



OHIO LEGISLATIVE SERVICE COMMISSION

Shannon Pleiman and other LSC staff

Fiscal Note & Local Impact Statement

Bill: H.B. 226 of the 132nd G.A.

Status: As Passed by the House

Sponsor: Reps. Seitz and Sweeney

Local Impact Statement Procedure Required: No

Subject: Establishes the Fireworks Study Group and makes revisions to the Fireworks Law

State Fiscal Highlights

- The bill imposes a 4% fee on purchasers of 1.4G consumer fireworks sold in the state beginning January 1, 2021, to be deposited into the Fireworks Fee Receipts Fund, which the bill creates. Revenue from the 4% fee may be up to \$1.5 million per year.
- The State Fire Marshal Fund (Fund 5460) will gain revenue from the transfer of the fee revenue from the Fireworks Fee Receipts Fund. Seven-eighths of the revenue deposited into Fund 5460 (i.e., approximately \$1.3 million annually) will support firefighter training programs.
- One-eighth of the fee revenue (i.e., an estimated \$200,000 annually) will support the State Fire Marshal's activities related to the enforcement and regulation of the fireworks industry. Enforcement responsibilities include preparing and distributing fireworks safety pamphlets to all licensed manufacturers and wholesalers of consumer fireworks, and ensuring that safety glasses are available to buyers.
- The bill extends an existing moratorium on issuing annual fireworks manufacturer and wholesaler licenses, from the current lapse date of December 15, 2017 to July 1, 2020. If the moratorium is lifted, beginning in July 2020, there may be a gain in annual license revenue deposited into Fund 5460.
- Legalizing use of consumer fireworks in Ohio may increase sales and associated tax revenue, benefitting primarily the GRF. Estimated sales are subject to state sales and use tax estimated at \$2.2 million annually; it is likely that most of this amount is being collected under current law.

Local Fiscal Highlights

- If the new 4% state fee on fireworks sales reduces the quantity of fireworks demanded, revenue from permissive sales and use taxes may decrease. If legalizing use of consumer fireworks results in more sales in Ohio, county and transit authority sales tax revenue could increase. Estimated sales are subject to permissive local sales taxes estimated at \$0.5 million annually.

- Counties, townships, or municipal corporations may incur additional enforcement costs to ensure compliance with the consumer fireworks provisions in the bill. If there are more violations cited, adjudication costs for counties and municipalities could minimally increase. However, these costs would be at least be partly offset by revenue from fines and court costs that may be imposed.

Detailed Fiscal Analysis

Overview

The bill allows individuals to purchase and use 1.4G consumer grade fireworks in Ohio. Under current law, consumer grade fireworks may be purchased legally in Ohio, but such fireworks are required to be transported out of Ohio within 48 hours of purchase. The bill eliminates the requirement that the consumer fireworks must be transported out of the state beginning July 1, 2020. Under current law, consumer grade fireworks are subject to state and permissive local sales and use taxes. Beginning January 1, 2021, the bill imposes an additional 4% fee on the retail sale of consumer grade fireworks in the state and creates the Fireworks Fee Receipts Fund. Additionally, the bill extends the moratorium on issuing fireworks manufacturer and wholesaler licenses to July 1, 2020. Lastly, the bill establishes a Fireworks Study Group to review any sections of the Fireworks Law and make recommendations to the General Assembly including recommendations on licensure of the manufacture of fireworks, purchase of 1.4G consumer fireworks, and moratorium on licenses. The fiscal effects are described in more detail below.

Department of Taxation

The Department of Taxation is responsible for administration of many of the provisions of the bill including the new 4% fee, which is to be administered in the same manner as the sales and use tax. The new fee would go into effect January 1, 2021. Fireworks vendors are to collect the 4% fee from consumers along with the sales tax. Vendors are to file a return and remit payment of fees collected monthly, or less often for smaller vendors at the discretion of the Tax Commissioner. The bill permits the Department to impose a charge of the greater of \$50 or 10% of the fee owed for failure of a fireworks vendor to file a required return, as well as interest for failure to make timely payment and a penalty of up to 15%.

The amount of additional tax revenue that may be received under the bill appears quite uncertain. According to the American Pyrotechnics Association (APA), consumer fireworks revenue in the United States totaled \$775 million in 2015. Based on past growth of spending on consumer fireworks, consumer fireworks revenue nationwide might be around \$850 million this year, and \$1,070 million in 2021 when the new fee would go into effect. Ohio's pro rata share of this total, based solely on population, would be about \$38 million. The restrictions on use of consumer fireworks in the state may have held down sales to consumers who would have bought fireworks for use in Ohio if such use was legal. However, casual observation suggests that use of

such fireworks in Ohio is widespread, and the constraint posed by the illegality of such use may be small. Some Ohio sales may be lost to other states with more permissive consumer fireworks laws, which include all states bordering Ohio according to the APA, and consumers may not be paying use taxes on consumer fireworks purchased elsewhere and brought into Ohio. Expanding the ability of individuals to obtain consumer fireworks in the state may increase payment of sales tax, though the extent of any such increase appears uncertain. Assuming sales of consumer fireworks in this state of \$38 million in 2021 implies that the new 4% fee would raise about \$1.5 million per year.

