

## IC 22-11-14

### Chapter 14. Regulation of Fireworks by Fire Marshal

#### IC 22-11-14-1

##### Definitions

Sec. 1. As used in this chapter and IC 22-11-14.5:

"Auto burglar alarm" means a tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

"Booby trap" means a small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

"Chaser" means a device, containing fifty (50) milligrams or less of explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

"Consumer firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Consumer fireworks:

(1) include:

- (A) aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;
- (B) ground audible devices, which include firecrackers, salutes, and chasers; and
- (C) firework devices containing combinations of the effects described in clauses (A) and (B); and

(2) do not include the items referenced in section 8(a) of this chapter.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains

produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand held (handle fountain).

"Dipped stick" or "wire sparkler" means a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than one hundred (100) grams of composition per item are not included in the category of consumer fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, items referenced in section 8(a) of this chapter, and special fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (8) Indoor pyrotechnics special effects material.
- (9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

- (1) that consists of a tube up to one-half (1/2) inch in inside

diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) to which some type of propeller or blade device is attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Municipality" has the meaning set forth in IC 36-1-2-11.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

"Retail sales stand" means a temporary business site or location

where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

"Sky rocket" means a device that:

- (1) consists of a tube that contains pyrotechnic composition;
- (2) contains a stick for guidance and stability; and
- (3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special discharge location" means a location designated for the discharge of consumer fireworks by individuals in accordance with rules adopted under section 3.5 of this chapter.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as consumer fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

- (1) is attached to a post or tree by means of a nail or string;
- (2) contains up to six (6) driver units (tubes not exceeding one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and
- (3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

*(Formerly: Acts 1939, c.154, s.1; Acts 1947, c.366, s.1; Acts 1959,*

*c.290, s.1; Acts 1975, P.L.259, SEC.1.) As amended by P.L.236-1983, SEC.1; P.L.229-1985, SEC.1; P.L.8-1993, SEC.296; P.L.168-1996, SEC.1; P.L.25-2004, SEC.1; P.L.187-2006, SEC.1; P.L.177-2007, SEC.1.*

#### **IC 22-11-14-2**

##### **Public displays; permits; fees; qualified operations; denial of permit; violations**

Sec. 2. (a) The fire prevention and building safety commission shall:

- (1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and
- (2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for a permit required under subsection (a) must:

- (1) name a competent operator who is to officiate at the display;
- (2) set forth a brief resume of the operator's experience;
- (3) be made in writing; and
- (4) be received with the applicable fee by the division of fire and building safety at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be located, discharged, or fired as, in the opinion of:

- (1) the chief of the fire department of the city or town in which the display is to be held; or
- (2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case of a display to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person.

(d) A permit granted under this section is not transferable.

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(f) A person may not possess, transport, or deliver special fireworks, except as authorized under this section.

*(Formerly: Acts 1939, c.154, s.2; Acts 1951, c.251, s.1; Acts 1972, P.L.178, SEC.1; Acts 1975, P.L.259, SEC.2.) As amended by Acts 1978, P.L.2, SEC.2249; P.L.229-1985, SEC.2; P.L.3-1990, SEC.78; P.L.2-1995, SEC.86; P.L.168-1996, SEC.2; P.L.25-2004, SEC.2; P.L.1-2006, SEC.346; P.L.187-2006, SEC.2.*

#### **IC 22-11-14-3**

##### **Public displays; certificate of insurance; violations**

Sec. 3. (a) The governing body of the municipality shall require a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than ten thousand dollars (\$10,000) and to property in an amount of not less than ten thousand dollars (\$10,000), by reason of the licensed display, and arising from any acts of the licensee, his agents, employees, or subcontractors. However, the governing body of the municipality may in its discretion require additional amounts of insurance coverage not to exceed one hundred thousand dollars (\$100,000) for damages caused to a person or persons, or one hundred thousand dollars (\$100,000) for damage to property.

