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**SUBSTITUTE HOUSE BILL 1702**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Local Government (originally sponsored by Representatives Moscoso, Vick, Ryu, Kochmar, Blake, McCabe, Hurst, Stanford, Kagi, Young, and Griffey)

AN ACT Relating to clarifying and restating the scope of local authority regarding regulation of fireworks by adopting uniform statewide standards and rules that continue the current limited scope of local authority; amending RCW 70.77.250 and 70.77.270; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 70.77.250 and 2002 c 370 s 19 are each amended to read as follows:

(1) The chief of the Washington state patrol, through the director of fire protection, shall enforce and administer this chapter.

(2) The chief of the Washington state patrol, through the director of fire protection, shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter.

(3) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules relating to fireworks as are necessary for the implementation of this chapter.

(4) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules as are necessary to ensure statewide ((~~minimum~~)) standards for the enforcement of this chapter. Counties and cities shall comply with these ((~~state~~)) statewide standards and rules. ((~~Any ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption.~~))

(a) A county or city may enact an ordinance that is more restrictive than state law as to:

(i) The days and hours of legal sale of consumer fireworks, including limiting or prohibiting the sale;

(ii) The days and hours of legal use of consumer fireworks, including limiting or prohibiting the use; and

(iii) The types of consumer fireworks that may be sold and used within the geographical boundary of the county or city, including limiting or prohibiting the sale or use of types of consumer fireworks.

(b) Any ordinance adopted by a county or city under (a) of this subsection that is more restrictive than state law shall have an effective date no sooner than one year after its adoption. Any part of an ordinance, standard, rule, or regulation adopted by a county or city that conflicts with the provisions of this chapter, or rules adopted in accordance with this chapter, is null and void and shall have no effect.

(c) The chief of the Washington state patrol, through the director of fire protection, must enforce this section and this chapter.

(5) The chief of the Washington state patrol, through the director of fire protection, may exercise the necessary police powers to enforce the criminal provisions of this chapter. This grant of police powers does not prevent any other state agency and city, county, or local government agency having general law enforcement powers from enforcing this chapter within the jurisdiction of the agency and city, county, or local government.

(6) The chief of the Washington state patrol, through the director of fire protection, shall adopt rules necessary to enforce the civil penalty provisions for the violations of this chapter. A civil penalty under this subsection may not exceed one thousand dollars per day for each violation and is subject to the procedural requirements under RCW 70.77.252.

(7) The chief of the Washington state patrol, through the director of fire protection, may investigate or cause to be investigated all fires resulting, or suspected of resulting, from the use of fireworks.

**Sec.**  RCW 70.77.270 and 2002 c 370 s 22 are each amended to read as follows:

(1) The governing body of a city or county, or a designee, shall grant an application for a permit under RCW 70.77.260(1) if the application meets the standards under this chapter, and the applicable ordinances of the city or county. The permit shall be granted by June 10, or no less than thirty days after receipt of an application whichever date occurs first, for sales commencing on June 28 and on December 27; or by December 10, or no less than thirty days after receipt of an application whichever date occurs first, for sales commencing only on December 27.

(2) ((~~The chief of the Washington state patrol, through the director of fire protection, shall prescribe uniform, statewide standards for retail fireworks stands including, but not limited to, the location of the stands, setback requirements and siting of the stands, types of buildings and construction material that may be used for the stands, use of the stands and areas around the stands, cleanup of the area around the stands, transportation of fireworks to and from the stands, and temporary storage of fireworks associated with the retail fireworks stands. All cities and counties which allow retail fireworks sales shall comply with these standards.~~)) (a) In all counties and cities there is in effect a uniform, statewide fireworks standard, which consists of the following code, adopted by reference in its entirety and without amendment: NFPA 1124: Code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles, 2013 edition, as published in August 2012 by the national fire protection association.

(i) By August 31, 2015, the chief of the Washington state patrol, through the director of fire protection, must repeal all of its rules on fireworks, located in chapter 212-17 WAC, that are inconsistent with the statewide fireworks standard adopted under this subsection (2).

(ii) By August 31, 2015, the chief of the Washington state patrol, through the director of fire protection, must adopt new rules as may be required to implement and give full effect to the provisions of this chapter and the statewide fireworks standard adopted under this subsection (2).

(b) All counties and cities that allow retail fireworks sales must comply with the statewide fireworks standard adopted under this subsection (2) and all rules adopted by the Washington state patrol, through the director of fire protection in accordance with this chapter. Any part of an ordinance, standard, rule, or regulation adopted by a county or city that conflicts with the provisions of this chapter, or rules adopted in accordance with this chapter, is null and void and shall have no effect.

(c) The chief of the Washington state patrol, through the director of fire protection, must enforce this section and this chapter.

(3) No retail fireworks permit may be issued to any applicant unless the retail fireworks stand is covered by a liability insurance policy with coverage of not less than fifty thousand dollars and five hundred thousand dollars for bodily injury liability for each person and occurrence, respectively, and not less than fifty thousand dollars for property damage liability for each occurrence, unless such insurance is not readily available from at least three approved insurance companies. If insurance in this amount is not offered, each fireworks permit shall be covered by a liability insurance policy in the maximum amount offered by at least three different approved insurance companies.

(4) No wholesaler may knowingly sell or supply fireworks to any retail fireworks licensee unless the wholesaler determines that the retail fireworks licensee is covered by liability insurance in the same, or greater, amount as provided in this subsection.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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