

# HOUSE BILL REPORT

## 2SSB 6080

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### As Reported by House Committee On:

Commerce & Labor

**Title:** An act relating to updating and harmonizing fireworks and explosives laws.

**Brief Description:** Updating and harmonizing fireworks and explosives laws.

**Sponsors:** Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senator Prentice).

### Brief History:

#### Committee Activity:

Commerce & Labor: 2/21/02, 2/28/02 [DPA].

#### Brief Summary of Second Substitute Bill (As Amended by House Committee)

- Conforms the definitions for explosives and fireworks to the definitions in federal statute.
- Creates new exemptions and clarifies existing exemptions.
- Creates civil penalties and authorizes rule-making to enforce civil remedies.
- Expands the dates on which fireworks may be sold and authorizes a local permit fee increase.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Clements, Ranking Minority Member; Chandler, Kenney, Lysen and McMorris.

**Staff:** Sydney Forrester (786-7120).

### Background:

A combination of federal, state, and local law governs the distribution, sale, and use of fireworks. State law distinguishes between "explosives" and "fireworks." Explosives are regulated by the Department of Labor and Industries, and fireworks are regulated by the

Washington State Patrol, through the State Fire Marshal. The fireworks statute distinguishes between items sold at retail to unlicensed consumers at prescribed times, and specialty items designed for public display sold only to licensed individuals.

Both the fireworks and explosives statutes refer to various federal standards and regulatory definitions. Some terms in state law are no longer consistent with counterpart federal definitions.

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## **Summary of Amended Bill:**

### ***Explosives***

Several definitions in the explosives statute are amended to conform to current federal definitions. A clarification is made to exempt certain military operations, and exemptions are added for seizure of explosives and fireworks by local law enforcement.

### ***Fireworks***

Sales and Use: The sale and purchase of consumer fireworks is authorized from noon to 11 p.m. each day from December 27 through December 31 annually. A city or county may limit or prohibit the sale, purchase, possession, or use of consumer fireworks during this period in 2002 by local ordinance enacted within 60 days of the effective date of the bill. A local ordinance to prohibit the sale, purchase, possession, and use after December 2002, shall be effective no sooner than one year from the date of adoption. A prohibition against the sale of any fireworks to a person under the age of 16 is added.

Licenses and Permits: Clarification is made that licenses are issued by the Washington State Patrol, through the Director of Fire Protection, and that permits are issued by cities and counties. By local ordinance, a city or county may charge a separate fee for a retail sales permit and public fireworks display permit. A city or county may charge up to \$100 for a retail sales permit and up to \$5,000 for a public display permit. The local permitting authority is changed from the local fire official to the city or county.

Transportation: A licensee is authorized to transport fireworks without a city or county permit.

Storage: The storage of fireworks is redefined as "temporary storage" or "permanent storage." The prohibition against unlicensed storage and the requirement for obtaining a local storage permit are amended to apply to only permanent storage. No permit is required for storage of consumer fireworks during authorized periods of sales and use. Consumer fireworks remaining after the July and December selling period must be returned to a licensed wholesaler or to a permanent storage facility. The issuing agency for permanent storage is changed from the local fire department to a city or county. Upon application for a permanent storage permit, a city or county must investigate whether the proposed storage meets local zoning, building, and fire codes. The storage

of fireworks seized during enforcement by the Washington State Patrol, through the Director of Fire Protection, are exempt from storage permit requirements.

Seizure: Proceeds from the sale of illegal fireworks are used as follows. After seizure and storage costs are offset (as permitted under current law), remaining proceeds are deposited in the Fire Services Trust Fund. At least 50 percent is used for a public education campaign emphasizing safe and responsible use of fireworks (instead of 75 percent as required under current law). The remainder is used for enforcement efforts.

Penalties: A civil penalty is established for certain prohibited acts, such as the illegal possession, discharge, sale, or transportation of fireworks. Related procedural requirements also are established. Civil penalties are limited to \$1,000 per day, per violation.

Civil penalties imposed under the state fireworks law are paid to the State Treasurer and are credited to the Fire Services Trust Fund. At least 50 percent is used for a public education campaign emphasizing safe and responsible use of fireworks. The remainder is used for enforcement efforts.

Enforcement: The attorney general, county prosecutors, and city attorneys are authorized to bring civil actions to enforce the state fireworks law and to collect penalties imposed under the law. Civil actions to enforce the law may be brought in the superior court of Thurston County or the county in which the violation occurred. Civil actions to collect penalties may be brought in the superior court of Thurston County or the county in which the violator does business.

Definitions: Some terms and numerous definitions in the state fireworks law are amended. Other terms and definitions are added. These amendments and additions make state terms and definitions conform to federal definitions.

#### **Amended Bill Compared to Second Substitute Bill:**

The authorized sales and use dates are amended to remove July 6. Sales and use during the June/July selling season are permitted only through July 5. The civil penalty added to existing criminal penalties is increased from \$500 to \$1,000. Local permit fees are redefined by the type of activity permitted, each with a corresponding fee cap. A retail sales permit is authorized with a maximum fee of \$100 per selling season. A fireworks display permit is authorized with a maximum fee of \$5,000. The original bill added "a licensee" to the category of persons exempt from the prohibition against interstate transportation of fireworks in violation of the laws or regulations of another state. The amended bill returns that provision to its existing form. References to the Director of Fire Protection are added to clarify the authority to use the proceeds from the sale of seized fireworks for statewide education and enforcement. Technical corrections are made to the language establishing the civil penalty and to the language referencing the

federal definitions for fireworks.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** (In support of original bill) The bill does not amend local authority regarding sale and use. The last update to fireworks laws were in 1997 and this bill updates existing fireworks and explosives definitions to correspond with federal terms. As media fireworks have become more popular, the need for a licensed operator and a local permit is a good idea. The current statute also has only criminal penalties. Adding civil fines should encourage greater compliance with the details of the statute for which criminal prosecution may be costly. The prohibition against selling to anyone under 16 years old is already in the agency rules. The two separate selling seasons reflect that two separate local permitting fees may be charged. Agency rules address the temporary storage of fireworks during retail sales periods; this bill makes the distinction between temporary storage and permanent storage.

(In support of original bill with concerns) The section exempting licensees from the interstate transportation prohibition increases the possibility of illegal transportation, storage, and sale of fireworks. There are some technical corrections we would also request.

**Testimony Against:** (Opposed to original bill) Much of the bill deserves support, but there are concerns. The civil penalty should be an incentive for retailers to play by the rules. The \$100 limit on local permitting fees doesn't match the many thousands of dollars in overtime required to adequately supervise large public displays of fireworks. Changes to the dates for the sale and use of fireworks should be made at the local level.

**Testified:** (In support) Senator Prentice, prime sponsor; and Jerry Farley, Washington Independence Day Association.

(In support with concerns) Mary Corso, State Fire Marshall; and Angela Foster, State Fire Marshall's Office.

(Opposed) Warren Burns, Washington State Association of Fire Marshals.