

AN ACT

To amend sections 3743.53, 3743.54, 3743.64, and 3743.99 of the Revised Code to require the suspension or revocation of the fireworks exhibitor license of a person who is convicted of violating fireworks exhibition safety standards, to require a fire chief or fire prevention officer, in consultation with a police chief, to complete a detailed checklist while inspecting the premises before a fireworks exhibition takes place to ensure compliance with all applicable statutory and rule requirements, to require the State Fire Marshal to adopt uniform standards for the stability of fireworks exhibition fireworks storage racks, and to generally prohibit dismantling, repositioning, or otherwise disturbing an accident site of a fireworks exhibition.

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

SECTION 1. That sections 3743.53, 3743.54, 3743.64, and 3743.99 of the Revised Code be amended to read as follows:

Sec. 3743.53. (A) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code that establish qualifications that all applicants for licensure as an exhibitor of fireworks shall satisfy. These rules shall be designed to provide a reasonable degree of assurance that individuals conducting public fireworks exhibitions in this state are proficient in handling and discharging fireworks, are capable of handling the responsibilities associated with exhibitions as prescribed by rule of the fire marshal pursuant to ~~division~~ divisions (B) and (E) of this section or as prescribed by sections 3743.50 to 3743.55 of the Revised Code, and will conduct fireworks exhibitions in a manner that emphasizes the safety and security of the public. The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code and may include, in addition to other

requirements prescribed by the fire marshal, a requirement that the applicant for licensure successfully complete a written examination or otherwise successfully demonstrate its proficiency in the handling and discharging of fireworks in a safe manner and its ability to handle the responsibilities associated with exhibitions.

(B) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code that govern the nature and conduct of public fireworks exhibitions by licensed exhibitors of fireworks. These rules shall be designed to promote the safety and security of persons viewing a fireworks exhibition, to promote the safety of persons who, although not viewing an exhibition, could be affected by fireworks used at it, and to promote the safety and security of exhibitors and their assistants.

The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code; except as otherwise provided in this section, shall be substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards; and shall apply to, but not be limited to, the following subject matters:

(1) The construction of shells used in a fireworks exhibition;

(2) ~~The~~ Except as the storage of fireworks is addressed by the rules adopted under division (E) of this section, the storage and supervision of fireworks pending their use in, and during the course of, a fireworks exhibition, and inspections by exhibitors of fireworks to be used in an exhibition prior to their use. These rules shall regulate, among other relevant matters, the storage of fireworks in manners that will effectively eliminate or reduce the likelihood of the fireworks becoming wet or being exposed to flame, and appropriate distances between storage sites and the sites at which fireworks will be discharged.

(3) The installation and nature of mortars used in a fireworks exhibition, and inspections by exhibitors of mortars prior to their use;

(4) Minimum distances between storage sites, discharge sites, spectator viewing sites, parking areas, and potential landing areas of fireworks, and minimum distances between discharge sites, potential landing areas, and residential or other types of buildings or structures;

(5) The nature of discharge sites and potential landing sites;

(6) Fire protection, the use and location of monitors for crowd control, the use of fences and rope barriers for crowd control, illumination, smoking and the use of open flame, and posting of warning signs concerning smoking or the use of open flame in connection with fireworks exhibitions. These rules may provide some authority to local officials in determining adequate fire protection, and numbers and locations of monitors.

(7) Procedures to be followed in the discharging of fireworks;

(8) Weather and crowd-related conditions under which fireworks may and may not be discharged, including circumstances under which exhibitions should be postponed;

(9) Inspections of premises following a fireworks exhibition for purposes of locating and disposing of defective or unexploded fireworks. Inspections shall be required immediately following an exhibition, and, if an exhibition is conducted at night, also at sunrise the following morning.

(C) All mortars used in a fireworks exhibition that are greater than or equal to eight inches in diameter shall be equipped with electronic ignition equipment in accordance with chapter 1123 of the most recent edition of the national fire protection association standards.

