



Reprinted
February 20, 2001

HOUSE BILL No. 1272

DIGEST OF HB 1272 (Updated February 19, 2001 4:34 PM - DI 96)

Citations Affected: IC 22-11; noncode.

Synopsis: Sale of common fireworks. Removes the penalty for the possession, transportation, or delivery of common fireworks. Permits a retailer to sell common fireworks at retail, and amends the categories of common fireworks, novelties, and trick noisemakers that are permitted to be sold. Repeals the wholesaler requirements for fireworks not approved for sale in Indiana. Provides that a person who possesses, transports, or delivers special fireworks other than as authorized commits a Class A misdemeanor. Provides that a retailer may not knowingly sell unapproved fireworks to a person who is less than 18 years old. Provides that a person who is less than 18 years old and possesses unapproved fireworks commits a Class C misdemeanor. Provides that a person who, in a state of intoxication, ignites or discharges certain common fireworks commits a Class C misdemeanor. Provides that the fire and building safety commission shall adopt rules for the granting of permits for the possession and use of certain common fireworks in a park. Provides an exception for municipal corporations and nonprofit corporations to the requirement that certain fireworks may only be sold in a permanent structure. Makes conforming amendments.

Effective: Upon passage.

Mahern, Fry, Frizzell, Atterholt

January 9, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.
February 13, 2001, amended, reported — Do Pass.
February 19, 2001, read second time, amended, ordered engrossed.

HB 1272—LS 7366/DI 96+



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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 1272

A BILL FOR AN ACT to amend the Indiana Code concerning fireworks.

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

1 SECTION 1. IC 22-11-14-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
3 chapter:

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

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

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

17 "Cigarette load" means a small wooden peg that has been coated

HB 1272—LS 7366/DI 96+



1 with a small quantity of explosive composition. Upon ignition of a
2 cigarette containing one of the pegs, a small report is produced.

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

15 ~~(+)~~ include **the following**:

16 ~~(A)~~ **(1)** Ground and hand-held sparkling devices, which
17 include dipped ~~stick~~, **sticks**, certain wire sparklers, cylindrical
18 fountains, cone fountains, illuminating torches, wheels, ground
19 spinners, and flutter sparklers.

20 ~~(B)~~ **(2)** Aerial devices, which include sky rockets, missile-type
21 rockets, helicopter or aerial spinners, roman candles, mines,
22 and shells.

23 ~~(C)~~ **(3)** Ground audible devices, which include firecrackers,
24 salutes, and chasers. ~~and~~

25 ~~(D)~~ **(4)** Firework devices containing combinations of two (2)
26 or more of the effects described in the preceding three (3)
27 clauses. ~~and~~

28 ~~(2)~~ do not include the following novelties and trick noisemakers:

29 ~~(A)~~ **(5)** Snakes or glow worms.

30 ~~(B)~~ **(6)** Smoke devices.

31 ~~(C)~~ **(7)** Wire ~~sparklers~~ **sparkler novelties** which contain no
32 magnesium and which contain less than one hundred (100)
33 grams of composition per item.

34 ~~(D)~~ **(8)** Trick noisemakers, which include party poppers, booby
35 traps, snappers, trick matches, cigarette loads, and auto burglar
36 alarms.

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

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

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

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

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

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

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

24 "Firework" means any composition or device designed for the
 25 purpose of producing a visible or audible effect by combustion,
 26 deflagration, or detonation. Fireworks consist of common fireworks and
 27 special fireworks. The following items are excluded from the definition
 28 of fireworks:

- 29 (1) Model rockets.
- 30 (2) Toy pistol caps.
- 31 (3) Emergency signal flares.
- 32 (4) Matches.
- 33 (5) Fixed ammunition for firearms.
- 34 (6) Ammunition components intended for use in firearms, muzzle
 35 loading cannons, or small arms.
- 36 (7) Shells, cartridges, and primers for use in firearms, muzzle
 37 loading cannons, or small arms.
- 38 (8) Indoor pyrotechnics special effects material.

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



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

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

5 (1) that consists of a tube up to one-half (1/2) inch in inside
6 diameter and that contains up to twenty (20) grams of pyrotechnic
7 composition;

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

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

12 "Illuminating torch" means a cylindrical tube that:

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

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

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

17 "Importer" means:

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

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

21 "Indoor pyrotechnics special effects material" means a chemical
22 material that is clearly labeled by the manufacturer as suitable for
23 indoor use (as provided in National Fire Protection Association
24 Standard 1126 (1992 edition)).

