

As Reported by the Senate Commerce and Labor Committee

130th General Assembly

Regular Session

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Sub. 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
3743.47, and 3743.591 of the Revised Code to 6
enable individuals to purchase and use consumer 7
grade fireworks, to extend to December 15, 2018, 8
the moratorium on issuing fireworks manufacturer 9
and wholesaler licenses, to eliminate, beginning 10
January 1, 2016, the moratorium on geographic 11
transfer of fireworks manufacturer and wholesaler 12
licenses, and to impose a fee on the retail sale 13
of consumer grade fireworks in this state. 14

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

Section 1. That sections 1705.48, 3737.51, 3737.71, 3737.99, 15
3743.04, 3743.17, 3743.44, 3743.45, 3743.60, 3743.61, 3743.63, 16
3743.65, 3743.75, 3743.99, 5703.052, 5703.053, 5703.19, 5703.70, 17
and 5703.77 be amended and sections 3737.04, 3737.05, 3737.06, 18
3737.07, 3737.08, 3737.09, 3737.10, 3737.11, 3737.12, 3743.46, 19
3743.47, and 3743.591 of the Revised Code be enacted to read as 20

follows: 21

Sec. 1705.48. Except as otherwise provided by this chapter or 22
any other provision of the Revised Code, including, but not 23
limited to, sections 3734.908, 3737.10, 5739.33, 5743.57, 5747.07, 24
and 5753.02 of the Revised Code, all of the following apply: 25

(A) The debts, obligations, and liabilities of a limited 26
liability company, whether arising in contract, tort, or 27
otherwise, are solely the debts, obligations, and liabilities of 28
the limited liability company. 29

(B) Neither the members of the limited liability company nor 30
any managers of the limited liability company are personally 31
liable to satisfy any judgment, decree, or order of a court for, 32
or are personally liable to satisfy in any other manner, a debt, 33
obligation, or liability of the company solely by reason of being 34
a member or manager of the limited liability company. 35

(C) Nothing in this chapter affects any personal liability of 36
a member of a limited liability company or any manager of a 37
limited liability company for the member's or manager's own 38
actions or omissions. 39

(D) This chapter does not affect any statutory or common law 40
of this or another state that pertains to the relationship between 41
an individual who renders a professional service and a recipient 42
of that service, including, but not limited to, any contract or 43
tort liability arising out of acts or omissions committed or 44
omitted during the course of rendering the professional service. 45

Sec. 3737.04. Terms used in sections 3737.04 to 3737.12 of 46
the Revised Code have the same meanings as in section 5739.01 of 47
the Revised Code. As used in sections 3737.04 to 3737.12 of the 48
Revised Code: 49

(A) "1.4G fireworks," "licensed wholesaler," and "licensed manufacturer" have the same meanings as in section 3743.01 of the Revised Code. 50
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(B) "Fireworks vendor" means a licensed wholesaler or licensed manufacturer engaged in the sale of 1.4G fireworks in this state that holds a license issued under section 5739.17 of the Revised Code. 53
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Sec. 3737.05. For the purpose of providing revenue to fund firefighter training programs and the enforcement and regulation of the fireworks industry, a fee is imposed on the retail sale in this state of 1.4G fireworks sold on and after January 1, 2016. The fee shall equal four per cent of the price of such fireworks. All proceeds from the fee shall be credited to the fireworks fee receipts fund, which is hereby created in the state treasury. After the director of budget and management transfers money from the fireworks fee receipts fund as required in division (C) of section 3737.11 of the Revised Code, money remaining in the fireworks fee receipts fund shall be credited to the fire marshal's fund created in section 3737.71 of the Revised Code. 57
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Sec. 3737.06. The tax commissioner shall administer sections 3737.04 to 3737.12 of the Revised Code in the same manner as the commissioner administers the tax levied under section 5739.02 of the Revised Code, except as otherwise provided in sections 3737.04 to 3737.12 of the Revised Code. The commissioner may adopt rules as the commissioner finds necessary for the administration and enforcement of the fee imposed by section 3737.05 of the Revised Code. 69
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Sec. 3737.07. The requirements, procedures, limitations, and penalties prescribed in Chapter 5703. of the Revised Code apply to the administration, collection, payment, and enforcement of the 77
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fee imposed under section 3737.05 of the Revised Code in the same 80
manner and with the same effect as with other laws that the tax 81
commissioner is required to administer and enforce. 82

Sec. 3737.08. (A) The fee imposed by section 3737.05 of the 83
Revised Code shall be paid by a consumer to the fireworks vendor, 84
and each fireworks vendor shall collect from the consumer, as a 85
trustee for the state, the full and exact amount of the fee 86
payable on each sale of 1.4G fireworks in the same manner and at 87
the same times prescribed in section 5739.03 of the Revised Code 88
for the tax levied under section 5739.02 of the Revised Code. 89

(B) Whenever a fireworks vendor refunds the price of 1.4G 90
fireworks on which the fee imposed under section 3737.05 of the 91
Revised Code has been paid, the vendor shall also refund the 92
amount of the fee paid. 93

Sec. 3737.09. (A) Each fireworks vendor shall make and file a 94
return for the preceding month in the form prescribed by the tax 95
commissioner, and shall make payment of the full amount of the fee 96
due for the preceding month. The return shall be signed by the 97
person required to file it, or an authorized employee, officer, or 98
agent. The return is filed when it is received by the tax 99
commissioner. 100

(B) The commissioner may require a fireworks vendor that 101
fails to file such a return within the period prescribed to pay an 102
additional charge of fifty dollars or ten per cent of the fee 103
required to be paid for the reporting period, whichever is 104
greater. The commissioner may collect the additional charge by 105
assessment pursuant to section 3737.10 of the Revised Code. The 106
commissioner may remit all or a portion of the additional charge 107
and may adopt rules relating thereto. 108

(C) If any fee due is not paid timely in accordance with this 109

section, the person liable for the fee under section 3737.10 of 110
the Revised Code shall pay interest, calculated at the rate per 111
annum as prescribed by section 5703.47 of the Revised Code, from 112
the date the fee payment was due to the date of payment or to the 113
date an assessment is issued, whichever occurs first. Interest 114
shall be paid in the same manner as the fee, and the commissioner 115
may collect the interest by assessment pursuant to section 3737.10 116
of the Revised Code. 117

(D) If, in the estimation of the tax commissioner, the 118
average amount of fees remitted by a fireworks vendor monthly does 119
not merit monthly filing, the commissioner may authorize that 120
vendor to file and pay at less frequent intervals. Returns are due 121
by the twenty-third day of the month following the close of the 122
applicable reporting period authorized under this division. 123

(E) Each fireworks vendor shall keep complete and accurate 124
records of sales of 1.4G fireworks, together with a record of the 125
fee collected on the sales and shall keep all invoices, bills of 126
lading, and other such pertinent documents. The records shall be 127
available for inspection by the commissioner or the commissioner's 128
authorized agent and shall be preserved for four years after the 129
return was due or filed, whichever is later. 130

(F) All money collected by the tax commissioner under this 131
section shall be considered as revenue arising from the fee 132
imposed by section 3737.05 of the Revised Code. 133

Sec. 3737.10. (A) If any fireworks vendor collects the fee 134
imposed by section 3737.05 of the Revised Code and fails to remit 135
the fee to the state as prescribed, the vendor shall be personally 136
liable for any tax collected and not remitted. The tax 137
commissioner may make an assessment against such vendor based upon 138
any information in the commissioner's possession. 139

If any fireworks vendor fails to collect the fee or any 140

consumer fails to pay that fee on any transaction subject to the 141
tax, the vendor or consumer shall be personally liable for the 142
amount of the fee applicable to the transaction. The commissioner 143
may make an assessment against either the fireworks vendor or 144
consumer, as the facts may require, based upon any information in 145
the commissioner's possession. 146

An assessment against a fireworks vendor when the fee has not 147
been collected or paid shall not discharge the consumer's 148
liability to reimburse the fireworks vendor for fees applicable to 149
such transaction. 150

An assessment issued against a fireworks vendor or consumer 151
under this section shall not be considered an election of 152
remedies, nor a bar to an assessment against the other for the fee 153
applicable to the same transaction, provided that no assessment 154
shall be issued against any person for the fee due on a particular 155
transaction if the fee on that transaction actually has been paid 156
by another. 157

The commissioner may make an assessment against any fireworks 158
vendor who fails to file a return or remit the proper amount of 159
fees, or against any consumer who fails to pay the proper amount 160
of fees. When information in the possession of the commissioner 161
indicates that the amount required to be collected or paid under 162
sections 3737.04 to 3737.12 of the Revised Code is greater than 163
the amount remitted by the fireworks vendor or paid by the 164
consumer, the commissioner may audit a sample of the vendor's 165
sales or the consumer's purchases for a representative period and 166
may issue an assessment based on the audit. The commissioner shall 167
make a good faith effort to reach agreement with the vendor or 168
consumer in selecting a representative sample. 169

The commissioner may issue an assessment on any transaction 170
for which a fee imposed by section 3737.05 of the Revised Code was 171
due and unpaid on the date the fireworks vendor or consumer was 172

informed by an agent of the commissioner of an investigation or 173
audit. If the vendor or consumer remits any payment of the fee for 174
the period covered by the assessment after the vendor or consumer 175
was informed of the investigation or audit, the payment shall be 176
credited against the amount of the assessment. 177