(D) Only persons who are employees of licensed exhibitors of fireworks and who are registered with the fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter of an exhibition.

(E)(1) The fire marshal shall adopt rules in accordance with chapter 119. of the Revised Code and consistent with division (E)(3) of THIS section that establish both of the following:

(a) uniform standards for the stability of fireworks storage racks used at a fireworks exhibition;

(b) a detailed checklist that a fire chief or fire prevention officer, in consultation with a police chief, shall complete, while conducting the inspection required under division (c) of section 3743.54 of the Revised Code at the premises at which a fireworks exhibition will take place, to ensure that the exhibition will comply with all applicable requirements of this chapter, and all applicable rules adopted under this chapter, that regulate the conduct of a fireworks exhibition.

(2) each licensed exhibitor of fireworks shall comply with the rules that the fire marshal adopts under division (E)(1)(a) of this section.

(3) Prior to the fire marshal's adoption of the rules referred to in divisions(E)(1)(a) AND (b) of this section, the director of commerce shall appoint a committee consisting of the fire marshal, three representatives of the fireworks industry, and three representatives of the fire service industry to assist the fire marshal in adopting those rules. the fire marshal shall adopt initial rules under those divisions by not later than May 1, 2001.

(F) a fire chief or fire prevention officer, in consultation with a police chief, shall conduct the inspection referred to in division(E)(1)(b) of this section, complete the checklist referred to in division(E)(1)(b) of this section while conducting the inspection, and provide a copy of the completed

cklist to the Fire Marshal.

Sec. 3743.54. (A) A licensed exhibitor of fireworks may acquire fireworks for use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and section 3743.55 of the Revised Code. A licensed exhibitor shall not acquire, for any purpose, 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code.

(B)(1) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to whichever of the following persons is appropriate under the circumstances:

(a) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in a municipal corporation, the approval shall be obtained from the fire chief and the police chief of the particular municipal corporation;

(b) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in an unincorporated area, the approval shall be obtained from the fire chief of the particular township or township fire district and the police chief of the particular township or township police district;

(c) If fire protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief of the political subdivision providing the fire protection services and the police chief of the political subdivision in which the premises on which the exhibition will take place are located. If police services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the police chief of the political subdivision providing the police services and the fire chief of the political subdivision in which the premises on which the exhibition will take place are located. If both fire and police protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief and police chief of the political subdivisions providing the police and fire protection services;

(d) If there is no municipal corporation, township, or township fire district fire department, no municipal corporation, township, or township police district police department, and no contract for police or fire protection services between political subdivisions covering the premises on which the exhibition will take place, the approval shall be obtained from the fire

ntion officer and law enforcement officer having jurisdiction over the premises.

(2) The approval required by division (B)(1) of this section shall be evidenced by the fire chief or fire prevention officer and the police chief signing a permit for the exhibition. The fire marshal shall prescribe the form of exhibition permits and distribute copies of the form to fire chiefs, fire prevention officers, and police chiefs in this state. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the fire marshal or, if it is available, from a fire chief, fire prevention officer, or police chief.

(C) Before ~~signing~~ a permit is signed and issued to a licensed exhibitor of fireworks, ~~a~~ the fire chief or fire prevention officer ~~and, in consultation with~~ the police chief, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the fire chief or fire prevention officer ~~and the police chief~~.

The fire chief or fire prevention officer and the police chief shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the fire marshal pursuant to ~~division~~ divisions (B) and (E) of section 3743.53 of the Revised Code and that the applicant is, in fact, a licensed exhibitor of fireworks. The fire chief or fire prevention officer ~~and, in consultation with~~ the police chief, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(D) If the legislative authorities of their political subdivisions have prescribed a fee for the issuance of a permit for a public fireworks exhibition, fire chiefs or fire prevention officers and police chiefs shall not issue a permit until the exhibitor pays the requisite fee.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars, with surety satisfactory to the fire chief or fire prevention officer and the police chief, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss to persons or property emanating from the fireworks exhibition. The legislative authority of a political subdivision in which a public fireworks exhibition will take place may

require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. Fire chiefs or fire prevention officers and police chiefs shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the political subdivision in which the fireworks exhibition will take place.

