

**CORRECTED VERSION  
As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 677**

**Representatives Johnson, Wachtmann**

**Cosponsors: Representatives Henne, Retherford, Becker**

—

**A B I L L**

To amend sections 1705.48, 3737.51, 3737.71, 3737.99, 1  
3743.04, 3743.17, 3743.44, 3743.45, 3743.60, 2  
3743.61, 3743.63, 3743.65, 3743.75, 3743.99, 3  
5703.052, 5703.053, 5703.19, 5703.70, and 5703.77 4  
and to enact sections 3737.04 to 3737.12, 3743.46, 5  
and 3743.47 of the Revised Code to enable 6  
individuals to purchase and use consumer grade 7  
fireworks, to extend to December 15, 2018, the 8  
moratorium on issuing fireworks manufacturer and 9  
wholesaler licenses, and to impose a fee on the 10  
retail sale of consumer grade fireworks in this 11  
state. 12

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

**Section 1.** That sections 1705.48, 3737.51, 3737.71, 3737.99, 13  
3743.04, 3743.17, 3743.44, 3743.45, 3743.60, 3743.61, 3743.63, 14  
3743.65, 3743.75, 3743.99, 5703.052, 5703.053, 5703.19, 5703.70, 15  
and 5703.77 be amended and sections 3737.04, 3737.05, 3737.06, 16  
3737.07, 3737.08, 3737.09, 3737.10, 3737.11, 3737.12, 3743.46, and 17  
3743.47 of the Revised Code be enacted to read as follows: 18

**Sec. 1705.48.** Except as otherwise provided by this chapter or 19  
any other provision of the Revised Code, including, but not 20  
limited to, sections 3734.908, 3737.10, 5739.33, 5743.57, 5747.07, 21  
and 5753.02 of the Revised Code, all of the following apply: 22

(A) The debts, obligations, and liabilities of a limited 23  
liability company, whether arising in contract, tort, or 24  
otherwise, are solely the debts, obligations, and liabilities of 25  
the limited liability company. 26

(B) Neither the members of the limited liability company nor 27  
any managers of the limited liability company are personally 28  
liable to satisfy any judgment, decree, or order of a court for, 29  
or are personally liable to satisfy in any other manner, a debt, 30  
obligation, or liability of the company solely by reason of being 31  
a member or manager of the limited liability company. 32

(C) Nothing in this chapter affects any personal liability of 33  
a member of a limited liability company or any manager of a 34  
limited liability company for the member's or manager's own 35  
actions or omissions. 36

(D) This chapter does not affect any statutory or common law 37  
of this or another state that pertains to the relationship between 38  
an individual who renders a professional service and a recipient 39  
of that service, including, but not limited to, any contract or 40  
tort liability arising out of acts or omissions committed or 41  
omitted during the course of rendering the professional service. 42

**Sec. 3737.04.** Terms used in sections 3737.04 to 3737.12 of 43  
the Revised Code have the same meanings as in section 5739.01 of 44  
the Revised Code. As used in this section: 45

(A) "1.4G fireworks," "licensed wholesaler," and "licensed 46  
manufacturer" have the same meanings as in section 3743.01 of the 47  
Revised Code. 48

(B) "Fireworks vendor" means a licensed wholesaler or 49  
licensed manufacturer engaged in the sale of 1.4G fireworks in 50  
this state that holds a license issued under section 5739.17 of 51  
the Revised Code. 52

Sec. 3737.05. For the purpose of providing revenue to fund 53  
firefighter training programs and the enforcement and regulation 54  
of the fireworks industry, a fee is imposed on the retail sale in 55  
this state of 1.4G fireworks sold on and after April 1, 2015. The 56  
fee shall equal six per cent of the price of such fireworks. All 57  
proceeds from the fee shall be credited to the fireworks fee 58  
receipts fund, which is hereby created in the state treasury. 59  
After the director of budget and management transfers money from 60  
the fireworks fee receipts fund as required in division (C) of 61  
section 3737.11 of the Revised Code, money remaining in the 62  
fireworks fee receipts fund shall be credited to the fire 63  
marshal's fund created in section 3737.71 of the Revised Code. 64

Sec. 3737.06. The tax commissioner shall administer sections 65  
3737.04 to 3737.12 of the Revised Code in the same manner as the 66  
commissioner administers the tax levied under section 5739.02 of 67  
the Revised Code, except as otherwise provided in sections 3737.04 68  
to 3737.12 of the Revised Code. The commissioner may adopt rules 69  
as the commissioner finds necessary for the administration and 70  
enforcement of the fee imposed by section 3737.05 of the Revised 71  
Code. 72

Sec. 3737.07. The requirements, procedures, limitations, and 73  
penalties prescribed in Chapter 5703. of the Revised Code apply to 74  
the administration, collection, payment, and enforcement of the 75  
fee imposed under section 3737.05 of the Revised Code in the same 76  
manner and with the same effect as with other laws that the tax 77  
commissioner is required to administer and enforce. 78

Sec. 3737.08. (A) The fee imposed by section 3737.05 of the 79  
Revised Code shall be paid by a consumer to the fireworks vendor, 80  
and each fireworks vendor shall collect from the consumer, as a 81  
trustee for the state, the full and exact amount of the fee 82  
payable on each sale of 1.4G fireworks in the same manner and at 83  
the same times prescribed in section 5739.03 of the Revised Code 84  
for the tax levied under section 5739.02 of the Revised Code. 85

(B) Whenever a fireworks vendor refunds the price of 1.4G 86  
fireworks on which the fee imposed under section 3737.05 of the 87  
Revised Code has been paid, the vendor shall also refund the 88  
amount of the fee paid. 89

Sec. 3737.09. (A) Each fireworks vendor shall make and file a 90  
return for the preceding month in the form prescribed by the tax 91  
commissioner, and shall make payment of the full amount of the fee 92  
due for the preceding month. The return shall be signed by the 93  
person required to file it, or an authorized employee, officer, or 94  
agent. The return is filed when it is received by the tax 95  
commissioner. 96

(B) The commissioner may require a fireworks vendor that 97  
fails to file such a return within the period prescribed to pay an 98  
additional charge of fifty dollars or ten per cent of the fee 99  
required to be paid for the reporting period, whichever is 100  
greater. The commissioner may collect the additional charge by 101  
assessment pursuant to section 3737.10 of the Revised Code. The 102  
commissioner may remit all or a portion of the additional charge 103  
and may adopt rules relating thereto. 104

(C) If any fee due is not paid timely in accordance with this 105  
section, the person liable for the fee under section 3737.10 of 106  
the Revised Code shall pay interest, calculated at the rate per 107  
annum as prescribed by section 5703.47 of the Revised Code, from 108

the date the fee payment was due to the date of payment or to the 109  
date an assessment is issued, whichever occurs first. Interest 110  
shall be paid in the same manner as the fee, and the commissioner 111  
may collect the interest by assessment pursuant to section 3737.10 112  
of the Revised Code. 113

(D) If, in the estimation of the tax commissioner, the 114  
average amount of fees remitted by a fireworks vendor monthly does 115  
not merit monthly filing, the commissioner may authorize that 116  
vendor to file and pay at less frequent intervals. Returns are due 117  
by the twenty-third day of the month following the close of the 118  
applicable reporting period authorized under this division. 119

(E) Each fireworks vendor shall keep complete and accurate 120  
records of sales of 1.4G fireworks, together with a record of the 121  
fee collected on the sales and shall keep all invoices, bills of 122  
lading, and other such pertinent documents. The records shall be 123  
available for inspection by the commissioner or the commissioner's 124  
authorized agent and shall be preserved for four years after the 125  
return was due or filed, whichever is later. 126

(F) All money collected by the tax commissioner under this 127  
section shall be considered as revenue arising from the fee 128  
imposed by section 3737.05 of the Revised Code. 129

**Sec. 3737.10.** (A) If any fireworks vendor collects the fee 130  
imposed by section 3737.05 of the Revised Code and fails to remit 131  
the fee to the state as prescribed, the vendor shall be personally 132  
liable for any tax collected and not remitted. The tax 133  
commissioner may make an assessment against such vendor based upon 134  
any information in the commissioner's possession. 135

If any fireworks vendor fails to collect the fee or any 136  
consumer fails to pay that fee on any transaction subject to the 137  
tax, the vendor or consumer shall be personally liable for the 138  
amount of the fee applicable to the transaction. The commissioner 139

may make an assessment against either the fireworks vendor or 140  
consumer, as the facts may require, based upon any information in 141  
the commissioner's possession. 142

An assessment against a fireworks vendor when the fee has not 143  
been collected or paid shall not discharge the consumer's 144  
liability to reimburse the fireworks vendor for fees applicable to 145  
such transaction. 146

An assessment issued against a fireworks vendor or consumer 147  
under this section shall not be considered an election of 148  
remedies, nor a bar to an assessment against the other for the fee 149  
applicable to the same transaction, provided that no assessment 150  
shall be issued against any person for the fee due on a particular 151  
transaction if the fee on that transaction actually has been paid 152  
by another. 153

The commissioner may make an assessment against any fireworks 154  
vendor who fails to file a return or remit the proper amount of 155  
fees, or against any consumer who fails to pay the proper amount 156  
of fees. When information in the possession of the commissioner 157  
indicates that the amount required to be collected or paid under 158  
sections 3737.04 to 3737.12 of the Revised Code is greater than 159  
the amount remitted by the fireworks vendor or paid by the 160  
consumer, the commissioner may audit a sample of the vendor's 161  
sales or the consumer's purchases for a representative period and 162  
may issue an assessment based on the audit. The commissioner shall 163  
make a good faith effort to reach agreement with the vendor or 164  
consumer in selecting a representative sample. 165

The commissioner may issue an assessment on any transaction 166  
for which a fee imposed by section 3737.05 of the Revised Code was 167  
due and unpaid on the date the fireworks vendor or consumer was 168  
informed by an agent of the commissioner of an investigation or 169  
audit. If the vendor or consumer remits any payment of the fee for 170  
the period covered by the assessment after the vendor or consumer 171

was informed of the investigation or audit, the payment shall be 172  
credited against the amount of the assessment. 173