The commissioner shall give the party assessed written notice 178
of the assessment in the manner provided in section 5703.37 of the 179
Revised Code. With the notice, the commissioner shall provide 180
instructions on how to petition for reassessment and request a 181
hearing on the petition. 182

(B) A penalty of up to fifteen per cent may be added to all 183
amounts assessed under this section. The commissioner may adopt 184
rules providing for the imposition and remission of the penalties. 185

(C) Unless the person assessed files with the commissioner 186
within sixty days after service of the notice of assessment, 187
either personally or by certified mail, a written petition for 188
reassessment signed by the person assessed or that person's 189
authorized agent having knowledge of the facts, the assessment 190
becomes final and the amount of the assessment is due and payable 191
from the person assessed to the treasurer of state. The petition 192
shall indicate the objections of the person assessed, but 193
additional objections may be raised in writing if received by the 194
commissioner prior to the date shown on the final determination. 195
If the petition has been properly filed, the commissioner shall 196
proceed under section 5703.60 of the Revised Code. 197

(D) After an assessment becomes final, if any portion of the 198
assessment, including accrued interest, remains unpaid, a 199
certified copy of the tax commissioner's entry making the 200
assessment final may be filed in the office of the clerk of the 201
court of common pleas in the county in which the person assessed 202
resides or in which the person's business is conducted. If the 203
person assessed maintains no place of business in this state and 204

is not a resident of this state, the certified copy of the entry 205
may be filed in the office of the clerk of the court of common 206
pleas of Franklin county. 207

Immediately upon the filing of the entry, the clerk shall 208
enter a judgment for the state against the person assessed in the 209
amount shown on the entry. The judgment may be filed by the clerk 210
in a loose-leaf book entitled "special judgments for state 211
fireworks fee," and shall have the same effect as other judgments. 212
Execution shall issue upon the judgment upon the request of the 213
tax commissioner, and all laws applicable to sales on execution 214
shall apply to sales made under the judgment. 215

If the assessment is not paid in its entirety within sixty 216
days after the day the assessment was issued, the portion of the 217
assessment consisting of the fee due shall bear interest at the 218
rate per annum prescribed by section 5703.47 of the Revised Code 219
from the day the commissioner issues the assessment until the day 220
the assessment is paid or until it is certified to the attorney 221
general for collection under section 131.02 of the Revised Code, 222
whichever comes first. If the unpaid portion of the assessment is 223
certified to the attorney general for collection, the entire 224
unpaid portion of the assessment shall bear interest at the rate 225
per annum prescribed by section 5703.47 of the Revised Code from 226
the date of certification until the date it is paid in its 227
entirety. Interest shall be paid in the same manner as the fee and 228
may be collected by the issuance of an assessment under this 229
section. 230

(E) If the commissioner believes that collection of the fee 231
will be jeopardized unless proceedings to collect or secure 232
collection of the fee are instituted without delay, the 233
commissioner may issue a jeopardy assessment against the consumer 234
or the fireworks vendor liable for paying or remitting the fee. 235
Immediately upon the issuance of the jeopardy assessment, the 236

commissioner shall file an entry with the clerk of the court of 237
common pleas in the manner prescribed by division (D) of this 238
section. Notice of the jeopardy assessment shall be served on the 239
person assessed or the person's legal representative, as provided 240
in section 5703.37 of the Revised Code, within five days of the 241
filing of the entry with the clerk. The total amount assessed is 242
immediately due and payable, unless the person assessed files a 243
petition for reassessment in accordance with division (C) of this 244
section and provides security in a form satisfactory to the 245
commissioner and in an amount sufficient to satisfy the unpaid 246
balance of the assessment. Full or partial payment of the 247
assessment does not prejudice the commissioner's consideration of 248
the petition for reassessment. 249

(F) If any corporation, limited liability company, or 250
business trust required to file returns pursuant to section 251
3737.09 of the Revised Code fails to remit to the state any fee 252
due under section 3737.05 of the Revised Code, any of its 253
employees having control or supervision of or charged with the 254
responsibility of filing returns and making payments, and any of 255
its officers, members, managers, trustees, or other persons who 256
are responsible for the execution of the corporation's, limited 257
liability company's, or business trust's fiscal responsibilities, 258
is personally liable for the failure to remit the fee. The 259
dissolution, termination, or bankruptcy of the corporation, 260
limited liability company, or business trust does not discharge a 261
responsible person's liability for the corporation's, limited 262
liability company's, or business trust's failure to remit the fee 263
due. The tax commissioner may assess a responsible person under 264
this section. 265

(G) Except for assessments against responsible persons under 266
division (F) of this section, no assessment of the fee imposed by 267
section 3737.05 of the Revised Code shall be made by the tax 268

commissioner more than four years after the date on which the 269
return for the period assessed was due or was filed, whichever 270
date is later. This section does not bar an assessment when any of 271
the following occur: 272

(1) The person assessed failed to file a return required by 273
section 3737.09 of the Revised Code; 274

(2) The person assessed knowingly filed a false or fraudulent 275
return; 276

(3) The person assessed and the tax commissioner have waived 277
in writing the time limitation. 278

(H) All money collected by the tax commissioner under this 279
section shall be considered as revenue arising from the fee 280
imposed by section 3737.05 of the Revised Code. 281

Sec. 3737.11. (A) The tax commissioner shall refund the fee 282
imposed by section 3737.05 of the Revised Code paid illegally or 283
erroneously, or paid on an illegal or erroneous assessment in the 284
same manner prescribed under section 5739.07 of the Revised Code 285
for the tax levied under section 5739.02 of the Revised Code. 286
Applications for refund shall be filed with the tax commissioner 287
on a form prescribed by the commissioner, within four years of the 288
illegal or erroneous payment of the fee. 289

On the filing of the application, the commissioner shall 290
determine the amount of refund to which the applicant is entitled. 291
If the amount is not less than that claimed, the commissioner 292
shall certify the amount to the director of budget and management 293
for payment from the tax refund fund created by section 5703.052 294
of the Revised Code. If the amount is less than that claimed, the 295
commissioner shall proceed in accordance with section 5703.70 of 296
the Revised Code. 297

The certified amount shall include interest calculated at the 298

rate per annum prescribed by section 5703.47 of the Revised Code 299
from the date of overpayment to the date of the commissioner's 300
certification. 301

(B) If any person entitled to a refund of fees under this 302
section or section 5703.70 of the Revised Code is indebted to the 303
state for any tax or fee administered by the tax commissioner, or 304
any charge, penalties, or interest arising from such a tax or fee, 305
the amount allowable on the application for refund first shall be 306
applied in satisfaction of the debt. 307

(C) The director of budget and management shall transfer from 308
the fireworks fee receipts fund to the tax refund fund amounts 309
equal to the refunds certified by the commissioner under this 310
section. 311

Sec. 3737.12. No person shall fail to file any return or 312
report required to be filed under section 3737.09 of the Revised 313
Code, or file or cause to be filed any incomplete, false, or 314
fraudulent return, report, or statement, or aid or abet another in 315
the filing of any false or fraudulent return, report, or 316
statement. 317

Sec. 3737.51. (A) No person shall knowingly violate any 318
provision of the state fire code or any order made pursuant to it. 319

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

(C) Any person who has received a citation for a violation of 324
the fire code or any order issued pursuant to it, and such 325
violation is specifically determined not to be of a serious 326
nature, may be assessed a civil penalty of not more than one 327
thousand dollars for each such violation. 328

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

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

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

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

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

Sec. 3737.71. Each insurance company doing business in this state shall pay to the state in installments, at the time of making the payments required by section 5729.05 of the Revised Code, in addition to the taxes required to be paid by it,

three-fourths of one per cent on the gross premium receipts 360
derived from fire insurance and that portion of the premium 361
reasonably allocable to insurance against the hazard of fire 362
included in other coverages except life and sickness and accident 363
insurance, after deducting return premiums paid and considerations 364
received for reinsurances as shown by the annual statement of such 365
company made pursuant to sections 3929.30, 3931.06, and 5729.02 of 366
the Revised Code. The money received shall be paid into the state 367
treasury to the credit of the state fire marshal's fund, which is 368
hereby created. The fund shall be used for the maintenance and 369
administration of the office of the fire marshal and the Ohio fire 370
academy established by section 3737.33 of the Revised Code, except 371
for any balance credited to the fund from the fee imposed by 372
section 3737.05 of the Revised Code. Seven-eighths of the balance 373
credited to the fund from that fee shall be used solely to fund 374
firefighter training programs and one-eighth of that balance shall 375
be used solely to fund activities and operations of the fire 376
marshal related to the regulation and enforcement of the fireworks 377
industry. If the director of commerce certifies to the director of 378
budget and management that the cash balance in the state fire 379
marshal's fund, exclusive of any balance credited to the fund from 380
the fee imposed by section 3737.05 of the Revised Code, is in 381
excess of the amount needed to pay ongoing operating expenses, the 382
director of commerce, with the approval of the director of budget 383
and management, may use the excess amount to acquire by purchase, 384
lease, or otherwise, real property or interests in real property 385
to be used for the benefit of the office of the state fire 386
marshal, or to construct, acquire, enlarge, equip, furnish, or 387
improve the fire marshal's office facilities or the facilities of 388
the Ohio fire academy. The state fire marshal's fund shall be 389
assessed a proportionate share of the administrative costs of the 390
department of commerce in accordance with procedures prescribed by 391
the director of commerce and approved by the director of budget 392

and management. Such assessment shall be paid from the state fire marshal's fund to the division of administration fund.

