



**State Fire Marshal**

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

## **HOUSE BILL 263 IMPLEMENTATION**

### **BUREAU OF TESTING & REGISTRATION**

House Bill 263, which enacts “the Fresh Start Act,” limits a state licensing agency’s ability to deny an initial license application based on an applicant’s history of a criminal offense. This document outlines the factors the State Fire Marshal (SFM) may consider when evaluating an applicant with a criminal offense and a list of criminal offenses that may potentially disqualify an applicant from receiving a license. This document and the parameters set herein only apply to the following licenses issued by the State Fire Marshal:

- Fireworks Exhibitor
- Fireworks Exhibitor Assistant
- Out-of-State Fireworks Shipper
- Explosives Magazine Storage
- Explosives Manufacturer
- Fireworks Wholesaler
- Fireworks Manufacturer
- Underground Storage Tank (UST) Inspector

House Bill 263 requires the SFM to establish a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining an initial license.

Limitations on initial licensure denials by the SFM are described in with Ohio Revised Code 9.79, which may be accessed at <https://codes.ohio.gov/ohio-revised-code/section-9.79>.

If an individual has been convicted of, found guilty pursuant to a judicial finding of, or pleaded guilty to a disqualifying offense below as provided in the “List of Potentially Disqualifying Offenses”, the SFM may consider the conviction, plea, or finding when deciding whether the individual is disqualified from receiving an initial license. However, the SFM must consider the offense using all the following factors (“Factors”) under a clear and convincing evidentiary standard:

- The nature and seriousness of the offense;
- The passage of time since the individual committed the offense;
- The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation;
- Any evidence of mitigating rehabilitation or treatment undertaken by the individual, including whether the individual has been issued a certificate of qualification for employment or a certificate of achievement and employability under continuing law;
- Whether the denial of a license is reasonably necessary to ensure public safety.

Therefore, if an individual has been convicted of, had a judicial finding of guilt, or pled guilty to any of the offenses in the list below, the SFM shall review the individual’s application considering the Factors. Thereafter, the SFM shall deny or grant the license to the individual. Denials of a license shall be in accordance with Chapter 119 of the Ohio Revised Code, when applicable.

The SFM may consider a listed offense only if the conviction, judicial finding of guilt, or guilty plea occurred during one of the following time periods, as applicable:

For a disqualifying offense that is not an offense of violence or a sexually oriented offense (see list below), five years from the date of conviction, judicial finding of guilt, plea of guilty, or release from incarceration, whichever is later, provided the individual was not convicted of, found guilty pursuant to a judicial finding of, and did not enter a plea of guilty to any other offense during the applicable five-year period; (emphasis added.)



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

For a disqualifying offense that is an offense of violence or a sexually oriented offense, any time.

The bill does not prohibit the SFM from considering either of the following when deciding whether to issue a license to an individual:

- Past disciplinary action taken by the SFM or another agency against the individual;
- Past disciplinary action taken against the individual by an authority in another state that issues a license that is substantially similar to the license for which the individual is applying.

If you are an applicant with a history of a criminal offense, submit your application in accordance with instructions provided in the application specific to the license you are seeking. If your criminal offense warrants additional scrutiny in accordance with R.C 9.79 as outlined in this document and your application is denied, you will receive correspondence from the SFM setting forth the grounds and reasons for the refusal, including an explanation of the SFM's application of the Factors.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.)



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

A criminal offense not listed may be considered as the following list is not exhaustive. This list is subject to change and offenses may be added or removed. Felony offenses of the listed crimes may disqualify an individual thus triggering the additional scrutiny using the Considerations. Misdemeanors of the listed offenses will not disqualify an individual from receiving a license. For additional details on this matter, please see Ohio Revised Code 9.79 at <https://codes.ohio.gov/ohio-revised-code/section-9.79>.

### LIST OF POTENTIALLY DISQUALIFYING OFFENSES

OFFENSES OF VIOLENCE	OHIO REVISED CODE
Aggravated murder	R.C. 2903.01
Murder	R.C. 2903.02
Voluntary manslaughter	R.C. 2903.03
Involuntary manslaughter	R.C. 2903.04
Felonious assault	R.C. 2903.11
Aggravated assault	R.C. 2903.12
Assault	R.C. 2903.13
Permitting child abuse	R.C. 2903.15
Aggravated menacing	R.C. 2903.21
Menacing by stalking	R.C. 2903.211
Menacing	R.C. 2903.22
Kidnapping	R.C. 2905.01
Abduction	R.C. 2905.02
Extortion	R.C. 2905.11
Trafficking in persons	R.C. 2905.32
Rape	R.C. 2907.02
Sexual battery	R.C. 2907.03
Gross sexual imposition	R.C. 2907.05
Aggravated arson	R.C. 2909.02