The commissioner shall give the party assessed written notice 174  
of the assessment in the manner provided in section 5703.37 of the 175  
Revised Code. With the notice, the commissioner shall provide 176  
instructions on how to petition for reassessment and request a 177  
hearing on the petition. 178

(B) A penalty of up to fifteen per cent may be added to all 179  
amounts assessed under this section. The commissioner may adopt 180  
rules providing for the imposition and remission of the penalties. 181

(C) Unless the person assessed files with the commissioner 182  
within sixty days after service of the notice of assessment, 183  
either personally or by certified mail, a written petition for 184  
reassessment signed by the person assessed or that person's 185  
authorized agent having knowledge of the facts, the assessment 186  
becomes final and the amount of the assessment is due and payable 187  
from the person assessed to the treasurer of state. The petition 188  
shall indicate the objections of the person assessed, but 189  
additional objections may be raised in writing if received by the 190  
commissioner prior to the date shown on the final determination. 191  
If the petition has been properly filed, the commissioner shall 192  
proceed under section 5703.60 of the Revised Code. 193

(D) After an assessment becomes final, if any portion of the 194  
assessment, including accrued interest, remains unpaid, a 195  
certified copy of the tax commissioner's entry making the 196  
assessment final may be filed in the office of the clerk of the 197  
court of common pleas in the county in which the person assessed 198  
resides or in which the person's business is conducted. If the 199  
person assessed maintains no place of business in this state and 200  
is not a resident of this state, the certified copy of the entry 201  
may be filed in the office of the clerk of the court of common 202  
pleas of Franklin county. 203

Immediately upon the filing of the entry, the clerk shall 204  
enter a judgment for the state against the person assessed in the 205  
amount shown on the entry. The judgment may be filed by the clerk 206  
in a loose-leaf book entitled "special judgments for state 207  
fireworks fee," and shall have the same effect as other judgments. 208  
Execution shall issue upon the judgment upon the request of the 209  
tax commissioner, and all laws applicable to sales on execution 210  
shall apply to sales made under the judgment. 211

If the assessment is not paid in its entirety within sixty 212  
days after the day the assessment was issued, the portion of the 213  
assessment consisting of the fee due shall bear interest at the 214  
rate per annum prescribed by section 5703.47 of the Revised Code 215  
from the day the commissioner issues the assessment until the day 216  
the assessment is paid or until it is certified to the attorney 217  
general for collection under section 131.02 of the Revised Code, 218  
whichever comes first. If the unpaid portion of the assessment is 219  
certified to the attorney general for collection, the entire 220  
unpaid portion of the assessment shall bear interest at the rate 221  
per annum prescribed by section 5703.47 of the Revised Code from 222  
the date of certification until the date it is paid in its 223  
entirety. Interest shall be paid in the same manner as the fee and 224  
may be collected by the issuance of an assessment under this 225  
section. 226

(E) If the commissioner believes that collection of the fee 227  
will be jeopardized unless proceedings to collect or secure 228  
collection of the fee are instituted without delay, the 229  
commissioner may issue a jeopardy assessment against the consumer 230  
or the fireworks vendor liable for paying or remitting the fee. 231  
Immediately upon the issuance of the jeopardy assessment, the 232  
commissioner shall file an entry with the clerk of the court of 233  
common pleas in the manner prescribed by division (D) of this 234  
section. Notice of the jeopardy assessment shall be served on the 235



person assessed or the person's legal representative, as provided 236  
in section 5703.37 of the Revised Code, within five days of the 237  
filing of the entry with the clerk. The total amount assessed is 238  
immediately due and payable, unless the person assessed files a 239  
petition for reassessment in accordance with division (C) of this 240  
section and provides security in a form satisfactory to the 241  
commissioner and in an amount sufficient to satisfy the unpaid 242  
balance of the assessment. Full or partial payment of the 243  
assessment does not prejudice the commissioner's consideration of 244  
the petition for reassessment. 245

(F) If any corporation, limited liability company, or 246  
business trust required to file returns pursuant to section 247  
3737.09 of the Revised Code fails to remit to the state any fee 248  
due under section 3737.05 of the Revised Code, any of its 249  
employees having control or supervision of or charged with the 250  
responsibility of filing returns and making payments, and any of 251  
its officers, members, managers, trustees, or other persons who 252  
are responsible for the execution of the corporation's, limited 253  
liability company's, or business trust's fiscal responsibilities, 254  
is personally liable for the failure to remit the fee. The 255  
dissolution, termination, or bankruptcy of the corporation, 256  
limited liability company, or business trust does not discharge a 257  
responsible person's liability for the corporation's, limited 258  
liability company's, or business trust's failure to remit the fee 259  
due. The tax commissioner may assess a responsible person under 260  
this section. 261

(G) Except for assessments against responsible persons under 262  
division (F) of this section, no assessment of the fee imposed by 263  
section 3737.05 of the Revised Code shall be made by the tax 264  
commissioner more than four years after the date on which the 265  
return for the period assessed was due or was filed, whichever 266  
date is later. This section does not bar an assessment when any of 267

<u>the following occur:</u>	268
<u>(1) The person assessed failed to file a return required by section 3737.09 of the Revised Code;</u>	269 270
<u>(2) The person assessed knowingly filed a false or fraudulent return;</u>	271 272
<u>(3) The person assessed and the tax commissioner have waived in writing the time limitation.</u>	273 274
<u>(H) All money collected by the tax commissioner under this section shall be considered as revenue arising from the fee imposed by section 3737.05 of the Revised Code.</u>	275 276 277
<u>Sec. 3737.11. (A) The tax commissioner shall refund the fee imposed by section 3737.05 of the Revised Code paid illegally or erroneously, or paid on an illegal or erroneous assessment in the same manner prescribed under section 5739.07 of the Revised Code for the tax levied under section 5739.02 of the Revised Code. Applications for refund shall be filed with the tax commissioner on a form prescribed by the commissioner, within four years of the illegal or erroneous payment of the fee.</u>	278 279 280 281 282 283 284 285
<u>On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.</u>	286 287 288 289 290 291 292 293
<u>The certified amount shall include interest calculated at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of overpayment to the date of the commissioner's certification.</u>	294 295 296 297

(B) If any person entitled to a refund of fees under this section or section 5703.70 of the Revised Code is indebted to the state for any tax or fee administered by the tax commissioner, or any charge, penalties, or interest arising from such a tax or fee, the amount allowable on the application for refund first shall be applied in satisfaction of the debt. 298  
299  
300  
301  
302  
303

(C) The director of budget and management shall transfer from the fireworks fee receipts fund to the tax refund fund amounts equal to the refunds certified by the commissioner under this section. 304  
305  
306  
307

Sec. 3737.12. No person shall fail to file any return or report required to be filed under section 3737.09 of the Revised Code, or file or cause to be filed any incomplete, false, or fraudulent return, report, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement. 308  
309  
310  
311  
312  
313

**Sec. 3737.51.** (A) No person shall knowingly violate any provision of the state fire code or any order made pursuant to it. 314  
315

(B) Any person who has received a citation for a serious violation of the fire code or any order issued pursuant to it, shall be assessed a civil penalty of not more than one thousand dollars for each such violation. 316  
317  
318  
319

(C) Any person who has received a citation for a violation of the fire code or any order issued pursuant to it, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than one thousand dollars for each such violation. 320  
321  
322  
323  
324

(D) Any person who fails to correct a violation for which a citation has been issued within the period permitted for its correction, may be assessed a civil penalty of not more than one 325  
326  
327

thousand dollars for each day during which such failure or 328  
violation continues. 329

(E) Any person who violates any of the posting requirements, 330  
as prescribed by division (C) of section 3737.42 of the Revised 331  
Code, shall be assessed a civil penalty of not more than one 332  
thousand dollars for each violation. 333

(F) Due consideration to the appropriateness of the penalty 334  
with respect to the gravity of the violation, the good faith of 335  
the person being charged, and the history of previous violations 336  
shall be given whenever a penalty is assessed under this chapter. 337

(G) For purposes of this section, a serious violation shall 338  
be considered to exist if there is a substantial probability that 339  
an occurrence causing death or serious physical harm to persons 340  
could result from a condition which exists, or from one or more 341  
practices, means, methods, operations, or processes which have 342  
been adopted or are in use, unless the person did not and could 343  
not with the exercise of reasonable diligence, know of the 344  
presence of the violation. 345

(H) Civil penalties imposed by this chapter, except penalties 346  
imposed under sections 3737.04 to 3737.12 of the Revised Code, 347  
shall be paid to the fire marshal for deposit into the general 348  
revenue fund. Such penalties may be recovered in a civil action in 349  
the name of the state brought in the court of common pleas of the 350  
county where the violation is alleged to have occurred. 351