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

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

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

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

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

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

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

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

(H) Whoever knowingly violates division (C) of section 423
3737.882 of the Revised Code is guilty of an unclassified felony 424
and shall be fined not more than twenty-five thousand dollars or 425
imprisoned for not more than fourteen months, or both. Whoever 426
recklessly violates division (C) of section 3737.882 of the 427
Revised Code is guilty of a misdemeanor of the first degree. 428

(I) Whoever knowingly violates division (F)(1), (2), or (3) 429
of section 3737.881 or section 3737.93 of the Revised Code is 430
guilty of a misdemeanor of the fourth degree. 431

(J) Whoever knowingly violates division (B) or (C) of section 432
3737.91 of the Revised Code is guilty of a misdemeanor of the 433
second degree. 434

(K) Except as prescribed in division (L) of this section, 435
whoever knowingly violates any provision of section 3737.08, 436
3737.09, 3737.10, or 3737.12 of the Revised Code, or any rule 437
adopted by the tax commissioner under section 3737.06, 3737.09, or 438
3737.10 of the Revised Code, is guilty of a misdemeanor of the 439
first degree on a first offense; on each subsequent offense, the 440
person is guilty of a felony of the fourth degree. 441

(L) Whoever violates section 3737.09 of the Revised Code by 442
failing to remit to the state fees collected under section 3737.05 443
of the Revised Code is guilty of a felony of the fourth degree and 444
shall suffer the loss of the person's vendor's license issued 445
under section 5739.17 of the Revised Code. A person shall not be 446
eligible for a vendor's license for two years following 447
conviction. 448

Sec. 3743.04. (A) The license of a manufacturer of fireworks 449
is effective for one year beginning on the first day of December. 450
The state fire marshal shall issue or renew a license only on that 451
date and at no other time. If a manufacturer of fireworks wishes 452
to continue manufacturing fireworks at the designated fireworks 453

plant after its then effective license expires, it shall apply no 454
later than the first day of October for a new license pursuant to 455
section 3743.02 of the Revised Code. The state fire marshal shall 456
send a written notice of the expiration of its license to a 457
licensed manufacturer at least three months before the expiration 458
date. 459

(B) If, during the effective period of its licensure, a 460
licensed manufacturer of fireworks wishes to construct, locate, or 461
relocate any buildings or other structures on the premises of its 462
fireworks plant, to make any structural change or renovation in 463
any building or other structure on the premises of its fireworks 464
plant, or to change the nature of its manufacturing of fireworks 465
so as to include the processing of fireworks, the manufacturer 466
shall notify the state fire marshal in writing. The state fire 467
marshal may require a licensed manufacturer also to submit 468
documentation, including, but not limited to, plans covering the 469
proposed construction, location, relocation, structural change or 470
renovation, or change in manufacturing of fireworks, if the state 471
fire marshal determines the documentation is necessary for 472
evaluation purposes in light of the proposed construction, 473
location, relocation, structural change or renovation, or change 474
in manufacturing of fireworks. 475

Upon receipt of the notification and additional documentation 476
required by the state fire marshal, the state fire marshal shall 477
inspect the premises of the fireworks plant to determine if the 478
proposed construction, location, relocation, structural change or 479
renovation, or change in manufacturing of fireworks conforms to 480
sections 3743.02 to 3743.08 of the Revised Code and the rules 481
adopted by the state fire marshal pursuant to section 3743.05 of 482
the Revised Code. The state fire marshal shall issue a written 483
authorization to the manufacturer for the construction, location, 484
relocation, structural change or renovation, or change in 485

manufacturing of fireworks if the state fire marshal determines, 486
upon the inspection and a review of submitted documentation, that 487
the construction, location, relocation, structural change or 488
renovation, or change in manufacturing of fireworks conforms to 489
those sections and rules. Upon authorizing a change in 490
manufacturing of fireworks to include the processing of fireworks, 491
the state fire marshal shall make notations on the manufacturer's 492
license and in the list of licensed manufacturers in accordance 493
with section 3743.03 of the Revised Code. 494

On or before June 1, 1998, a licensed manufacturer shall 495
install, in every licensed building in which fireworks are 496
manufactured, stored, or displayed and to which the public has 497
access, interlinked fire detection, smoke exhaust, and smoke 498
evacuation systems that are approved by the superintendent of 499
industrial compliance, and shall comply with floor plans showing 500
occupancy load limits and internal circulation and egress patterns 501
that are approved by the state fire marshal and superintendent, 502
and that are submitted under seal as required by section 3791.04 503
of the Revised Code. Notwithstanding section 3743.59 of the 504
Revised Code, the construction and safety requirements established 505
in this division are not subject to any variance, waiver, or 506
exclusion. 507

(C) The license of a manufacturer of fireworks authorizes the 508
manufacturer to engage only in the following activities: 509

(1) The manufacturing of fireworks on the premises of the 510
fireworks plant as described in the application for licensure or 511
in the notification submitted under division (B) of this section, 512
except that a licensed manufacturer shall not engage in the 513
processing of fireworks unless authorized to do so by its license. 514

(2) To possess for sale at wholesale and sell at wholesale 515
the fireworks manufactured by the manufacturer, to persons who are 516
licensed wholesalers of fireworks, to ~~out-of-state residents~~ 517

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

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the state fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to ~~out of state residents~~ persons in accordance with ~~section~~ sections 3743.44 of the Revised Code, to ~~residents of this state in accordance with section~~ 3743.45 to 3743.46 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted

under division (B) of this section, and the sale shall be from the 551
inside of a licensed building and from no other structure or 552
device outside a licensed building. At no time shall a licensed 553
manufacturer sell any class of fireworks outside a licensed 554
building. 555

A licensed manufacturer of fireworks shall sell under 556
division (C) of this section only fireworks that meet the 557
standards set by the consumer product safety commission or by the 558
American fireworks standard laboratories or that have received an 559
EX number from the United States department of transportation. 560

(D) The license of a manufacturer of fireworks shall be 561
protected under glass and posted in a conspicuous place on the 562
premises of the fireworks plant. Except as otherwise provided in 563
this division, the license is not transferable or assignable. A 564
license may be transferred to another person for the same 565
fireworks plant for which the license was issued if the assets of 566
the plant are transferred to that person by inheritance or by a 567
sale approved by the state fire marshal. The license is subject to 568
revocation in accordance with section 3743.08 of the Revised Code. 569

(E) The state fire marshal shall not place the license of a 570
manufacturer of fireworks in a temporarily inactive status while 571
the holder of the license is attempting to qualify to retain the 572
license. 573

(F) Each licensed manufacturer of fireworks that possesses 574
fireworks for sale and sells fireworks under division (C) of 575
section 3743.04 of the Revised Code, or a designee of the 576
manufacturer, whose identity is provided to the state fire marshal 577
by the manufacturer, annually shall attend a continuing education 578
program. The state fire marshal shall develop the program and the 579
state fire marshal or a person or public agency approved by the 580
state fire marshal shall conduct it. A licensed manufacturer or 581
the manufacturer's designee who attends a program as required 582

under this division, within one year after attending the program, 583
shall conduct in-service training as approved by the state fire 584
marshal for other employees of the licensed manufacturer regarding 585
the information obtained in the program. A licensed manufacturer 586
shall provide the state fire marshal with notice of the date, 587
time, and place of all in-service training. For any program 588
conducted under this division, the state fire marshal shall, in 589
accordance with rules adopted by the state fire marshal under 590
Chapter 119. of the Revised Code, establish the subjects to be 591
taught, the length of classes, the standards for approval, and 592
time periods for notification by the licensee to the state fire 593
marshal of any in-service training. 594

(G) A licensed manufacturer shall maintain comprehensive 595
general liability insurance coverage in the amount and type 596
specified under division (B)(2) of section 3743.02 of the Revised 597
Code at all times. Each policy of insurance required under this 598
division shall contain a provision requiring the insurer to give 599
not less than fifteen days' prior written notice to the state fire 600
marshal before termination, lapse, or cancellation of the policy, 601
or any change in the policy that reduces the coverage below the 602
minimum required under this division. Prior to canceling or 603
reducing the amount of coverage of any comprehensive general 604
liability insurance coverage required under this division, a 605
licensed manufacturer shall secure supplemental insurance in an 606
amount and type that satisfies the requirements of this division 607
so that no lapse in coverage occurs at any time. A licensed 608
manufacturer who secures supplemental insurance shall file 609
evidence of the supplemental insurance with the state fire marshal 610
prior to canceling or reducing the amount of coverage of any 611
comprehensive general liability insurance coverage required under 612
this division. 613

