

NEW FIREWORKS LAW AS CREATED BY HB 1099 – 2006

➤ 3 KINDS OF FIREWORKS

“consumer” = certain types of 1.4G fireworks (bottle rockets, roman candles and fire crackers)

“Sec. 8(a)” = sparklers, ground spinners, cone fountains, wheels, cylindrical fountains

“special fireworks” = 1.3G fireworks for which a permit from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives shall be obtained prior to purchase, storage or use

➤ FIREWORKS CAN BE PURCHASED ONLY BY PERSONS 18 YEARS OF AGE OR OLDER

➤ CHILDREN MAY ONLY POSSESS OR USE ANY KIND OF FIREWORKS WHEN AN ADULT IS PRESENT

➤ FIREWORKS MAY BE USED ONLY;

→ON THE USER’S PROPERTY; OR

→ON THE PROPERTY OF SOMEONE WHO HAS CONSENTED TO THE USE OF FIREWORKS ON THE PROPERTY

→AT A SPECIAL DISCHARGE LOCATION

➤ “special discharge location” = a place designated for the discharge of consumer fireworks under temporary policies of the State Fire Marshal in effect until the Fire Prevention and Building Safety Commission adopts rules

➤ CONSUMER AND SEC. 8(a) FIREWORKS MAY BE USED ONLY BETWEEN 9:00 A.M. AND 11:00 P.M. ON DAYS OTHER THAN HOLIDAYS

➤ HOLIDAYS INCLUDE MEMORIAL DAY, JULY 4, LABOR DAY AND NEW YEAR’S EVE

PENALTIES FOR VIOLATING THE FIREWORKS LAW

- IF A PERSON USES *CONSUMER FIREWORKS* AT ANY PLACE OTHER THAN THE 3 OPTIONS LISTED ABOVE OR AT TIMES OTHER THAN THOSE LISTED ABOVE, THEY COMMIT A CLASS C INFRACTION THAT MAY RESULT IN A FINE OF UP TO \$500 PER INFRACTION. IF A PERSON USES *CONSUMER FIREWORKS* ILLEGALLY MORE THAN 1 TIME IN 5 YEARS, THEY COMMIT A CLASS C MISDEMEANOR, AN OFFENSE THAT IS PUNISHABLE BY IMPRISONMENT OF NOT MORE THAN 60 DAYS AND A FINE OF NOT MORE THAN \$500.
- IF A PERSON RECKLESSLY, KNOWINGLY, OR INTENTIONALLY USES *CONSUMER FIREWORKS* AND DAMAGES SOMEONE ELSE'S PROPERTY, THE PERSON COMMITS A CLASS A MISDEMEANOR, AN OFFENSE THAT IS PUNISHABLE BY IMPRISONMENT FOR UP TO 1 YEAR AND A FINE NOT TO EXCEED \$5,000
- IF A PERSON RECKLESSLY, KNOWINGLY, OR INTENTIONALLY USES *CONSUMER FIREWORKS* AND CAUSES SERIOUS INJURY TO SOMEONE ELSE, THE PERSON COMMITS A CLASS D FELONY, AN OFFENSE THAT IS PUNISHABLE BY IMPRISONMENT FOR FROM 6 MONTHS TO 3 YEARS AND A FINE NOT TO EXCEED \$10,000.
- IF A PERSON RECKLESSLY, KNOWINGLY, OR INTENTIONALLY USES *CONSUMER FIREWORKS* AND CAUSES SOMEONE'S DEATH, THE PERSON COMMITS A CLASS C FELONY, AN OFFENSE THAT IS PUNISHABLE BY IMPRISONMENT FOR FROM 2 TO 8 YEARS AND A FINE NOT TO EXCEED \$10,000.

LOCATIONS AT WHICH FIREWORKS MAY BE SOLD; INSPECTIONS

➤ TYPES OF STRUCTURES IN WHICH CONSUMER FIREWORKS MAY BE SOLD (All locations must be properly registered with the State Fire Marshal's office)

1. Any Class 1 structure, or portion thereof, that complied with the requirements for a B-2, B or M occupancy classification under the rules of the Fire Prevention and Building Safety Commission and where consumer fireworks were sold on or before July 4, 2003, and there has not been any intervening, non-fireworks use of the Class 1 structure, or portion thereof. There is no limitation on the amount of gross weight of consumer fireworks that may be stored and sold in such structure or portion thereof.