**Sec. 3737.71.** Each insurance company doing business in this 352  
state shall pay to the state in installments, at the time of 353  
making the payments required by section 5729.05 of the Revised 354  
Code, in addition to the taxes required to be paid by it, 355  
three-fourths of one per cent on the gross premium receipts 356  
derived from fire insurance and that portion of the premium 357  
reasonably allocable to insurance against the hazard of fire 358

included in other coverages except life and sickness and accident 359  
insurance, after deducting return premiums paid and considerations 360  
received for reinsurances as shown by the annual statement of such 361  
company made pursuant to sections 3929.30, 3931.06, and 5729.02 of 362  
the Revised Code. The money received shall be paid into the state 363  
treasury to the credit of the state fire marshal's fund, which is 364  
hereby created. The fund shall be used for the maintenance and 365  
administration of the office of the fire marshal and the Ohio fire 366  
academy established by section 3737.33 of the Revised Code, except 367  
for any balance credited to the fund from the fee imposed by 368  
section 3737.05 of the Revised Code. Five-sixths of the balance 369  
credited to the fund from that fee shall be used solely to fund 370  
firefighter training programs and one-sixth of that balance shall 371  
be used solely to fund activities and operations of the fire 372  
marshal related to the regulation and enforcement of the fireworks 373  
industry. If the director of commerce certifies to the director of 374  
budget and management that the cash balance in the state fire 375  
marshal's fund, exclusive of any balance credited to the fund from 376  
the fee imposed by section 3737.05 of the Revised Code, is in 377  
excess of the amount needed to pay ongoing operating expenses, the 378  
director of commerce, with the approval of the director of budget 379  
and management, may use the excess amount to acquire by purchase, 380  
lease, or otherwise, real property or interests in real property 381  
to be used for the benefit of the office of the state fire 382  
marshal, or to construct, acquire, enlarge, equip, furnish, or 383  
improve the fire marshal's office facilities or the facilities of 384  
the Ohio fire academy. The state fire marshal's fund shall be 385  
assessed a proportionate share of the administrative costs of the 386  
department of commerce in accordance with procedures prescribed by 387  
the director of commerce and approved by the director of budget 388  
and management. Such assessment shall be paid from the state fire 389  
marshal's fund to the division of administration fund. 390

Notwithstanding any other provision in this section, if the 391

director of budget and management determines at any time that the 392  
money in the state fire marshal's fund exceeds the amount 393  
necessary to defray ongoing operating expenses in a fiscal year, 394  
the director may transfer the excess, exclusive of any balance 395  
credited to the fund from the fee imposed by section 3737.05 of 396  
the Revised Code, to the general revenue fund. 397

**Sec. 3737.99.** (A) Whoever violates section 3737.28 of the 398  
Revised Code may be summarily punished, by the officer concerned, 399  
by a fine of not more than one hundred dollars or commitment to 400  
the county jail until that person is willing to comply with the 401  
order of such officer. 402

(B) Except as a violation of section 2923.17 of the Revised 403  
Code involves subject matter covered by the state fire code and 404  
except as such a violation is covered by division (G) of this 405  
section, whoever violates division (A) of section 3737.51 of the 406  
Revised Code is guilty of a misdemeanor of the first degree. 407

(C) Whoever violates section 3737.61 of the Revised Code is 408  
guilty of a minor misdemeanor. 409

(D) Whoever violates section 3737.62 or 3737.64 of the 410  
Revised Code is guilty of a misdemeanor of the fourth degree. 411

(E) Whoever violates section 3737.63 or division (A) or (B) 412  
of section 3737.65 of the Revised Code is guilty of a misdemeanor 413  
of the third degree. 414

(F) Whoever violates division (C)(3) or (D)(5) of section 415  
3737.73 of the Revised Code shall be fined one thousand dollars. 416

(G) Whoever violates section 3737.66 of the Revised Code is 417  
guilty of a misdemeanor of the first degree. 418

(H) Whoever knowingly violates division (C) of section 419  
3737.882 of the Revised Code is guilty of an unclassified felony 420  
and shall be fined not more than twenty-five thousand dollars or 421

imprisoned for not more than fourteen months, or both. Whoever 422  
recklessly violates division (C) of section 3737.882 of the 423  
Revised Code is guilty of a misdemeanor of the first degree. 424

(I) Whoever knowingly violates division (F)(1), (2), or (3) 425  
of section 3737.881 or section 3737.93 of the Revised Code is 426  
guilty of a misdemeanor of the fourth degree. 427

(J) Whoever knowingly violates division (B) or (C) of section 428  
3737.91 of the Revised Code is guilty of a misdemeanor of the 429  
second degree. 430

(K) Except as prescribed in division (L) of this section, 431  
whoever knowingly violates any provision of section 3737.08, 432  
3737.09, 3737.10, or 3737.12 of the Revised Code, or any rule 433  
adopted by the tax commissioner under section 3737.06, 3737.09, or 434  
3737.10 of the Revised Code, is guilty of a misdemeanor of the 435  
first degree on a first offense; on each subsequent offense, the 436  
person is guilty of a felony of the fourth degree. 437

(L) Whoever violates section 3737.09 of the Revised Code by 438  
failing to remit to the state fees collected under section 3737.05 439  
of the Revised Code is guilty of a felony of the fourth degree and 440  
shall suffer the loss of the person's vendor's license issued 441  
under section 5739.17 of the Revised Code. A person shall not be 442  
eligible for a vendor's license for two years following 443  
conviction. 444

**Sec. 3743.04.** (A) The license of a manufacturer of fireworks 445  
is effective for one year beginning on the first day of December. 446  
The state fire marshal shall issue or renew a license only on that 447  
date and at no other time. If a manufacturer of fireworks wishes 448  
to continue manufacturing fireworks at the designated fireworks 449  
plant after its then effective license expires, it shall apply no 450  
later than the first day of October for a new license pursuant to 451  
section 3743.02 of the Revised Code. The state fire marshal shall 452

send a written notice of the expiration of its license to a 453  
licensed manufacturer at least three months before the expiration 454  
date. 455

(B) If, during the effective period of its licensure, a 456  
licensed manufacturer of fireworks wishes to construct, locate, or 457  
relocate any buildings or other structures on the premises of its 458  
fireworks plant, to make any structural change or renovation in 459  
any building or other structure on the premises of its fireworks 460  
plant, or to change the nature of its manufacturing of fireworks 461  
so as to include the processing of fireworks, the manufacturer 462  
shall notify the state fire marshal in writing. The state fire 463  
marshal may require a licensed manufacturer also to submit 464  
documentation, including, but not limited to, plans covering the 465  
proposed construction, location, relocation, structural change or 466  
renovation, or change in manufacturing of fireworks, if the state 467  
fire marshal determines the documentation is necessary for 468  
evaluation purposes in light of the proposed construction, 469  
location, relocation, structural change or renovation, or change 470  
in manufacturing of fireworks. 471

Upon receipt of the notification and additional documentation 472  
required by the state fire marshal, the state fire marshal shall 473  
inspect the premises of the fireworks plant to determine if the 474  
proposed construction, location, relocation, structural change or 475  
renovation, or change in manufacturing of fireworks conforms to 476  
sections 3743.02 to 3743.08 of the Revised Code and the rules 477  
adopted by the state fire marshal pursuant to section 3743.05 of 478  
the Revised Code. The state fire marshal shall issue a written 479  
authorization to the manufacturer for the construction, location, 480  
relocation, structural change or renovation, or change in 481  
manufacturing of fireworks if the state fire marshal determines, 482  
upon the inspection and a review of submitted documentation, that 483  
the construction, location, relocation, structural change or 484



renovation, or change in manufacturing of fireworks conforms to 485  
those sections and rules. Upon authorizing a change in 486  
manufacturing of fireworks to include the processing of fireworks, 487  
the state fire marshal shall make notations on the manufacturer's 488  
license and in the list of licensed manufacturers in accordance 489  
with section 3743.03 of the Revised Code. 490

On or before June 1, 1998, a licensed manufacturer shall 491  
install, in every licensed building in which fireworks are 492  
manufactured, stored, or displayed and to which the public has 493  
access, interlinked fire detection, smoke exhaust, and smoke 494  
evacuation systems that are approved by the superintendent of 495  
industrial compliance, and shall comply with floor plans showing 496  
occupancy load limits and internal circulation and egress patterns 497  
that are approved by the state fire marshal and superintendent, 498  
and that are submitted under seal as required by section 3791.04 499  
of the Revised Code. Notwithstanding section 3743.59 of the 500  
Revised Code, the construction and safety requirements established 501  
in this division are not subject to any variance, waiver, or 502  
exclusion. 503

(C) The license of a manufacturer of fireworks authorizes the 504  
manufacturer to engage only in the following activities: 505

(1) The manufacturing of fireworks on the premises of the 506  
fireworks plant as described in the application for licensure or 507  
in the notification submitted under division (B) of this section, 508  
except that a licensed manufacturer shall not engage in the 509  
processing of fireworks unless authorized to do so by its license. 510

(2) To possess for sale at wholesale and sell at wholesale 511  
the fireworks manufactured by the manufacturer, to persons who are 512  
licensed wholesalers of fireworks, to ~~out-of-state residents~~ 513  
persons in accordance with ~~section~~ sections 3743.44 ~~of the Revised~~ 514  
~~Code, to residents of this state in accordance with section~~ 515  
~~3743.45 to 3743.46~~ of the Revised Code, or to persons located in 516

another state provided the fireworks are shipped directly out of 517  
this state to them by the manufacturer. A person who is licensed 518  
as a manufacturer of fireworks on June 14, 1988, also may possess 519  
for sale and sell pursuant to division (C)(2) of this section 520  
fireworks other than those the person manufactures. The possession 521  
for sale shall be on the premises of the fireworks plant described 522  
in the application for licensure or in the notification submitted 523  
under division (B) of this section, and the sale shall be from the 524  
inside of a licensed building and from no other structure or 525  
device outside a licensed building. At no time shall a licensed 526  
manufacturer sell any class of fireworks outside a licensed 527  
building. 528

(3) Possess for sale at retail and sell at retail the 529  
fireworks manufactured by the manufacturer, other than 1.4G 530  
fireworks as designated by the state fire marshal in rules adopted 531  
pursuant to division (A) of section 3743.05 of the Revised Code, 532  
to licensed exhibitors in accordance with sections 3743.50 to 533  
3743.55 of the Revised Code, and possess for sale at retail and 534  
sell at retail the fireworks manufactured by the manufacturer, 535  
including 1.4G fireworks, to ~~out-of-state residents~~ persons in 536  
accordance with ~~section~~ sections 3743.44 ~~of the Revised Code, to~~ 537  
~~residents of this state in accordance with section 3743.45 to~~ 538  
3743.46 of the Revised Code, or to persons located in another 539  
state provided the fireworks are shipped directly out of this 540  
state to them by the manufacturer. A person who is licensed as a 541  
manufacturer of fireworks on June 14, 1988, may also possess for 542  
sale and sell pursuant to division (C)(3) of this section 543  
fireworks other than those the person manufactures. The possession 544  
for sale shall be on the premises of the fireworks plant described 545  
in the application for licensure or in the notification submitted 546  
under division (B) of this section, and the sale shall be from the 547  
inside of a licensed building and from no other structure or 548  
device outside a licensed building. At no time shall a licensed 549

manufacturer sell any class of fireworks outside a licensed 550  
building. 551

A licensed manufacturer of fireworks shall sell under 552  
division (C) of this section only fireworks that meet the 553  
standards set by the consumer product safety commission or by the 554  
American fireworks standard laboratories or that have received an 555  
EX number from the United States department of transportation. 556