25 ~~"Interstate wholesaler" means a person who is engaged in interstate
26 commerce selling fireworks not approved for sale in Indiana.~~

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

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

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

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

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

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

41 "Party popper" means a small plastic or paper item containing not
42 more than sixteen (16) milligrams of explosive composition that is

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1 friction sensitive. A string protruding from the device is pulled to ignite
2 it, expelling paper streamers and producing a small report.

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

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

9 "Retail sales stand" means a temporary business site or location **that**
10 **is a permanent structure having four (4) walls, a floor, a ceiling,**
11 **and a foundation** where goods are to be sold. **However, if the retail**
12 **sales stand is run by and the proceeds are for the benefit of a**
13 **municipal corporation (as defined in IC 36-1-2-10) or a nonprofit**
14 **organization exempt from federal taxation under 501(c)(3) of the**
15 **Internal Revenue Code, the temporary business site is not required**
16 **to be a permanent structure.**

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

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

25 "Sky rocket" means a device that:

- 26 (1) consists of a tube that does not exceed one-half (1/2) inch in
27 inside diameter and that contains up to twenty (20) grams of
28 pyrotechnic composition;
- 29 (2) contains a wooden stick for guidance and stability; and
- 30 (3) rises into the air upon ignition, producing a burst of color or
31 noise at the height of flight.

32 "Smoke device" means a **novelty consisting of** tube or sphere
33 containing pyrotechnic composition that produces white or colored
34 smoke upon ignition as the primary effect.

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

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

42 "Special fireworks" means fireworks designed primarily to produce

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1 visible or audible effects by combustion, deflagration, or detonation,
 2 including firecrackers containing more than one hundred thirty (130)
 3 milligrams of explosive composition, aerial shells containing more than
 4 forty (40) grams of pyrotechnic composition, and other exhibition
 5 display items that exceed the limits for classification as common
 6 fireworks.

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

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

12 "Wheel" means a pyrotechnic device that:

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

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

21 SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The fire
 23 prevention and building safety commission may adopt rules for the
 24 granting of permits for supervised public displays of **special** fireworks
 25 by municipalities, fair associations, amusement parks, and other
 26 organizations or groups of individuals. The fire prevention and building
 27 safety commission created under IC 22-12-2 shall establish by rule the
 28 fee for the permit. A fee collected for a permit shall be paid into the fire
 29 and building services fund created under IC 22-12-6-1. The application
 30 for any permit must name a competent operator who is to officiate at
 31 the display together with a brief resume of the operator's experience.
 32 No operator who has a prior conviction for violating this chapter may
 33 operate any display for one (1) year after the conviction. Every display
 34 shall be handled by a qualified operator to be approved by the chief of
 35 the fire department of the municipality in which the display is to be
 36 held and shall be so located, discharged, or fired as, in the opinion of
 37 the chief of the fire department, or the township fire chief, or the fire
 38 chief of the municipality nearest the site proposed in case the exhibit
 39 or display is sought to be held outside of the corporate limits of any city
 40 or town, after proper inspection, is not hazardous to property or person.
 41 Applications for permits must be made in writing at least fifteen (15)
 42 days in advance of the date of display. A permit granted under this

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1 section is not transferable.

2 (b) A municipality may adopt an ordinance concerning the
3 conducting and display of indoor pyrotechnics. However, an ordinance
4 adopted under this subsection may not be more lenient than a rule
5 adopted by a state agency.

6 (c) A municipality or an organization that obtains a permit for an
7 indoor pyrotechnics display from a local governmental entity is not
8 required to obtain a permit approved by the state fire marshal.

9 (d) A person who possesses, transports, or delivers **special**
10 fireworks, except as authorized under this section, commits a Class A
11 misdemeanor.

12 SECTION 3. IC 22-11-14-2.5 IS ADDED TO THE INDIANA
13 CODE AS A NEW SECTION TO READ AS FOLLOWS
14 [EFFECTIVE UPON PASSAGE]:

15 **Sec. 2.5 (a) As used in this section, "park" includes:**

16 (1) all parks, reservoirs, land, and water under the
17 jurisdiction of the department of natural resources, as set
18 forth in IC 14-14-1-5(a); and

19 (2) all public parks, playgrounds, and recreation facilities
20 established and operated by a city, town, or county, as set
21 forth in IC 36-10-2-2.