2. Any Class 1 structure that sold consumer fireworks before July 4, 2003, where the owner or operator was registered with the State Fire Marshal's office as a resident wholesaler, and where the sale of fireworks was not the primary business at the location. There is no limitation on the amount of gross weight of consumer fireworks that may be stored and sold in such structure or portion thereof.

3. Any Class 1 structure that complies with the requirements of an H-3 occupancy classification, or subsequent equivalent occupancy classification, under the rules of the Fire Prevention and Building Safety Commission in effect at the time the use for the sale and storage of consumer fireworks begins. There is no limitation on the amounts of gross weight of consumer fireworks that may be stored and sold in such structure or portion thereof.

4. Any Class 1 structure that complies with the rules of the Fire Prevention and Building Safety Commission for a retail sales occupancy, including, without limitation, any applicable limits on the gross weight of any consumer fireworks that may be stored and/or sold in such structure.

5. Any Class 1 structure from which consumer fireworks were sold in 2005 that meets the following requirements:

a. Complies with the Commission's rules for an M occupancy

b. Must be operated by a retailer that sold consumer fireworks in one or more locations in 2005

c. Gross weight of consumer fireworks shall not exceed 3,000 lbs.

6. Any Class 1 structure in which Sec. 8(a) fireworks were sold beginning before May 21, 2003, and that complied with the requirements for a B-2, B or M occupancy classification under the rules of the Commission in effect prior to May 21, 2003, may be used for the storage or sale of unlimited quantities of Sec. 8(a) fireworks.

7. Any tent that meets the following requirements:

a. The tent may not be larger than one thousand five hundred (1,500) square feet.

b. There may be only one (1) tent for each registration granted by the State Fire Marshal.

c. The tent may not be located closer than one hundred (100) feet from a permanent structure.

d. A vehicle may not be parked closer than twenty (20) feet from the edge of the tent.

e. The tent must be fire retardant.

f. The sales site must comply with all applicable local zoning and land use rules.

g. Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.

h. The weight of consumer fireworks in a tent may not exceed three thousand (3,000) gross pounds of consumer fireworks.

i. A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years.

8. Any temporary retail stand (not a permanent structure or a tent) may be used for the sale of Sec. 8(a) fireworks in accordance with existing law.

➤ EACH FIREWORKS RETAIL SALES LOCATION SHALL BE INSPECTED BY EMPLOYEES OF THE STATE FIRE MARSHAL OR OF A LOCAL FIRE DEPARTMENT THAT INSPECTS, AT THE REQUEST OF THE STATE FIRE MARSHAL, IN ACCORDANCE WITH THE POLICIES AND GUIDELINES OF THE STATE FIRE MARSHAL

APPLICATION PROCEDURES

➤ **APPLICATION FEES PAYABLE TO THE STATE FIRE MARSHAL:**

a. Resident wholesaler, distributor, manufacturer or importer = \$1,000 annual registration fee
(on an application form to be provided by the State Fire Marshal's office)

b. Per location fee to be paid each year by retailers selling consumer fireworks (submitted with the application for registration):

\$1,000 for 1st location (Class 1 structure, tent or temporary structure)

\$200 for each additional Class 1 or temporary structure location

\$500 for each additional tent location

➤ **A RETAILER SELLING CONSUMER FIREWORKS SHALL FILE AN APPLICATION WITH THE STATE FIRE MARSHAL FOR EACH RETAIL LOCATION AT WHICH CONSUMER FIREWORKS ARE TO BE SOLD**
(on a form to be provided by the SFM)

➤ **ANNUAL REGISTRATION REQUIREMENTS TO OBTAIN A CERTIFICATE OF COMPLIANCE FOR THE RETAIL SALE OF CONSUMER FIREWORKS**

- **File an application on a form to be provided by the State Fire Marshal's office**

- **Pay the required registration fee(s)**

- **Submit 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 the statute, or from a tent as of a date set forth under section 4.5(a)(9) of and**

- **Proof of sales of consumer fireworks from that location.**

(Examples such as: A bill of lading with location address and type of product delivered or other documentation to substantiate that consumer fireworks were sold from the specific location.)

➤ **EACH MANUFACTURER, DISTRIBUTOR, WHOLESALE OR IMPORTER SHALL PROVIDE TO THE STATE FIRE MARSHAL'S OFFICE, NOT LATER THAN JUNE 1 OF EACH YEAR, A LIST OF LOCATIONS AT WHICH SEC. 8(a) FIREWORKS ARE TO BE SOLD.**

PUBLIC SAFETY FEES PAYABLE TO THE INDIANA DEPARTMENT OF REVENUE

\$ 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.

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.