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Bill Analysis
Legislative Service Commission

H.B. 405
123rd General Assembly
(As Introduced)

Rep. Trakas

BILL SUMMARY

- Requires the suspension or revocation of the fireworks exhibitor license of a person who is convicted of violating fireworks exhibition safety standards.
- Increases the distance, or requires the establishment of physical barricades, between fireworks discharge sites and spectator viewing sites.
- Prohibits dismantling, repositioning, or otherwise disturbing the discharge site of a fireworks exhibition at which an accident has occurred.

CONTENT AND OPERATION

Rules governing "required separation distances" at fireworks exhibitions

Current law requires the State Fire Marshal to adopt rules in accordance with the Administrative Procedure Act that (1) govern the nature and conduct of fireworks exhibitions by licensed fireworks exhibitors and (2) are designed to promote the safety and security of (a) persons viewing a fireworks exhibition, (b) persons who, although not viewing an exhibition, could be affected by fireworks used at it, and (c) fireworks exhibitors and their assistants. These rules must be substantially equivalent to the most recent versions of Chapters 1123, 1124, and 1126 of the most recent National Fire Protection Association Standards. (Sec. 3743.53(B).)

Under current law, the rules specifically must establish *minimum distances* between storage sites, discharge sites, spectator viewing sites, parking areas, and potential landing areas of fireworks, and minimum distances between discharge sites, potential landing areas, and residential or other types of buildings or structures. The bill additionally requires that any of these rules adopted with respect to the minimum distance *between discharge sites and spectator viewing*

sites either must (1) double the minimum distance between discharge sites and spectator viewing sites required by the most recent National Fire Protection Association Standards or (2) require a physical barricade to be placed between discharge sites and any spectator viewing sites. The bill defines "barricade" as meaning an artificial barrier constructed of mounded earth, sandbags, chain link fencing, or other equivalent fencing material. (Sec. 3743.53(B)(4).)

Prohibition against disturbing a discharge site after an accident

The bill prohibits any person from dismantling, repositioning, or otherwise disturbing any equipment, fireworks, or other materials within the discharge site of a fireworks exhibition at any time after that person has reason to believe an accident has occurred that involves the discharge site and before the appropriate law enforcement authorities permit the dismantling, repositioning, or other disturbance of the materials within the discharge site. The bill defines "accident" as meaning any action or omission that occurs at a fireworks exhibition and that results in unintended injury or death to a person and "discharge site" as meaning the area immediately surrounding the mortars used to fire aerial shells. (Sec. 3743.64(H)(1) and (2).) A violation of this prohibition will be a felony of the third degree (sec. 3743.99(A)).

The bill provides the following affirmative defense to a charge of committing such a violation: that, in order to secure the discharge site of a fireworks exhibition, the person dismantled, repositioned, or otherwise disturbed materials within the discharge site which, at the time of the dismantling, repositioning, or other disturbance, still presented a danger of causing additional injury or death to members of the public (sec. 3743.64(H)(3)).

Suspension or revocation of an exhibitor's license under certain conditions

Current law prohibits a licensed fireworks exhibitor from failing to comply with (1) the rules that the State Fire Marshal adopts governing fireworks exhibitions and (2) requirements (a) that all mortars used in a fireworks exhibition that are greater than or equal to eight inches in diameter be equipped with electronic ignition equipment in accordance with Chapter 1123 of the most recent edition of the National Fire Protection Association Standards and (b) that only persons who are employees of licensed fireworks exhibitors and registered with the State Fire Marshal under the Fireworks Law be permitted within the discharge perimeter of an exhibition (sec. 3743.64(C) and related sec. 3743.53(B), (C), and (D)).

The bill continues to punish violations of this prohibition as a misdemeanor of the first degree, but provides that, in addition to any other penalties that may be imposed on a licensed fireworks exhibitor and except as described below, the

person's license as a fireworks exhibitor must be *suspended* for a period of five years. If the violation results in a serious "accident," as defined in the bill, the person's license as a fireworks exhibitor must be *revoked*, and that person is not again eligible to be licensed in Ohio as a fireworks exhibitor. (Sec. 3743.99(C) and (D).)

HISTORY

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