

# HOUSE BILL No. 1648

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-11-14.

**Synopsis:** Fireworks. Specifies that, with certain exceptions, a person may not sell, offer to sell, or use fireworks that are not approved for sale in Indiana. Removes statutory provisions that allow for the sale of fireworks that are not approved for sale in Indiana if the individual who purchases the fireworks signs an assurance that the fireworks will be shipped out of Indiana within five days of the purchase. Makes a second conviction within five years for selling or offering to sell fireworks that are not approved for sale in Indiana a Class D felony (under current law, a first or subsequent offense is a Class A misdemeanor). Provides that a person may not sell fireworks not approved for sale in Indiana to an individual regardless of the individual's membership status in an organization.

**Effective:** Upon passage.

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**Cochran, Tincher**

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January 21, 1999, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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## HOUSE BILL No. 1648



A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 22-11-14-3.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. Except as provided in**
- 4 **section 2, 4, or 5 of this chapter, a person may not:**
- 5 (1) **sell;**
- 6 (2) **offer to sell; or**
- 7 (3) **use;**
- 8 **a firework that is not approved for sale under this chapter.**
- 9 SECTION 2. IC 22-11-14-4 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in
- 11 this chapter shall be construed to prohibit:
- 12 (1) any resident wholesaler, manufacturer, importer, or distributor
- 13 from selling:
- 14 (A) at wholesale fireworks not prohibited by this chapter; or
- 15 (B) fireworks not approved for sale in Indiana if they are to be
- 16 shipped directly out of state within five (5) days of the date of
- 17 sale;



- 1 (2) the use of fireworks by railroads or other transportation  
 2 agencies for signal purposes or illumination;  
 3 (3) the sale or use of blank cartridges for:  
 4 (A) a show or theater;  
 5 (B) signal or ceremonial purposes in athletics or sports; or  
 6 (C) use by military organizations;  
 7 (4) the intrastate sale of fireworks not approved for sale in Indiana  
 8 between interstate wholesalers;  
 9 (5) the possession, sale, or disposal of fireworks, incidental to the  
 10 public display of Class B fireworks, by wholesalers or other  
 11 persons who possess a permit to possess, store, and sell Class B  
 12 explosives from the Bureau of Alcohol, Tobacco and Firearms,  
 13 United States Department of the Treasury; or  
 14 (6) the use of indoor pyrotechnics special effects material before  
 15 an indoor or outdoor proximate audience.

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

- 18 (1) is a resident of Indiana;  
 19 (2) possesses for resale common fireworks approved or not  
 20 approved for sale in Indiana;  
 21 (3) is engaged in the interstate sale of common fireworks  
 22 described in subdivision (2) as an essential part of a business that  
 23 is located in a permanent structure and is open at least six (6)  
 24 months each year; **and**  
 25 (4) **sells common fireworks described in subdivision (2) only to**  
 26 **purchasers who provide a written and signed assurance that the**  
 27 **fireworks are to be shipped out of Indiana within five (5) days of**  
 28 **the date of sale; and**  
 29 (5) has possession of a certificate of compliance issued by the  
 30 state fire marshal under section 5 of this chapter.

31 ~~(c) A purchaser may not provide a written and signed assurance that~~  
 32 ~~the fireworks purchased are to be shipped out of Indiana and then sell~~  
 33 ~~or use them in Indiana.~~

34 SECTION 3. IC 22-11-14-6 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person  
 36 who violates section ~~4(c)~~ **3.5**, 5(c), 5(d), 7, or 8 of this chapter commits  
 37 a Class A misdemeanor.

38 **(b) A person who violates section 3.5 of this chapter commits a**  
 39 **Class D felony if:**

- 40 **(1) the person has a prior unrelated conviction for selling or**  
 41 **offering to sell a firework that is not approved for sale under**  
 42 **this chapter; and**

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1           **(2) less than five (5) years have elapsed between the date the**  
 2           **person was convicted of the prior unrelated conviction**  
 3           **described in subdivision (1) and the date the person**  
 4           **committed the violation of section 3.5 of this chapter.**

5           SECTION 4. IC 22-11-14-8 IS AMENDED TO READ AS  
 6           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person  
 7           shall not sell ~~at retail to a consumer~~, or offer for sale ~~at retail to a~~  
 8           **consumer** any fireworks, novelties, or trick noisemakers other than the  
 9           following:

- 10           (1) Dipped sticks or wire sparklers. However, total pyrotechnic  
 11           composition may not exceed one hundred (100) grams per item.  
 12           Devices containing chlorate or perchlorate salts may not exceed  
 13           five (5) grams in total composition per item.  
 14           (2) Cylindrical fountains.  
 15           (3) Cone fountains.  
 16           (4) Illuminating torches.  
 17           (5) Wheels.  
 18           (6) Ground spinners.  
 19           (7) Flitter sparklers.  
 20           (8) Snakes or glow worms.  
 21           (9) Smoke devices.  
 22           (10) Trick noisemakers, which include:  
 23                (A) Party poppers.  
 24                (B) Booby traps.  
 25                (C) Snappers.  
 26                (D) Trick matches.  
 27                (E) Cigarette loads.  
 28                (F) Auto burglar alarms.

29           **(b) Notwithstanding section 2 of this chapter, a person may not**  
 30           **sell fireworks to an individual, other than those specified in**  
 31           **subsection (a), regardless of the individual's membership status in**  
 32           **an organization described in section 2 of this chapter.**

33           SECTION 5. IC 22-11-14-10 IS AMENDED TO READ AS  
 34           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** Each  
 35           interstate wholesaler shall keep a record of each sale of fireworks not  
 36           approved for sale in Indiana. This record must include:

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

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

42           **(b)** Each resident wholesaler shall post in a prominent location in

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1 the wholesaler's place of business a sign that reads as follows:  
2 "Under Indiana law, a resident wholesaler of fireworks may sell  
3 fireworks not approved for sale in Indiana only to other resident  
4 wholesalers." and to purchasers who provide a written and signed  
5 assurance that the fireworks are to be shipped out of Indiana  
6 within five (5) days of the date of sale. A purchaser who provides  
7 a written and signed assurance that fireworks purchased are to be  
8 shipped out of Indiana within five (5) days of the date of sale and  
9 who then sells the fireworks in Indiana or uses them in Indiana  
10 commits a Class A misdemeanor, which is punishable by  
11 imprisonment for up to one (1) year and a fine of up to five  
12 thousand dollars (\$5,000)."  
13 The state fire marshal shall provide interstate wholesalers with signs  
14 for the purposes of this subsection.  
15 **SECTION 6. An emergency is declared for this act.**

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