

Commerce

H.B. 172

Primary Sponsors: Reps. Baldrige and O'Brien

Effective date: Emergency: certain provisions effective November 4, 2021; other provisions effective February 7, 2022, or July 1, 2022

Effective November 4, 2021

- Extends the general moratorium on the issuance of new, and geographic transfer of existing, fireworks manufacturer or wholesaler licenses from December 31, 2021, to December 31, 2022.
- Establishes a one-time license application and issuance date, outside of the normal fireworks manufacturer and wholesaler licensing timeline, at the end of the new license moratorium.

Effective February 7, 2022

- Establishes the Ohio Fire Code Rule Recommendation Committee to review the Fireworks Law and make recommendations to the State Fire Marshal.
- Requires the State Fire Marshal to adopt rules regulating the time, manner, and location of consumer fireworks use.
- Imposes a 4% fee on the retail sale of consumer grade fireworks, beginning May 18, 2022.
- Credits revenue from the new fee to fund firefighter training programs and the State Fire Marshal's administration of the Fireworks Law.
- Creates a new license allowing retailers to sell ground-based or hand-held sparklers called "fountain devices."
- Requires the State Fire Marshal to enforce the new provisions for fountain device retailers and to adopt related rules.
- Increases from 5,000 to 7,500 square feet the maximum floor area of a 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 systems 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 Adjutant General of Ohio.

Effective July 1, 2022

- Allows individuals to possess consumer-grade fireworks in Ohio, eliminating the requirement that purchasers transport consumer-grade fireworks out of the state within 48 hours of purchase.

- 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, and 5, and the Fridays, Saturdays, and Sundays preceding and following;
 - Labor Day weekend;
 - Diwali;
 - New Year's Eve.
- Permits local governments to restrict the dates and times that individuals may discharge consumer-grade fireworks or to impose a complete ban on the use of consumer-grade fireworks.
- Requires licensed retailers, manufacturers, and wholesalers selling consumer grade fireworks to the general public to offer safety glasses at the point of sale, for free or a nominal charge.
- Requires licensed retailers, manufacturers, and wholesalers selling consumer grade fireworks to the general public to also provide purchasers with a safety pamphlet that contains, at a minimum, specified information.
- Prohibits discharging 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.
- Allows the State Fire Marshal to suspend a fireworks manufacturer or wholesaler license if the licensee has violated the Fireworks Law or the State Fire Marshal's rules.
- 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.

S.B. 40

Primary Sponsor: Sen. Schaffer

Effective date: September 30, 2021

- Qualifies the manner in which cigarettes' wholesale minimum sale price is calculated by referring to the manufacturer's gross invoice cost as the basis of a wholesaler's cost.
- Prescribes the manner by which a wholesaler must obtain the Tax Commissioner's approval before using its actual cost of doing business, instead of a default statutory cost, in pricing cigarettes.
- Explicitly permits one wholesaler to sell cigarettes to another wholesaler without having to recover the minimum wholesale cost as is required when selling to a retailer.
- Explicitly requires a competitor's price to be approved by the Commissioner before another wholesaler may match the competitor's price.
- Requires a retailer or wholesaler to obtain the Commissioner's approval before conducting cigarette sales exempt from the minimum pricing law.
- Clarifies an offense prohibiting a wholesaler from selling cigarettes at less than the minimum sale price.

S.B. 49

Primary Sponsors: Sens. Hottinger and Sykes

Effective date: September 30, 2021

- Allows an architect, landscape architect, professional engineer, or professional surveyor (collectively "professional") who enters into a contract for services relating to commercial real estate to obtain a lien on the property.
- Establishes the process to perfect, enforce, and release the professional's lien.
- Prescribes the circumstances under which a lien is extinguished.
- Allows a person with an interest in commercial real estate to substitute financial security for a professional's perfected lien.

S.B. 113

Primary Sponsors: Sens. Rulli and Johnson

Effective date: Vetoed

- Governor DeWine vetoed S.B. 113 on July 9, 2021. The act addressed the regulation of consumer-grade fireworks. The General Assembly subsequently passed comparable legislation in H.B. 172, which the Governor approved. See the Digest entry for H.B. 172, above.