(H) The state fire marshal shall adopt rules for the 614

expansion or contraction of a licensed premises and for approval 615
of such expansions or contractions. The boundaries of a licensed 616
premises, including any geographic expansion or contraction of 617
those boundaries, shall be approved by the state fire marshal in 618
accordance with rules the state fire marshal adopts. If the 619
licensed premises consists of more than one parcel of real estate, 620
those parcels shall be contiguous unless an exception is allowed 621
pursuant to division (I) of this section. 622

(I)(1) A licensed manufacturer may expand its licensed 623
premises within this state to include not more than two storage 624
locations that are located upon one or more real estate parcels 625
that are noncontiguous to the licensed premises as that licensed 626
premises exists on the date a licensee submits an application as 627
described below, if all of the following apply: 628

(a) The licensee submits an application to the state fire 629
marshal and an application fee of one hundred dollars per storage 630
location for which the licensee is requesting approval. 631

(b) The identity of the holder of the license remains the 632
same at the storage location. 633

(c) The storage location has received a valid certificate of 634
zoning compliance as applicable and a valid certificate of 635
occupancy for each building or structure at the storage location 636
issued by the authority having jurisdiction to issue the 637
certificate for the storage location, and those certificates 638
permit the distribution and storage of fireworks regulated under 639
this chapter at the storage location and in the buildings or 640
structures. The storage location shall be in compliance with all 641
other applicable federal, state, and local laws and regulations. 642

(d) Every building or structure located upon the storage 643
location is separated from occupied residential and nonresidential 644
buildings or structures, railroads, highways, or any other 645

buildings or structures on the licensed premises in accordance 646
with the distances specified in the rules adopted by the state 647
fire marshal pursuant to section 3743.05 of the Revised Code. 648

(e) Neither the licensee nor any person holding, owning, or 649
controlling a five per cent or greater beneficial or equity 650
interest in the licensee has been convicted of or pleaded guilty 651
to a felony under the laws of this state, any other state, or the 652
United States, after September 29, 2005. 653

(f) The state fire marshal approves the application for 654
expansion. 655

(2) The state fire marshal shall approve an application for 656
expansion requested under division (I)(1) of this section if the 657
state fire marshal receives the application fee and proof that the 658
requirements of divisions (I)(1)(b) to (e) of this section are 659
satisfied. The storage location shall be considered part of the 660
original licensed premises and shall use the same distinct number 661
assigned to the original licensed premises with any additional 662
designations as the state fire marshal deems necessary in 663
accordance with section 3743.03 of the Revised Code. 664

(J)(1) A licensee who obtains approval for the use of a 665
storage location in accordance with division (I) of this section 666
shall use the storage location exclusively for the following 667
activities, in accordance with division (C) of this section: 668

(a) The packaging, assembling, or storing of fireworks, which 669
shall only occur in buildings or structures approved for such 670
hazardous uses by the building code official having jurisdiction 671
for the storage location or, for 1.4G fireworks, in containers or 672
trailers approved for such hazardous uses by the state fire 673
marshal if such containers or trailers are not subject to 674
regulation by the building code adopted in accordance with Chapter 675
3781. of the Revised Code. All such storage shall be in accordance 676

with the rules adopted by the state fire marshal under division 677
(G) of section 3743.05 of the Revised Code for the packaging, 678
assembling, and storage of fireworks. 679

(b) Distributing fireworks to other parcels of real estate 680
located on the manufacturer's licensed premises, to licensed 681
wholesalers or other licensed manufacturers in this state or to 682
similarly licensed persons located in another state or country; 683

(c) Distributing fireworks to a licensed exhibitor of 684
fireworks pursuant to a properly issued permit in accordance with 685
section 3743.54 of the Revised Code. 686

(2) A licensed manufacturer shall not engage in any sales 687
activity, including the retail sale of fireworks otherwise 688
permitted under division (C)(2) or (C)(3) of this section, or 689
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 690
storage location approved under this section. 691

(3) A storage location may not be relocated for a minimum 692
period of five years after the storage location is approved by the 693
state fire marshal in accordance with division (I) of this 694
section. 695

(K) The licensee shall prohibit public access to the storage 696
location. The state fire marshal shall adopt rules to describe the 697
acceptable measures a manufacturer shall use to prohibit access to 698
the storage site. 699

Sec. 3743.17. (A) The license of a wholesaler of fireworks is 700
effective for one year beginning on the first day of December. The 701
state fire marshal shall issue or renew a license only on that 702
date and at no other time. If a wholesaler of fireworks wishes to 703
continue engaging in the wholesale sale of fireworks at the 704
particular location after its then effective license expires, it 705
shall apply not later than the first day of October for a new 706

license pursuant to section 3743.15 of the Revised Code. The state 707
fire marshal shall send a written notice of the expiration of its 708
license to a licensed wholesaler at least three months before the 709
expiration date. 710

(B) If, during the effective period of its licensure, a 711
licensed wholesaler of fireworks wishes to perform any 712
construction, or make any structural change or renovation, on the 713
premises on which the fireworks are sold, the wholesaler shall 714
notify the state fire marshal in writing. The state fire marshal 715
may require a licensed wholesaler also to submit documentation, 716
including, but not limited to, plans covering the proposed 717
construction or structural change or renovation, if the state fire 718
marshal determines the documentation is necessary for evaluation 719
purposes in light of the proposed construction or structural 720
change or renovation. 721

Upon receipt of the notification and additional documentation 722
required by the state fire marshal, the state fire marshal shall 723
inspect the premises on which the fireworks are sold to determine 724
if the proposed construction or structural change or renovation 725
conforms to sections 3743.15 to 3743.21 of the Revised Code and 726
the rules adopted by the state fire marshal pursuant to section 727
3743.18 of the Revised Code. The state fire marshal shall issue a 728
written authorization to the wholesaler for the construction or 729
structural change or renovation if the state fire marshal 730
determines, upon the inspection and a review of submitted 731
documentation, that the construction or structural change or 732
renovation conforms to those sections and rules. 733

(C) The license of a wholesaler of fireworks authorizes the 734
wholesaler to engage only in the following activities: 735

(1) Possess for sale at wholesale and sell at wholesale 736
fireworks to persons who are licensed wholesalers of fireworks, to 737
~~out-of-state residents~~ persons in accordance with ~~section~~ sections 738

~~3743.44 of the Revised Code, to residents of this state in~~ 739
~~accordance with section 3743.45 to 3743.46~~ of the Revised Code, or 740
to persons located in another state provided the fireworks are 741
shipped directly out of this state to them by the wholesaler. The 742
possession for sale shall be at the location described in the 743
application for licensure or in the notification submitted under 744
division (B) of this section, and the sale shall be from the 745
inside of a licensed building and from no structure or device 746
outside a licensed building. At no time shall a licensed 747
wholesaler sell any class of fireworks outside a licensed 748
building. 749

(2) Possess for sale at retail and sell at retail fireworks, 750
other than 1.4G fireworks as designated by the state fire marshal 751
in rules adopted pursuant to division (A) of section 3743.05 of 752
the Revised Code, to licensed exhibitors in accordance with 753
sections 3743.50 to 3743.55 of the Revised Code, and possess for 754
sale at retail and sell at retail fireworks, including 1.4G 755
fireworks, to ~~out of state residents~~ persons in accordance with 756
~~section sections 3743.44 of the Revised Code, to residents of this~~ 757
~~state in accordance with section 3743.45 to 3743.46~~ of the Revised 758
Code, or to persons located in another state provided the 759
fireworks are shipped directly out of this state to them by the 760
wholesaler. The possession for sale shall be at the location 761
described in the application for licensure or in the notification 762
submitted under division (B) of this section, and the sale shall 763
be from the inside of the licensed building and from no other 764
structure or device outside this licensed building. At no time 765
shall a licensed wholesaler sell any class of fireworks outside a 766
licensed building. 767

A licensed wholesaler of fireworks shall sell under division 768
(C) of this section only fireworks that meet the standards set by 769
the consumer product safety commission or by the American 770

fireworks standard laboratories or that have received an EX number 771
from the United States department of transportation. 772

(D) The license of a wholesaler of fireworks shall be 773
protected under glass and posted in a conspicuous place at the 774
location described in the application for licensure or in the 775
notification submitted under division (B) of this section. Except 776
as otherwise provided in this section, the license is not 777
transferable or assignable. A license may be transferred to 778
another person for the same location for which the license was 779
issued if the assets of the wholesaler are transferred to that 780
person by inheritance or by a sale approved by the state fire 781
marshal. The license is subject to revocation in accordance with 782
section 3743.21 of the Revised Code. 783

(E) The state fire marshal shall adopt rules for the 784
expansion or contraction of a licensed premises and for the 785
approval of an expansion or contraction. The boundaries of a 786
licensed premises, including any geographic expansion or 787
contraction of those boundaries, shall be approved by the state 788
fire marshal in accordance with rules the state fire marshal 789
adopts. If the licensed premises of a licensed wholesaler from 790
which the wholesaler operates consists of more than one parcel of 791
real estate, those parcels must be contiguous, unless an exception 792
is allowed pursuant to division (G) of this section. 793