(b) A person who fails to obtain a certificate of insurance required under subsection (a) commits a Class A misdemeanor.  
*(Formerly: Acts 1939, c.154, s.3; Acts 1975, P.L.259, SEC.3.) As amended by P.L.236-1983, SEC.2.*

#### **IC 22-11-14-3.5**

##### **Special discharge locations; permission to sponsor granted from chief of municipal or township fire department**

Sec. 3.5. The fire prevention and building safety commission may adopt rules under IC 4-22-2 that specify the conditions under which the chief of a municipal or township fire department may grant a permit to a person to sponsor a special discharge location in the municipality or township.

*As added by P.L.187-2006, SEC.3.*

#### **IC 22-11-14-4**

##### **Wholesale sales; consumer fireworks usage; signal or ceremonial purposes; pyrotechnics special effects material**

Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:

(1) any resident wholesaler, manufacturer, importer, or distributor from selling:

(A) at wholesale fireworks not prohibited by this chapter; or

(B) consumer fireworks if they are to be used:

(i) on the property of the purchaser;

(ii) on the property of another who has given permission to use the consumer fireworks; or

(iii) at a special discharge location as set forth in section 3.5 of this chapter;

(2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(3) the sale or use of blank cartridges for:

(A) a show or theater;

(B) signal or ceremonial purposes in athletics or sports; or

(C) use by military organizations;

(4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;

(5) the possession, sale, or disposal of fireworks, incidental to the public display of Class B fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell Class

B explosives from the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice; or  
(6) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.

(b) For the purposes of this section, a resident wholesaler, importer, or distributor, is a person who:

- (1) is a resident of Indiana;
- (2) possesses for storage or resale fireworks approved or not approved for sale in Indiana;
- (3) is engaged in the interstate sale of fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year; and
- (4) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.

*(Formerly: Acts 1939, c.154, s.4.) As amended by P.L.229-1985, SEC.3; P.L.168-1996, SEC.3; P.L.1-2006, SEC.347; P.L.187-2006, SEC.4.*

#### **IC 22-11-14-4.5**

##### **Sale of consumer fireworks**

Sec. 4.5. (a) A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a tent under the following conditions:

- (1) The tent may not be larger than one thousand five hundred (1,500) square feet.
- (2) There may be only one (1) tent for each registration granted under section 11(a) of this chapter.
- (3) The tent may not be located closer than one hundred (100) feet from a permanent structure.
- (4) A vehicle may not be parked closer than twenty (20) feet from the edge of the tent.
- (5) The tent must be fire retardant.
- (6) The sales site must comply with all applicable local zoning and land use rules.
- (7) Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.
- (8) The weight of consumer fireworks in a tent may not exceed three thousand (3,000) gross pounds of consumer fireworks.
- (9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years. For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005.
- (10) The retailer holds a valid registration under section 11(a) of this chapter.

(b) A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a Class 1 structure (as defined in

IC 22-12-1-4) if the Class 1 structure meets the requirements of any of the following subdivisions:

(1) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:

(A) in which consumer fireworks were sold or stored on or before July 4, 2003; and

(B) in which no subsequent intervening nonfireworks sales or storage use has occurred.

(2) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1;

(A) in which consumer fireworks were sold or stored on or before July 4, 2003;

(B) in a location at which the retailer was registered as a resident wholesaler in 2005; and

(C) in which the retailer's primary business is not the sale of consumer fireworks.

(3) The structure complies with the rules for an H-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1, or the equivalent occupancy classification adopted by subsequent rules of the fire prevention and building safety commission.

(4) The structure complies with the rules adopted after July 3, 2003, by the fire prevention and building safety commission established under IC 22-12-2-1 for an M building occupancy classification under the Indiana building code.

A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(c) This subsection does not apply to a structure identified in subsection (b)(1), (b)(2), (b)(3), or (b)(4). A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a structure under the following conditions:

(1) The structure must be a Class 1 structure in which consumer fireworks are sold and stored.

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The weight of consumer fireworks in the structure may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(4) The retailer holds a valid registration under section 11(a) of this chapter.

(5) A retailer that sold consumer fireworks and operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years.



(d) The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which fireworks are sold. The state fire marshal may delegate this responsibility to a responding fire department with jurisdiction over the tent or structure, subject to the policies and procedures of the state fire marshal.