(D) The license of a manufacturer of fireworks shall be 557  
protected under glass and posted in a conspicuous place on the 558  
premises of the fireworks plant. Except as otherwise provided in 559  
this division, the license is not transferable or assignable. A 560  
license may be transferred to another person for the same 561  
fireworks plant for which the license was issued if the assets of 562  
the plant are transferred to that person by inheritance or by a 563  
sale approved by the state fire marshal. The license is subject to 564  
revocation in accordance with section 3743.08 of the Revised Code. 565

(E) The state fire marshal shall not place the license of a 566  
manufacturer of fireworks in a temporarily inactive status while 567  
the holder of the license is attempting to qualify to retain the 568  
license. 569

(F) Each licensed manufacturer of fireworks that possesses 570  
fireworks for sale and sells fireworks under division (C) of 571  
section 3743.04 of the Revised Code, or a designee of the 572  
manufacturer, whose identity is provided to the state fire marshal 573  
by the manufacturer, annually shall attend a continuing education 574  
program. The state fire marshal shall develop the program and the 575  
state fire marshal or a person or public agency approved by the 576  
state fire marshal shall conduct it. A licensed manufacturer or 577  
the manufacturer's designee who attends a program as required 578  
under this division, within one year after attending the program, 579  
shall conduct in-service training as approved by the state fire 580  
marshal for other employees of the licensed manufacturer regarding 581

the information obtained in the program. A licensed manufacturer 582  
shall provide the state fire marshal with notice of the date, 583  
time, and place of all in-service training. For any program 584  
conducted under this division, the state fire marshal shall, in 585  
accordance with rules adopted by the state fire marshal under 586  
Chapter 119. of the Revised Code, establish the subjects to be 587  
taught, the length of classes, the standards for approval, and 588  
time periods for notification by the licensee to the state fire 589  
marshal of any in-service training. 590

(G) A licensed manufacturer shall maintain comprehensive 591  
general liability insurance coverage in the amount and type 592  
specified under division (B)(2) of section 3743.02 of the Revised 593  
Code at all times. Each policy of insurance required under this 594  
division shall contain a provision requiring the insurer to give 595  
not less than fifteen days' prior written notice to the state fire 596  
marshal before termination, lapse, or cancellation of the policy, 597  
or any change in the policy that reduces the coverage below the 598  
minimum required under this division. Prior to canceling or 599  
reducing the amount of coverage of any comprehensive general 600  
liability insurance coverage required under this division, a 601  
licensed manufacturer shall secure supplemental insurance in an 602  
amount and type that satisfies the requirements of this division 603  
so that no lapse in coverage occurs at any time. A licensed 604  
manufacturer who secures supplemental insurance shall file 605  
evidence of the supplemental insurance with the state fire marshal 606  
prior to canceling or reducing the amount of coverage of any 607  
comprehensive general liability insurance coverage required under 608  
this division. 609

(H) The state fire marshal shall adopt rules for the 610  
expansion or contraction of a licensed premises and for approval 611  
of such expansions or contractions. The boundaries of a licensed 612  
premises, including any geographic expansion or contraction of 613

those boundaries, shall be approved by the state fire marshal in 614  
accordance with rules the state fire marshal adopts. If the 615  
licensed premises consists of more than one parcel of real estate, 616  
those parcels shall be contiguous unless an exception is allowed 617  
pursuant to division (I) of this section. 618

(I)(1) A licensed manufacturer may expand its licensed 619  
premises within this state to include not more than two storage 620  
locations that are located upon one or more real estate parcels 621  
that are noncontiguous to the licensed premises as that licensed 622  
premises exists on the date a licensee submits an application as 623  
described below, if all of the following apply: 624

(a) The licensee submits an application to the state fire 625  
marshal and an application fee of one hundred dollars per storage 626  
location for which the licensee is requesting approval. 627

(b) The identity of the holder of the license remains the 628  
same at the storage location. 629

(c) The storage location has received a valid certificate of 630  
zoning compliance as applicable and a valid certificate of 631  
occupancy for each building or structure at the storage location 632  
issued by the authority having jurisdiction to issue the 633  
certificate for the storage location, and those certificates 634  
permit the distribution and storage of fireworks regulated under 635  
this chapter at the storage location and in the buildings or 636  
structures. The storage location shall be in compliance with all 637  
other applicable federal, state, and local laws and regulations. 638

(d) Every building or structure located upon the storage 639  
location is separated from occupied residential and nonresidential 640  
buildings or structures, railroads, highways, or any other 641  
buildings or structures on the licensed premises in accordance 642  
with the distances specified in the rules adopted by the state 643  
fire marshal pursuant to section 3743.05 of the Revised Code. 644

(e) Neither the licensee nor any person holding, owning, or 645  
controlling a five per cent or greater beneficial or equity 646  
interest in the licensee has been convicted of or pleaded guilty 647  
to a felony under the laws of this state, any other state, or the 648  
United States, after September 29, 2005. 649

(f) The state fire marshal approves the application for 650  
expansion. 651

(2) The state fire marshal shall approve an application for 652  
expansion requested under division (I)(1) of this section if the 653  
state fire marshal receives the application fee and proof that the 654  
requirements of divisions (I)(1)(b) to (e) of this section are 655  
satisfied. The storage location shall be considered part of the 656  
original licensed premises and shall use the same distinct number 657  
assigned to the original licensed premises with any additional 658  
designations as the state fire marshal deems necessary in 659  
accordance with section 3743.03 of the Revised Code. 660

(J)(1) A licensee who obtains approval for the use of a 661  
storage location in accordance with division (I) of this section 662  
shall use the storage location exclusively for the following 663  
activities, in accordance with division (C) of this section: 664

(a) The packaging, assembling, or storing of fireworks, which 665  
shall only occur in buildings or structures approved for such 666  
hazardous uses by the building code official having jurisdiction 667  
for the storage location or, for 1.4G fireworks, in containers or 668  
trailers approved for such hazardous uses by the state fire 669  
marshal if such containers or trailers are not subject to 670  
regulation by the building code adopted in accordance with Chapter 671  
3781. of the Revised Code. All such storage shall be in accordance 672  
with the rules adopted by the state fire marshal under division 673  
(G) of section 3743.05 of the Revised Code for the packaging, 674  
assembling, and storage of fireworks. 675

(b) Distributing fireworks to other parcels of real estate 676  
located on the manufacturer's licensed premises, to licensed 677  
wholesalers or other licensed manufacturers in this state or to 678  
similarly licensed persons located in another state or country; 679

(c) Distributing fireworks to a licensed exhibitor of 680  
fireworks pursuant to a properly issued permit in accordance with 681  
section 3743.54 of the Revised Code. 682

(2) A licensed manufacturer shall not engage in any sales 683  
activity, including the retail sale of fireworks otherwise 684  
permitted under division (C)(2) or (C)(3) of this section, or 685  
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 686  
storage location approved under this section. 687

(3) A storage location may not be relocated for a minimum 688  
period of five years after the storage location is approved by the 689  
state fire marshal in accordance with division (I) of this 690  
section. 691

(K) The licensee shall prohibit public access to the storage 692  
location. The state fire marshal shall adopt rules to describe the 693  
acceptable measures a manufacturer shall use to prohibit access to 694  
the storage site. 695

**Sec. 3743.17.** (A) The license of a wholesaler of fireworks is 696  
effective for one year beginning on the first day of December. The 697  
state fire marshal shall issue or renew a license only on that 698  
date and at no other time. If a wholesaler of fireworks wishes to 699  
continue engaging in the wholesale sale of fireworks at the 700  
particular location after its then effective license expires, it 701  
shall apply not later than the first day of October for a new 702  
license pursuant to section 3743.15 of the Revised Code. The state 703  
fire marshal shall send a written notice of the expiration of its 704  
license to a licensed wholesaler at least three months before the 705  
expiration date. 706

(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, 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, if the state fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction or structural change or renovation.

