

SENATE BILL REPORT

SB 6080

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, February 5, 2002

Title: An act relating to updating and harmonizing fireworks and explosives laws.

Brief Description: Updating and harmonizing fireworks and explosives laws.

Sponsors: Senator Prentice.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 2/22/01, 2/27/01 [DPS];
1/31/02, 2/5/02 [DP2S].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: That Second Substitute Senate Bill No. 6080 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Fairley, Franklin, Gardner, Hochstatter, Honeyford, Rasmussen, Regala, West and Winsley.

Staff: Matthew Adams (786-7784)

Background: The distribution, sale and use of fireworks is governed by a combination of federal, state and local law. State law distinguishes between "explosives" and "fireworks." Explosives are regulated by the Department of Labor and Industries. The Chief of the Washington State Patrol, through the State Fire Marshal, is responsible for the regulation of fireworks. The fireworks law distinguishes between devices that can be purchased at retail by individuals without a license at prescribed times, and specialty fireworks designed for public display, which require a license for acquisition and use.

Fireworks and explosives state laws refer to various federal standards and regulatory definitions. Some terms in state law are no longer consistent with counterpart federal terms.

Summary of Second Substitute Bill: Several definitions in the explosives statute are amended to conform to current federal definitions. These include "blasting agent," "explosive," certain classes of explosives, "magazine," and "highway." Exemptions from the regulatory provisions of the explosives chapter are amended to clarify military operations covered by that exemption. The fireworks exemption is added for the operation of local law enforcement making a seizure of explosives.

"Fireworks" and "common fireworks" are renamed throughout the fireworks chapter. "Fireworks" are devices that meet the definition of "articles pyrotechnic" or "consumer fireworks" or "display fireworks." "Article pyrotechnic" devices are designed primarily for professional use, whereas "consumer fireworks" are smaller combustible devices. "Special

fireworks" are renamed "display fireworks," which are large fireworks producing effects by combustion, deflagration, or detonation.

The terms "stand" or "outlet" are replaced by the term "licensee." The definition of "retailer" is amended to clarify who is a retailer, and the prohibition against illegal retail transactions associated with this definition is amended to be consistent with the new definition.

Two new definitions, "permanent storage" and "temporary storage," are added so that existing statutory requirements for each can be clearly distinguished and enforced.

New civil penalty provisions are established. The civil penalty may not exceed \$500 per day for each violation and is subject to procedural requirements. The Chief of the State Patrol, through the State Fire Marshal, is given rulemaking authority for the purpose of enforcing the civil penalty provisions of the chapter. The Chief of the State Patrol, through the State Fire Marshal, is authorized to investigate all fires resulting or suspected of resulting from the use of fireworks.

In addition, enforcement through civil proceedings brought by either the Attorney General or local prosecutor is provided. A person who violates any criminal sanction in this chapter is liable for a civil penalty, court costs and reasonable investigative and attorneys' fees.

Provisions are added to clarify existing law with respect to days and hours for sale and use of consumer fireworks. Local governments may enact an ordinance limiting or prohibiting the sale and use of consumer fireworks on December 27 through December 31, 2002.

New requirements are added to support existing regulations found in the Washington Administrative Code relating to fireworks. January 10 is established as the return date for unsold fireworks from the New Year's Eve selling season, and licensees cannot sell any fireworks to persons under the age of 16.

Fireworks may only be stored in places approved by the city or county that issued the permit to the retailer.

Fireworks forfeited following a seizure by law enforcement may be destroyed after 30 days from the seizure, or ten days after forfeiture hearings, whichever is later. At least 50 percent of the proceeds from the sale of seized fireworks are for funding a statewide education campaign developed by the Chief of the State Patrol and the licensed fireworks industry. The remainder of proceeds is for statewide efforts to enforce this chapter.

Current law regulating disposal by sale or summary destruction of seized or forfeited fireworks is clarified.

The assembling or use of special effects for motion pictures or the like are under the direction of a state licensed pyrotechnician who possesses a valid permit. The permitting authority is changed from the local fire official to the city or county.

A city or county may provide, by ordinance, for a fee to cover all legitimate costs of permits, licenses and authorizations. Any fee may not exceed \$100 for display permits and retail sales

permits for a selling season, or a total of \$200 for both selling seasons. All provisions relating to retail sales and public display permit fees and crowd and traffic control costs are removed.

Second Substitute Bill Compared to Original Bill: The substitute bill (1) defines "articles pyrotechnic," "permanent storage" and "temporary storage;" (2) amends the definition of "retailer" and the prohibition against illegal retail transactions; (3) clarifies existing law with respect to days and hours for sale and use of consumer fireworks, (4) mandates a statewide education campaign funded by proceeds from sales of seized fireworks, caps fees for permits, licenses and authorizations collected by a city or county; (5) adds new civil penalty provisions; (6) establishes a new return date for unsold fireworks; and (7) prohibits the sale of fireworks to person under age 16.

Appropriation: None.

Fiscal Note: Requested on February 6, 2002.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is necessary to make state law consistent with federal laws and it creates reasonable regulation of fireworks.

Testimony Against: The bill has good intentions but there are technical flaws that must be fixed.

Testified: Jerald Farley, WIDA (pro); Warren Burns, WSAFM (con).