



Ohio Revised Code

Section 3743.75 Moratorium on licenses.

Effective: November 4, 2021

Legislation: House Bill 172

(A) Except as provided in division (B) of this section, during the period beginning on June 29, 2001, and ending on December 31, 2022, the state fire marshal shall not do any of the following:

(1) 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, or pursuant to a transfer authorized under division (D) of this section;

(2) 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, or pursuant to a transfer authorized under division (D) of this section;

(3) 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) of this section does not apply to either of the following:

(1) An ownership transfer that the state fire marshal approves under division (D) of section 3743.04 or division (D) of section 3743.17 of the Revised Code that is consistent with division (F) of this section;

(2) A geographic transfer that the state fire marshal approves under division (D) of this section.

(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 (D) of this section, and nonconstruction-related matters at storage locations allowed pursuant to division (I)



of section 3743.04 of the Revised Code or division (F) of section 3743.17 of the Revised Code are not subject to any variance, waiver, or exclusion.

(D)(1) A licensed manufacturer of fireworks or a licensed wholesaler of fireworks may apply, on or after June 30, 2021, to geographically relocate the license to any location in the state if the license is in good standing, as defined in division (D)(6) of this section.

(2) Notwithstanding any other provisions of this chapter, the state fire marshal shall approve the transfer if all of the following conditions are met:

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

(b) The former licensed premises associated with the transferred license is closed prior to the opening of the new location and no fireworks business of any kind is conducted at the former licensed premises associated with the transferred license after the transfer of the license unless a separate fireworks manufacturer or wholesaler license is or has been issued for such location.

(c) The new location has received a local certificate of zoning compliance and all structures on the new licensed location receive a valid certificate of occupancy, and are otherwise in compliance with all applicable laws, rules, and regulations, including the building code and fire code and this chapter.

(d) Every building or structure at the new location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures located on the licensed premises in accordance with the distances specified in the rules adopted by the state fire marshal pursuant to sections 3743.05 and 3743.18 of the Revised Code. If the licensee fails to comply with the requirements of division (D)(2)(d) of this section by the licensee's own act, the license at the new location is forfeited.

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

(f) The subject license is in active status and does not have any pending proceedings or final orders



of revocation or denial under section 3743.08 or 3743.21 of the Revised Code.

(g) The state fire marshal approves the request for the transfer.

(h) All sales structures at the new location comply with the requirements specified in division (C) of section 3743.25 of the Revised Code. Each licensed premises may only contain one sales structure. A sales structure on any licensed premises may be converted from a representative sample showroom to a retail sales showroom or from a retail sales showroom to a representative sample showroom at any time in accordance with rules established by the state fire marshal under this chapter.

(i) A completed geographic transfer application, including the designation of the new location, is received by the state fire marshal on or after June 30, 2021, but not later than December 31, 2022.

(3) All construction at the new location shall be authorized by the state fire marshal in writing before initiation and shall be completed not later than December 31, 2023. The state fire marshal shall issue preliminary construction approvals and may set conditions thereon. The state fire marshal may authorize extensions of dates specified in this section upon a finding of good cause based upon evidence submitted by the applicant. Any final approvals of a geographic transfer shall occur only after full compliance with this section.

(4) The filing of an application to geographically relocate a license and any conditional approvals issued under this section do not vest in the applicant any rights to the transfer.

(5) A licensed premises subject to this section may be granted only one geographic transfer pursuant to this section prior to December 31, 2022. After that date, any existing license subject to this section may be geographically transferred to any location within this state upon application to the state fire marshal and compliance with divisions (D)(2)(a) to (h) of this section.

(6) Notwithstanding any other section of the Revised Code, the license of a licensed manufacturer of fireworks or a licensed wholesaler of fireworks shall be deemed in good standing for purposes of a geographic transfer if any of the following applies to the license:



(a) The license existed immediately prior to June 29, 2001, and the owner of the license, including a license approved for transfers of ownership subsequent to June 29, 2001, was an active corporation in good standing as recognized by the secretary of state of the state where the company is incorporated as of December 1, 2019, or was a person, as defined by section 1.59 of the Revised Code, as of December 1, 2019.

(b) The license existed on December 1, 1995, and the owner of the license, including a license approved for changes or transfers of ownership subsequent to December 1, 1995, was an active corporation in good standing as recognized by the secretary of state of the state where the company is incorporated as of December 1, 2019, or was a person, as defined by section 1.59 of the Revised Code, as of December 1, 2019.

(c) For transfers requested after December 31, 2022, the owner of the license, including a license approved for transfers of ownership subsequent to June 29, 2001, is an active corporation in good standing as recognized by the secretary of state of the state where the company is incorporated as of the date of the application, or is a person, as defined by section 1.59 of the Revised Code, as of the date of application.

If, between December 1, 1995, and June 30, 2021, a licensee, holding a license that has been deemed to be in good standing under division (D)(6) of this section, either converted the license type from a manufacturer to a wholesaler or has otherwise ceased operations at its licensed premises for any reason, the state fire marshal may geographically transfer under this section and reissue the license at the new location after full compliance with division (D)(2) of this section without first issuing a license at the premises where the license last existed.

(E) After the end of the period described in division (A) of this section, the state fire marshal may issue new licenses as a manufacturer or wholesaler of fireworks. New licenses shall not be approved in such a manner that unduly burdens the state fire marshal's ability to ensure public safety.

(F) As used in division (A) of this section:

(1) "Person" includes any person or entity, in whatever form or name, that acquires possession of a manufacturer or wholesaler of fireworks license issued pursuant to this chapter by transfer of



possession of a license, whether that transfer occurs by purchase, assignment, inheritance, bequest, stock transfer, or any other type of transfer, on the condition that the transfer is in accordance with division (D) of section 3743.04 of the Revised Code or division (D) of section 3743.17 of the Revised Code and is approved by the state fire marshal.

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

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