code rule recommendation committee is hereby created to review Chapter 3743. of the Revised Code and make a recommendation to the state fire marshal. At a minimum, the committee shall make a recommendation to the state fire marshal 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;

(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.

(5) Development of a state licensing program pursuant to section 3743.75 of the Revised Code.

(B) The committee shall meet periodically, with the first meeting not later than ten days after the effective date of this section, and shall submit its report and recommendations to the state fire marshal not later than one hundred days after the effective date of this section.

(C) The committee shall be made up of the following individuals:

(1) The state fire marshal, or the state fire marshal's designee;

(2) Four local fire chiefs appointed by the Ohio fire chiefs' association, or appointed by the association's designee;

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

(4) Five members of the Ohio state pyrotechnics association, appointed by the president of the association, one of whom shall be a licensed wholesaler, one of whom shall be a licensed exhibitor, and one of whom shall be a licensed manufacturer;

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

(6) One member of the Ohio optometric association or the association's designee;

(7) One member of the Ohio pyrotechnic arts guild or the organization's designee;

(8) One representative of the Ohio chapter of the American academy of pediatrics, appointed by the president of the Ohio chapter;

(9) One member of the Ohio council of retail merchants or the council's designee.

Sec. 3743.75. (A) Except as provided in division (B) of this section, during the period beginning on June 29, 2001, and ending on ~~December 31, 2021~~December 31, 2022, the state fire marshal shall not do any of the following:

(1) Issue a license as a manufacturer of fireworks under sections 3743.02 and 3743.03 of the Revised Code to a person for a particular fireworks plant unless that person possessed such a license

for that fireworks plant immediately prior to June 29, 2001, or pursuant to a transfer authorized under division (D) of this section;

(2) Issue a license as a wholesaler of fireworks under sections 3743.15 and 3743.16 of the Revised Code to a person for a particular location unless that person possessed such a license for that location immediately prior to June 29, 2001, or pursuant to a transfer authorized under division (D) of this section;

(3) Approve the geographic transfer of a license as a manufacturer or wholesaler of fireworks issued under this chapter to any location other than a location for which a license was issued under this chapter immediately prior to June 29, 2001.

(B) Division (A) of this section does not apply to either of the following:

(1) An ownership transfer that the state fire marshal approves under division (D) of section 3743.04 or division (D) of section 3743.17 of the Revised Code that is consistent with division ~~(E)~~ (F) of this section;

(2) A geographic transfer that the state fire marshal approves under division (D) of this section.

(C) Notwithstanding section 3743.59 of the Revised Code, the prohibited activities established in divisions (A)(1) and (2) of this section, geographic transfers approved pursuant to division (D) of this section, and nonconstruction-related matters at storage locations allowed pursuant to division (I) of section 3743.04 of the Revised Code or division (F) of section 3743.17 of the Revised Code are not subject to any variance, waiver, or exclusion.

~~(D)(1) A licensed manufacturer of fireworks or a licensed wholesaler of fireworks may apply, on or after the effective date of this amendment~~ June 30, 2021, to geographically relocate the license to any location in the state if the license is in good standing, as defined in division (D)(6) of this section.

(2) Notwithstanding any other provisions of this chapter, the state fire marshal shall approve the transfer if all of the following conditions are met:

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

(b) The former licensed premises associated with the transferred license is closed prior to the opening of the new location and no fireworks business of any kind is conducted at the former licensed premises associated with the transferred license after the transfer of the license unless a separate fireworks manufacturer or wholesaler license is or has been issued for such location.

(c) The new location has received a local certificate of zoning compliance and all structures on the new licensed location receive a valid certificate of occupancy, and are otherwise in compliance with all applicable laws, rules, and regulations, including the building code and fire code and this chapter.

(d) Every building or structure at the new location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures located on the licensed premises in accordance with the distances specified in the rules adopted by the state fire marshal pursuant to sections 3743.05 and 3743.18 of the Revised Code. If the licensee fails to comply with the requirements of division (D)(2)(d) of this section by the licensee's own act, the license at the new location is forfeited.