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

OFFENSES OF VIOLENCE CONTINUED	OHIO REVISED CODE
Arson	R.C. 2909.03
Terrorism	R.C. 2909.24
Aggravated robbery	R.C. 2911.01
Robbery	R.C. 2911.02
Aggravated burglary	R.C. 2911.11
Inciting to violence	R.C. 2917.01
Aggravated riot	R.C. 2917.02
Riot	R.C. 2917.03
Inducing panic	R.C. 2917.31
Domestic violence	R.C. 2919.25
Intimidation	R.C. 2921.03
Intimidation of an attorney, victim, or witness in a criminal case	R.C. 2921.04
Escape	R.C. 2921.34
Improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function	R.C. 2923.161
Patient abuse	R.C. 2903.34(A)(1)
Burglary	R.C. 2911.12(A)
Endangering children via abuse	R.C. 2919.22(B)(1) to (4)
Felonious sexual penetration (former offense)	Former R.C. 2907.12
A violation of an existing or former municipal ordinance or state or federal law, substantially equivalent to any offense listed above	R.C. 2901.01(A)(9)(b)
An offense, other than a traffic offense, under an existing or former municipal ordinance or state or federal law, committed purposefully, knowingly, and involving physical harm to persons or a risk of serious physical harm to persons	R.C. 2901.01(A)(9)(c)
A conspiracy or attempt to commit, or complicity in committing, any offense listed above	R.C. 2923.01, 2923.02, and 2923.03



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

SEXUALLY ORIENTED OFFENSES	OHIO REVISED CODE
Rape	R.C. 2907.02
Sexual battery	R.C. 2907.03
Gross sexual imposition	R.C. 2907.05
Sexual imposition	R.C. 2907.06
Importuning	R.C. 2907.07
Voyeurism	R.C. 2907.08
Compelling prostitution	R.C. 2907.21
Promoting prostitution	R.C. 2907.22
Soliciting	R.C. 2907.24(A)(3)
Menacing by stalking	R.C. 2903.211
Menacing	R.C. 2903.22
Kidnapping	R.C. 2905.01
Abduction	R.C. 2905.02
Extortion	R.C. 2905.11
Trafficking in persons	R.C. 2905.32
Pandering obscenity	R.C. 2907.32
Pandering obscenity involving a minor or impaired person	R.C. 2907.321
Pandering sexually oriented matter involving a minor or impaired person	R.C. 2907.322
Illegal use of a minor or impaired person in a nudity-oriented material or performance	R.C. 2907.323
Unlawful sexual conduct with a minor when the offender is less than 4 years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration	R.C. 2907.04 and 2950.01



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

Unlawful sexual conduct with a minor when the offender is at least 4 years older than the other person with whom the offender engaged in sexual conduct or when the offender is less than 4 years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration	R.C. 2907.04 and 2950.01
<b>SEXUALLY ORIENTED OFFENSES CONTINUED</b>	<b>OHIO REVISED CODE</b>
Aggravated murder when committed with a sexual motivation	R.C. 2903.01 and 2950.01
Murder when committed with a sexual motivation	R.C. 2903.02 and 2950.01
Felonious assault when committed with a sexual motivation	R.C. 2903.11 and 2950.01
Involuntary manslaughter when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation	R.C. 2903.04(A) and 2950.01
Menacing by stalking with a sexual motivation	R.C. 2903.211(A)(3) and 2950.01
Kidnapping when committed with a sexual motivation or when the victim is under 18 years old and the offender is not the victim's parent, or to engage in sexual activity with the victim against the victim's will	R.C. 2905.01(A)(1)-(5) and (B) and 2950.01
Voluntary manslaughter when committed with a sexual motivation	R.C. 2903.03(B) and 2950.01
Abduction when committed with a sexual motivation	R.C. 2905.02(B)
Unlawful restraint when committed with a sexual motivation	R.C. 2905.03(B)
Criminal child enticement when committed with a sexual motivation	R.C. 2905.05(B)
Endangering children by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child under 18 years of age or a mentally or physically handicapped child under 21 years of age to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, sexually oriented matter, or nudity-oriented matter	R.C. 2919.22(B)(5)



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

Public indecency under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the offender's spouse, by exposing the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity and if the sentencing court classifies the offender as a tier I sex offender/child-victim offender subject to registration under the Sex Offender Registration and Notification Law	R.C. 2907.09(B)(4) and (D) and 2950.01
<b>SEXUALLY ORIENTED OFFENSES CONTINUED</b>	
A violation of any former Ohio law, any existing or former municipal ordinance or another state's or federal law, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed above	R.C. 2950.01(A)(13)
Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed above	R.C. 2923.01, 2923.02, and 2923.03