(e) A retailer shall file an application for each retail location on a form to be provided by the state fire marshal.

(f) This chapter does not limit the quantity of items referenced in section 8(a) of this chapter that may be sold from any Class 1 structure that complied with the rules of the fire prevention and building safety commission in effect before May 21, 2003.

*As added by P.L.187-2006, SEC.5.*

### **IC 22-11-14-5**

#### **Violations; removal of stocks; restrictions on shipments and sales; certificate of compliance**

Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

- (1) a complete description of each item proposed to be shipped into Indiana;
- (2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and
- (3) an annual registration fee of one thousand dollars (\$1,000).

The registration fee shall be collected by the state fire marshal and deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).

A manufacturer, wholesaler, importer, or distributor of fireworks, novelties, and trick noisemakers must submit a list to the state fire marshal on or before June 1 of each year. The list shall contain the name and address of each retail location of each of the customers of the manufacturer, wholesaler, importer, or distributor at which items referenced in section 8(a) of this chapter will be sold. If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance may not be applied for after June 15 of a year and expires December 31 of the year in which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the state fire marshal. A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the

public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any certificate of compliance issued to any manufacturer, wholesaler, importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

*(Formerly: Acts 1939, c.154, s.5; Acts 1959, c.290, s.2; Acts 1975, P.L.259, SEC.4.) As amended by Acts 1977, P.L.267, SEC.1; P.L.236-1983, SEC.3; P.L.222-1989, SEC.1; P.L.2-1995, SEC.87; P.L.187-2006, SEC.6.*

#### **IC 22-11-14-6 Version a**

#### **Violations; offenses; time and dates of allowable usage of consumer fireworks**

*Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.*

Sec. 6. (a) A person who recklessly, knowingly, or intentionally violates section 2(f), 4.5, 5(c), 5(d), 7, 8(a), 8(c), 8(d), 10, or 11(c) of this chapter commits a Class A misdemeanor.

(b) A person who ignites, discharges, or uses consumer fireworks at a site other than:

- (1) a special discharge location;
- (2) the property of the person; or
- (3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who possesses or uses a firework when an adult is not present and responsible at the location of the possession or use commits a Class C infraction. However, if a person possesses or uses a firework when an adult is

not present and responsible at the location of the possession or use within five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.

(d) A person who ignites, discharges, or uses consumer fireworks:

(1) after 11 p.m. except on a holiday (as defined in IC 1-1-9-1(a)) or December 31, on which dates consumer fireworks may not be ignited, discharged, or used after midnight; or

(2) before 9 a.m.;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(f) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person commits a Class D felony.

(g) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person commits a Class C felony.

(h) A person who knowingly or intentionally fails to collect or remit to the state the public safety fees due under section 12 of this chapter commits a Class D felony.

*(Formerly: Acts 1939, c.154, s.6; Acts 1972, P.L.178, SEC.2.) As amended by Acts 1978, P.L.2, SEC.2250; P.L.236-1983, SEC.4; P.L.229-1985, SEC.4; P.L.187-2006, SEC.7.*

#### **IC 22-11-14-6 Version b**

#### **Violations; offenses; time and dates of allowable usage of consumer fireworks**

*Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.*

Sec. 6. (a) A person who recklessly, knowingly, or intentionally violates section 2(f), 4.5, 5(c), 5(d), 7, 8(a), 8(c), 8(d), 10, or 11(c) of this chapter commits a Class A misdemeanor.

(b) A person who ignites, discharges, or uses consumer fireworks at a site other than:

(1) a special discharge location;

(2) the property of the person; or

(3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this

subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who possesses or uses a firework when an adult is not present and responsible at the location of the possession or use commits a Class C infraction. However, if a person possesses or uses a firework when an adult is not present and responsible at the location of the possession or use within five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.

(d) A person who ignites, discharges, or uses consumer fireworks:

(1) after 11 p.m. except on a holiday (as defined in IC 1-1-9-1(a)) or December 31, on which dates consumer fireworks may not be ignited, discharged, or used after midnight; or

(2) before 9 a.m.;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(f) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person commits a Level 6 felony.