(F)(1) Upon application by a licensed wholesaler of 794
fireworks, a wholesaler license may be transferred from one 795
geographic location to another within the same municipal 796
corporation or within the unincorporated area of the same 797
township, ~~but only~~ if all of the following apply: 798

(a) The identity of the holder of the license remains the 799
same in the new location. 800

(b) The former location is closed prior to the opening of the 801

new location and no fireworks business of any kind is conducted at 802
the former location after the transfer of the license. 803

(c) The new location has received a local certificate of 804
zoning compliance and a local certificate of occupancy, and 805
otherwise is in compliance with all local building regulations. 806

(d) Every building or structure at the new location is 807
separated from occupied residential and nonresidential buildings 808
or structures, railroads, highways, or any other buildings or 809
structures located on the licensed premises in accordance with the 810
distances specified in the rules adopted by the state fire marshal 811
pursuant to section 3743.18 of the Revised Code. If the licensee 812
fails to comply with the requirements of division (F)(1)(d) of 813
this section by the licensee's own act, the license at the new 814
location is forfeited. 815

(e) Neither the licensee nor any person holding, owning, or 816
controlling a five per cent or greater beneficial or equity 817
interest in the licensee has been convicted of or has pleaded 818
guilty to a felony under the laws of this state, any other state, 819
or the United States after June 30, 1997. 820

(f) The state fire marshal approves the request for the 821
transfer. 822

(2) The new location shall comply with the requirements 823
specified in divisions (C)(1) and (2) of section 3743.25 of the 824
Revised Code whether or not the fireworks showroom at the new 825
location is constructed, expanded, or first begins operating on 826
and after June 30, 1997. 827

(G)(1) A licensed wholesaler may expand its licensed premises 828
within this state to include not more than two storage locations 829
that are located upon one or more real estate parcels that are 830
noncontiguous to the licensed premises as that licensed premises 831
exists on the date a licensee submits an application as described 832

below, if all of the following apply: 833

(a) The licensee submits an application to the state fire 834
marshal requesting the expansion and an application fee of one 835
hundred dollars per storage location for which the licensee is 836
requesting approval. 837

(b) The identity of the holder of the license remains the 838
same at the storage location. 839

(c) The storage location has received a valid certificate of 840
zoning compliance, as applicable, and a valid certificate of 841
occupancy for each building or structure at the storage location 842
issued by the authority having jurisdiction to issue the 843
certificate for the storage location, and those certificates 844
permit the distribution and storage of fireworks regulated under 845
this chapter at the storage location and in the buildings or 846
structures. The storage location shall be in compliance with all 847
other applicable federal, state, and local laws and regulations. 848

(d) Every building or structure located upon the storage 849
location is separated from occupied residential and nonresidential 850
buildings or structures, railroads, highways, and any other 851
buildings or structures on the licensed premises in accordance 852
with the distances specified in the rules adopted by the state 853
fire marshal pursuant to section 3743.18 of the Revised Code. 854

(e) Neither the licensee nor any person holding, owning, or 855
controlling a five per cent or greater beneficial or equity 856
interest in the licensee has been convicted of or pleaded guilty 857
to a felony under the laws of this state, any other state, or the 858
United States, after September 29, 2005. 859

(f) The state fire marshal approves the application for 860
expansion. 861

(2) The state fire marshal shall approve an application for 862
expansion requested under division (G)(1) of this section if the 863

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

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

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

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

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

(2) A licensed wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise

permitted under division (C)(2) of this section or pursuant to 895
section 3743.44 or 3743.45 of the Revised Code, at a storage 896
location approved under this section. 897

(3) A storage location may not be relocated for a minimum 898
period of five years after the storage location is approved by the 899
state fire marshal in accordance with division (G) of this 900
section. 901

(I) A licensee shall prohibit public access to all storage 902
locations it uses. The state fire marshal shall adopt rules 903
establishing acceptable measures a wholesaler shall use to 904
prohibit access to storage sites. 905

(J) The state fire marshal shall not place the license of a 906
wholesaler of fireworks in temporarily inactive status while the 907
holder of the license is attempting to qualify to retain the 908
license. 909

(K) Each licensed wholesaler of fireworks or a designee of 910
the wholesaler, whose identity is provided to the state fire 911
marshal by the wholesaler, annually shall attend a continuing 912
education program. The state fire marshal shall develop the 913
program and the state fire marshal or a person or public agency 914
approved by the state fire marshal shall conduct it. A licensed 915
wholesaler or the wholesaler's designee who attends a program as 916
required under this division, within one year after attending the 917
program, shall conduct in-service training as approved by the 918
state fire marshal for other employees of the licensed wholesaler 919
regarding the information obtained in the program. A licensed 920
wholesaler shall provide the state fire marshal with notice of the 921
date, time, and place of all in-service training. For any program 922
conducted under this division, the state fire marshal shall, in 923
accordance with rules adopted by the state fire marshal under 924
Chapter 119. of the Revised Code, establish the subjects to be 925
taught, the length of classes, the standards for approval, and 926

time periods for notification by the licensee to the state fire marshal of any in-service training. 927
928

(L) A licensed wholesaler shall maintain comprehensive 929
general liability insurance coverage in the amount and type 930
specified under division (B)(2) of section 3743.15 of the Revised 931
Code at all times. Each policy of insurance required under this 932
division shall contain a provision requiring the insurer to give 933
not less than fifteen days' prior written notice to the state fire 934
marshal before termination, lapse, or cancellation of the policy, 935
or any change in the policy that reduces the coverage below the 936
minimum required under this division. Prior to canceling or 937
reducing the amount of coverage of any comprehensive general 938
liability insurance coverage required under this division, a 939
licensed wholesaler shall secure supplemental insurance in an 940
amount and type that satisfies the requirements of this division 941
so that no lapse in coverage occurs at any time. A licensed 942
wholesaler who secures supplemental insurance shall file evidence 943
of the supplemental insurance with the state fire marshal prior to 944
canceling or reducing the amount of coverage of any comprehensive 945
general liability insurance coverage required under this division. 946

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

~~that person presents a certified copy of the license. No licensed 959
manufacturer or licensed wholesaler shall sell fireworks to a 960
person who resides in another state unless that person has been 961
issued a license or permit in the state of the person's residence 962
that authorizes the person to engage in the manufacture, wholesale 963
sale, or retail sale of fireworks in that state or that authorizes 964
the person to conduct fireworks exhibitions in that state and that 965
person presents a certified copy of the license, or, if that 966
person does not possess a license or permit of that nature, only 967
if the person presents a current valid motor vehicle operator's 968
license issued to the person in the person's state of residence, 969
or, if that person does not possess a motor vehicle operator's 970
license issued in that state, an identification card issued to the 971
person by a governmental agency in the person's state of residence 972
indicating that the person is a resident of that state. If a 973
person who is required to present a motor vehicle operator's 974
license or other identification card intends to transport the 975
fireworks purchased directly out of this state by a motor vehicle 976
and the person will not also be the operator of that motor vehicle 977
while so transporting the fireworks, the operator of the motor 978
vehicle also shall present the operator's motor vehicle operator's 979
license. 980~~

(B) A licensed manufacturer or licensed wholesaler selling 981
fireworks under this section shall require ~~the~~ a purchaser who 982
resides in another state to complete a purchaser's form. The state 983
fire marshal shall prescribe the form, and the licensed 984
manufacturer or licensed wholesaler shall furnish the form. On 985
this form the purchaser shall include the purchaser's name and 986
address; the date of the purchase; a statement that the purchaser 987
acknowledges that the purchaser is responsible for any illegal use 988
of the fireworks, including any damages caused by improper use; 989
the number of the purchaser's license or permit authorizing the 990
purchaser to manufacture, sell at wholesale, or sell at retail 991

fireworks or to conduct fireworks exhibitions, or the number of 992
the purchaser's motor vehicle operator's license or other 993
identification card, as applicable; such other information as the 994
state fire marshal may require; and the purchaser's signature. 995
Each purchaser's form shall contain a statement printed in bold 996
letters indicating that knowingly making a false statement on the 997
form is falsification under section 2921.13 of the Revised Code 998
and is a misdemeanor of the first degree. 999

Each licensed manufacturer and licensed wholesaler shall keep 1000
each purchaser's form for a period of three years after the date 1001
of the purchase, and such forms shall be open to inspection by the 1002
state fire marshal or the state fire marshal's designated 1003
authority. 1004

(C) Each ~~purchaser of~~ person who resides in another state who 1005
purchases fireworks under this section shall transport the 1006
fireworks so purchased directly out of this state within 1007
forty-eight hours after the time of their purchase. 1008

~~This section regulates wholesale sales and retail sales of~~ 1009
~~fireworks in this state only insofar as purchasers of fireworks~~ 1010
~~are residents of other states and will be obtaining possession in~~ 1011
~~this state of purchased fireworks.~~ (D) This section does not 1012
prohibit licensed manufacturers or wholesalers from selling 1013
fireworks, in accordance with section 3743.04 or sections 3743.17 1014
and 3743.25 of the Revised Code, to a resident of another state 1015
and from shipping the purchased fireworks directly out of this 1016
state to the purchaser. 1017

Sec. 3743.45. (A) Any person who ~~resides in this state and~~ 1018
~~who~~ intends to obtain possession in this state of 1.4G fireworks 1019
purchased in this state shall obtain possession of the 1.4G 1020
fireworks only from a licensed manufacturer or licensed wholesaler 1021
and shall be subject to this section. 1022

A licensed manufacturer or licensed wholesaler selling 1.4G fireworks under this division shall require the purchaser to complete a purchaser's form, which shall be prescribed by the state fire marshal and furnished by the licensed manufacturer or licensed wholesaler. 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; 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 knowingly making a false statement on the form is falsification under section 2921.13 of the Revised Code and is a misdemeanor of the first degree. Upon accurate completion and submission of the purchaser's form to the licensed manufacturer or licensed wholesaler, the purchaser may possess 1.4G fireworks in accordance with this section.

