

HOUSE BILL REPORT

SSB 5997

As Passed House:

April 4, 1995

Title: An act relating to fireworks, creating new state fireworks regulations, strengthening state fireworks enforcement provisions, requiring all sales to comply with state regulation.

Brief Description: Regulating fireworks.

Sponsors: Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Palmer, Bauer, Owen and Newhouse).

Brief History:

Committee Activity:

Commerce & Labor: 3/20/95, 3/27/95 [DP].

Floor Activity:

Passed House: 4/4/95, 92-4.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 11 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cairnes; Cody; Cole; Fuhrman; Goldsmith and Horn.

Staff: Pam Madson (786-7166).

Background: The director of the Department of Community, Trade, and Economic Development through the director of fire protection establishes safety rules relating to fireworks, enforces the state fireworks law and establishes minimum state-wide standards for enforcement, and issues licenses to those who manufacture, import, sell, and display fireworks.

Cities and counties may adopt local ordinances that are more restrictive than state law regarding the type of fireworks that can be sold and can limit the hours of sale and use.

Definitions

"Special fireworks" and "common fireworks" are defined in terms of examples of products that fall under each term. Common fireworks are also defined in terms of federal classifications of explosives.

An importer is one who brings fireworks into the state, buys or receives shipments from out of state. A manufacturer does not include those who assemble or fabricate sets or mechanical pieces in public displays of fireworks.

Local Government Permitting

Cities and counties may issue and condition permits for the manufacture, importation, sale, use, and display of fireworks.

State law allows certain exemptions from the licensing requirements, except that local governments may require a permit to use and purchase special fireworks used by religious or private organizations for specific events.

Local governments may adopt a permit fee to cover administrative costs of processing and inspection but the fee is limited to no more than \$100 annually.

State Licensing

The director of the Department of Community, Trade, and Economic Development must revoke a license when a licensee has violated the fireworks laws, created or caused a fire nuisance, or failed or refused to file required reports.

In addition to annual licensing fees, state licensees must pay an additional fee that is deposited into the state fire services trust fund. Trust fund moneys may be used for training of fire service personnel, maintaining the state's fire service training center, providing grants to local entities, licensing and enforcement of state laws governing fireworks and developing a state-wide education program for firework safety.

Time Allowed for Sale and Use of Common Fireworks

Hours for sale and use of fireworks are restricted by state law to run from noon on June 28 to noon on July 6 excluding the hours of 11:00 p.m. to 9 a.m. each day.

Seized Fireworks

Fireworks are subject to seizure by an enforcing authority when used or possessed in violation of the fireworks law. A person whose fireworks have been seized has 10 days to petition the seizing authority for return of the property. The seizing authority must respond within 15 days and an oral hearing granted if requested. Hearings are conducted under the administrative procedures act. Fireworks may be sold to licensed

manufacturers or wholesalers at public auction. Proceeds from the sale of forfeited fireworks is deposited in the state general fund.

Insurance Coverage

An applicant for a public display permit must provide a bond or evidence of insurance in amounts of not less than \$50,000/\$1,000,000 for bodily injury per person per event and no less than \$25,000 for property damage per event.

Summary of Bill:

Definitions

Definitions in the state fireworks law are modified as follows:

- (1) City means an incorporated city;
- (2) "Fireworks", "Special fireworks", and "Common fireworks" are now defined with reference to federal classifications for purposes of defining explosives, and the handling and transportation of fireworks;
- (3) Special effects include those designed to produce audible, visual, mechanical, or thermal effect as part of a theatrical or opera production;
- (4) Importer does not include a person who brings fireworks into the state directly or contracts for delivery if the fireworks are for personal use;
- (5) Manufacturer does not include those who assemble common fireworks items, sets or packages containing common fireworks items.

Local Government Permitting

Cities and counties must grant permits if the applicant meets both state and local standards. If the local government allows the sale of fireworks, fireworks stands must comply with the state-wide standards.