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 to determine if the proposed construction or structural change or renovation conforms to sections 3743.15 to 3743.21 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 or structural change or renovation if the state fire marshal determines, upon the inspection and a review of submitted documentation, that the construction or structural change or renovation conforms 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 739  
application for licensure or in the notification submitted under 740  
division (B) of this section, and the sale shall be from the 741  
inside of a licensed building and from no structure or device 742  
outside a licensed building. At no time shall a licensed 743  
wholesaler sell any class of fireworks outside a licensed 744  
building. 745

(2) Possess for sale at retail and sell at retail fireworks, 746  
other than 1.4G fireworks as designated by the state fire marshal 747  
in rules adopted pursuant to division (A) of section 3743.05 of 748  
the Revised Code, to licensed exhibitors in accordance with 749  
sections 3743.50 to 3743.55 of the Revised Code, and possess for 750  
sale at retail and sell at retail fireworks, including 1.4G 751  
fireworks, to ~~out-of-state residents~~ persons in accordance with 752  
~~section sections~~ 3743.44 ~~of the Revised Code, to residents of this~~ 753  
~~state in accordance with section 3743.45~~ to 3743.46 of the Revised 754  
Code, or to persons located in another state provided the 755  
fireworks are shipped directly out of this state to them by the 756  
wholesaler. The possession for sale shall be at the location 757  
described in the application for licensure or in the notification 758  
submitted under division (B) of this section, and the sale shall 759  
be from the inside of the licensed building and from no other 760  
structure or device outside this licensed building. At no time 761  
shall a licensed wholesaler sell any class of fireworks outside a 762  
licensed building. 763

A licensed wholesaler of fireworks shall sell under division 764  
(C) of this section only fireworks that meet the standards set by 765  
the consumer product safety commission or by the American 766  
fireworks standard laboratories or that have received an EX number 767  
from the United States department of transportation. 768

(D) The license of a wholesaler of fireworks shall be 769  
protected under glass and posted in a conspicuous place at the 770

location described in the application for licensure or in the 771  
notification submitted under division (B) of this section. Except 772  
as otherwise provided in this section, the license is not 773  
transferable or assignable. A license may be transferred to 774  
another person for the same location for which the license was 775  
issued if the assets of the wholesaler are transferred to that 776  
person by inheritance or by a sale approved by the state fire 777  
marshal. The license is subject to revocation in accordance with 778  
section 3743.21 of the Revised Code. 779

(E) The state fire marshal shall adopt rules for the 780  
expansion or contraction of a licensed premises and for the 781  
approval of an expansion or contraction. The boundaries of a 782  
licensed premises, including any geographic expansion or 783  
contraction of those boundaries, shall be approved by the state 784  
fire marshal in accordance with rules the state fire marshal 785  
adopts. If the licensed premises of a licensed wholesaler from 786  
which the wholesaler operates consists of more than one parcel of 787  
real estate, those parcels must be contiguous, unless an exception 788  
is allowed pursuant to division (G) of this section. 789

(F)(1) Upon application by a licensed wholesaler of 790  
fireworks, a wholesaler license may be transferred from one 791  
geographic location to another within the same municipal 792  
corporation or within the unincorporated area of the same 793  
township, but only if all of the following apply: 794

(a) The identity of the holder of the license remains the 795  
same in the new location. 796

(b) The former location is closed prior to the opening of the 797  
new location and no fireworks business of any kind is conducted at 798  
the former location after the transfer of the license. 799

(c) The new location has received a local certificate of 800  
zoning compliance and a local certificate of occupancy, and 801

otherwise is in compliance with all local building regulations. 802

(d) Every building or structure at the new location is 803  
separated from occupied residential and nonresidential buildings 804  
or structures, railroads, highways, or any other buildings or 805  
structures located on the licensed premises in accordance with the 806  
distances specified in the rules adopted by the state fire marshal 807  
pursuant to section 3743.18 of the Revised Code. If the licensee 808  
fails to comply with the requirements of division (F)(1)(d) of 809  
this section by the licensee's own act, the license at the new 810  
location is forfeited. 811

(e) Neither the licensee nor any person holding, owning, or 812  
controlling a five per cent or greater beneficial or equity 813  
interest in the licensee has been convicted of or has pleaded 814  
guilty to a felony under the laws of this state, any other state, 815  
or the United States after June 30, 1997. 816

(f) The state fire marshal approves the request for the 817  
transfer. 818

(2) The new location shall comply with the requirements 819  
specified in divisions (C)(1) and (2) of section 3743.25 of the 820  
Revised Code whether or not the fireworks showroom at the new 821  
location is constructed, expanded, or first begins operating on 822  
and after June 30, 1997. 823

(G)(1) A licensed wholesaler may expand its licensed premises 824  
within this state to include not more than two storage locations 825  
that are located upon one or more real estate parcels that are 826  
noncontiguous to the licensed premises as that licensed premises 827  
exists on the date a licensee submits an application as described 828  
below, if all of the following apply: 829

(a) The licensee submits an application to the state fire 830  
marshal requesting the expansion and an application fee of one 831  
hundred dollars per storage location for which the licensee is 832

requesting approval. 833

(b) The identity of the holder of the license remains the 834  
same at the storage location. 835

(c) The storage location has received a valid certificate of 836  
zoning compliance, as applicable, and a valid certificate of 837  
occupancy for each building or structure at the storage location 838  
issued by the authority having jurisdiction to issue the 839  
certificate for the storage location, and those certificates 840  
permit the distribution and storage of fireworks regulated under 841  
this chapter at the storage location and in the buildings or 842  
structures. The storage location shall be in compliance with all 843  
other applicable federal, state, and local laws and regulations. 844

(d) Every building or structure located upon the storage 845  
location is separated from occupied residential and nonresidential 846  
buildings or structures, railroads, highways, and any other 847  
buildings or structures on the licensed premises in accordance 848  
with the distances specified in the rules adopted by the state 849  
fire marshal pursuant to section 3743.18 of the Revised Code. 850

(e) Neither the licensee nor any person holding, owning, or 851  
controlling a five per cent or greater beneficial or equity 852  
interest in the licensee has been convicted of or pleaded guilty 853  
to a felony under the laws of this state, any other state, or the 854  
United States, after September 29, 2005. 855

(f) The state fire marshal approves the application for 856  
expansion. 857

(2) The state fire marshal shall approve an application for 858  
expansion requested under division (G)(1) of this section if the 859  
state fire marshal receives the application fee and proof that the 860  
requirements of divisions (G)(1)(b) to (e) of this section are 861  
satisfied. The storage location shall be considered part of the 862  
original licensed premises and shall use the same distinct number 863

assigned to the original licensed premises with any additional 864  
designations as the state fire marshal deems necessary in 865  
accordance with section 3743.16 of the Revised Code. 866

(H)(1) A licensee who obtains approval for use of a storage 867  
location in accordance with division (G) of this section shall use 868  
the site exclusively for the following activities, in accordance 869  
with division (C)(1) of this section: 870

(a) Packaging, assembling, or storing fireworks, which shall 871  
occur only in buildings or structures approved for such hazardous 872  
uses by the building code official having jurisdiction for the 873  
storage location or, for 1.4G fireworks, in containers or trailers 874  
approved for such hazardous uses by the state fire marshal if such 875  
containers or trailers are not subject to regulation by the 876  
building code adopted in accordance with Chapter 3781. of the 877  
Revised Code. All such storage shall be in accordance with the 878  
rules adopted by the state fire marshal under division (B)(4) of 879  
section 3743.18 of the Revised Code for the packaging, assembling, 880  
and storage of fireworks. 881

(b) Distributing fireworks to other parcels of real estate 882  
located on the wholesaler's licensed premises, to licensed 883  
manufacturers or other licensed wholesalers in this state or to 884  
similarly licensed persons located in another state or country; 885

(c) Distributing fireworks to a licensed exhibitor of 886  
fireworks pursuant to a properly issued permit in accordance with 887  
section 3743.54 of the Revised Code. 888

(2) A licensed wholesaler shall not engage in any sales 889  
activity, including the retail sale of fireworks otherwise 890  
permitted under division (C)(2) of this section or pursuant to 891  
section 3743.44 or 3743.45 of the Revised Code, at a storage 892  
location approved under this section. 893

(3) A storage location may not be relocated for a minimum 894

period of five years after the storage location is approved by the 895  
state fire marshal in accordance with division (G) of this 896  
section. 897

(I) A licensee shall prohibit public access to all storage 898  
locations it uses. The state fire marshal shall adopt rules 899  
establishing acceptable measures a wholesaler shall use to 900  
prohibit access to storage sites. 901

(J) The state fire marshal shall not place the license of a 902  
wholesaler of fireworks in temporarily inactive status while the 903  
holder of the license is attempting to qualify to retain the 904  
license. 905

(K) Each licensed wholesaler of fireworks or a designee of 906  
the wholesaler, whose identity is provided to the state fire 907  
marshal by the wholesaler, annually shall attend a continuing 908  
education program. The state fire marshal shall develop the 909  
program and the state fire marshal or a person or public agency 910  
approved by the state fire marshal shall conduct it. A licensed 911  
wholesaler or the wholesaler's designee who attends a program as 912  
required under this division, within one year after attending the 913  
program, shall conduct in-service training as approved by the 914  
state fire marshal for other employees of the licensed wholesaler 915  
regarding the information obtained in the program. A licensed 916  
wholesaler shall provide the state fire marshal with notice of the 917  
date, time, and place of all in-service training. For any program 918  
conducted under this division, the state fire marshal shall, in 919  
accordance with rules adopted by the state fire marshal under 920  
Chapter 119. of the Revised Code, establish the subjects to be 921  
taught, the length of classes, the standards for approval, and 922  
time periods for notification by the licensee to the state fire 923  
marshal of any in-service training. 924

(L) A licensed wholesaler shall maintain comprehensive 925  
general liability insurance coverage in the amount and type 926

specified under division (B)(2) of section 3743.15 of the Revised 927  
Code at all times. Each policy of insurance required under this 928  
division shall contain a provision requiring the insurer to give 929  
not less than fifteen days' prior written notice to the state fire 930  
marshal before termination, lapse, or cancellation of the policy, 931  
or any change in the policy that reduces the coverage below the 932  
minimum required under this division. Prior to canceling or 933  
reducing the amount of coverage of any comprehensive general 934  
liability insurance coverage required under this division, a 935  
licensed wholesaler shall secure supplemental insurance in an 936  
amount and type that satisfies the requirements of this division 937  
so that no lapse in coverage occurs at any time. A licensed 938  
wholesaler who secures supplemental insurance shall file evidence 939  
of the supplemental insurance with the state fire marshal prior to 940  
canceling or reducing the amount of coverage of any comprehensive 941  
general liability insurance coverage required under this division. 942

