

SENATE BILL REPORT

SB 5997

As Reported By Senate Committee On:
Labor, Commerce & Trade, March 1, 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: Senators Palmer, Bauer, Owen and Newhouse.

Brief History:

Committee Activity: Labor, Commerce & Trade: 2/27/95, 3/1/95 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

Majority Report: That Substitute Senate Bill No. 5997 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pelz, Chair; Deccio, Franklin, Fraser, Hale, Newhouse and Palmer.

Staff: Max Williams (786-7439)

Background: Certain broad aspects of fireworks regulation are determined by the state, while many particular regulations about the sales and use of fireworks are determined by local jurisdictions.

Local governments may be more restrictive than the state with respect to the sale and use of fireworks. Local governments can prohibit the use of fireworks, and/or place limitations and conditions on various aspects of firework activities. Local governments have the authority to grant and deny permits to sell and use fireworks. Except as to the types of fireworks that may be sold, there are no provisions relating to the effective dates of local fireworks regulations. Any local ordinances restricting the types of fireworks sold can only take effect one year after their adoption.

For most fireworks sales and display activities, persons must obtain a license from the state and a permit from the local government where the fireworks are to be displayed or sold. Additional license fees authorized by the legislature in 1991 are deposited into the fire services trust fund which is used for various state activities relating to fireworks.

Summary of Substitute Bill: The bill contains changes and new language to various sections of the code pertaining to fireworks.

Definitions. The definitions of "fireworks," "special fireworks," and "common fireworks" are amended to be consistent with federal law and U.N. protocol. The Department of Community, Trade, and Economic Development is required to classify new firework items

already classified by the federal government, unless the department finds, on reasonable grounds, that the item should not be classified.

It is clarified that persons who transport fireworks for personal use are not considered "importers" in need of licensing. It is clarified that persons who assemble sets or packages of common fireworks are not considered "manufacturers."

State Standards. The department is directed to prescribe uniform, statewide standards for retail fireworks stands. All cities and counties that allow retail fireworks sales must comply with these standards.

Fireworks use and sale times are expanded to allow fireworks to be discharged and sold until midnight on July 4. Fireworks may be used and sold from 6:00 p.m. until 1:00 a.m. on December 31 (January 1). Local governments have the authority to restrict use and sales on New Year's Eve 1995, if they pass such an ordinance within 60 days of passage of this act.

Seventy-five percent of the additional license fees receipts placed into the fire services trust fund must fund a public education campaign developed by the department and the licensed fireworks industry emphasizing safe and responsible use of legal fireworks. The remaining receipts must be used to fund statewide enforcement efforts against the sale and use of illegal fireworks. Proceeds from sales of seized fireworks are deposited into the fire services trust fund after administrative costs associated with the seizure and storage are deducted by the seizing entity.

The department's mandatory revocation of permits for violating the state law, creating a fire nuisance, failure to file necessary reports, or noncompliance, is changed to a discretionary revocation.

Retail licensees must purchase all fireworks from wholesalers possessing a valid Washington wholesale license.

The department may not require any additional reports from licensees. Any reports produced by licensees are not subject to public disclosure.

Several other changes are made to certain licensing and permitting requirements.

Local Government Restrictions. Any local rules that are more restrictive than state law shall have an effective date of one year after adoption. The governing body of a city or county must grant a permit to applicants that meet the requirements outlined in the RCW and comply with local ordinances. Local governments cannot deny a public display permit except for nonconformity with state or local law.

Local fire officials may not charge for permits to use firecrackers, salutes, and chasers in public display, for special purposes, on specific dates.

Local public agencies may not charge a permit fee of more than \$100 to cover all needed permits and licenses from application through issuance and inspection.

Various technical and other changes are made.

Substitute Bill Compared to Original Bill: The intent of the bill is clarified to reflect that this chapter alone is not the only regulatory section of the law relating to fireworks. Insurance coverage requirements are clarified. Retail fireworks stand state standards are left to the rulemaking of the Department of Community, Trade, and Economic Development. Local governments have the ability to restrict sales and use on New Year's Eve 1995 without having to comply with the one year delay established by this act. Entities that seize and sell illegal fireworks may use a portion of the proceeds to offset administrative costs associated with the seizure. The department is not required to authenticate the insurance certificate for licensees. Provisions restricting the ports and fire department's ability to regulate fireworks destined for and offloaded at Washington ports are removed. Provisions restricting the advertising of fireworks are removed.

Appropriation: None.

Fiscal Note: Requested on February 21, 1995.

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

Testimony For: The various changes in this bill are necessary to establish uniformity across the state with respect to fireworks sales and use.

Testimony Against: This bill makes changes that may preclude local governments and fire officials from making immediate, emergency declarations prohibiting or restricting fireworks. Other provisions relating to local jurisdictions, wholesalers, retailers and others may be harmful to public safety.

Testified: Jerald Farley, WA Independence Day Assn. (pro); Jeff Jensen, Tacoma Fire Dept. (con); Marilyn Pedersen, Seattle Fire Dept. (con); Dick Small, State Fire Marshall; Otto Jensen, WA Assn. of Fire Chiefs; Steve Thornton, Eagle Fireworks Inc.; Becky Bogard, WA State Assn. of Broadcasters (con).