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

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

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

~~(B) No licensed manufacturer or licensed wholesaler shall sell 1.3G fireworks to a person who resides in this state unless that person is a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state~~ A licensed

manufacturer or licensed wholesaler selling 1.4G fireworks under 1055
this division shall have safety glasses available for a nominal 1056
charge or free at the site of the 1.4G fireworks purchase. 1057

(C) Any person authorized under this section to possess 1.4G 1058
fireworks in this state may discharge, ignite, or explode those 1059
fireworks in either of the following locations in this state: 1060

(1) On the property of the purchaser; 1061

(2) On the property of another person who has given 1062
permission to the purchaser. 1063

(D) Fireworks discharged, ignited, or exploded pursuant to 1064
this section shall not be considered a public exhibition. 1065

(E) A county, with respect to the unincorporated territory of 1066
the county, a township, with respect to the unincorporated 1067
territory of the township, or a municipal corporation may do 1068
either of the following: 1069

(1) Restrict the dates and times a person may discharge, 1070
ignite, or explode fireworks purchased pursuant to this section; 1071

(2) Ban the discharge, ignition, or explosion of fireworks 1072
purchased pursuant to this section. 1073

A resolution adopted by a board of township trustees under 1074
this division prevails over a conflicting resolution adopted under 1075
this division by the board of county commissioners in the county 1076
within which the township is located. 1077

(F) This section does not limit the enforcement of any 1078
ordinance, resolution, or statute that regulates noise, 1079
disturbance of the peace, or disorderly conduct. 1080

Sec. 3743.46. (A) Except as otherwise provided in section 1081
3743.44 or 3743.45 of the Revised Code, no licensed manufacturer 1082
or licensed wholesaler shall sell fireworks to a person who 1083

resides in another state unless one of the following applies: 1084

(1) The person has been issued a license or permit in the 1085
state of the person's residence that authorizes the person to 1086
engage in the manufacture, wholesale sale, or retail sale of 1087
fireworks in that state or that authorizes the person to conduct 1088
fireworks exhibitions in that state and that person presents a 1089
certified copy of the license. 1090

(2) If the person does not possess a license or permit 1091
described in division (A)(1) of this section, the person presents 1092
a current valid motor vehicle operator's license issued to the 1093
person in the person's state of residence. 1094

(3) If the person does not possess a license or permit issued 1095
in that state as described in division (A)(1) or (2) of this 1096
section, the person presents an identification card issued to the 1097
person by a governmental agency in the person's state of residence 1098
indicating that the person is a resident of that state. 1099

(B) If a person who is required to present a motor vehicle 1100
operator's license or other identification card intends to 1101
transport the fireworks purchased directly out of this state by a 1102
motor vehicle and the person will not also be the operator of that 1103
motor vehicle while so transporting the fireworks, the operator of 1104
the motor vehicle also shall present the operator's motor vehicle 1105
operator's license. 1106

Sec. 3743.47. (A) The state fire marshal shall prepare a 1107
pamphlet that explains how to use 1.4G fireworks safely. The state 1108
fire marshal shall distribute the pamphlet to all licensed 1109
wholesalers and licensed manufacturers who sell 1.4G fireworks. 1110

(B) A licensed manufacturer or licensed wholesaler shall 1111
furnish a copy of the pamphlet prepared pursuant to division (A) 1112
of this section to each purchaser of 1.4G fireworks. 1113

This division does not apply when a purchaser is a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state. 1114
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Sec. 3743.591. (A) Not later than December 31, 2015, the state fire marshal shall adopt rules, in consultation with the fireworks industry and other interested parties, that allow a licensed manufacturer or licensed wholesaler of fireworks to transfer the manufacturer's or wholesaler's license from one geographic location to another. 1117
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(B) Upon application by a licensed manufacturer or licensed wholesaler of fireworks to the state fire marshal, a manufacturer license or wholesaler license may be transferred from one geographic location to another if the state fire marshal determines that the licensed wholesaler or licensed manufacturer has complied with the rules adopted by the state fire marshal under division (A) of this section. 1123
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(C) A wholesaler license may be transferred from one geographic location to another within the same municipal corporation or within the unincorporated area of the same township if the licensed wholesaler satisfies the requirements specified in division (F) of section 3743.17 of the Revised Code or if the licensed wholesaler satisfies the rules adopted under division (A) of this section. 1130
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Sec. 3743.60. (A) No person shall manufacture fireworks in this state unless it is a licensed manufacturer of fireworks, and no person shall operate a fireworks plant in this state unless it has been issued a license as a manufacturer of fireworks for the particular fireworks plant. 1137
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(B) No person shall operate a fireworks plant in this state after its license as a manufacturer of fireworks for the 1142
1143

particular fireworks plant has expired, been denied renewal, or 1144
been revoked, unless a new license has been obtained. 1145

(C) No licensed manufacturer of fireworks, during the 1146
effective period of its licensure, shall construct, locate, or 1147
relocate any buildings or other structures on the premises of its 1148
fireworks plant, make any structural change or renovation in any 1149
building or other structure on the premises of its fireworks 1150
plant, or change the nature of its manufacturing of fireworks so 1151
as to include the processing of fireworks without first obtaining 1152
a written authorization from the state fire marshal pursuant to 1153
division (B) of section 3743.04 of the Revised Code. 1154

(D) No licensed manufacturer of fireworks shall manufacture 1155
fireworks, possess fireworks for sale at wholesale or retail, or 1156
sell fireworks at wholesale or retail, in a manner not authorized 1157
by division (C) of section 3743.04 of the Revised Code. 1158

(E) No licensed manufacturer of fireworks shall knowingly 1159
fail to comply with the rules adopted by the state fire marshal 1160
pursuant to section 3743.05 of the Revised Code or the 1161
requirements of section 3743.06 of the Revised Code. 1162

(F) No licensed manufacturer of fireworks shall fail to 1163
maintain complete inventory, wholesale sale, and retail records as 1164
required by section 3743.07 of the Revised Code, or to permit 1165
inspection of these records or the premises of a fireworks plant 1166
pursuant to section 3743.08 of the Revised Code. 1167

(G) No licensed manufacturer of fireworks shall fail to 1168
comply with an order of the state fire marshal issued pursuant to 1169
division (B)(1) of section 3743.08 of the Revised Code, within the 1170
specified period of time. 1171

(H) No licensed manufacturer of fireworks shall fail to 1172
comply with an order of the state fire marshal issued pursuant to 1173
division (B)(2) of section 3743.08 of the Revised Code until the 1174

nonconformities are eliminated, corrected, or otherwise remedied 1175
or the seventy-two hour period specified in that division has 1176
expired, whichever first occurs. 1177

(I) No person shall smoke or shall carry a pipe, cigarette, 1178
or cigar, or a match, lighter, other flame-producing item, or open 1179
flame on, or shall carry a concealed source of ignition into, the 1180
premises of a fireworks plant, except as smoking is authorized in 1181
specified lunchrooms or restrooms by a manufacturer pursuant to 1182
division (C) of section 3743.06 of the Revised Code. 1183

(J) No person shall have possession or control of, or be 1184
under the influence of, any intoxicating liquor, beer, or 1185
controlled substance, while on the premises of a fireworks plant. 1186

(K) No licensed manufacturer of fireworks shall fail to 1187
furnish a safety pamphlet to a purchaser of 1.4G fireworks as 1188
required by division (B) of section 3743.47 of the Revised Code. 1189

(L) No licensed manufacturer of fireworks shall fail to have 1190
safety glasses available for sale as required by division (B) of 1191
section 3743.45 of the Revised Code. 1192

Sec. 3743.61. (A) No person, except a licensed manufacturer 1193
of fireworks engaging in the wholesale sale of fireworks as 1194
authorized by division (C)(2) of section 3743.04 of the Revised 1195
Code, shall operate as a wholesaler of fireworks in this state 1196
unless it is a licensed wholesaler of fireworks, or shall operate 1197
as a wholesaler of fireworks at any location in this state unless 1198
it has been issued a license as a wholesaler of fireworks for the 1199
particular location. 1200

(B) No person shall operate as a wholesaler of fireworks at a 1201
particular location in this state after its license as a 1202
wholesaler of fireworks for the particular location has expired, 1203
been denied renewal, or been revoked, unless a new license has 1204

been obtained. 1205

(C) No licensed wholesaler of fireworks, during the effective 1206
period of its licensure, shall perform any construction, or make 1207
any structural change or renovation, on the premises on which the 1208
fireworks are sold without first obtaining a written authorization 1209
from the state fire marshal pursuant to division (B) of section 1210
3743.17 of the Revised Code. 1211

