

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 386

Senator Burke

Cosponsors: Senators Seitz, Patton, Schiavoni

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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 Revised Code shall be paid by a consumer to the fireworks vendor, and each fireworks vendor shall collect from the consumer, as a trustee for the state, the full and exact amount of the fee payable on each sale of 1.4G fireworks in the same manner and at the same times prescribed in section 5739.03 of the Revised Code for the tax levied under section 5739.02 of the Revised Code.

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

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

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

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

the date the fee payment was due to the date of payment or to the 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 consumer, as the facts may require, based upon any information in the commissioner's possession. 140
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An assessment against a fireworks vendor when the fee has not been collected or paid shall not discharge the consumer's liability to reimburse the fireworks vendor for fees applicable to such transaction. 143
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An assessment issued against a fireworks vendor or consumer under this section shall not be considered an election of remedies, nor a bar to an assessment against the other for the fee applicable to the same transaction, provided that no assessment shall be issued against any person for the fee due on a particular transaction if the fee on that transaction actually has been paid by another. 147
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The commissioner may make an assessment against any fireworks vendor who fails to file a return or remit the proper amount of fees, or against any consumer who fails to pay the proper amount of fees. When information in the possession of the commissioner indicates that the amount required to be collected or paid under sections 3737.04 to 3737.12 of the Revised Code is greater than the amount remitted by the fireworks vendor or paid by the consumer, the commissioner may audit a sample of the vendor's sales or the consumer's purchases for a representative period and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach agreement with the vendor or consumer in selecting a representative sample. 154
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The commissioner may issue an assessment on any transaction for which a fee imposed by section 3737.05 of the Revised Code was due and unpaid on the date the fireworks vendor or consumer was informed by an agent of the commissioner of an investigation or audit. If the vendor or consumer remits any payment of the fee for the period covered by the assessment after the vendor or consumer 166
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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
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(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
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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
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Sec. 3737.51. (A) No person shall knowingly violate any provision of the state fire code or any order made pursuant to it. 314
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(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
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(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
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(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
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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~~ 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
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(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
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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
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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 fireworks as authorized by sections 3743.50 to 3743.55 of the Revised Code, and except as provided in section 3743.80 of the Revised Code.

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

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

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

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

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

(G) No person shall 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 1451
application is received within seven days of such last day; or 1452

(C) The application is delivered by the postal service, no 1453
postmark date was affixed to the cover in which the application is 1454
enclosed or the date of the postmark so affixed is not legible, 1455
and the application is received within seven days of the last day 1456
for making the application. 1457

Sec. 5703.19. (A) To carry out the purposes of the laws that 1458
the tax commissioner is required to administer, the commissioner 1459
or any person employed by the commissioner for that purpose, upon 1460
demand, may inspect books, accounts, records, and memoranda of any 1461
person or public utility subject to those laws, and may examine 1462
under oath any officer, agent, or employee of that person or 1463
public utility. Any person other than the commissioner who makes a 1464
demand pursuant to this section shall produce the person's 1465
authority to make the inspection. 1466

(B) If a person or public utility receives at least ten days' 1467
written notice of a demand made under division (A) of this section 1468
and refuses to comply with that demand, a penalty of five hundred 1469
dollars shall be imposed upon the person or public utility for 1470
each day the person or public utility refuses to comply with the 1471
demand. Penalties imposed under this division may be assessed and 1472
collected in the same manner as assessments made under Chapter 1473
3769., 4305., 5727., 5728., 5733., 5735., 5736., 5739., 5743., 1474
5745., 5747., 5749., 5751., or 5753., ~~or~~ sections 3734.90 to 1475
3734.9014, or sections 3737.04 to 3737.12 of the Revised Code. 1476

Sec. 5703.70. (A) On the filing of an application for refund 1477
under section 3734.905, 3737.11, 4307.05, 4307.07, 5726.30, 1478
5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 1479
5735.141, 5735.142, 5735.18, 5736.08, 5739.07, 5739.071, 5739.104, 1480

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