
Commerce & Labor Committee

2SSB 6080

Brief Description: Updating and harmonizing fireworks and explosives laws.

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

Brief Summary of Second Substitute Bill

- Conforms the definitions for explosives and fireworks to the definitions in federal statute.
- Creates new exemptions for licensees 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.

Hearing Date: 2/21/02

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.

Summary of 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 local law enforcement seizure of explosives and for fireworks as defined in the state fireworks statute.

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 between December 27 and December 31, 2002, by local ordinance enacted within sixty days of the effective date of the bill. Local ordinances to prohibit sales, 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 fee of up to \$100 per selling season for the legitimate costs of processing and issuance of permits, licenses, and authorizations. A pyrotechnic operator license and a local permit both are required for the assembling, use, and display of articles pyrotechnic during media productions and live entertainment. The local permitting authority is changed from the local fire official to the city or county. Articles pyrotechnic are devices for professional use, similar to consumer fireworks in chemical composition, but not intended for consumer use.

Transportation: A licensee is authorized to transport fireworks without a city or county permit. In addition, a licensee is added to the category of persons exempt from the prohibition against interstate transportation of fireworks in violation of the laws or regulations of another state.

Storage: The storage of fireworks is redefined as "temporary storage" or "permanent storage." 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 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 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: Persons who violate the "criminal sanctions" of the state fireworks law are also

liable for civil penalties, court costs, and reasonable investigative and attorneys' fees. In other words, civil penalties are established for certain prohibited acts, such as the illegal possession, discharge, sale, or transportation of fireworks. Related procedural requirements are also established. Civil penalties are limited to \$500 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.

Rules Authority: The state fire marshal is required to adopt rules necessary to enforce civil penalties.

Appropriation: None.

Fiscal Note: Available.

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