

SENATE BILL REPORT

SB 5970

As Reported By Senate Committee On:
Commerce & Labor, March 5, 1997

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: 3/3/97, 3/5/97 [DPS].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: That Substitute Senate Bill No. 5970 be substituted therefor, and the substitute bill do pass.

Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Heavey and Newhouse.

Staff: Patrick Woods (786-7430)

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 during the Fourth of July holiday only between noon on June 28 and noon July 6. The daily hours of permitted sale and use of fireworks within this holiday period include: June 28, noon to 11:00 p.m.; July 1 through July 3, 9:00 a.m. to 11:00 p.m.; July 4, 9:00 a.m. to midnight; July 5, 9:00 a.m. to 11:00 p.m. and July 6, 9:00 to noon.

During the New Year period, the statutory maximum time period for use and sale of fireworks is from 6:00 p.m. on December 31 until 1:00 a.m. on New Year's 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 Substitute 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, and has authority to deny the transfer of a license.

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 all matters related to retail fireworks goods. Local governments must comply with these statewide minimum standards.

State licenses and local government 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.

Sale and Use of Fireworks: During the Fourth of July holiday period, the authorized time of sale is changed from the existing noon June 28 - noon July 6 to 9:00 a.m. June 28 - noon July 6, an increase of three hours. The authorized time for discharging fireworks is

modified from the existing noon June 28 - noon July 6 to 9:00 a.m. June 28 - 11:00 p.m. July 6, an increase of 14 hours with no increase in days.

During the New Year season, the period of authorized sales is changed from the existing 6:00 p.m. December 31 - 1:00 a.m. New Year's Day to 9:00 a.m. on December 27 - 11:00 p.m. on December 31, an increase of four plus days.

The authorized timeframe for fireworks discharge is maintained from 6:00 p.m. on December 31 until 1:00 a.m. New Year's Day.

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 all 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 fees for the public display of fireworks that include all necessary permits and licenses. The total fee may not exceed \$300, however, a city or county that requires crowd or traffic control in a public place due to a fireworks display is not subject to this limit.

Substitute Bill Compared to Original Bill: The State Patrol sets statewide standards for retail fireworks stands, and clarifies that statewide standards include the location and use of the stands; types of buildings and construction material that may be used for the stands; cleanup of the area around the stand; transportation to and from the stands; and temporary storage of fireworks associated with the retail firework stands.

Local permits are transferrable, including public display permits. State licenses and local retail sales permits, but not public display permits, are issued for a period of 13 months from January 1 to January 31 of the subsequent year.

The State Patrol may deny a transfer of a license.

Local jurisdictions are limited to \$300 for each public display permit rather than \$300 total for all permits required for the period of a year. However, cities and towns allowing public fireworks displays are not limited to a total of \$300 for crowd and traffic control.

Appropriation: None.

Fiscal Note: Requested on February 28, 1997.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will provide much greater consistency in regulations pertaining to fireworks and allow more time for sale of a legal retail item.

Testimony Against: Local governments will lose some of their ability to regulate this industry and to tailor their local requirements to the needs of the local community. The increase in days of sale may increase the unauthorized use of fireworks outside their permitted time periods.

Testified: Jerry Parley, Washington Independence Day Association (pro); Gordon Walgren, Washington State Fire Chiefs Association (con); Ralph Johns, Washington State IFCI (con); Wayne Wienholz, Washington State Fire Marshals Association (con).