22 (b) The fire prevention and building safety commission created
23 under IC 22-12-2 shall adopt rules for the granting of permits for
24 common fireworks (not including snakes or glow worms, smoke
25 devices, wire sparklers, novelties, and trick noisemakers) for
26 possession, transport, delivery, and use in a park.

27 (c) The fire prevention and building safety commission shall
28 establish by rule the fee for the permit.

29 (d) A fee collected for a permit under this section shall be paid
30 into the fire and building services fund created under IC 22-12-6-1.

31 (e) Applications for permits must be made in writing at least
32 fifteen (15) days before the date of the use of the fireworks.

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

34 (g) A person who possesses, transports, delivers, or uses
35 common fireworks (not including snakes or glow worms, smoke
36 devices, wire sparklers, novelties, and trick noisemakers) in a park,
37 except as authorized in this section, commits a Class C
38 misdemeanor.

39 SECTION 4. IC 22-11-14-4 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in
41 this chapter shall be construed to prohibit:

42 (1) any ~~resident~~ wholesaler, manufacturer, importer, or distributor

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- 1 from selling:
- 2 (A) at wholesale fireworks not prohibited by this chapter; or
- 3 (B) fireworks not approved for sale in Indiana if they are to be
- 4 shipped directly out of state within five (5) days of the date of
- 5 sale;
- 6 (2) the use of fireworks by railroads or other transportation
- 7 agencies for signal purposes or illumination;
- 8 (3) the sale or use of blank cartridges for:
- 9 (A) a show or theater;
- 10 (B) signal or ceremonial purposes in athletics or sports; or
- 11 (C) use by military organizations;
- 12 ~~(4) the intrastate sale of fireworks not approved for sale in Indiana~~
- 13 ~~between interstate wholesalers;~~
- 14 ~~(5) (4) the possession, sale, or disposal of fireworks, incidental to~~
- 15 ~~the public display of Class B special fireworks, by wholesalers or~~
- 16 ~~other persons who possess a permit to possess, store, and sell~~
- 17 ~~Class B 1.3g explosives from the Bureau of Alcohol, Tobacco and~~
- 18 ~~Firearms, United States Department of the Treasury; or~~
- 19 ~~(6) (5) the use of indoor pyrotechnics special effects material~~
- 20 ~~before an indoor or outdoor proximate audience.~~
- 21 (b) For the purposes of this section, a resident wholesaler, importer,
- 22 or distributor, is a person who:
- 23 (1) is a resident of Indiana;
- 24 (2) possesses for resale common fireworks approved or not
- 25 approved for sale in Indiana;
- 26 (3) is engaged in the interstate sale of common fireworks
- 27 described in subdivision (2) as an essential part of a business that
- 28 is located in a permanent structure and is open at least six (6)
- 29 months each year;
- 30 (4) sells common fireworks described in subdivision (2) only to
- 31 purchasers who provide a written and signed assurance that the
- 32 fireworks are to be shipped out of Indiana within five (5) days of
- 33 the date of sale; and
- 34 (5) has possession of a certificate of compliance issued by the
- 35 state fire marshal under section 5 of this chapter.
- 36 (c) A purchaser may not provide a written and signed assurance that
- 37 the fireworks purchased are to be shipped out of Indiana and then sell
- 38 or use them in Indiana.
- 39 (b) A retailer may sell common fireworks at retail, subject to
- 40 section 7 of this chapter.
- 41 SECTION 5. IC 22-11-14-6 IS AMENDED TO READ AS
- 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person who

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1 violates section ~~4(c)~~, 5(c), 5(d), 7, or 8 of this chapter commits a Class
2 A misdemeanor.

3 SECTION 6. IC 22-11-14-7 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A retailer
5 selling fireworks at one (1) or more temporary stands **that are**
6 **permanent structures** must obtain a fireworks ~~stand~~ retail sales **stand**
7 permit, referred to in this section as a "permit", from the state fire
8 marshal.

9 (b) An application for a permit **made under subsection (a)** must be
10 made before June 1 of each year and must require that at least the
11 following information be supplied by the retailer:

12 (1) The retailer's retail merchant certificate number or proof of
13 application for a certificate number.

14 (2) The location of each **retail sales** stand.

