



Ohio Fireworks Law Changes

HB 172 signed by Governor 11/2021



Analysis of Bill – HB172

(Effective immediately)

- Extended moratorium on new and transfer of manufacture and wholesale licenses from 12/31/21 to 12/31/2022
- Establishes a one-time application and issuance date, outside of the normal manufacture and wholesale licensing timeline at end of moratorium.
- Declares and emergency

Analysis of Bill – HB172

(Effective 91st day)

- Establishes Ohio Fire Code Rule Recommendation Committee to review Fireworks Law and make recommendations to the State Fire Marshal.
- Requires the State Fire Marshal to adopt rules regulating time, manner and location of consumer fireworks use.
- Imposes a 4% fee on the retail sales of consumer grade fireworks, beginning 100 days after the fee provision's effective date.
- Credits revenue from the new fee to fund firefighter training programs and the State Fire Marshal's regulation and enforcement of the fireworks industry.

Analysis of Bill – HB172

(Effective 91st day)

- Creates new license allowing retailers to sell ground-based or hand-held sparklers called “fountain devices”, which the State Fire Marshal may begin to issue in 2022.
- Requires the State Fire Marshal to adopt rules for and enforce the new provisions for fountain device retailers.
- Increases from 5,000 to 7,500 square feet maximum floor area of retail sales showroom, to which the public has access, that a licensed fireworks manufacturer or wholesaler uses to sell consumer grade fireworks, but requires expanded showrooms to be equipped with sprinkler system meeting a specific standard.
- Establishes that the “state militia” for purposes of an existing exemption from the fireworks law is the state militia as recognized by the Adjunct General of Ohio.

Analysis of Bill – HB172

(Effective July 1st 2022)

- Allows individuals to possess consumer-grade fireworks in Ohio, eliminating a requirement that purchasers transport consumer-grade fireworks out of state within 48 hours.
- Allows any person authorized to possess consumer grade fireworks to discharge them on their own property or on another person's property with permission on the following days:
 - New Year's Day, Chinese New Year, Cinco de Mayo, Memorial Day Weekend,
 - Juneteenth, July 3,4,5 and Friday, Saturday, and Sunday before and after,
 - Labor Day Weekend, Diwali, New Years Eve
- Permits local government to restrict the dates and times that individuals may discharge consumer-grade fireworks or impose a complete ban on the use of consumer-grade.

Analysis of Bill – HB172

(Effective July 1st 2022)

- Prohibits discharging of fireworks (1) while in possession of, or under the influence of, alcohol or a controlled substance, or (2) on the property of another without the property owner's permission.
- Prohibits the State Fire Marshal from unreasonably withholding a variance that would allow hobbyists to manufacture, possess and use individual display-grade and consumer-grade fireworks and requires cause for revocation of a hobbyist variance.
- Requires hobbyists seeking variances to demonstrate that they can engage in the hobby safely and legally and limits hobbyists to possession of five pounds of raw materials and finished fireworks produced through the hobby.

Analysis of Bill – HB172

(Effective July 1st 2022)

- Requires a licensed wholesaler, manufacturer, or retailer who is selling consumer-grade fireworks to have safety glasses available for free or at a nominal charge.
- Requires licensed fireworks wholesalers, manufacturers and retailers to distribute a safety pamphlet with certain minimum information to each consumer purchaser of fireworks.

Fire Code Rule Recommendation Committee

- 10 to 100 days after effective date to make recommendations to State Fire Marshal.
- 16 members on the committee
- Recommendations on:
 - Fireworks manufacture licensing and plant operation and fireworks wholesaler licensing and operations
 - The purchase of consumer-grade fireworks
 - The moratorium on licenses
 - The rulemaking as it pertains to building code requirements for 1.3G display-grade fireworks manufacturing facilities
 - Development and licensing program for fireworks wholesalers and manufacturers.

