

HOUSE BILL REPORT

HB 2642

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to strengthening state fireworks regulation.

Brief Description: Modifying fireworks enforcement protection services.

Sponsors: Representatives Heavey and Lisk; by request of Department of Community Development.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 4, 1994, DPS.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer and Veloria.

Staff: Jim Kelley (786-7166).

Background: In 1993, legislation was enacted merging the Department of Community Development and the Department of Trade and Economic Development into the Department of Community, Trade, and Economic Development. The director of fire protection is within the Department of Community Development and is responsible for enforcement of the fireworks code.

In the fireworks code, the definition of "special effects" covers effects that are a necessary part of a motion picture, radio or television production, theatrical, or opera. It is not clear whether fireworks at sporting events are covered. The word "city," as used in the code, is not defined.

There is some dispute over whether a fire protection district has the authority to deny a permit when a city government or a county government has already issued a permit.

Any applicant who has been denied a license is entitled to a hearing in accordance with the Administrative Procedure Act.

The department may seize and dispose of illegal fireworks, but must provide an opportunity for a hearing. Disposal may include sale to a fireworks wholesaler.

Summary of Substitute Bill: References to the Department of Community Development are changed to the Department of Community, Trade, and Economic Development.

The definition of "special effects" is amended to cover effects that are an integral part of a motion picture, radio or television production, or live entertainment. "City" is defined as any city or town.

All provisions in the fireworks code referring to the regulatory and permitting authority of local fire protection districts are stricken.

License application requirements are clarified. An applicant who has been denied a license is still entitled to a hearing, unless the denial was based on the failure to apply on time.

Illegal fireworks may be seized by the department or by state agencies or local governments having general law enforcement authority. The agency that seizes illegal fireworks is allowed to sell them to manufacturers who are authorized to possess and use them. In the event of a seizure of illegal fireworks by a law enforcement agency, the law enforcement agency must follow the same hearing procedures required of the department.

A statement is included in the fireworks code providing that the inclusion in this chapter of criminal penalties does not preclude enforcement through civil means.

The firearms and dangerous weapons provisions in Washington's statutory law are amended to provide that nothing in that chapter prohibits the possession, sale, or use of fireworks when possessed, sold, or used in compliance with the fireworks code.

Other technical changes are made to the fireworks code.

Substitute Bill Compared to Original Bill: The substitute bill makes the following changes to the original bill:

- 1) The language providing that a permit issued by a city is valid in the city and a permit issued by a county is valid in all unincorporated areas of the county is

stricken. Instead, all provisions in the fireworks code referring to the regulatory and permitting authority of local fire districts are stricken.

- 2) The agency that seizes illegal fireworks is allowed to sell them to manufacturers who are authorized to possess and use them.
- 3) A severability clause is added.
- 4) An emergency clause is added, providing that the bill takes effect immediately.
- 5) An amendment is made to the firearms and dangerous weapons chapter of Washington law, providing that nothing in that chapter prohibits the possession, sale, or use of fireworks when possessed, sold, or used in compliance with the fireworks code.

Fiscal Note: Available.

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

Testimony For: Most of the provisions in this bill were requested by the Attorney General's Office. Prosecutors are reluctant to bring criminal charges because courts find the penalties too onerous. Therefore, it is important that the department have the authority to enforce the code civilly. The industry wants to insure that only cities and counties have permitting power. It is very important that we get some uniformity in our fireworks enforcement. We need to get the fire protection districts out of the business of denying permits. Legitimate manufacturers should be able to buy seized fireworks.

Testimony Against: This bill would make it impossible for fire protection districts to ban fireworks, even though that is what the majority of the people want. Fire protection districts are closer to the people and the public sentiment.

Witnesses: (In favor) Jean Ameluxen, Dick Small and Mike Sturgeon, Department of Community Development; Stephen Thornton, Eagle Fireworks; Dawn Vyvyan, Salish Fireworks; and Jerald Farley, Washington Independence Day Association. (In favor in part, opposed in part) Bob Lovett and Steve Swarthout, Redmond Fire District 34. (Opposed) Lee Cummings, King County Fire Protection District 40.