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

18 (c) **A retailer selling fireworks at one (1) or more temporary**
19 **stands that are not permanent structures must obtain a fireworks**
20 **sales stand permit, referred to in this section as a "permit", from**
21 **the state fire marshal.**

22 (d) **An application for a permit made under subsection (c) must**
23 **be made before June 1 of each year and must require that at least**
24 **the following information be supplied by the retailer:**

25 (1) **The retailer's federal tax exempt identification number.**

26 (2) **The location of each retail sales stand.**

27 **An application made under this subsection may be for the purpose**
28 **of selling only snakes or glow worms, smoke devices, wire sparkler**
29 **novelties, and trick noisemakers. The state fire marshal shall,**
30 **within seven (7) days after the receipt of an application for a**
31 **permit, either issue the permit or notify the applicant of the denial**
32 **of the permit.**

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

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



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- 1 ~~(e)~~ **(g)** At each **retail sales** stand, the retailer shall provide:
- 2 (1) a posted certificate of compliance, including a descriptive list
- 3 of approved fireworks; and
- 4 (2) a supervisor who is at least ~~sixteen (16)~~ **eighteen (18)** years of
- 5 age.
- 6 ~~(f)~~ **(h)** Fireworks may not be sold at retail from trucks, vans, or
- 7 automobiles.

8 SECTION 7. IC 22-11-14-8 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person
 10 shall not **knowingly** sell at retail ~~or offer for sale at retail~~; **to a person**
 11 **who is less than eighteen (18) years of age** any fireworks, novelties,
 12 or trick noisemakers other than the following:

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

32 **(b) The following defenses are available to a person accused of**
 33 **selling fireworks other than those set forth in subsection (a) to a**
 34 **person who is less than eighteen (18) years of age:**

- 35 **(1) The buyer or recipient produced a driver's license bearing**
- 36 **the purchaser's or recipient's photograph, showing that the**
- 37 **purchaser or recipient was of legal age to make the purchase.**
- 38 **(2) The buyer or recipient produced a photographic**
- 39 **identification card issued under IC 9-24-16-1, or a similar**
- 40 **card issued under the laws of another state or the federal**
- 41 **government, showing that the purchaser or recipient was of**
- 42 **legal age to make the purchase.**

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1 (c) A person less than eighteen (18) years of age who:
2 (1) purchases fireworks other than those set forth in
3 subsection (a);
4 (2) accepts fireworks other than those set forth in subsection
5 (a);
6 (3) possesses fireworks other than those set forth in subsection
7 (a); or
8 (4) uses fireworks other than those set forth in subsection (a);
9 commits a Class C misdemeanor.
10 (d) It is a defense under subsection (c) that the accused person
11 accepted or possessed fireworks in the ordinary course of
12 employment in a business concerning fireworks.
13 SECTION 8. IC 22-11-14-9 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The state fire
15 marshal is charged with the responsibility of enforcing **sections 2, 3, 5,**
16 **and 7** of this chapter.
17 SECTION 9. IC 22-11-14-11 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE UPON PASSAGE]: **Sec. 11. A person who, while in a**
20 **state of intoxication, recklessly, knowingly, or intentionally ignites**
21 **or discharges a common firework, excluding a snake or glow**
22 **worm, a smoke device, a wire sparkler novelty, or a trick**
23 **noisemaker, commits a Class C misdemeanor.**
24 SECTION 10. IC 22-11-14-10 IS REPEALED [EFFECTIVE UPON
25 PASSAGE].
26 SECTION 11. [EFFECTIVE UPON PASSAGE] (a)
27 **Notwithstanding IC 22-11-14-2.5, as added by this act, the state fire**
28 **marshal shall carry out the duties imposed upon it under interim**
29 **written guidelines approved by the state fire marshal.**
30 (b) This SECTION expires on the earlier of the following:
31 (1) The date rules are adopted under IC 22-11-14-2.5.
32 (2) December 31, 2002.
33 SECTION 12. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1272, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 11, after "5(d)," delete "or".

Page 8, line 11, after "7" insert ",".

Page 8, line 11, reset in roman "or 8".

Page 8, line 40, strike "sixteen (16)" and insert "**eighteen (18)**".

Page 8, after line 42, begin a new paragraph and insert:

"SECTION 6. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person shall not **knowingly** sell at retail ~~or offer for sale at retail~~, **to a person who is less than eighteen (18) years of age** any fireworks, novelties, or trick noisemakers other than the following:

(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) (2) Snakes or glow worms.~~

~~(9) (3) Smoke devices.~~

~~(10) (4) Trick noisemakers, which include:~~

(A) Party poppers.