(E)(1) Each permit for a fireworks exhibition issued by a fire chief or fire prevention officer and the police chief shall contain a distinct number, designate the municipal corporation, township, or township fire or police district of the fire chief or fire prevention officer and the police chief, and identify the certified fire safety inspector, fire chief, or fire prevention officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the fire chief or fire prevention officer and the police chief issuing it to the fire marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.

(2) Each fire chief, fire prevention officer, and police chief shall keep a record of issued permits for fireworks exhibitions. In this list, the fire chief, fire prevention officer, or police chief shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

(F) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified fire safety inspector, fire chief, or fire prevention officer be present before, during, and after the exhibition, and shall require the certified fire safety inspector, fire chief, or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter.

Sec. 3743.64. (A) No person shall conduct a fireworks exhibition in this state or act as an exhibitor of fireworks in this state unless the person is a licensed exhibitor of fireworks.

(B) No person shall conduct a fireworks exhibition in this state or act as an exhibitor of fireworks in this state after the person's license as an exhibitor of fireworks has expired, been denied renewal, or been revoked, unless a new license has been obtained.

(C) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the fire marshal pursuant to ~~division~~ divisions (B) and (E) of section 3743.53 of the Revised Code or to

comply with divisions (C) and (D) of that section.

(D) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to section 3743.54 of the Revised Code or if a permit so secured is revoked by a fire chief or fire prevention officer ~~and~~, in consultation with a police chief, pursuant to that section.

(E) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with sections 3743.54 and 3743.55 of the Revised Code.

(F) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

(G) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the fire marshal under section 3743.56 of the Revised Code.

(H)(1) As used in this division:

(a) "Accident" 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:

(i) The handling or other use of fireworks or associated equipment or other materials;

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

(b) "Discharge site" means the area immediately surrounding the mortars used to fire aerial shells.

(c) "Accident site" means a discharge site or other location at a fireworks exhibition where an accident occurs, an injury or death associated with an accident occurs, or evidence of an accident or an injury or death associated with an accident is found.

(2) No person shall knowingly, or knowingly permit another person to, dismantle, reposition, or otherwise disturb any equipment, fireworks, or other materials within an accident site of a fireworks exhibition, or any evidence related to an accident, at any time after that person has reason to believe an accident has occurred before the appropriate law enforcement authorities permit the dismantling, repositioning, or other disturbance of the materials within the accident site or of any evidence related to the accident.

(3) It is an affirmative defense to a charge under division (H) of this section that, in order to secure an accident site of a fireworks exhibition or

any evidence related to an accident, the person dismantled, repositioned, or otherwise disturbed materials within the accident site, or evidence related to the accident, which, at the time of the dismantling, repositioning, or other disturbance, still presented a danger of causing an explosion, fire, or similar threat of additional injury or death to members of the public.

(I) No fire chief or fire prevention officer, in consultation with a police chief, shall fail to conduct an inspection, complete the requisite checklist while conducting the inspection, or provide a copy of the completed checklist to the Fire Marshal in accordance with division (F) of section 3743.53 of the Revised Code and the rules adopted by the fire marshal pursuant to division (E)(1)(b) of that section.

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 ~~(C)~~, (D), (E), (F), ~~or (G)~~, or (I) of section 3743.64, division (A), (B), (C), (D), or (F) 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 for a period of five years. If the violation of division (C) of section 3743.64 of the Revised Code results in a serious accident, as defined in division (H) of that section, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked, and that person shall not again be eligible to be licensed as an exhibitor of fireworks or as an assistant exhibitor of fireworks in this state.

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

SECTION 2. That existing sections 3743.53, 3743.54, 3743.64, and 3743.99 of the Revised Code are hereby repealed.

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 _____