(g) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person commits a Level 5 felony.

(h) A person who knowingly or intentionally fails to collect or remit to the state the public safety fees due under section 12 of this chapter commits a Level 6 felony.

*(Formerly: Acts 1939, c.154, s.6; Acts 1972, P.L.178, SEC.2.) As amended by Acts 1978, P.L.2, SEC.2250; P.L.236-1983, SEC.4; P.L.229-1985, SEC.4; P.L.187-2006, SEC.7; P.L.158-2013, SEC.255.*

#### **IC 22-11-14-7**

##### **Fireworks stand retail sales permit; requirements**

Sec. 7. (a) A retailer selling items referenced in section 8(a) of this chapter at one (1) or more temporary stands must obtain a fireworks stand retail sales permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of

each year and must require that at least the following information be supplied by the retailer:

- (1) The retailer's retail merchant certificate number or proof of application for a certificate number.
- (2) The location of each retail sales stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, the state fire marshal shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the retail sales stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which the retailer offers for sale conform to applicable law.

(e) At each retail sales stand, the retailer shall provide:

- (1) a posted certificate of compliance, including a descriptive list of approved fireworks; and
- (2) a salesperson who is at least sixteen (16) years of age.

(f) Fireworks may not be sold at retail from a motor vehicle (as defined in IC 9-13-2-105).

(g) Fireworks, not including those referenced in section 8(a) of this chapter, may not be sold from or stored at a temporary stand.

*As added by P.L.236-1983, SEC.5. Amended by P.L.179-1991, SEC.24; P.L.1-1992, SEC.112; P.L.187-2006, SEC.8.*

#### **IC 22-11-14-8**

##### **Sale of fireworks; sales to minors prohibited; administrative rules concerning sales of fireworks**

Sec. 8. (a) A person shall not sell at retail, offer for sale at retail, or deliver the following items to a person less than eighteen (18) years of age:

- (1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
- (2) Cylindrical fountains.
- (3) Cone fountains.
- (4) Illuminating torches.
- (5) Wheels.
- (6) Ground spinners.
- (7) Flitter sparklers.
- (8) Snakes or glow worms.
- (9) Smoke devices.
- (10) Trick noisemakers, which include:
  - (A) Party poppers.

- (B) Booby traps.
- (C) Snappers.
- (D) Trick matches.
- (E) Cigarette loads.
- (F) Auto burglar alarms.

(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.

(c) An individual who sells consumer fireworks must be at least eighteen (18) years of age.

(d) An individual who sells an item set forth in subsection (a) must be at least sixteen (16) years of age.

(e) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.

*As added by P.L.236-1983, SEC.6. Amended by P.L.187-2006, SEC.9.*

#### **IC 22-11-14-9**

##### **Enforcement**

Sec. 9. The state fire marshal is charged with the responsibility of enforcing this chapter.

*As added by P.L.236-1983, SEC.7.*

#### **IC 22-11-14-10**

##### **Interstate wholesalers; sales of special fireworks**

Sec. 10. Each interstate wholesaler shall keep a record of each sale of special fireworks. This record must include:

- (1) the purchaser's name;
- (2) the purchaser's address; and
- (3) the date of the sale.

These records shall be kept for three (3) years and be available for inspection by the fire marshal.

*As added by P.L.229-1985, SEC.5. Amended by P.L.187-2006, SEC.10.*

#### **IC 22-11-14-10.5**

##### **"Use" defined; adoption of ordinance by county or municipality concerning use of consumer fireworks**

Sec. 10.5. (a) As used in this section, the term "use" means the ability of a county or municipality to regulate the days and hours when consumer fireworks may be used, ignited, or discharged.

(b) Notwithstanding any other provision of this chapter:

- (1) a county may adopt an ordinance concerning the use of consumer fireworks in the unincorporated areas of the county; and
- (2) a municipality may adopt an ordinance concerning the use of consumer fireworks within the corporate limits of the municipality.

