

SENATE BILL REPORT

SB 5914

As Passed Senate, March 5, 2015

Title: An act relating to clarifying and restating the scope of local authority regarding regulation of fireworks by adopting uniform statewide standards and rules that continue the current limited scope of local authority.

Brief Description: Addressing local authority in the regulation of fireworks.

Sponsors: Senators Benton, Padden, Miloscia, Keiser, Conway, Roach, Warnick, Hewitt, Hatfield, Angel, Ericksen, Hobbs and O'Ban.

Brief History:

Committee Activity: Law & Justice: 2/17/15, 2/19/15 [DP, DNP, w/oRec].
Passed Senate: 3/05/15, 33-14.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille.

Minority Report: That it be referred without recommendation.

Signed by Senator Kohl-Welles.

Staff: Melissa Burke-Cain (786-7755)

Background: The Washington State Patrol's director of fire protection sets minimum fire prevention standards for fireworks in Washington. The state fire protection director makes any rules that are necessary to implement and enforce the state's minimum standards. The state fire protection director enforces the criminal provisions of the fireworks law and has statutory authority to adopt administrative rules to enforce civil penalty provisions. General authority law enforcement agencies may also enforce the fireworks laws within their jurisdictions.

Currently for retail fireworks sales, local jurisdictions have discretion to pass more restrictive ordinances than the minimum state standards for retail fireworks sales and use. Local jurisdictions issue retail sales permits for businesses and organizations who sell fireworks to

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consumers in the local jurisdiction. As long as the permit applicant complies with all state requirements and all local ordinances, the local jurisdiction issues the retail sales permit.

Local jurisdiction ordinances may conflict with the state's minimum requirements unless there are uniform statewide standards. The National Fire Protection Association (NFPA) adopts national technical fire prevention standards for storing, transporting, and distributing fireworks.

Local communities value the autonomy the law currently provides to local jurisdictions. Beyond fire prevention concerns, fireworks disrupt neighborhood peace and quiet and are stressful for pets and livestock. Fireworks create a risk of injury when carelessly used in crowded settings.

Summary of Bill: The National Fire Protection Association (NFPA) code 1124 is adopted as the statewide standard for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles. Cities and counties that allow retail fireworks sales must comply with the 2013 NFPA code.

Cities and counties may restrict the days and hours of legal sale and use of consumer fireworks in the jurisdiction by ordinance. Local ordinances may also restrict the types of consumer fireworks sold and used in the jurisdiction. Local ordinances must not conflict with the statewide standards of NFPA code 1124.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The State Fire Marshal should be able to enforce the statewide safety standards that apply to all retail sales in any location where retail sales are allowed. Some jurisdictions are not complying with the state minimum standards. Washington State should enforce the law.

CON: This bill is a 180 degree change in the law. What works as standards for sale and use in one jurisdiction may not work in another. Local jurisdictions should be able to apply their community standard. The NFPA has backed away from code 1124 as a standard for safety of consumer fireworks. The bill preempts local control and is not justified and unnecessary. There is nothing wrong with allowing the city or county officials in each jurisdiction to have discretion to decide fireworks regulation. The NFPA code is no longer relevant.

OTHER: The State Fire Marshal does not enforce the law. It is not the Washington State Patrol's role to do so. The emergency clause making the law change effective does not leave time for local jurisdictions to amend and implement new ordinances. The timeline for compliance should be lengthened.

Persons Testifying: PRO: Jerald Farley, Consumer Fireworks Safety Assn.

CON: Joe Beck, Frank Shaskey, city of Bothell; Mark Brown, cities of Vancouver, Lacey, Longview, and Ridgefield; Candice Bock, Assn. of WA Cities.

OTHER: Melissa Van Gorkom, WA State Patrol.