
Finance Committee

HB 2673

Brief Description: Imposing a tax on fireworks.

Sponsors: Representative Moeller.

Brief Summary of Bill

- Imposes an excise tax at a rate five percent of the wholesale value to the first sale, use, consumption, handling, or distribution of fireworks within the state.

Hearing Date: 2/24/04

Staff: Mark Matteson (786-7145).

Background:

Excise Taxes in General

The principal excise taxes in the state are the retail sales and use taxes and the business and occupation tax. In addition, a number of other excise taxes have been enacted to apply to specific types of transactions or privileges. These include various taxes which are imposed in lieu of the property tax, such as the excise taxes for harvested timber and leaseholds, as well as selective sales taxes imposed on specific products. One example of a selective sales excise tax is the tobacco products tax. The tax is imposed on the sale, use, consumption, handling, or distribution of any tobacco product within the state at a rate of 129.42 percent of the wholesale price of the product.

Current Taxes on Fireworks

Businesses that trade in fireworks, and persons that buy or use fireworks, are subject to state taxes. The manufacture, wholesale, and retail sale of fireworks are subject to the state business and occupation tax under the associated classifications. Retail sales within the state are also subject to the state retail sales tax at a 6.5 percent rate. If fireworks are purchased outside of the state or on Indian land, the state use tax applies at the same rate if the fireworks are brought into the state and used.

Regulation of Fireworks

The handling, transport, distribution, sale and use of fireworks are regulated by federal, state, and local governments. Under state law, consumers may buy and use fireworks during the period June 28 through July 5, and may buy fireworks during the period December 27 through December 31

for use on New Year's Eve. Businesses that desire to import, manufacture, or wholesale fireworks, or to operate general fireworks displays, must apply to the State Fire Marshal's Office (Office) annually by January 31 to receive a license for the year. Application information includes name of business, business location, reference data, fireworks storage site information, and the nature of activities to be engaged. Persons operating retail stands must also apply to be licensed by the Office. The Office is charged with enacting and enforcing rules as necessary to ensure a minimum statewide standard of safety concerning the sale, manufacture, import, use, storage, discharge, and display of fireworks in the state. Funding for such activities is provided through the Fire Services Trust Fund.

Local governments may enact ordinances that are more restrictive than state law in three ways. They may ban the use of fireworks outright; they may restrict the days and time that fireworks may be sold or used; and they may restrict the types of fireworks that can be sold or used. Approximately 100 county and city jurisdictions impose a ban or some sort of restriction on the use of fireworks.

Trends in Fireworks Usage and Incidents

Local governments, through law enforcement and fire protection services, are responsible for responding to incidents that arise from the use of fireworks. Preliminary 2003 data from the Office indicates that 173 different fire departments and hospitals reported 1,266 injury and fire incidents in 2003, up from 231 incidents reported by 60 agencies in 2002. Of the total number of incidents for 2003, 24 percent were caused by legal devices, 31 percent by illegal devices, and 45 percent by unknown devices.

Summary of Bill:

A new state excise tax is applied to the first sale, use, consumption, handling, or distribution of fireworks within the state. The rate of tax is five percent of the wholesale value. Tax liability occurs when fireworks are first imported into the state; manufactured within the state; shipped to retailers for sale within the state; or handled within the state in any manner if the tax has not been previously imposed. The tax must be itemized separately on a sales invoice.

Distributors of fireworks are required to maintain accurate records relating to fireworks transactions, including invoices of fireworks acquired and invoices of fireworks sold or otherwise distributed. Distributors are defined to include importers, manufacturers, wholesalers, and other persons that sell or handle fireworks. Records that must be maintained include names and addresses of purchasers and other pertinent documents relating to the disposition of the fireworks. Exceptions from these requirements are provided to distributors that sell to ultimate consumers from the location for which the business is registered with the Department of Revenue (Department). Retailers must maintain itemized invoices of all fireworks acquired and are liable for the tax on any uninvoiced fireworks. The Department is directed to implement rules to establish the level of detail required on invoices.

A credit is allowed against tax liability if fireworks that have already been subject to tax are returned to the manufacturer or are destroyed by the distributor.

Revenue from the new tax is deposited to the fire services trust fund for the purpose of providing grants to local fire protection and law enforcement departments for the purpose of defraying costs associated with responding to fireworks-related incidents.

Appropriation: None.

Fiscal Note: Requested on February 20, 2004.

Effective Date: The bill takes effect on October 1, 2004.