Fire Code Rule Recommendation Committee

- **Rules for Consumer Grade use:** (to be filed by State Fire Marshal to JCAAR within 180 days of effective date)
 - The use of aerial fireworks
 - Separation distance for discharge sites
 - Use on common areas or multi-family
 - Suspension of discharge during drought or similar conditions
 - Proximity of discharge to children
 - Other similar matters

Fire Code Rule Recommendation Committee

- **Fountain Device Retailer Licenses:** (new license apply by September 30th , \$25 dollar fee, affidavit signed meeting intent of NFPA 1124-2006 edition, proof of insurance)
 - Sales display area maximum of 300 sq. ft., with no display larger than 150 sq. ft. and 25 feet from highly flammable materials
 - Original packaging and cover fuses.
 - Under visual supervision at all times
 - Sales to 18 and older
 - Sales prohibited to those under the influence
 - All sales conducted inside the licensed building
 - No smoking
 - Provide pamphlet and have available safety glasses
 - Comply with other rules adopted by the State Fire Marshal

Fountain Devices



Local Ordinances

(Existing issues and allowable changes under HB172)

Reviewed: Beachwood, Chagrin Falls, Mayfield Heights, Mayfield Village, Willoughby

- All contained language referencing ORC 3743.44 and ORC 3743.45

Example:

- No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, **an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45,** or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55.
- Except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55, **no person shall discharge, ignite, or explode any fireworks in this community.**

Local Ordinances

(Existing issues and allowable changes under HB172)

- ORC 3743.44 Used to deal with out of state residents that purchase consumer grade fireworks in Ohio must take out of state within 72 hours. **New language in this section only deals with 1.3G fireworks.**
- ORC 3743.45 Used to say if resident of Ohio you can buy consumer-grade 1.4g fireworks but must take out of state within 48 hours. **New language say any person authorized under this section to possess 1.4g fireworks may discharge, ignite, or explode those fireworks on private property, with authorization from the property owner**
- **Opt-out / Change or update ordinance?**

Review local ordinances for these ORC sections and conflicts with other code sections!

(d) Purchasing and Transporting.

(1) No person who resides in another state and purchases fireworks in this State shall obtain possession of the fireworks in this State unless the person complies with Ohio R.C. 3743.44.

(2) No person who resides in another state and who purchases fireworks in this State shall obtain possession of fireworks in this State other than from a licensed manufacturer or wholesaler, or fail, when transporting 1.3G fireworks, to transport them directly out of this State within 72 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.

(3) 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 Ohio R.C. 3743.45.

(4) No person who resides in this State and who purchases fireworks in this State under Ohio R.C. 3743.45 shall obtain possession of the 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 48 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.

(ORC 3743.63)

(e) Prohibited Activities by Exhibitors.

(1) An exhibitor of fireworks licensed under Ohio R.C. 3743.50 through 3743.55 who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, having jurisdiction over the premises.

(2) The approval required by division (e)(1) of this section shall be evidenced by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or

of 6

11/19/2021, 10:03 AM

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

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

(e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the Fire Marshal under Ohio R.C. 3743.56.

(ORC 3743.64)

1519.04 POSSESSION, SALE OR DISCHARGE PROHIBITED; EXCEPTIONS.

(a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55 and Section 1519.02 and except as provided in Section 1519.05.

(b) Except as provided in Section 1519.05 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1519.02, no person shall discharge, ignite or explode any fireworks in this Municipality.

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

(d) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person

Request for Legislation to amend Chapter 5 of the Codified Ordinances of the City of Willoughby, Ohio, entitled "General Offenses."

Outlined below are changes and justification for these changes to the Willoughby General Offenses Code. These few changes will improve and solidify our code and ultimately provide an increased level of life safety for the community. Lined out comments reflect references have been eliminated. Highlighted in yellow are the exact code changes that will be incorporated into the General Offenses Code contained within the Willoughby Codified Ordinances.

550.02 POSSESSION, SALE OR DISCHARGE OF FIREWORKS PROHIBITED

1. No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, ~~an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45,~~ or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55.
2. Except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55, no person shall discharge, ignite, or explode any fireworks in this community.
3. No person shall sell fireworks of any kind to a person under eighteen years of age.
4. No person shall advertise 1.4G fireworks for sale. A sign located on a seller's premises identifying the seller, as a seller of fireworks, is not advertising of fireworks for sale.

Additional Items

- Where are we now?
- Future Timetables?
- Review Committee suggested rules?
- Questions?