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H.B. 172
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Reps. Baldrige and O'Brien

Local Impact Statement Procedure Required: No

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Highlights

- The bill imposes a 4% fee on purchasers of 1.4G consumer fireworks sold in the state beginning 100 days after the bill's effective date, to be deposited into the Fireworks Fee Receipts Fund, which the bill creates. The revenue that might be generated from the 4% fee on consumer fireworks purchases in Ohio is uncertain, but could be very substantial based on national sales data. The Fireworks Law is overseen by the State Fire Marshal within the Department of Commerce.
- Seven-eighths of the revenue deposited into the Fireworks Fee Receipts Fund will support firefighter training programs. One-eighth of the fee revenue will support the State Fire Marshal's expenses in administering the Fireworks Law.
- The bill creates a fountain device fireworks retailer license. The license fee is not to exceed \$25 and is to be renewed annually, with the proceeds to be deposited into the State Fire Marshal Fund (Fund 5460). According to the Department of Commerce, it is estimated that over 2,000 locations could be licensed, thus yielding a potential \$50,000 in annual fees from this source.
- The State Fire Marshal will require four new staff (three fire safety inspectors and one assistant fire chief) to oversee these fountain device retailers. Pay and fringe benefits costs would be between \$62,000 and \$76,000 per inspector and \$69,000 and \$83,000 for the assistant fire chief. These costs would be paid from Fund 5460.
- The bill extends an existing moratorium on issuing new and geographic transfers of existing fireworks manufacturer or wholesaler licenses from December 31, 2021, to December 31, 2022. The bill declares an emergency on extending these moratoriums and related provisions, meaning these particular provisions go into effect immediately.

Detailed Analysis

State Fire Marshal

Four percent fee on consumer fireworks

The revenue generated by the 4% fee on gross receipts of retail sales of consumer fireworks slated to begin 100 days after the bill's effective date under the bill would be used by the State Fire Marshal within the Department of Commerce to (1) carry out firefighter training programs and (2) cover expenses related to administering the Fireworks Law. Specifically, the bill specifies seven-eighths of the 4% fee collected is to be used solely to fund firefighter training programs, while the remaining one-eighth of the proceeds from the new fee is to be used to regulate the fireworks industry. The fee will be deposited into the Fireworks Fee Receipts Fund which the bill creates.

The amount of fee revenue that may be received under the bill is uncertain but could be significant. According to the American Pyrotechnics Association (APA), overall sales of consumer fireworks in the United States totaled \$1.90 billion in 2020. Although the amount of sales attributable to Ohio purchases is unknown, if the national sales data from the APA were prorated in proportion to Ohio's population, the 4% fee on gross retail fireworks receipts could generate a substantial amount of revenue for firefighter training programs and administering the Fireworks Law.

Fountain device retailer license

The State Fire Marshal will also incur costs to oversee the bill's requirement that fountain device sellers be licensed beginning 260 days after the bill's effective date. The State Fire Marshal estimates that over 2,000 retail locations would require licensure. Consequently, new staff will need to be hired to oversee these locations and conduct inspections as required under the bill. The bill defines a fountain device as a specific type of 1.4G firework if it is all of the following: (1) nonaerial and nonreport producing, (2) recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition), (3) a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke, and (4) contains no more than 75 grams of this mixture in any individual tube and no more than 500 grams of this mixture in total in multiple tubes.

To cover these responsibilities, the State Fire Marshal estimates that it will need to hire three fire safety inspectors and one assistant fire chief. If that is so, based on the state's employee classification plan, if fire safety inspectors are hired at the starting annual salary of approximately \$46,000, it will bring the Department's potential payroll costs to between \$62,000 and \$76,000 per inspector. This includes \$8,300 (18.1% of annual salary) to cover the employer's share of retirement and the employer's share of health insurance (\$7,890 for single coverage or \$21,601 for family coverage under the state's traditional health plan). Based on a starting annual salary of approximately \$52,000 for an assistant fire chief, the Department's potential payroll costs for that position would be between \$69,000 and \$83,000. This also includes \$9,400 (the employer's share of retirement as described above) and the employer's share of health insurance (single coverage or family coverage as described above). The payroll costs for both the new fire safety inspectors and the assistant fire chief would be paid from the State Fire Marshal Fund (Fund 5460).

