

# HOUSE BILL REPORT

## HB 2348

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### As Reported by House Committee On: Local Government

**Title:** An act relating to providing local governments with flexibility regarding local fireworks ordinances.

**Brief Description:** Providing local governments with flexibility regarding local fireworks ordinances.

**Sponsors:** Representatives Hawkins, Gregerson, Kilduff, Peterson, Dent, Johnson, Wylie, Haler, Manweller, Dye, Riccelli, Magendanz, Harris, Ortiz-Self, Fey, Klippert, Orwall, Nealey, Kuderer, Muri, Appleton, Smith, Reykdal, Zeiger, Ormsby, Robinson, McCabe, Stanford, Walsh, Hayes, Blake, S. Hunt, Van De Wege, McBride, Rodne, Kochmar, Stambaugh, Hudgins, Moeller and Tharinger.

#### **Brief History:**

##### **Committee Activity:**

Local Government: 1/14/16, 1/27/16 [DPS].

#### **Brief Summary of Substitute Bill**

- Creates an exception to the requirement that city and county ordinances relating to fireworks that are more restrictive than the statewide minimum standards go into effect no sooner than one year after adoption.
- Allows city and county ordinances that restrict the use of fireworks sold at retail, and are more restrictive than statewide minimum standards, to go into effect less than one year after adoption if, in consultation with local fire officials, the legislative body of the city or county finds that an extreme fire hazard or imminent threat of wildfire exists in the jurisdiction due to drought conditions.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Appleton, Chair; Gregerson, Vice Chair; Fitzgibbon, McBride and Peterson.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 3 members: Representatives Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; McCaslin.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Pike.

**Staff:** Cassie Jones (786-7303).

**Background:**

State Fireworks Law.

The State Fireworks Law (SFL) governs fireworks in Washington and sets minimum standards for the sale, purchase, use, discharge, transfer, and storage of fireworks.

"Fireworks" are defined as any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation that meets the definition of "articles pyrotechnic," "consumer fireworks," or "display fireworks."

"Articles pyrotechnic" are pyrotechnic devices for professional use, similar in nature to consumer fireworks in chemical composition and construction, but not intended for consumer use. "Consumer fireworks" are small fireworks devices which comply with construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission. "Display fireworks" are large fireworks which exceed the limits of explosive materials for classification as consumer fireworks.

Under the SFL, it is legal to sell, purchase, use, and discharge consumer fireworks in the state only during certain specified dates and times around the Fourth of July and New Year's Eve. The sale, purchase, use, or discharge of consumer fireworks outside of these statutory time periods is not lawful, except as otherwise permitted by statute.

The Chief of the Washington State Patrol (WSP), through the Director of Fire Protection, is responsible for enforcing and administering the SFL and for adopting rules relating to fireworks as necessary to implement the law. The SFL and the rules adopted by the WSP establish the minimum statewide standards.

Local Authority to Restrict Fireworks.

Counties and cities may enact ordinances related to fireworks, provided that any ordinance does not allow local standards to fall below statewide minimum standards. If a county or city adopts an ordinance that is more restrictive than state law, the effective date of the ordinance can be no sooner than one year after adoption of the ordinance.

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**Summary of Substitute Bill:**

Counties and cities may adopt ordinances that restrict the use of fireworks sold at retail that are more restrictive than the statewide minimum standards that may go into effect less than one year after adoption.

Prior to adoption of such an ordinance, the legislative body of the city or county must make a finding, in consultation with local fire officials, that an extreme fire hazard or imminent threat of wildfire exists in the jurisdiction due to drought conditions. The ordinance may apply to all or a part of the geographic area of the city or unincorporated portions of the county.

The ordinance is effective only during the period of extreme fire hazard or imminent threat of wildfire, and for no longer than 30 days. However, if after consultation with local fire officials, the legislative body determines that the extreme fire hazard or imminent threat of wildfire still exists, and a majority of the body votes to continue the ordinance, the ordinance remains in effect for an additional 30 days.

The ordinance may go into effect less than 30 days after enactment if: (1) the Governor has declared a state of emergency that includes the geographic area that is the subject of the ordinance; or (2) the legislative body of the city or county makes an additional finding that there is an immediate threat to life and property from the potential use of fireworks.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the original bill:

- restores the requirement that city and county ordinances relating to fireworks that are more restrictive than the statewide minimum standards go into effect no sooner than one year after adoption;
- creates an exception to this requirement that allows a city or a county to enact an ordinance that restricts the use of fireworks sold at retail, which may be more restrictive than the statewide minimum standards and may go into effect less than one year after its adoption;
- requires, prior to adopting the ordinance, the legislative body of the city or county to make a finding, in consultation with local fire officials, that an extreme fire hazard or imminent threat of wildfire exists in the jurisdiction due to drought conditions;
- provides that the ordinance:
  - may apply to all or a part of the geographic area of the city or unincorporated portions of the county;
  - may not go into effect sooner than 30 days after its adoption; and
  - is effective only during the period of extreme fire hazard or imminent threat of wildfire, and for no longer than 30 days. However, if after consultation with local fire officials, the legislative body determines that the extreme fire hazard or imminent threat of wildfire still exists, and a majority of the body votes to continue the ordinance, the ordinance remains in effect for an additional 30 days; and
- allows an ordinance to go into effect less than 30 days after its enactment only if: (1) the Governor has declared a state of emergency that includes the geographic area that is the subject of the ordinance; or (2) the legislative body of the city or county makes an additional finding that there is an immediate threat to life and property from the potential use of fireworks.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) There was a significant fire outside of Wenatchee around the Fourth of July this past year. It burned 30 homes and structures and some of the downtown area. The local officials sought to implement fire ordinances but were confused about current state law regarding the one-year waiting period for ordinances more restrictive than the statewide minimum standards. This bill would remove the one-year waiting period for local governments and facilitate local control of the issue. Fireworks pose public safety issues to both urban and rural communities.

Some areas of Washington are very prone to experiencing fires. This bill would give local officials in those areas the ability to make decisions that respond to current drought conditions and limit some human causes of fires. Fires caused by fireworks threaten local communities and have caused significant property damage.

Citizens want to preserve their rights to set off fireworks and fireworks bans have been soundly defeated in the past. But citizens are changing their minds as fires occur more frequently. Local officials have the responsibility to take immediate action in response to hotter, dryer summers. This bill will assist jurisdictions with limited resources that do not have the staffing or skills to respond to emerging fire conditions, and would help keep firefighters out of harm's way. A ban would not be undertaken lightly due to the impacts to the local economy.

(Opposed) Fireworks bans could put people out of jobs and hurt people's ability to provide for families. Under this bill, fireworks can be banned without justification. It allows bans for any reason and not just emergency bans. This could cost some families their yearly income. Fireworks should not be taken away from families who use fireworks correctly. Hurting fireworks businesses will hurt the community. Fireworks bans hurt seasonal workers and others who rely on fireworks sales for extra income.

Cities and counties already have the ability to ban fireworks, though the bans do not go into effect immediately. This last year was not a normal year and decisions should not be made based on that. These decisions should not be based on fear.

Fireworks can be purchased on reservations and fires are often started by fireworks sold by reservations. If this bill is passed it would drive customers to the reservations that sell products that are illegal under state law. Fireworks in the licensed stands are tested for consumer safety.

Fireworks products are developed years in advance. Wholesalers sell products months in advance. State licenses, leases, and advertising, all have to be paid in advance. This is not a

short-term business for short times of the year. If locals are able to ban fireworks without notice, businesses will lose money and may be ruined. Nonprofits selling fireworks for fundraising will also lose money.

Fireworks bans are not needed because citizens have made the choice not to buy, or to buy fewer fireworks in response to hot, dry weather. Sales were down significantly in 2015 because citizens took a responsible approach and chose not to purchase. Fireworks stands have followed voluntary bans when requested to do so. Fireworks are not causing the major fires.

**Persons Testifying:** (In support) Representative Hawkins, prime sponsor; Representative Gregerson; Mike Burnett, Chelan County Fire District 1; Laura Berg, Washington State Association of Counties; Paul Jewell, Kittitas County; Brenda Larsen, Kittitas County Fire Marshal's Office; Johnathan Dunaway and Jim Kambeitz, Washington State Association of Fire Marshals; Scott LaVielle, Tumwater Fire Department; Lloyd Halverson, cities of Washougal and Camas; Trevor McConchie, Washington Department of Natural Resources; Geoff Simpson, Washington State Council of Fire Fighters; Denise McClusky, City of University Place; Jane Wall, Association of Washington Cities; and Seamus Petrie, Washington Public Employees Association.

(Opposed) Robert Brown; Saylor Brown; Gene Marlow; Brad Sebranke; Elizabeth Lisicich; Daniel Richards; Ted Gord, James Bland, and Katy Westall, Thunder Fireworks, Inc.; Curt Carroll, American Promotional Events; Donald Kurosu and Sharon Buechler, Jetsteppers Square Dance Club; Brent Pavlicek, Western Fireworks; Jon Salzman, Edgewood Fireworks, Inc.; Joel Cowart, Pyroland Fireworks; Clint Cole, Thurston County Search and Rescue; and Jerry Farley, Consumer Fireworks Safety Association.

**Persons Signed In To Testify But Not Testifying:** None.