(B) Booby traps.

(C) Snappers.

(D) Trick matches.

(E) Cigarette loads.

(F) Auto burglar alarms.

(b) The following defenses are available to a person accused of selling fireworks other than those set forth in subsection (a) to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic

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identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.

(c) A person less than eighteen (18) years of age who:

- (1) purchases fireworks other than those set forth in subsection (a);
- (2) accepts fireworks other than those set forth in subsection (a);
- (3) possesses fireworks other than those set forth in subsection (a); or
- (4) uses fireworks other than those set forth in subsection (a);

commits a Class C misdemeanor.

(d) It is a defense under subsection (c) that the accused person accepted or possessed fireworks in the ordinary course of employment in a business concerning fireworks.

SECTION 7. IC 22-11-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The state fire marshal is charged with the responsibility of enforcing **sections 2, 3, 5, and 7** of this chapter."

Page 9, line 1, delete "THE FOLLOWING ARE" and insert "IC 22-11-14-10 IS".

Page 9, line 2, delete "PASSAGE]: IC 22-11-14-8; IC 22-11-14-10." and insert "PASSAGE].".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1272 as introduced.)

FRY, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1272 be amended to read as follows:

Page 5, line 11, after "sold." insert "**However, if the retail sales stand is run by and the proceeds are for the benefit of a municipal corporation (as defined in IC 36-1-2-10) or a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code, the temporary business site is not required to be a permanent structure.**".

Page 8, line 15, after "stands" insert "**that are permanent structures**".

Page 8, line 18, after "permit" insert "**made under subsection (a)**".

Page 8, between lines 26 and 27, begin a new paragraph and insert:

"(c) A retailer selling fireworks at one (1) or more temporary stands that are not permanent structures must obtain a fireworks sales stand permit, referred to in this section as a "permit", from the state fire marshal.

(d) An application for a permit made under subsection (c) 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 federal tax exempt identification number.

(2) The location of each retail sales stand.

An application made under this subsection may be for the purpose of selling only snakes or glow worms, smoke devices, wire sparkler novelties, and trick noisemakers. 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."

Page 8, line 27, strike "(c)" and insert "(e)".

Page 8, line 31, strike "(d)" and insert "(f)".

Page 8, line 37, strike "(e)" and insert "(g)".

Page 8, line 42, strike "(f)" and insert "(h)".

(Reference is to HB 1272 as printed February 14, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1272 be amended to read as follows:

Page 7, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 3. IC 22-11-14-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 2.5 (a) As used in this section, "park" includes:

- (1) all parks, reservoirs, land, and water under the jurisdiction of the department of natural resources, as set forth in IC 14-14-1-5(a); and
- (2) all public parks, playgrounds, and recreation facilities established and operated by a city, town, or county, as set forth in IC 36-10-2-2.

(b) The fire prevention and building safety commission created under IC 22-12-2 shall adopt rules for the granting of permits for common fireworks (not including snakes or glow worms, smoke devices, wire sparklers, novelties, and trick noisemakers) for possession, transport, delivery, and use in a park.

(c) The fire prevention and building safety commission shall establish by rule the fee for the permit.

(d) A fee collected for a permit under this section shall be paid into the fire and building services fund created under IC 22-12-6-1.

(e) Applications for permits must be made in writing at least fifteen (15) days before the date of the use of the fireworks.

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

(g) A person who possesses, transports, delivers, or uses common fireworks (not including snakes or glow worms, smoke devices, wire sparklers, novelties, and trick noisemakers) in a park, except as authorized in this section, commits a Class C misdemeanor."

Page 10, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2.5, as added by this act, the state fire marshal shall carry out the duties imposed upon it under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 22-11-14-2.5.
- (2) December 31, 2002."

Renumber all SECTIONS consecutively.

(Reference is to HB 1272 as printed February 14, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1272 be amended to read as follows:

Page 10, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 8. IC 22-11-14-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. A person who, while in a state of intoxication, recklessly, knowingly, or intentionally ignites or discharges a common firework, excluding a snake or glow worm, a smoke device, a wire sparkler novelty, or a trick noisemaker, commits a Class C misdemeanor.**"

Renumber all SECTIONS consecutively.

(Reference is to HB 1272 as printed February 14, 2001.)

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