Local governments may not charge a fee for permits that are required of religious or private organizations for purchase or use of fireworks during special events.

Local governments may charge fees to cover legitimate costs for all necessary permits and local licenses but all fees may not exceed \$100 for any one year.

State Licensing

The director of the Department of Community, Trade, and Economic Development is no longer required to revoke a license when a licensee has violated the fireworks laws, created or caused a fire nuisance, or failed or refused to file required reports.

Seventy-five percent of the revenue generated by payment of additional fees by state licensees must be spent on a state-wide educational campaign on the safe and responsible use of legal fireworks and the remaining additional fee revenue must be used for enforcement against the sale and use of legal fireworks.

State Standards

"New fireworks item" are those items not previously classified by the United States Bureau of Explosives. As new items are classified by the federal agency, the director must likewise classify the new item unless the director determine there are reasonable grounds for not classifying the item. Fireworks such as sky rockets, firecrackers, salutes, or chasers cannot be sold to the public as common fireworks.

The director of the Department of Community, Trade, and Economic Development must adopt uniform state-wide standards for retail fireworks stands.

Wholesalers may not knowingly sell to a retail seller whose stand is not covered by the required insurance or to a retailer or wholesaler whose fireworks outlet is not covered by the required insurance.

Retail licensees must purchase all fireworks from wholesalers licensed in this state.

Time for Allowed Sale and Use

The hours of sale and use around the 4th of July holiday are increased to include an additional hour on the 4th of July and sale and use is allowed from 6:00 p.m. December 31 to 1:00 a.m. on January 1. For 1995, cities and counties may adopt ordinances prohibiting the sale and use of fireworks for the hours on December 31 and January 1, if the ordinance is adopted within 60 days of the effective date of this act.

Seized Fireworks

Once fireworks are seized, the seizing authority must notify the owner, the person in charge, and anyone with a know interest in the fireworks within 15 days. If no one notifies the seizing authority within 30 days of seizure, the fireworks are deemed forfeited. Anyone notifying the seizing authority of a claim must be afforded a hearing before an administrative law judge. If the value of the fireworks exceed \$500, the action may be removed to a court of competent jurisdiction.

Forfeited fireworks can be destroyed or sold to licensed wholesalers or manufacturers at public auction. The proceeds may be used by the seizing authority to cover costs of seizure and storage with the remainder to be deposited in the fire service trust fund.

Disclosure of Records and Reports

Records and reports that are required by the fireworks law are not subject to the public disclosure laws.

Insurance Coverage

Applicants for local permits to sell fireworks to the public must have liability insurance coverage for bodily injury of at least \$50,000 per person/\$500,000 per occurrence and at least \$50,000 coverage for property damage per occurrence, unless such coverage is not available from at least three approved insurance companies.

Wholesalers must have similar insurance coverage for each wholesale and retail outlet the wholesaler operates.

Appropriation: None.

Fiscal Note: Requested on March 16, 1995.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The fireworks industry sought changes to the state fireworks law. It changes the definitional structure to be consistent with federal law and United Nations protocol to help identify products used in international commerce. Local areas may continue to grant special permits and nothing prohibits local governments from being more restrictive than state law. There is an exemption from disclosure for proprietary information. The insurance requirements for retailers and wholesalers is set at an amount that makes it available to anyone who wants to sell through a national fireworks association. The purposes for which moneys from the fire services trust fund may be used reflects the source of money that goes into the fund. The only money that currently goes into the fund is from an additional charge on fireworks licenses. Some city ordinances have allowed sale and use for an additional hour on the 4th of July and the bill allows for this additional time. States have overlooked hobbyists when setting license fees. There is no exception for individuals who buy for their own personal use. Federal law allows an exception for those who do not assemble for re-sale. The insurance requirements are a little too onerous.

Testimony Against: None.

Testified: (In favor) Senator Palmer, prime sponsor; and Jerry Farley, Washington Independence Day Association. (With concerns) James H. Finckbone.