(c) An ordinance adopted under this section:

- (1) may limit the use of consumer fireworks in the county or

municipality;

(2) may not be more lenient than a rule adopted by a state agency concerning the use of fireworks; and

(3) may not limit the use of consumer fireworks:

(A) between the hours of 5:00 p.m. and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;

(B) between the hours of 10:00 a.m. and 12:00 midnight on July 4; and

(C) between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

*As added by P.L.177-2007, SEC.2.*

### **IC 22-11-14-11**

#### **Sales of consumer fireworks by retailer; application; registration fees; certificate of compliance; transferability of certificate of compliance**

Sec. 11. (a) A retailer may not sell consumer fireworks until the retailer has:

(1) filed the application required under section 4.5(e) of this chapter with the state fire marshal for each location from which the retailer proposes to sell the consumer fireworks, which must be filed on an annual basis; and

(2) paid an accompanying registration fee of:

(A) one thousand dollars (\$1,000) for the first location if a fee under section 5(b)(3) of this chapter has not been paid;

(B) five hundred dollars (\$500) for each additional sales location in a tent; and

(C) two hundred dollars (\$200) for each additional sales location in a structure;

from which the retailer proposes to sell the consumer fireworks.

Upon receipt of the completed application form, the accompanying fee, and, if required, the affidavit under subsection (b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location.

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent under section 4.5(a) of this chapter shall submit with the application:

(1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail or wholesale from a structure at the same location as of a date set forth in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent as of a date set forth under section 4.5(a)(9) of this chapter; and

(2) proof of sales of consumer fireworks from that location.

(c) A person may not sell consumer fireworks at retail if a certificate of compliance from the state fire marshal has not been issued for the location showing registration under subsection (a).

(d) A certificate of compliance issued to a retailer of consumer

fireworks is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the state fire marshal.

*As added by P.L.187-2006, SEC.11.*

**IC 22-11-14-12**

**Public safety fee on retail sales of fireworks; obligation by purchaser for payment of fee; transfer of funds**

Sec. 12. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of fireworks, in accordance with section 13 of this chapter.

(b) A person who acquires fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as an agent for the state.

(c) The public safety fee shall be deposited in the state general fund. The auditor of state shall annually transfer the money received from the public safety fee as follows:

(1) Two million dollars (\$2,000,000) shall be deposited in the regional public safety training fund established by IC 10-15-3-12.

(2) Any additional money received shall be deposited in the state disaster relief fund established by IC 10-14-4-5.

(d) The department of state revenue shall adopt rules under IC 4-22-2 necessary for the collection of the public safety fee money from retailers as described in subsections (b) and (c).

*As added by P.L.187-2006, SEC.12. Amended by P.L.107-2007, SEC.12.*

**IC 22-11-14-13**

**Rate of public safety fee in a retail unitary transaction of fireworks**

Sec. 13. (a) The public safety fee is measured by the gross retail income received by a retail merchant in a retail unitary transaction of fireworks and is imposed at the following rates:

PUBLIC SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION	
\$ 0	less than	\$ 0.10
\$0.01	at least \$ 0.10 but less than	\$ 0.30
\$0.02	at least \$ 0.30 but less than	\$ 0.50
\$0.03	at least \$ 0.50 but less than	\$ 0.70
\$0.04	at least \$ 0.70 but less than	\$ 0.90
\$0.05	at least \$ 0.90 but less than	\$ 1.10

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar and ten cents (\$1.10) or more, the public safety fee is five percent (5%) of that gross retail income.



(b) If the public safety fee computed under subsection (a) results in a fraction of one-half cent (\$0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.

*As added by P.L.187-2006, SEC.13.*

#### **IC 22-11-14-14**

##### **Obligation of retailer collecting public safety fees**

Sec. 14. An individual who:

(1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and

(2) has a duty to remit the public safety fee as described in section 12 of this chapter to the department of state revenue;

holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.

*As added by P.L.187-2006, SEC.14.*

#### **IC 22-11-14-15**

##### **Fire prevention and building safety commission; department of state revenue; rules concerning fireworks sales**

Sec. 15. The fire prevention and building safety commission and the department of state revenue shall adopt rules under IC 4-22-2 to carry out this chapter.

*As added by P.L.187-2006, SEC.15.*