State Fire Marshal

Use of additional 4% fee

The bill requires that the 4% fee imposed on consumer fireworks be deposited into the Fireworks Fee Receipts Fund and transferred to the State Fire Marshal Fund (Fund 5460). Specifically, the bill specifies that 7/8 of the 4% fee collected is to be used solely to fund firefighter training programs. The remaining one-eighth of the proceeds from the new fee is to be used to fund activities and operations of the State Fire Marshal that are related to the regulation and enforcement of the fireworks industry. As described above, the 4% fee could result in an additional \$1.5 million to be deposited into Fund 5460, although that figure is speculative and based on national fireworks sales data from 2015.

The State Fire Marshal will also incur minimal costs for enforcing the changes related to consumer fireworks in the Fireworks Law. Under the bill, the State Fire Marshal is to prepare a pamphlet that explains how to use consumer grade fireworks safely and distribute the pamphlet to licensed wholesalers and manufacturers to distribute to each purchaser, and that licensed wholesalers and manufacturers are distributing the pamphlet to buyers. The State Fire Marshal is also to ensure that licensees have safety glasses available for free or at a nominal charge if they are selling consumer grade fireworks. This will result in a minimal enforcement cost that would at least partially be offset by the additional funding from the 4% fee, one-eighth of which is to be used for this purpose. Based on the overall estimated annual take of \$1.5 million from the 4% fireworks fee, this means that about \$200,000 annually would be available for enforcement of the bill's provisions.

Extension of fireworks manufacturer and wholesaler license moratorium

The bill also extends a general moratorium on the issuance of licenses to fireworks manufacturers and fireworks wholesalers until July 1, 2020. However, it eliminates, beginning January 1, 2021, the moratorium on geographic transfer of fireworks manufacturers and fireworks wholesalers licenses. Currently, both of these restrictions end September 15, 2018. If the moratorium is not extended, the State Fire Marshal could issue new licenses. The fees are \$2,750 and are 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.

Fireworks Study Group

The bill provides for creation of a Fireworks Study Group to review purchase of 1.4G fireworks, the moratorium on licenses, building code requirements for 1.3G manufacturers, and the effects of specified sections of the Revised Code. The Group, to consist of 17 members from the public and private sectors selected according to criteria specified in the bill, is to submit recommendations by July 1, 2019. The bill (Section 4) states that the General Assembly intends most provisions of the bill to go into effect July 1, 2020, unless other legislation based on the Group's recommendations is enacted by then. The Group will incur costs for meetings and preparation of a final report and possibly additional reports. The bill does not provide for these costs.

Local governments

Law enforcement

The bill allows counties, townships, or municipal corporations to restrict or ban the discharge, ignition, or explosion of consumer fireworks. Additionally, the bill requires that people who are discharging, igniting, or exploding consumer fireworks not be under the influence of intoxicating liquor, alcohol, or controlled substances. Altogether, it may be that local governments incur additional enforcement costs to ensure that people are complying with the provisions of the bill. If there are more violations cited and prosecuted under the bill, adjudication costs for counties and municipalities could increase. However, these costs would be at least partially offset by revenue from more citations being issued.

Sales tax collections

Sales of consumer fireworks in Ohio of \$38 million in 2021, as described above, would result in state sales and use taxes owed of about \$2.2 million annually, based on the state's tax rate of 5.75%, and permissive county and transit authority sales and use taxes due of approximately \$0.5 million, based on a statewide average of local sales tax rates; some, likely most, of these revenues may be collected under current law. To the extent that demand for fireworks is price sensitive, the higher price represented by the additional 4% fee may reduce the quantity of consumer fireworks sold, and may be absorbed in part by sellers accepting smaller margins. State sales and use tax revenue might be reduced if the added fee resulted in lower sales. How much sales might change with passage of the bill is unknown. On the other hand, the legalization of use of consumer fireworks may also result in higher state and local revenue from increased demand and sales of fireworks (due in part to the reduction of lost sales to bordering states), along with any charges for failure of fireworks vendors to file or pay on time.

Any change in state sales tax collections resulting from passage of the bill would alter the amount of transfers through the Local Government Fund (LGF, Fund 7069) to units of local government, calculated as 1.66% of total GRF revenues. Any such change appears likely to be quite small. The LGF would not be affected directly by the new state 4% tax on consumer fireworks sales since these revenues would not be deposited into the GRF.

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