**Sec. 3743.44.** (A) Any person who ~~resides in another state and~~ 943  
~~who~~ intends to obtain possession in this state of 1.3G fireworks 944  
purchased in this state shall obtain possession of the 1.3G 945  
fireworks only from a licensed manufacturer or licensed wholesaler 946  
~~and only possess the fireworks in this state while in the course~~ 947  
~~of directly transporting them out of this state.~~ No licensed 948  
manufacturer or licensed wholesaler shall sell 1.3G fireworks to a 949  
person ~~who resides in another state~~ unless that person has been 950  
issued a license or permit in the state of the person's residence 951  
that authorizes the person to engage in the manufacture, wholesale 952  
sale, or retail sale of 1.3G fireworks or that authorizes the 953  
person to conduct 1.3G fireworks exhibitions in that state and 954  
that person presents a certified copy of the license. ~~No licensed~~ 955  
~~manufacturer or licensed wholesaler shall sell fireworks to a~~ 956  
~~person who resides in another state unless that person has been~~ 957  
~~issued a license or permit in the state of the person's residence~~ 958

~~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) A licensed manufacturer or licensed wholesaler selling fireworks under this section shall require the purchaser to complete a purchaser's form. The state fire marshal shall prescribe the form, and the licensed manufacturer or licensed wholesaler shall furnish the form. On this form the purchaser shall include the purchaser's name and address; the date of the purchase; a statement that the purchaser acknowledges that the purchaser is responsible for any illegal use of the fireworks, including any damages caused by improper use; the number of the purchaser's license or permit authorizing the purchaser to manufacture, sell at wholesale, or sell at retail fireworks or to conduct fireworks exhibitions, or the number of the purchaser's motor vehicle operator's license or other identification card, as applicable; such other information as the state fire marshal may require; and the purchaser's signature. Each purchaser's form



shall contain a statement printed in bold letters indicating that 992  
knowingly making a false statement on the form is falsification 993  
under section 2921.13 of the Revised Code and is a misdemeanor of 994  
the first degree. 995

Each licensed manufacturer and licensed wholesaler shall keep 996  
each purchaser's form for a period of three years after the date 997  
of the purchase, and such forms shall be open to inspection by the 998  
state fire marshal or the state fire marshal's designated 999  
authority. 1000

(C) Each ~~purchaser of~~ person who resides in another state who 1001  
purchases fireworks under this section shall transport the 1002  
fireworks so purchased directly out of this state within 1003  
forty-eight hours after the time of their purchase. 1004

~~This section regulates wholesale sales and retail sales of~~ 1005  
~~fireworks in this state only insofar as purchasers of fireworks~~ 1006  
~~are residents of other states and will be obtaining possession in~~ 1007  
~~this state of purchased fireworks.~~ (D) This section does not 1008  
prohibit licensed manufacturers or wholesalers from selling 1009  
fireworks, in accordance with section 3743.04 or sections 3743.17 1010  
and 3743.25 of the Revised Code, to a resident of another state 1011  
and from shipping the purchased fireworks directly out of this 1012  
state to the purchaser. 1013

**Sec. 3743.45.** (A) Any person who ~~resides in this state and~~ 1014  
~~who~~ intends to obtain possession in this state of 1.4G fireworks 1015  
purchased in this state shall obtain possession of the 1.4G 1016  
fireworks only from a licensed manufacturer or licensed wholesaler 1017  
and shall be subject to this section. 1018

A licensed manufacturer or licensed wholesaler selling 1.4G 1019  
fireworks under this division shall require the purchaser to 1020  
complete a purchaser's form, which shall be prescribed by the 1021  
state fire marshal and furnished by the licensed manufacturer or 1022

licensed wholesaler. On this form the purchaser shall include the 1023  
purchaser's name and address; the date of the purchase; a 1024  
statement that the purchaser acknowledges that the purchaser is 1025  
responsible for any illegal use of the fireworks, including any 1026  
damages caused by improper use; such other information as the 1027  
state fire marshal may require; and the purchaser's signature. 1028  
Each purchaser's form shall contain a statement printed in bold 1029  
letters indicating that knowingly making a false statement on the 1030  
form is falsification under section 2921.13 of the Revised Code 1031  
and is a misdemeanor of the first degree. Upon accurate completion 1032  
and submission of the purchaser's form to the licensed 1033  
manufacturer or licensed wholesaler, the purchaser may possess 1034  
1.4G fireworks in accordance with this section. 1035

Each licensed manufacturer and licensed wholesaler shall keep 1036  
each purchaser's form for a period of three years after the date 1037  
of the purchase, and such forms shall be open to inspection by the 1038  
state fire marshal or the state fire marshal's designated 1039  
authority. 1040

~~Each purchaser of 1.4G fireworks under this division shall 1041  
transport the fireworks so purchased directly out of this state 1042  
within forty eight hours after the time of their purchase. 1043~~

This division does not apply to a person ~~who resides in this 1044  
state and~~ who is also a licensed manufacturer, licensed 1045  
wholesaler, or licensed exhibitor of fireworks in this state. 1046

(B) ~~No licensed manufacturer or licensed wholesaler shall 1047  
sell 1.3G fireworks to a person who resides in this state unless 1048  
that person is a licensed manufacturer, licensed wholesaler, or 1049  
licensed exhibitor of fireworks in this state~~ A licensed 1050  
manufacturer or licensed wholesaler selling 1.4G fireworks under 1051  
this division shall have safety glasses available for a nominal 1052  
charge or free at the site of the 1.4G fireworks purchase. 1053

(C) Any person authorized under this section to possess 1.4G fireworks in this state may discharge, ignite, or explode those fireworks in either of the following locations in this state: 1054  
1055  
1056

(1) On the property of the purchaser; 1057

(2) On the property of another person who has given permission to the purchaser. 1058  
1059

(D) Fireworks discharged, ignited, or exploded pursuant to this section shall not be considered a public exhibition. 1060  
1061

(E) 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: 1062  
1063  
1064  
1065

(1) Restrict the dates and times a person may discharge, ignite, or explode fireworks purchased pursuant to this section; 1066  
1067

(2) Ban the discharge, ignition, or explosion of fireworks purchased pursuant to this section. 1068  
1069

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. 1070  
1071  
1072  
1073

(F) This section does not limit the enforcement of any ordinance, resolution, or statute that regulates noise, disturbance of the peace, or disorderly conduct. 1074  
1075  
1076

**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: 1077  
1078  
1079  
1080

(1) The person has been issued a license or permit in the state of the person's residence that authorizes the person to 1081  
1082

engage in the manufacture, wholesale sale, or retail sale of 1083  
fireworks in that state or that authorizes the person to conduct 1084  
fireworks exhibitions in that state and that person presents a 1085  
certified copy of the license. 1086

(2) If the person does not possess a license or permit 1087  
described in division (A)(1) of this section, the person presents 1088  
a current valid motor vehicle operator's license issued to the 1089  
person in the person's state of residence. 1090

(3) If the person does not possess a license or permit issued 1091  
in that state as described in division (A)(1) or (2) of this 1092  
section, the person presents an identification card issued to the 1093  
person by a governmental agency in the person's state of residence 1094  
indicating that the person is a resident of that state. 1095

(B) If a person who is required to present a motor vehicle 1096  
operator's license or other identification card intends to 1097  
transport the fireworks purchased directly out of this state by a 1098  
motor vehicle and the person will not also be the operator of that 1099  
motor vehicle while so transporting the fireworks, the operator of 1100  
the motor vehicle also shall present the operator's motor vehicle 1101  
operator's license. 1102

**Sec. 3743.47.** (A) The state fire marshal shall prepare a 1103  
pamphlet that explains how to use 1.4G fireworks safely. The state 1104  
fire marshal shall distribute the pamphlet to all licensed 1105  
wholesalers and licensed manufacturers who sell 1.4G fireworks. 1106

(B) A licensed manufacturer or licensed wholesaler shall 1107  
furnish a copy of the pamphlet prepared pursuant to division (A) 1108  
of this section to each purchaser of 1.4G fireworks. 1109

This division does not apply when a purchaser is a licensed 1110  
manufacturer, licensed wholesaler, or licensed exhibitor of 1111  
fireworks in this state. 1112

Sec. 3743.60. (A) No person shall manufacture fireworks in 1113  
this state unless it is a licensed manufacturer of fireworks, and 1114  
no person shall operate a fireworks plant in this state unless it 1115  
has been issued a license as a manufacturer of fireworks for the 1116  
particular fireworks plant. 1117

(B) No person shall operate a fireworks plant in this state 1118  
after its license as a manufacturer of fireworks for the 1119  
particular fireworks plant has expired, been denied renewal, or 1120  
been revoked, unless a new license has been obtained. 1121

(C) No licensed manufacturer of fireworks, during the 1122  
effective period of its licensure, shall construct, locate, or 1123  
relocate any buildings or other structures on the premises of its 1124  
fireworks plant, make any structural change or renovation in any 1125  
building or other structure on the premises of its fireworks 1126  
plant, or change the nature of its manufacturing of fireworks so 1127  
as to include the processing of fireworks without first obtaining 1128  
a written authorization from the state fire marshal pursuant to 1129  
division (B) of section 3743.04 of the Revised Code. 1130

(D) No licensed manufacturer of fireworks shall manufacture 1131  
fireworks, possess fireworks for sale at wholesale or retail, or 1132  
sell fireworks at wholesale or retail, in a manner not authorized 1133  
by division (C) of section 3743.04 of the Revised Code. 1134

(E) No licensed manufacturer of fireworks shall knowingly 1135  
fail to comply with the rules adopted by the state fire marshal 1136  
pursuant to section 3743.05 of the Revised Code or the 1137  
requirements of section 3743.06 of the Revised Code. 1138

(F) No licensed manufacturer of fireworks shall fail to 1139  
maintain complete inventory, wholesale sale, and retail records as 1140  
required by section 3743.07 of the Revised Code, or to permit 1141  
inspection of these records or the premises of a fireworks plant 1142  
pursuant to section 3743.08 of the Revised Code. 1143

(G) No licensed manufacturer of fireworks shall fail to 1144  
comply with an order of the state fire marshal issued pursuant to 1145  
division (B)(1) of section 3743.08 of the Revised Code, within the 1146  
specified period of time. 1147

