

HOUSE BILL REPORT

SB 5970

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to expanding days of sale while not changing days of use of common fireworks and clarifying other provisions of the existing state fireworks law.

Brief Description: Modifying fireworks statutes.

Sponsors: Senators Schow, Horn, Bauer, Heavey, Franklin and Anderson.

Brief History:

Committee Activity:

Commerce & Labor: 3/26/97, 4/3/97 [DP].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Conway, Ranking Minority Member; Boldt; Clements; Cole; Hatfield and Lisk.

Minority Report: Do not pass. Signed by 1 member: Representative Wood, Assistant Ranking Minority Member.

Staff: Pam Madson (786-7166).

Background: The State Explosives Act prohibits anyone from manufacturing, purchasing, selling, using, possessing, transporting, or storing explosives without having a valid license from the Department of Labor and Industries. Any person who violates this requirement is subject to a class C felony. For purposes of this requirement, explosives do not include fireworks.

State licensing and regulation of fireworks

The state, through the state patrol and the Director of Fire Protection, licenses and regulates the manufacture, importation, sale, or use of fireworks. Licenses are not transferable. The state patrol may adopt rules necessary for the implementation of the state fireworks law.

The state patrol through the Director of Fire Protection sets uniform statewide standards for retail fireworks stands.

State licenses are issued for a calendar year beginning January 1, and ending December 31.

A person must apply for an annual state license to sell fireworks at retail by June 10. Fireworks may be sold and used only for a limited number of days during the Fourth of July holiday and the New Year's holiday and only during specified times each day.

Local government permitting and regulation of fireworks

Local governments must grant permits to manufacture, possess, sell, or transport fireworks if the applicant meets the standard of the state fireworks law. There is no time limit within which the permit must be granted. Permits for public firework displays are not transferable.

A local fire official may grant or deny a permit for storing fireworks. Consideration must be given to the character and location of the proposed storage arrangement and whether the storage proposal poses a hazard to property or a danger to people.

Unsold fireworks remaining after the end of the sale period for the Fourth of July holiday on July 6 must be returned to an authorized storage facility by July 31. There is no date specified for the return to authorized storage of unsold fireworks after the sale period for the New Year's holiday.

A local public agency may charge a fee to cover all legitimate costs for necessary permits and local licenses. That fee may not exceed \$100.

Local governments may establish rules that are more restrictive than state law.

Summary of Bill: A person is prohibited from knowingly manufacturing, importing, transporting, storing, selling, or possessing with intent to sell, explosives as fireworks without the appropriate state licenses and local government permits. Violation of this provision is a gross misdemeanor, punishable by no less than 30 days in jail, and a fine of no less than \$5,000. The minimum sentence cannot be suspended or deferred.

State licensing and regulation

State licenses for the manufacture, importation, sale or use of fireworks are changed from nontransferable licenses to transferable licenses. The licensee may transfer the license and license privileges to another person. The state patrol must adopt rules necessary to implement the state fireworks law.

Along with setting statewide uniform standards for fireworks stands, the state patrol through the Director of Fire Protection must adopt rules setting a minimum standard for matters related to the retail sale of fireworks. Those matters include the location and use of the stands, types of buildings and construction material that may be used for the stands, clean-up 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. Local governments must comply with these statewide minimum standards.

State licenses and local government retail sales permits must be issued annually for the period January 1 through January 31 of the subsequent year, a period of 13 months.

A person must apply by May 1 for an annual state license to sell fireworks at retail and must apply by November 1 for sales during the New Year's holiday only. Fireworks may be legally sold to the public for an additional period of time during the Fourth of July holiday, beginning at 9:00 a.m. on June 28, and ending at 12:00 noon on July 6. Fireworks may also be sold for an additional four days during the New Year's holiday, beginning at 9:00 a.m. on December 27, and ending at 11:00 p.m. on December 31.

Hours during which fireworks may be used are extended for June 28, July 4, and July 6 of each year.

Local government permitting

A permit granted by a local jurisdiction for the manufacture, possession, sale, or transport of fireworks must be granted by June 10 or within 30 days of receiving the application, whichever occurs first for sales during the Fourth of July and the New Year's holidays. The permit must be granted by December 10 or within 30 days of receiving the application, whichever occurs first for sales during the New Year's holiday only.

Local government permits are transferable.

When considering a permit for the temporary storage of fireworks in connection with the retail sale of fireworks, cities and counties must use the statewide standards developed by the Washington State Patrol for retail fireworks stands and matters related to the retail sale of fireworks.

Unsold fireworks remaining after 11:00 p.m. on December 31, must be returned to an authorized storage facility by January 10.

Cities and counties may charge fees for the retail sale of fireworks that include all legitimate costs for necessary permits and licenses. The annual fee must not exceed a total of \$100 for the initial permit and up to an additional \$10 for changes in permit holder or retail stand location. Necessary costs, fees, and licenses include business, environmental impact and inspection costs, fees, and licenses. Cities and counties may charge a fee for the public display of fireworks that may not exceed \$100. Any special event fees required by a city or county for public fireworks displays are not subject to the \$100 limitation.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Current law allows the state patrol to set uniform statewide standards for retail fireworks stands. This bill clarifies the scope of statewide uniformity. Local governments can still ban or limit days of sale and days of use and types of fireworks. Because licenses are now issued in the name of a person rather than an organization, licenses need to be transferable. Local government may charge additional fees for crowd control or other activity associated with the large public displays. The original bill set the fee at \$300 for the public display permit.

Testimony Against: Imposing a statewide standard does not provide any room for local communities to respond to their special needs that surround the retail sale of fireworks like the issue of temporary storage of fireworks. There is a concern for safety. When you expand sale, you expand the potential for use and use can result in injuries and fires. The bill has been improved however, the permit fee for public displays should be increased to \$300 as in the original bill.

Testified: (In support) Stephen Thornton; and Jerry Farley, Washington Independence Day Association. (Opposed) Gordon Walgren, Washington Association of Fire Chiefs; and Jim Justin, Washington Association of Cities.