<b>ARSON AND RELATED OFFENSES</b>	<b>OHIO REVISED CODE</b>
Disrupting public services	R.C. 2909.04
Vandalism	R.C. 2909.05
Criminal damaging or endangering	R.C. 2909.06
Endangering aircraft or airport operations	R.C. 2909.08
Interfering with operation of aircraft with laser	R.C. 2909.081
Railroad vandalism - criminal trespass - interference with operation of train	R.C. 2909.10
Railroad grade crossing device vandalism	R.C. 2909.101
Soliciting or providing support for act of terrorism	R.C. 2909.22
Making terroristic threat	R.C. 2909.23
Terrorism	R.C. 2909.24



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

Criminal possession of chemical, biological, radiological, or nuclear weapon or explosive device	R.C. 2909.26
Illegal assembly or possession of chemicals or substances for manufacture of prohibited weapons	R.C. 2909.28
Money laundering in support of terrorism	R.C. 2909.29





## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

OFFENSES AGAINST THE PUBLIC	OHIO REVISED CODE
Making false alarms	R.C. 2917.32
Unlawful possession or use of a hoax weapon of mass destruction	R.C. 2917.33
Improperly handling infectious agents	R.C. 2917.47
Interfering with operation of aircraft with laser	R.C. 2909.081
Railroad vandalism - criminal trespass - interference with operation of train	R.C. 2909.10
Railroad grade crossing device vandalism	R.C. 2909.101
Soliciting or providing support for act of terrorism	R.C. 2909.22

OFFENSES AGAINST JUSTICE	OHIO REVISED CODE
Bribery	R.C. 2921.02
Retaliation	R.C. 2921.05
Perjury	R.C. 2921.11
Tampering with evidence	R.C. 2921.11
Falsification - in theft offense - to purchase firearm	R.C. 2921.13
Obstructing official business	R.C. 2921.31
Obstructing justice	R.C. 2921.32
Assaulting or harassing police dog or horse or service dog	R.C. 2921.321
Resisting arrest	R.C. 2921.33
Failure to comply with order or signal of police officer	R.C. 2921.331
Aiding escape or resistance to lawful authority	R.C. 2921.35
Illegal conveyance of weapons, drugs or other prohibited items onto grounds of detention facility or institution	R.C. 2921.36
Harassment by inmate	R.C. 2921.38
Impersonation of peace officer or private police officer	R.C. 2921.51
Using sham legal process	R.C. 2921.52



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

WEAPONS AND EXPLOSIVES OFFENSES	OHIO REVISED CODE
Carrying concealed weapons	R.C. 2923.12
Possession of firearm in beer liquor permit premises - prohibition, exceptions	R.C. 2923.121
Illegal conveyance or possession of deadly weapon or dangerous ordnance or of object indistinguishable from firearm in school safety zone	R.C. 2923.122
Illegal conveyance of deadly weapon or dangerous ordnance into courthouse - illegal possession or control in courthouse	R.C. 2923.123
Falsification of concealed handgun license - possessing a revoked or suspended concealed handgun license	R.C. 2923.1211
Having weapons while under disability	R.C. 2923.13
Use of firearm or dangerous ordnance by violent career criminal	R.C. 2923.132
Using weapons while intoxicated	R.C. 2923.15
Improperly handling firearms in a motor vehicle	R.C. 2923.16
Discharge of firearm on or near prohibited premises	R.C. 2923.162
Unlawful possession of dangerous ordnance - illegally manufacturing or processing explosives	R.C. 2923.17
License or temporary permit to possess or use dangerous ordnance	R.C. 2923.18
Failure to secure dangerous ordnance	R.C. 2923.19
Unlawful transaction in weapons	R.C. 2923.20
Possessing a defaced firearm	R.C. 2923.201
Improperly furnishing firearms to minor	R.C. 2923.21
Engaging in pattern of corrupt activity	R.C. 2923.32
Participating in criminal gang	R.C. 2923.42



## State Fire Marshal

Department of Commerce

[com.ohio.gov](http://com.ohio.gov)

Mike DeWine, Governor Jim Tressel, Lt. Governor Sherry Maxfield, Director

DRUG OFFENSES	OHIO REVISED CODE
Corrupting another with drugs	R.C. 2925.02
Trafficking, aggravated trafficking in drugs	R.C. 2925.03
Illegal manufacture of drugs - illegal cultivation of marihuana - methamphetamine offenses	R.C. 2925.04
Illegal assembly or possession of chemicals for manufacture of drugs	R.C. 2925.041
Funding, aggravated funding of drug or marihuana trafficking	R.C. 2925.05
Possession of controlled substances	R.C. 2925.11
Permitting drug abuse	R.C. 2925.13
Deception to obtain a dangerous drug	R.C. 2925.22
Illegal processing of drug documents	R.C. 2925.23
Tampering with drugs	R.C. 2925.24
Abusing harmful intoxicants	R.C. 2925.31
Trafficking in harmful intoxicants - improperly dispensing or distributing nitrous oxide	R.C. 2925.32
Counterfeit controlled substance offenses	R.C. 2925.37