



BILL AND AMENDMENT SUMMARY

Fireworks HF 614

Status of Bill: House Floor
Committee: Ways & Means (15-10)
Lead Democrats: Rep. Jacoby
Floor Manager: Rep. Windschitl
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Background

Twenty-six states allow for the sale and use of most types of consumer fireworks. Neighboring states Missouri, Nebraska, and South Dakota allow for the sale of consumer fireworks. Minnesota only allows for the sale of consumer fireworks that do not explode or fly. Illinois, similar to Iowa, only allows for the sale of many novelties, as well as wooden or wire stick sparklers.

Summary

Legalization

The bill allows for the sale and purchase of consumer fireworks and novelties in the state. These types of fireworks are defined by the American Pyrotechnics Association, as referenced by the bill.

The state fire marshal is given authority to regulate fireworks and will create a consumer fireworks seller license and application form. If a retailer devotes 50% or more of their floor space to fireworks, the annual fee is \$400. If the retailer devotes less than 50% of their floor space to fireworks, the annual fee is \$200. If a retailer offers only second-class fireworks, which includes novelties and ground based fireworks, the annual fee is \$25.

Definitions

“Consumer fireworks” includes aerial shell kits and reloadable tubes, chasers, helicopter and aerial spinners, firecrackers, mine and shell devices, missile-type rockets, roman candles, sky rockets and bottle rockets, and multiple tube devices, cone fountains, cylindrical fountains, flitter sparkers, and ground and hand-held sparkling devices, ground spinners, illuminating torches, toy smoke devices, wheels, and wire or dipped sparklers.

“Novelties” include party poppers, snappers, toy smoke devices, snakes or glow worms, and wire sparklers.

Retailers

A “retailer” that is allowed to sell fireworks is the same definition as found in the Streamlined Sales Tax Agreement. That code section defines a retailer as any person “engaged in the business of selling personal property or tangible services at retail.”

Any seller of fireworks is required to have public liability insurance and product liability insurance with at least \$5 million in coverage. All retailers that sell fireworks must maintain compliance with the National Fire Protection Association Standards on the manufacture, transportation, storage, and sale of fireworks.

Timing

Fireworks can be sold year round from a permanent building or from June 13-July 11 from a temporary structure.

Fiscal Impact

A consumer fireworks seller license fee fund is created and will include any fees collected under the bill. The fund will be used to fulfill the responsibilities of the state fire marshal under the bill. In addition, a Local Fire Protection and Emergency Medical Service Providers Grant Program is established. The grant program will use the fees to provide grants to local fire protection service providers and local emergency medical service providers for safety education programming and for the purchase of equipment.

The Fiscal Services Division estimates it will cost approximately \$162,000 and 2 additional FTEs annually for the State Fire Marshal to administer the legalization of fireworks. Fiscal Services determined this cost will require approximately 1,200 retail licenses, but it is unknown how many retailers will apply for licenses this fiscal year. The fiscal note states, "There is a concern that the license fee revenue may or may not cover the costs of implementing the Bill."

The total sales tax revenue is estimated at \$1.1-1.3 million annually.

Fiscal Year	Estimated Total Sales	Estimated Sales Tax Revenue	Estimated LOST Revenues
2016	\$18,595,000	\$1,116,000	\$162,000
2017	19,227,000	1,154,000	167,000
2018	19,938,000	1,196,000	173,000
2019	20,536,000	1,232,000	179,000
2020	21,152,000	1,269,000	184,000

Prohibitions and Penalties

Fireworks cannot be sold to anyone under 18 years of age.

The bill requires a fireworks license to be revoked by the state fire marshal if the licensee is found to have intentionally violated the law regarding consumer fireworks.

A city council may suspend or limit the use of consumer fireworks, novelties, or display fireworks. A board of supervisors may only suspend the use of display fireworks. The State Fire Marshal may suspend the use of fireworks or novelties.

Several offenses are created in the bill that would be simple misdemeanors punishable by a fine of up to \$250. These offenses include:

- Selling fireworks to anyone under 18 years of age
- Purchase of fireworks by anyone under the age of 18
- Use of fireworks when there is a suspension
- Sale or use of "display" fireworks
- Use of fireworks on someone's real property with consent is a simple misdemeanor punishable by a fine of \$50-500

Amendment

H-1162 by Windschitl

Clarifies the title to reflect the effective date of June 1, 2015.

H-1247 by Windschitl

Clarifies the manner a board of supervisors or city council may prohibit or limit the use of fireworks. Removes the requirement that a board of supervisors determine that the use of fireworks would constitute a threat to public safety before prohibiting the use of fireworks in the county.

Requires the state fire marshal to adopt emergency rules to facilitate the implementation of the bill.

Clarifies the title to reflect the effective date of June 1, 2015.

H-1252 by Koester

Adds a new crime for igniting, exploding, operating, or using fireworks while in a moving motor vehicle. This is a simple misdemeanor. A simple misdemeanor is punishable by up to 30 days in jail and/or a fine of up to \$625.

H-1253 by Koester

Makes a person who purchases fireworks jointly and severally liable for actual damages cause by the use of the fireworks. The purchaser is liable for court costs, expenses, and reasonable attorney fees incurred by the party bringing the action. This section does not apply if the person that acquired the fireworks without the knowledge or consent of the purchaser.

Jointly and severally liable means that each party is liable for the full cost of the litigation. Under this amendment, claimant may pursue an action against a purchaser of fireworks for the full cost of the damages without bringing an action against the actual user of the fireworks. Essentially in joint and several liability a claimant may recover all of the damages against any of the defendants, regardless of any actual proportionate liability of the parties.