(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 has pleaded guilty to a felony under the laws of this state, any other state, or the United States after June 30, 1997.

(f) The subject license is in active status and does not have any pending proceedings or final orders of revocation or denial under section 3743.08 or 3743.21 of the Revised Code.

(g) The state fire marshal approves the request for the transfer.

(h) All sales structures at the new location comply with the requirements specified in division (C) of section 3743.25 of the Revised Code. Each licensed premises may only contain one sales structure. A sales structure on any licensed premises may be converted from a representative sample showroom to a retail sales showroom or from a retail sales showroom to a representative sample showroom at any time in accordance with rules established by the state fire marshal under this chapter.

(i) A completed geographic transfer application, including the designation of the new location, is received by the state fire marshal on or after ~~the effective date of this amendment June 30, 2021,~~ but not later than ~~December 31, 2021~~December 31, 2022.

(3) All construction at the new location shall be authorized by the state fire marshal in writing before initiation and shall be completed not later than ~~December 31, 2022~~December 31, 2023. The state fire marshal shall issue preliminary construction approvals and may set conditions thereon. The state fire marshal may authorize extensions of dates specified in this section upon a finding of good cause based upon evidence submitted by the applicant. Any final approvals of a geographic transfer shall occur only after full compliance with this section.

(4) The filing of an application to geographically relocate a license and any conditional approvals issued under this section do not vest in the applicant any rights to the transfer.

(5) A licensed premises subject to this section may be granted only one geographic transfer pursuant to this section prior to ~~December 31, 2021~~December 31, 2022. After that date, any existing license subject to this section may be geographically transferred to any location within this state upon application to the state fire marshal and compliance with divisions (D)(2)(a) to (h) of this section.

(6) Notwithstanding any other section of the Revised Code, the license of a licensed manufacturer of fireworks or a licensed wholesaler of fireworks shall be deemed in good standing for purposes of a geographic transfer if any of the following applies to the license:

(a) The license existed immediately prior to June 29, 2001, and the owner of the license, including a license approved for transfers of ownership subsequent to June 29, 2001, was an active corporation in good standing as recognized by the secretary of state of the state where the company is incorporated as of December 1, 2019, or was a person, as defined by section 1.59 of the Revised Code, as of December 1, 2019.

(b) The license existed on December 1, 1995, and the owner of the license, including a license approved for changes or transfers of ownership subsequent to December 1, 1995, was an active corporation in good standing as recognized by the secretary of state of the state where the company is incorporated as of December 1, 2019, or was a person, as defined by section 1.59 of the Revised Code, as of December 1, 2019.

(c) For transfers requested after ~~December 31, 2021~~December 31, 2022, the owner of the license, including a license approved for transfers of ownership subsequent to June 29, 2001, is an active corporation in good standing as recognized by the secretary of state of the state where the

company is incorporated as of the date of the application, or is a person, as defined by section 1.59 of the Revised Code, as of the date of application.

If, between December 1, 1995, and ~~the effective date of this amendment~~ June 30, 2021, a licensee, holding a license that has been deemed to be in good standing under division (D)(6) of this section, either converted the license type from a manufacturer to a wholesaler or has otherwise ceased operations at its licensed premises for any reason, the state fire marshal may geographically transfer under this section and reissue the license at the new location after full compliance with division (D)(2) of this section without first issuing a license at the premises where the license last existed.

(E) After the end of the period described in division (A) of this section, the state fire marshal may issue new licenses as a manufacturer or wholesaler of fireworks. New licenses shall not be approved in such a manner that unduly burdens the state fire marshal's ability to ensure public safety.

(F) As used in division (A) of this section:

(1) "Person" includes any person or entity, in whatever form or name, that acquires possession of a manufacturer or wholesaler of fireworks license issued pursuant to this chapter by transfer of possession of a license, whether that transfer occurs by purchase, assignment, inheritance, bequest, stock transfer, or any other type of transfer, on the condition that the transfer is in accordance with division (D) of section 3743.04 of the Revised Code or division (D) of section 3743.17 of the Revised Code and is approved by the state fire marshal.