(H) No licensed manufacturer of fireworks shall fail to 1148  
comply with an order of the state fire marshal issued pursuant to 1149  
division (B)(2) of section 3743.08 of the Revised Code until the 1150  
nonconformities are eliminated, corrected, or otherwise remedied 1151  
or the seventy-two hour period specified in that division has 1152  
expired, whichever first occurs. 1153

(I) No person shall smoke or shall carry a pipe, cigarette, 1154  
or cigar, or a match, lighter, other flame-producing item, or open 1155  
flame on, or shall carry a concealed source of ignition into, the 1156  
premises of a fireworks plant, except as smoking is authorized in 1157  
specified lunchrooms or restrooms by a manufacturer pursuant to 1158  
division (C) of section 3743.06 of the Revised Code. 1159

(J) No person shall have possession or control of, or be 1160  
under the influence of, any intoxicating liquor, beer, or 1161  
controlled substance, while on the premises of a fireworks plant. 1162

(K) No licensed manufacturer of fireworks shall fail to 1163  
furnish a safety pamphlet to a purchaser of 1.4G fireworks as 1164  
required by division (B) of section 3743.47 of the Revised Code. 1165

(L) No licensed manufacturer of fireworks shall fail to have 1166  
safety glasses available for sale as required by division (B) of 1167  
section 3743.45 of the Revised Code. 1168

**Sec. 3743.61.** (A) No person, except a licensed manufacturer 1169  
of fireworks engaging in the wholesale sale of fireworks as 1170  
authorized by division (C)(2) of section 3743.04 of the Revised 1171  
Code, shall operate as a wholesaler of fireworks in this state 1172  
unless it is a licensed wholesaler of fireworks, or shall operate 1173

as a wholesaler of fireworks at any location in this state unless 1174  
it has been issued a license as a wholesaler of fireworks for the 1175  
particular location. 1176

(B) No person shall operate as a wholesaler of fireworks at a 1177  
particular location in this state after its license as a 1178  
wholesaler of fireworks for the particular location has expired, 1179  
been denied renewal, or been revoked, unless a new license has 1180  
been obtained. 1181

(C) No licensed wholesaler of fireworks, during the effective 1182  
period of its licensure, shall perform any construction, or make 1183  
any structural change or renovation, on the premises on which the 1184  
fireworks are sold without first obtaining a written authorization 1185  
from the state fire marshal pursuant to division (B) of section 1186  
3743.17 of the Revised Code. 1187

(D) No licensed wholesaler of fireworks shall possess 1188  
fireworks for sale at wholesale or retail, or sell fireworks at 1189  
wholesale or retail, in a manner not authorized by division (C) of 1190  
section 3743.17 of the Revised Code. 1191

(E) No licensed wholesaler of fireworks shall knowingly fail 1192  
to comply with the rules adopted by the state fire marshal 1193  
pursuant to section 3743.18 or the requirements of section 3743.19 1194  
of the Revised Code. 1195

(F) No licensed wholesaler of fireworks shall fail to 1196  
maintain complete inventory, wholesale sale, and retail records as 1197  
required by section 3743.20 of the Revised Code, or to permit 1198  
inspection of these records or the premises of the wholesaler 1199  
pursuant to section 3743.21 of the Revised Code. 1200

(G) No licensed wholesaler of fireworks shall fail to comply 1201  
with an order of the state fire marshal issued pursuant to 1202  
division (B)(1) of section 3743.21 of the Revised Code, within the 1203  
specified period of time. 1204

(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 fail to furnish a safety pamphlet to a purchaser of 1.4G fireworks as required by division (B) of section 3743.47 of the Revised Code.

(L) No licensed wholesaler of fireworks shall fail to have safety glasses available for sale as required by division (B) of section 3743.45 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, provided that knowingly making a false statement on the fireworks purchaser form is not a violation of this section but is a violation of section 2921.13 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  
the 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, provided that knowingly making a false statement  
on the fireworks purchaser form is not a violation of this section  
but is a violation of section 2921.13 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 person as authorized by ~~section~~ sections 3743.44 of the  
Revised Code, ~~a resident of this state as authorized by section~~

3743.45 to 3743.46 of the Revised Code, or a licensed exhibitor of 1266  
fireworks as authorized by sections 3743.50 to 3743.55 of the 1267  
Revised Code, and except as provided in section 3743.80 of the 1268  
Revised Code. 1269

(B) Except as provided in ~~section~~ sections 3743.45 and 1270  
3743.80 of the Revised Code and except for licensed exhibitors of 1271  
fireworks authorized to conduct a fireworks exhibition pursuant to 1272  
sections 3743.50 to 3743.55 of the Revised Code, no person shall 1273  
discharge, ignite, or explode any fireworks in this state. 1274

(C) No person shall use in a theater or public hall, what is 1275  
technically known as fireworks showers, or a mixture containing 1276  
potassium chlorate and sulphur. 1277

(D) No person shall sell fireworks of any kind to a person 1278  
under eighteen years of age. No person under eighteen years of age 1279  
shall enter a fireworks sales showroom unless that person is 1280  
accompanied by a parent, legal guardian, or other responsible 1281  
adult. No person under eighteen years of age shall touch or 1282  
possess fireworks on a licensed premises without the consent of 1283  
the licensee. A licensee may eject any person from a licensed 1284  
premises that is in any way disruptive to the safe operation of 1285  
the premises. 1286

(E) No person, other than a licensed manufacturer, licensed 1287  
wholesaler, licensed exhibitor, or shipping permit holder, shall 1288  
possess 1.3G fireworks in this state. 1289

(F) Except as otherwise provided in division (J) of section 1290  
3743.06 and division (K) of section 3743.19 of the Revised Code, 1291  
no person shall knowingly disable a fire suppression system as 1292  
defined in section 3781.108 of the Revised Code on the premises of 1293  
a fireworks plant of a licensed manufacturer of fireworks or on 1294  
the premises of the business operations of a licensed wholesaler 1295  
of fireworks. 1296

(G) No person shall discharge, ignite, or explode fireworks while in possession or control of, or under the influence of, any intoxicating liquor, beer, or controlled substance. 1297  
1298  
1299

(H) No person shall discharge, ignite, or explode fireworks on the property of another person without that person's permission to use fireworks on that property. 1300  
1301  
1302

**Sec. 3743.75.** (A) During the period beginning on June 29, 1303  
2001, and ending on December 15, ~~2015~~ 2018, the state fire marshal 1304  
shall not do any of the following: 1305

(1) Issue a license as a manufacturer of fireworks under 1306  
sections 3743.02 and 3743.03 of the Revised Code to a person for a 1307  
particular fireworks plant unless that person possessed such a 1308  
license for that fireworks plant immediately prior to June 29, 1309  
2001; 1310

(2) Issue a license as a wholesaler of fireworks under 1311  
sections 3743.15 and 3743.16 of the Revised Code to a person for a 1312  
particular location unless that person possessed such a license 1313  
for that location immediately prior to June 29, 2001; 1314

(3) Except as provided in division (B) of this section, 1315  
approve the geographic transfer of a license as a manufacturer or 1316  
wholesaler of fireworks issued under this chapter to any location 1317  
other than a location for which a license was issued under this 1318  
chapter immediately prior to June 29, 2001. 1319

(B) Division (A)(3) of this section does not apply to a 1320  
transfer that the state fire marshal approves under division (F) 1321  
of section 3743.17 of the Revised Code. 1322

(C) Notwithstanding section 3743.59 of the Revised Code, the 1323  
prohibited activities established in divisions (A)(1) and (2) of 1324  
this section, geographic transfers approved pursuant to division 1325  
(F) of section 3743.17 of the Revised Code, and storage locations 1326

allowed pursuant to division (I) of section 3743.04 of the Revised Code or division (G) of section 3743.17 of the Revised Code are not subject to any variance, waiver, or exclusion.

(D) 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 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. 3743.99.** (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) 1357  
of section 3743.64, division (A), (B), (C), (D), or (E) of section 1358  
3743.65, or section 3743.66 of the Revised Code is guilty of a 1359  
misdemeanor of the first degree. If the offender previously has 1360  
been convicted of or pleaded guilty to a violation of division (I) 1361  
of section 3743.60 or 3743.61 of the Revised Code, a violation of 1362  
either of these divisions is a felony of the fifth degree. 1363

(D) Whoever violates division (C) of section 3743.64 of the 1364  
Revised Code is guilty of a misdemeanor of the first degree. In 1365  
addition to any other penalties that may be imposed on a licensed 1366  
exhibitor of fireworks under this division and unless the third 1367  
sentence of this division applies, the person's license as an 1368  
exhibitor of fireworks or as an assistant exhibitor of fireworks 1369  
shall be suspended, and the person is ineligible to apply for 1370  
either type of license, for a period of five years. If the 1371  
violation of division (C) of section 3743.64 of the Revised Code 1372  
results in serious physical harm to persons or serious physical 1373  
harm to property, the person's license as an exhibitor of 1374  
fireworks or as an assistant exhibitor of fireworks shall be 1375  
revoked, and that person is ineligible to apply for a license as 1376  
or to be licensed as an exhibitor of fireworks or as an assistant 1377  
exhibitor of fireworks in this state. 1378

(E) Whoever violates division (F) of section 3743.65 of the 1379  
Revised Code is guilty of a felony of the fifth degree. 1380

(F) Whoever violates division (G) of section 3743.65 of the 1381  
Revised Code is guilty of a misdemeanor of the first degree. 1382  
Notwithstanding any other provision of law to the contrary, a 1383  
person may be convicted at the same trial or proceeding of a 1384  
violation of division (G) of section 3743.65 of the Revised Code 1385  
and a violation of division (B) of section 2917.11 of the Revised 1386  
Code that constitutes the basis of the charge of the violation of 1387  
division (G) of section 3743.65 of the Revised Code. 1388

(G) Whoever violates division (K) or (L) of section 3743.60 1389  
or division (K) or (L) of section 3743.61 of the Revised Code is 1390  
guilty of a misdemeanor of the second degree. 1391