Under the bill, the fee for a fountain device fireworks retailer license is not to exceed \$25 and is to be renewed annually. The license fees will be deposited into Fund 5460. Given approximately 2,000 retail locations, the license fee could generate \$50,000 annually (2,000 locations x \$25 license fee).

Other administrative expenses

The State Fire Marshal will also incur costs for enforcing the changes related to consumer fireworks in the Fireworks Law. The State Fire Marshal is required to adopt several rules including administering and enforcing the 4% fee and regulating the time, manner, and location consumer grade fireworks can be discharged. These costs would at least partially be offset by the additional funding from the 4% fee, one-eighth of which is to be used for these purposes.

Geographic transfer moratorium

The bill extends the existing moratorium on the geographic transfer of existing fireworks manufacturer and wholesaler licenses from December 31, 2021, as under current law, to December 31, 2022.

Fireworks manufacturer and wholesaler license moratorium and one-time license period

The bill also extends a general moratorium on the issuance of new licenses for fireworks manufacturers and fireworks wholesalers for a particular location until December 31, 2022, as opposed to December 31, 2021, as under current law. Additionally, the bill includes a one-time license period for new fireworks manufacturers and wholesalers to coincide with the end of the moratorium. Under the bill, any person, not already licensed, may submit an application by November 1, 2022, and receive a license on January 1, 2023. A license issued is valid through November 30, 2023. The current law fee for these licenses is \$2,750, with the proceeds to be deposited into Fund 5460. Any additional license revenue collected as a result of the moratorium ending will depend on the number of new manufacturers and wholesalers wishing to sell fireworks in Ohio. Currently, there are six licensed manufacturers and 44 licensed wholesalers.

Fire Code Rule Recommendation Committee

The bill creates the Ohio Fire Code Rule Recommendation Committee to review any sections of the Fireworks Law and make recommendations to the State Fire Marshal. The Committee, to consist of 16 members from the public and private sectors selected according to criteria specified in the bill, is to submit a report and recommendations by not more than 100 days after the bill's effective date. Presumably, the State Fire Marshal could incur some costs for providing support to the committee and carrying out any recommendation the committee suggests and that are implemented.

Usage of consumer-grade fireworks

The bill contains several other provisions that affect local government oversight of fireworks. Chief among them is a provision that allows individuals to purchase and use consumer fireworks in the state. Under current law, consumer fireworks may be purchased legally in Ohio, but must be transported out of Ohio within 48 hours of purchase and may not be set off anywhere within the state. The bill changes this by allowing these fireworks to be set off within Ohio beginning on specific dates after July 1, 2022. These dates are: New Year's Eve; New Year's Day; Chinese New Year; Cinco de Mayo; Memorial Day weekend; Juneteenth; July 3, 4, and 5; as

well as the Fridays, Saturdays, and Sundays preceding and following; Labor Day weekend; and Diwali. However, the bill also permits counties and townships, with regard to their unincorporated areas, as well as municipalities, to restrict the dates and times when consumer-grade fireworks may be used or to impose a ban on their use. Altogether, allowing for fireworks to be used on certain dates, even with restrictions enforced by local governments, will probably reduce the number of fireworks violations issued by local law enforcement.

New prohibitions

Finally, the bill establishes new prohibitions on the negligent use of fireworks. The first new prohibition bars anyone from using fireworks of any kind while under the influence of intoxicating liquor, alcohol, or controlled substances. This would be a first degree misdemeanor, to which a disorderly conduct violation could also attach. The second new violation would prohibit anyone from negligently using fireworks on someone else's property without their permission, a minor misdemeanor. Altogether, it may be that local governments incur additional enforcement costs as a result of these violations. The additional cost would to some degree be offset by revenue from the additional fines collected for these violations.

Emergency clause

The bill declares an emergency on extending a moratorium on new, and geographic transfer of existing, fireworks wholesaler and manufacturer licenses, and related end-of-moratorium provisions. Due to the emergency clause, those provisions will be effective immediately.