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

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

Sec. 3743.80. This chapter does not prohibit or apply to the following:

(A) The manufacture, sale, possession, transportation, storage, or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use;

(B) The manufacture, sale, possession, transportation, storage, or use of fusees, torpedoes, or other signals necessary for the safe operation of railroads;

(C) The manufacture, sale, possession, transportation, storage, or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(D) The manufacture for, the transportation, storage, possession, or use by, or sale to the armed forces of the United States and the militia of this state, as recognized by the adjutant general of Ohio, of pyrotechnic devices;

(E) The manufacture, sale, possession, transportation, storage, or use of toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage, or use of those caps;

(F) The manufacture, sale, possession, transportation, storage, or use of novelties and trick noisemakers, auto burglar alarms, or model rockets and model rocket motors designed, sold, and used

for the purpose of propelling recoverable aero models;

(G) The manufacture, sale, possession, transportation, storage, or use of wire sparklers.

(H) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:

(1) No explosive aerial display is conducted in the exhibition;

(2) The exhibition is separated from spectators by not less than two hundred feet;

(3) The person conducting the exhibition complies with regulations of the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and the United States department of transportation with respect to the storage and transport of the explosive black powder used in the exhibition.

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

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

(C) Whoever violates division (E), (F), (G), (H), (I), or (J) of section 3743.60, division (E), (F), (G), (H), (I), or (J) of section 3743.61, section 3743.63, division (D), (E), (F), or (G) of section 3743.64, division (A), (B), (C), (D), or (E) of section 3743.65, or section 3743.66 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (I) of section 3743.60 or 3743.61 of the Revised Code, a violation of either of these divisions is a felony of the fifth degree.

(D) Whoever violates division (C) of section 3743.64 of the Revised Code is guilty of a misdemeanor of the first degree. In addition to any other penalties that may be imposed on a licensed exhibitor of fireworks under this division and unless the third sentence of this division applies, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be suspended. If the violation of division (C) of section 3743.64 of the Revised Code results in serious physical harm to persons or serious physical harm to property, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked.

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

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

(G) Whoever violates division (B) or (C) of section 3743.27 or 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.

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

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to that chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (A)(7) or (9) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) For purposes of an internal audit pursuant to section 126.45 of the Revised Code, the officers and employees of the office of internal audit in the office of budget and management charged with directing the internal audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the internal audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the internal audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the office of internal audit.

(3) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state or the office of internal audit solely for purposes of an audit of the department.

(4) For purposes of Chapter 3739. of the Revised Code, an agent of the department of taxation may share information with the division of state fire marshal that the agent finds during the course of an investigation.

(C) Division (A) of this section does not prohibit any of the following:

(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code;

(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;

(3) Disclosing to the motor vehicle repair board any information in the possession of the

department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;

(4) Providing information to the administrator of workers' compensation pursuant to sections 4123.271 and 4123.591 of the Revised Code;

(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;

(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to section 718.84 of the Revised Code or rules adopted under section 5745.16 of the Revised Code;

(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the Revised Code, or a seller having a use tax account maintained pursuant to section 5741.17 of the Revised Code, or information regarding the active or inactive status of a vendor's license, direct payment permit, or seller's use tax account;

(8) Releasing invoices or invoice information furnished under section 4301.433 of the Revised Code pursuant to that section;

(9) Providing to a county auditor notices or documents concerning or affecting the taxable value of property in the county auditor's county. Unless authorized by law to disclose documents so provided, the county auditor shall not disclose such documents;

(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;

(11) Subject to section 4301.441 of the Revised Code, disclosing to the appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code;

(12) Disclosing to the department of natural resources information in the possession of the department of taxation that is necessary for the department of taxation to verify the taxpayer's compliance with section 5749.02 of the Revised Code or to allow the department of natural resources to enforce Chapter 1509. of the Revised Code;

(13) Disclosing to the department of job and family services, industrial commission, and bureau of workers' compensation information in the possession of the department of taxation solely for the purpose of identifying employers that misclassify employees as independent contractors or that fail to properly report and pay employer tax liabilities. The department of taxation shall disclose only such information that is necessary to verify employer compliance with law administered by those agencies.