(H) Whoever violates division (H) of section 3743.65 of the 1392  
Revised Code is guilty of a minor misdemeanor. 1393

**Sec. 5703.052.** (A) There is hereby created in the state 1394  
treasury the tax refund fund, from which refunds shall be paid for 1395  
taxes illegally or erroneously assessed or collected, or for any 1396  
other reason overpaid, that are levied by Chapter 4301., 4305., 1397  
5726., 5728., 5729., 5731., 5733., 5735., 5736., 5739., 5741., 1398  
5743., 5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 1399  
3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 1400  
5727.81, and 5727.811 of the Revised Code. Refunds for fees or 1401  
wireless 9-1-1 charges illegally or erroneously assessed or 1402  
collected, or for any other reason overpaid, that are levied by 1403  
sections 128.42 ~~or~~, 3734.90 to 3734.9014, or 3737.04 to 3737.12 of 1404  
the Revised Code also shall be paid from the fund. Refunds for 1405  
amounts illegally or erroneously assessed or collected by the tax 1406  
commissioner, or for any other reason overpaid, that are due under 1407  
section 1509.50 of the Revised Code shall be paid from the fund. 1408  
However, refunds for taxes levied under section 5739.101 of the 1409  
Revised Code shall not be paid from the tax refund fund, but shall 1410  
be paid as provided in section 5739.104 of the Revised Code. 1411

(B)(1) Upon certification by the tax commissioner to the 1412  
treasurer of state of a tax refund, a wireless 9-1-1 charge 1413  
refund, or another amount refunded, or by the superintendent of 1414  
insurance of a domestic or foreign insurance tax refund, the 1415  
treasurer of state shall place the amount certified to the credit 1416  
of the fund. The certified amount transferred shall be derived 1417  
from the receipts of the same tax, fee, wireless 9-1-1 charge, or 1418  
other amount from which the refund arose. 1419

(2) When a refund is for a tax, fee, wireless 9-1-1 charge, 1420  
or other amount that is not levied by the state or that was 1421  
illegally or erroneously distributed to a taxing jurisdiction, the 1422  
tax commissioner shall recover the amount of that refund from the 1423  
next distribution of that tax, fee, wireless 9-1-1 charge, or 1424  
other amount that otherwise would be made to the taxing 1425  
jurisdiction. If the amount to be recovered would exceed 1426  
twenty-five per cent of the next distribution of that tax, fee, 1427  
wireless 9-1-1 charge, or other amount, the commissioner may 1428  
spread the recovery over more than one future distribution, taking 1429  
into account the amount to be recovered and the amount of the 1430  
anticipated future distributions. In no event may the commissioner 1431  
spread the recovery over a period to exceed thirty-six months. 1432

**Sec. 5703.053.** As used in this section, "postal service" 1433  
means the United States postal service. 1434

An application to the tax commissioner for a tax refund under 1435  
section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 1436  
5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5736.08, 5739.07, 1437  
5741.10, 5743.05, 5743.53, 5745.11, 5749.08, or 5751.08 of the 1438  
Revised Code or division (B) of section 5703.05 of the Revised 1439  
Code, or a fee refunded under section 3734.905 or 3737.11 of the 1440  
Revised Code, that is received after the last day for filing under 1441  
such section shall be considered to have been filed in a timely 1442  
manner if: 1443

(A) The application is delivered by the postal service and 1444  
the earliest postal service postmark on the cover in which the 1445  
application is enclosed is not later than the last day for filing 1446  
the application; 1447

(B) The application is delivered by the postal service, the 1448  
only postmark on the cover in which the application is enclosed 1449  
was affixed by a private postal meter, the date of that postmark 1450

is not later than the last day for filing the application, and the application is received within seven days of such last day; or

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

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

(B) If a person or public utility receives at least ten days' written notice of a demand made under division (A) of this section and refuses to comply with that demand, a penalty of five hundred dollars shall be imposed upon the person or public utility for each day the person or public utility refuses to comply with the demand. Penalties imposed under this division may be assessed and collected in the same manner as assessments made under Chapter 3769., 4305., 5727., 5728., 5733., 5735., 5736., 5739., 5743., 5745., 5747., 5749., 5751., or 5753., ~~or~~ sections 3734.90 to 3734.9014, or sections 3737.04 to 3737.12 of the Revised Code.

**Sec. 5703.70.** (A) On the filing of an application for refund under section 3734.905, 3737.11, 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5735.18, 5736.08, 5739.07, 5739.071, 5739.104,



5741.10, 5743.05, 5743.53, 5749.08, 5751.08, or 5753.06 of the 1481  
Revised Code, or an application for compensation under section 1482  
5739.061 of the Revised Code, if the tax commissioner determines 1483  
that the amount of the refund or compensation to which the 1484  
applicant is entitled is less than the amount claimed in the 1485  
application, the commissioner shall give the applicant written 1486  
notice by ordinary mail of the amount. The notice shall be sent to 1487  
the address shown on the application unless the applicant notifies 1488  
the commissioner of a different address. The applicant shall have 1489  
sixty days from the date the commissioner mails the notice to 1490  
provide additional information to the commissioner or request a 1491  
hearing, or both. 1492

(B) If the applicant neither requests a hearing nor provides 1493  
additional information to the tax commissioner within the time 1494  
prescribed by division (A) of this section, the commissioner shall 1495  
take no further action, and the refund or compensation amount 1496  
denied becomes final. 1497

(C)(1) If the applicant requests a hearing within the time 1498  
prescribed by division (A) of this section, the tax commissioner 1499  
shall assign a time and place for the hearing and notify the 1500  
applicant of such time and place, but the commissioner may 1501  
continue the hearing from time to time as necessary. After the 1502  
hearing, the commissioner may make such adjustments to the refund 1503  
or compensation as the commissioner finds proper, and shall issue 1504  
a final determination thereon. 1505

(2) If the applicant does not request a hearing, but provides 1506  
additional information, within the time prescribed by division (A) 1507  
of this section, the commissioner shall review the information, 1508  
make such adjustments to the refund or compensation as the 1509  
commissioner finds proper, and issue a final determination 1510  
thereon. 1511

(3) The commissioner shall serve a copy of the final 1512  
determination made under division (C)(1) or (2) of this section on 1513  
the applicant in the manner provided in section 5703.37 of the 1514  
Revised Code, and the decision is final, subject to appeal under 1515  
section 5717.02 of the Revised Code. 1516

(D) The tax commissioner shall certify to the director of 1517  
budget and management and treasurer of state for payment from the 1518  
tax refund fund created by section 5703.052 of the Revised Code, 1519  
the amount of the refund to be refunded under division (B) or (C) 1520  
of this section. The commissioner also shall certify to the 1521  
director and treasurer of state for payment from the general 1522  
revenue fund the amount of compensation to be paid under division 1523  
(B) or (C) of this section. 1524

**Sec. 5703.77.** (A) As used in this section: 1525

(1) "Taxpayer" means a person subject to or previously 1526  
subject to a tax or fee, a person that remits a tax or fee, or a 1527  
person required to or previously required to withhold or collect 1528  
and remit a tax or fee on behalf of another person. 1529

(2) "Tax or fee" means a tax or fee administered by the tax 1530  
commissioner. 1531

(3) "Credit account balance" means the amount of a tax or fee 1532  
that a taxpayer remits to the state in excess of the amount 1533  
required to be remitted, after accounting for factors applicable 1534  
to the taxpayer such as accelerated payments, estimated payments, 1535  
tax credits, and tax credit balances that may be carried forward. 1536

(4) "Tax debt" means an unpaid tax or fee or any unpaid 1537  
penalty, interest, or additional charge on such a tax or fee due 1538  
the state. 1539

(B) As soon as practicable, but not later than sixty days 1540  
before the expiration of the period of time during which a 1541

taxpayer may file a refund application for a tax or fee, the tax 1542  
commissioner shall review the taxpayer's accounts for the tax or 1543  
fee and notify the taxpayer of any credit account balance for 1544  
which the commissioner is required to issue a refund if the 1545  
taxpayer were to file a refund application for that balance, 1546  
regardless of whether the taxpayer files a refund application or 1547  
amended return with respect to that tax or fee. The notice shall 1548  
be made using contact information for the taxpayer on file with 1549  
the commissioner. 1550

(C) Notwithstanding sections 128.47, 3734.905, 3737.11, 1551  
4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 1552  
5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 1553  
5749.08, 5751.08, 5753.06, and any other section of the Revised 1554  
Code governing refunds of taxes or fees, the commissioner may 1555  
apply the amount of any credit account balance for which the 1556  
commissioner is required to issue a refund if the taxpayer were to 1557  
file a refund application for that balance as a credit against the 1558  
taxpayer's liability for the tax or fee in the taxpayer's next 1559  
reporting period for that tax or fee or issue a refund of that 1560  
credit account balance to the taxpayer, subject to division (D) of 1561  
this section. 1562

(D) Before issuing a refund to a taxpayer under division (C) 1563  
of this section, the tax commissioner shall withhold from that 1564  
refund the amount of any of the taxpayer's tax debt certified to 1565  
the attorney general under section 131.02 of the Revised Code and 1566  
the amount of the taxpayer's liability, if any, for a tax or fee. 1567  
The commissioner shall apply any amount withheld first in 1568  
satisfaction of the amount of the taxpayer's certified tax debt 1569  
and then in satisfaction of the taxpayer's liability. 1570

(E) The tax commissioner may adopt rules to administer this 1571  
section. 1572

**Section 2.** That existing sections 1705.48, 3737.51, 3737.71, 1573

3737.99, 3743.04, 3743.17, 3743.44, 3743.45, 3743.60, 3743.61,	1574
3743.63, 3743.65, 3743.75, 3743.99, 5703.052, 5703.053, 5703.19,	1575
5703.70, and 5703.77 of the Revised Code are hereby repealed.	1576