(D) No licensed wholesaler of fireworks shall possess 1212
fireworks for sale at wholesale or retail, or sell fireworks at 1213
wholesale or retail, in a manner not authorized by division (C) of 1214
section 3743.17 of the Revised Code. 1215

(E) No licensed wholesaler of fireworks shall knowingly fail 1216
to comply with the rules adopted by the state fire marshal 1217
pursuant to section 3743.18 or the requirements of section 3743.19 1218
of the Revised Code. 1219

(F) No licensed wholesaler of fireworks shall fail to 1220
maintain complete inventory, wholesale sale, and retail records as 1221
required by section 3743.20 of the Revised Code, or to permit 1222
inspection of these records or the premises of the wholesaler 1223
pursuant to section 3743.21 of the Revised Code. 1224

(G) No licensed wholesaler of fireworks shall fail to comply 1225
with an order of the state fire marshal issued pursuant to 1226
division (B)(1) of section 3743.21 of the Revised Code, within the 1227
specified period of time. 1228

(H) No licensed wholesaler of fireworks shall fail to comply 1229
with an order of the state fire marshal issued pursuant to 1230
division (B)(2) of section 3743.21 of the Revised Code until the 1231
nonconformities are eliminated, corrected, or otherwise remedied 1232
or the seventy-two hour period specified in that division has 1233
expired, whichever first occurs. 1234

(I) No person shall smoke or shall carry a pipe, cigarette, 1235

or cigar, or a match, lighter, other flame-producing item, or open 1236
flame on, or shall carry a concealed source of ignition into, the 1237
premises of a wholesaler of fireworks, except as smoking is 1238
authorized in specified lunchrooms or restrooms by a wholesaler 1239
pursuant to division (D) of section 3743.19 of the Revised Code. 1240

(J) No person shall have possession or control of, or be 1241
under the influence of, any intoxicating liquor, beer, or 1242
controlled substance, while on the premises of a wholesaler of 1243
fireworks. 1244

(K) No licensed wholesaler of fireworks shall fail to furnish 1245
a safety pamphlet to a purchaser of 1.4G fireworks as required by 1246
division (B) of section 3743.47 of the Revised Code. 1247

(L) No licensed wholesaler of fireworks shall fail to have 1248
safety glasses available for sale as required by division (B) of 1249
section 3743.45 of the Revised Code. 1250

Sec. 3743.63. (A) No person who ~~resides in another state and~~ 1251
purchases fireworks in this state shall obtain possession of the 1252
fireworks in this state unless the person complies with ~~section~~ 1253
sections 3743.44 to 3743.46 of the Revised Code, provided that 1254
knowingly making a false statement on the fireworks purchaser form 1255
is not a violation of this section but is a violation of section 1256
2921.13 of the Revised Code. 1257

(B) ~~No~~ Except for the purchase of 1.4G fireworks made under 1258
section 3743.45 of the Revised Code, no person who resides in 1259
another state and who purchases fireworks in this state shall 1260
obtain possession of fireworks in this state other than from a 1261
licensed manufacturer or wholesaler, or fail, when transporting 1262
the fireworks, to transport them directly out of this state within 1263
seventy-two hours after the time of their purchase. ~~No such person 1264
shall give or sell to any other person in this state fireworks 1265
that the person has acquired in this state. 1266~~

~~(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. 1298

(C) No person shall use in a theater or public hall, what is 1299
technically known as fireworks showers, or a mixture containing 1300
potassium chlorate and sulphur. 1301

(D) No person shall sell fireworks of any kind to a person 1302
under eighteen years of age. No person under eighteen years of age 1303
shall enter a fireworks sales showroom unless that person is 1304
accompanied by a parent, legal guardian, or other responsible 1305
adult. No person under eighteen years of age shall touch or 1306
possess fireworks on a licensed premises without the consent of 1307
the licensee. A licensee may eject any person from a licensed 1308
premises that is in any way disruptive to the safe operation of 1309
the premises. 1310

(E) No person, other than a licensed manufacturer, licensed 1311
wholesaler, licensed exhibitor, or shipping permit holder, shall 1312
possess 1.3G fireworks in this state. 1313

(F) Except as otherwise provided in division (J) of section 1314
3743.06 and division (K) of section 3743.19 of the Revised Code, 1315
no person shall knowingly disable a fire suppression system as 1316
defined in section 3781.108 of the Revised Code on the premises of 1317
a fireworks plant of a licensed manufacturer of fireworks or on 1318
the premises of the business operations of a licensed wholesaler 1319
of fireworks. 1320

(G) No person shall discharge, ignite, or explode fireworks 1321
while in possession or control of, or under the influence of, any 1322
intoxicating liquor, beer, or controlled substance. 1323

(H) No person shall discharge, ignite, or explode fireworks 1324
on the property of another person without that person's permission 1325
to use fireworks on that property. 1326

Sec. 3743.75. (A)(1) During the period beginning on June 29, 1327

2001, and ending on December 15, ~~2015~~ 2018, the state fire marshal shall not do ~~any~~ either of the following:

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

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

~~(3)~~(2) Except as provided in division (B) of this section, during the period beginning on June 29, 2001, and ending on December 31, 2015, the state fire marshal shall not approve the geographic transfer of a license as a manufacturer or wholesaler of fireworks issued under this chapter to any location other than a location for which a license was issued under this chapter immediately prior to June 29, 2001.

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

(C) Notwithstanding section 3743.59 of the Revised Code, the prohibited activities established in divisions (A)(1) and (2) of this section, geographic transfers approved pursuant to division (F) of section 3743.17 of the Revised Code, and storage locations 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 1359
of possession of a license, whether that transfer occurs by 1360
purchase, assignment, inheritance, bequest, stock transfer, or any 1361
other type of transfer, on the condition that the transfer is in 1362
accordance with division (D) of section 3743.04 of the Revised 1363
Code or division (D) of section 3743.17 of the Revised Code and is 1364
approved by the fire marshal. 1365

(2) "Particular location" includes a licensed premises and, 1366
regardless of when approved, any storage location approved in 1367
accordance with section 3743.04 or 3743.17 of the Revised Code. 1368

(3) "Such a license" includes a wholesaler of fireworks 1369
license that was issued in place of a manufacturer of fireworks 1370
license that existed prior to June 29, 2001, and was requested to 1371
be canceled by the license holder pursuant to division (D) of 1372
section 3743.03 of the Revised Code. 1373

Sec. 3743.99. (A) Whoever violates division (A) or (B) of 1374
section 3743.60 or division (H) of section 3743.64 of the Revised 1375
Code is guilty of a felony of the third degree. 1376

(B) Whoever violates division (C) or (D) of section 3743.60, 1377
division (A), (B), (C), or (D) of section 3743.61, or division (A) 1378
or (B) of section 3743.64 of the Revised Code is guilty of a 1379
felony of the fourth degree. 1380

(C) Whoever violates division (E), (F), (G), (H), (I), or (J) 1381
of section 3743.60, division (E), (F), (G), (H), (I), or (J) of 1382
section 3743.61, section 3743.63, division (D), (E), (F), or (G) 1383
of section 3743.64, division (A), (B), (C), (D), or (E) of section 1384
3743.65, or section 3743.66 of the Revised Code is guilty of a 1385
misdemeanor of the first degree. If the offender previously has 1386
been convicted of or pleaded guilty to a violation of division (I) 1387
of section 3743.60 or 3743.61 of the Revised Code, a violation of 1388
either of these divisions is a felony of the fifth degree. 1389

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

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

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

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

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

Sec. 5703.052. (A) There is hereby created in the state

treasury the tax refund fund, from which refunds shall be paid for 1421
taxes illegally or erroneously assessed or collected, or for any 1422
other reason overpaid, that are levied by Chapter 4301., 4305., 1423
5726., 5728., 5729., 5731., 5733., 5735., 5736., 5739., 5741., 1424
5743., 5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 1425
3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 1426
5727.81, and 5727.811 of the Revised Code. Refunds for fees or 1427
wireless 9-1-1 charges illegally or erroneously assessed or 1428
collected, or for any other reason overpaid, that are levied by 1429
sections 128.42 ~~or~~, 3734.90 to 3734.9014, or 3737.04 to 3737.12 of 1430
the Revised Code also shall be paid from the fund. Refunds for 1431
amounts illegally or erroneously assessed or collected by the tax 1432
commissioner, or for any other reason overpaid, that are due under 1433
section 1509.50 of the Revised Code shall be paid from the fund. 1434
However, refunds for taxes levied under section 5739.101 of the 1435
Revised Code shall not be paid from the tax refund fund, but shall 1436
be paid as provided in section 5739.104 of the Revised Code. 1437

(B)(1) Upon certification by the tax commissioner to the 1438
treasurer of state of a tax refund, a wireless 9-1-1 charge 1439
refund, or another amount refunded, or by the superintendent of 1440
insurance of a domestic or foreign insurance tax refund, the 1441
treasurer of state shall place the amount certified to the credit 1442
of the fund. The certified amount transferred shall be derived 1443
from the receipts of the same tax, fee, wireless 9-1-1 charge, or 1444
other amount from which the refund arose. 1445