(14) Disclosing to the Ohio casino control commission information in the possession of the department of taxation that is necessary to verify a casino operator's compliance with section 5747.063 or 5753.02 of the Revised Code and sections related thereto;

(15) Disclosing to the state lottery commission information in the possession of the department of taxation that is necessary to verify a lottery sales agent's compliance with section 5747.064 of the Revised Code;

(16) Disclosing to the development services agency information in the possession of the department of taxation that is necessary to ensure compliance with the laws of this state governing taxation and to verify information reported to the development services agency for the purpose of evaluating potential tax credits, grants, or loans. Such information shall not include information received from the internal revenue service the disclosure of which is prohibited by section 6103 of the Internal Revenue Code. No officer, employee, or agent of the development services agency shall disclose any information provided to the development services agency by the department of taxation under division (C)(16) of this section except when disclosure of the information is necessary for, and made solely for the purpose of facilitating, the evaluation of potential tax credits, grants, or loans.

(17) Disclosing to the department of insurance information in the possession of the department of taxation that is necessary to ensure a taxpayer's compliance with the requirements with any tax credit administered by the development services agency and claimed by the taxpayer against any tax administered by the superintendent of insurance. No officer, employee, or agent of the department of insurance shall disclose any information provided to the department of insurance by the department of taxation under division (C)(17) of this section.

(18) Disclosing to the division of liquor control information in the possession of the department of taxation that is necessary for the division and department to comply with the requirements of sections 4303.26 and 4303.271 of the Revised Code;

(19) Disclosing to the state fire marshal information in the possession of the department of taxation that is necessary for the state fire marshal to verify the compliance of a licensed manufacturer of fireworks or a licensed wholesaler of fireworks with section 3743.22 of the Revised Code. No officer, employee, or agent of the state fire marshal shall disclose any information provided to the state fire marshal by the department of taxation under division (C)(19) of this section.

SECTION 2. That existing sections 3743.01, 3743.04, 3743.08, 3743.17, 3743.21, 3743.25, 3743.44, 3743.45, 3743.57, 3743.59, 3743.60, 3743.61, 3743.63, 3743.65, 3743.75, 3743.80, 3743.99, and 5703.21 of the Revised Code are hereby repealed.

SECTION 3. The amendments to sections 3743.08, 3743.21, 3743.44, 3743.45, 3743.57, 3743.59, 3743.60, 3743.61, 3743.63, 3743.65, and 3743.99 of the Revised Code made in Sections 1 and 2 of this act and the enactment of sections 3743.46 and 3743.47 of the Revised Code by Sections 1 and 2 of this act, take effect on July 1, 2022. The amendments to sections 3743.01, 3743.04, 3743.17, 3743.25, 3743.75, 3743.80, and 5703.21 and the enactment of sections 3743.021, 3743.041, 3743.151, 3743.171, 3743.22, 3743.26 to 3743.29, 3743.451, and 3743.67 of the Revised Code in Sections 1 and 2 of this act shall take effect at the earliest time permitted by law.

SECTION 4. Notwithstanding divisions (A) and (B) of section 3743.26 of the Revised Code, as enacted by this act, the State Fire Marshal shall not issue any licenses to sell fountain devices at retail in 2021.

SECTION 5. The amendments to section 3743.75 and enactment of sections 3743.021, 3743.041, 3743.151, and 3743.171 of the Revised Code by this act are hereby declared to be emergency measures necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is the time needed for the State Fire Marshal to prepare for the end of a moratorium on the issuance of new fireworks manufacturer and wholesaler licenses and the geographic transfer of existing licenses. Therefore, the amendments to section 3743.75 and enactment of sections 3743.021, 3743.041, 3743.151, and 3743.171 of the Revised Code by this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____