(2) When a refund is for a tax, fee, wireless 9-1-1 charge, 1446
or other amount that is not levied by the state or that was 1447
illegally or erroneously distributed to a taxing jurisdiction, the 1448
tax commissioner shall recover the amount of that refund from the 1449
next distribution of that tax, fee, wireless 9-1-1 charge, or 1450
other amount that otherwise would be made to the taxing 1451
jurisdiction. If the amount to be recovered would exceed 1452

twenty-five per cent of the next distribution of that tax, fee, 1453
wireless 9-1-1 charge, or other amount, the commissioner may 1454
spread the recovery over more than one future distribution, taking 1455
into account the amount to be recovered and the amount of the 1456
anticipated future distributions. In no event may the commissioner 1457
spread the recovery over a period to exceed thirty-six months. 1458

Sec. 5703.053. As used in this section, "postal service" 1459
means the United States postal service. 1460

An application to the tax commissioner for a tax refund under 1461
section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 1462
5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5736.08, 5739.07, 1463
5741.10, 5743.05, 5743.53, 5745.11, 5749.08, or 5751.08 of the 1464
Revised Code or division (B) of section 5703.05 of the Revised 1465
Code, or a fee refunded under section 3734.905 or 3737.11 of the 1466
Revised Code, that is received after the last day for filing under 1467
such section shall be considered to have been filed in a timely 1468
manner if: 1469

(A) The application is delivered by the postal service and 1470
the earliest postal service postmark on the cover in which the 1471
application is enclosed is not later than the last day for filing 1472
the application; 1473

(B) The application is delivered by the postal service, the 1474
only postmark on the cover in which the application is enclosed 1475
was affixed by a private postal meter, the date of that postmark 1476
is not later than the last day for filing the application, and the 1477
application is received within seven days of such last day; or 1478

(C) The application is delivered by the postal service, no 1479
postmark date was affixed to the cover in which the application is 1480
enclosed or the date of the postmark so affixed is not legible, 1481
and the application is received within seven days of the last day 1482
for making the application. 1483

Sec. 5703.19. (A) To carry out the purposes of the laws that 1484
the tax commissioner is required to administer, the commissioner 1485
or any person employed by the commissioner for that purpose, upon 1486
demand, may inspect books, accounts, records, and memoranda of any 1487
person or public utility subject to those laws, and may examine 1488
under oath any officer, agent, or employee of that person or 1489
public utility. Any person other than the commissioner who makes a 1490
demand pursuant to this section shall produce the person's 1491
authority to make the inspection. 1492

(B) If a person or public utility receives at least ten days' 1493
written notice of a demand made under division (A) of this section 1494
and refuses to comply with that demand, a penalty of five hundred 1495
dollars shall be imposed upon the person or public utility for 1496
each day the person or public utility refuses to comply with the 1497
demand. Penalties imposed under this division may be assessed and 1498
collected in the same manner as assessments made under Chapter 1499
3769., 4305., 5727., 5728., 5733., 5735., 5736., 5739., 5743., 1500
5745., 5747., 5749., 5751., or 5753., ~~or~~ sections 3734.90 to 1501
3734.9014, or sections 3737.04 to 3737.12 of the Revised Code. 1502

Sec. 5703.70. (A) On the filing of an application for refund 1503
under section 3734.905, 3737.11, 4307.05, 4307.07, 5726.30, 1504
5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 1505
5735.141, 5735.142, 5735.18, 5736.08, 5739.07, 5739.071, 5739.104, 1506
5741.10, 5743.05, 5743.53, 5749.08, 5751.08, or 5753.06 of the 1507
Revised Code, or an application for compensation under section 1508
5739.061 of the Revised Code, if the tax commissioner determines 1509
that the amount of the refund or compensation to which the 1510
applicant is entitled is less than the amount claimed in the 1511
application, the commissioner shall give the applicant written 1512
notice by ordinary mail of the amount. The notice shall be sent to 1513
the address shown on the application unless the applicant notifies 1514

the commissioner of a different address. The applicant shall have 1515
sixty days from the date the commissioner mails the notice to 1516
provide additional information to the commissioner or request a 1517
hearing, or both. 1518

(B) If the applicant neither requests a hearing nor provides 1519
additional information to the tax commissioner within the time 1520
prescribed by division (A) of this section, the commissioner shall 1521
take no further action, and the refund or compensation amount 1522
denied becomes final. 1523

(C)(1) If the applicant requests a hearing within the time 1524
prescribed by division (A) of this section, the tax commissioner 1525
shall assign a time and place for the hearing and notify the 1526
applicant of such time and place, but the commissioner may 1527
continue the hearing from time to time as necessary. After the 1528
hearing, the commissioner may make such adjustments to the refund 1529
or compensation as the commissioner finds proper, and shall issue 1530
a final determination thereon. 1531

(2) If the applicant does not request a hearing, but provides 1532
additional information, within the time prescribed by division (A) 1533
of this section, the commissioner shall review the information, 1534
make such adjustments to the refund or compensation as the 1535
commissioner finds proper, and issue a final determination 1536
thereon. 1537

(3) The commissioner shall serve a copy of the final 1538
determination made under division (C)(1) or (2) of this section on 1539
the applicant in the manner provided in section 5703.37 of the 1540
Revised Code, and the decision is final, subject to appeal under 1541
section 5717.02 of the Revised Code. 1542

(D) The tax commissioner shall certify to the director of 1543
budget and management and treasurer of state for payment from the 1544
tax refund fund created by section 5703.052 of the Revised Code, 1545

the amount of the refund to be refunded under division (B) or (C) 1546
of this section. The commissioner also shall certify to the 1547
director and treasurer of state for payment from the general 1548
revenue fund the amount of compensation to be paid under division 1549
(B) or (C) of this section. 1550

Sec. 5703.77. (A) As used in this section: 1551

(1) "Taxpayer" means a person subject to or previously 1552
subject to a tax or fee, a person that remits a tax or fee, or a 1553
person required to or previously required to withhold or collect 1554
and remit a tax or fee on behalf of another person. 1555

(2) "Tax or fee" means a tax or fee administered by the tax 1556
commissioner. 1557

(3) "Credit account balance" means the amount of a tax or fee 1558
that a taxpayer remits to the state in excess of the amount 1559
required to be remitted, after accounting for factors applicable 1560
to the taxpayer such as accelerated payments, estimated payments, 1561
tax credits, and tax credit balances that may be carried forward. 1562

(4) "Tax debt" means an unpaid tax or fee or any unpaid 1563
penalty, interest, or additional charge on such a tax or fee due 1564
the state. 1565

(B) As soon as practicable, but not later than sixty days 1566
before the expiration of the period of time during which a 1567
taxpayer may file a refund application for a tax or fee, the tax 1568
commissioner shall review the taxpayer's accounts for the tax or 1569
fee and notify the taxpayer of any credit account balance for 1570
which the commissioner is required to issue a refund if the 1571
taxpayer were to file a refund application for that balance, 1572
regardless of whether the taxpayer files a refund application or 1573
amended return with respect to that tax or fee. The notice shall 1574
be made using contact information for the taxpayer on file with 1575

the commissioner. 1576

(C) Notwithstanding sections 128.47, 3734.905, 3737.11, 1577
4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 1578
5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 1579
5749.08, 5751.08, 5753.06, and any other section of the Revised 1580
Code governing refunds of taxes or fees, the commissioner may 1581
apply the amount of any credit account balance for which the 1582
commissioner is required to issue a refund if the taxpayer were to 1583
file a refund application for that balance as a credit against the 1584
taxpayer's liability for the tax or fee in the taxpayer's next 1585
reporting period for that tax or fee or issue a refund of that 1586
credit account balance to the taxpayer, subject to division (D) of 1587
this section. 1588

(D) Before issuing a refund to a taxpayer under division (C) 1589
of this section, the tax commissioner shall withhold from that 1590
refund the amount of any of the taxpayer's tax debt certified to 1591
the attorney general under section 131.02 of the Revised Code and 1592
the amount of the taxpayer's liability, if any, for a tax or fee. 1593
The commissioner shall apply any amount withheld first in 1594
satisfaction of the amount of the taxpayer's certified tax debt 1595
and then in satisfaction of the taxpayer's liability. 1596

(E) The tax commissioner may adopt rules to administer this 1597
section. 1598

Section 2. That existing sections 1705.48, 3737.51, 3737.71, 1599
3737.99, 3743.04, 3743.17, 3743.44, 3743.45, 3743.60, 3743.61, 1600
3743.63, 3743.65, 3743.75, 3743.99, 5703.052, 5703.053, 5703.19, 1601
5703.70, and 5703.77 of the Revised Code are hereby repealed. 1602

Section 3. The amendments to section 3743.04, division (C) of 1603
section 3743.17, sections 3743.44, 3743.45, 3743.60, 3743.61, 1604
3743.63, 3743.65, and 3743.99 of the Revised Code made in Section 1605
1 of this act and the enactment of sections 3743.46 and 3743.47 of 1606

the Revised Code by Section 1 of this act, take effect January 1,
2016.

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