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House Bill 5999 (Substitute S-1 as reported) House Bill 6000 (Substitute S-1 as reported)

Sponsor: Representative Harold Haugh (H.B. 5999)

Representative Andrew Kandrevas (H.B. 6000)

House Committee: Appropriations

Senate Committee: Economic Development and Regulatory Reform

CONTENT

<u>House Bill 5999 (S-1)</u> would repeal Chapter 34 (Fireworks) of the Michigan Penal Code, and create the "Michigan Fireworks Safety Act" to do the following:

- -- Require a person to obtain an annual fireworks certificate in order to sell consumer fireworks or to store them for later sale; and prescribe a certificate application fee of \$750.
- -- Create the "Fireworks Safety Fund" and require application fees to be deposited in it.
- -- Prescribe requirements for the sale of consumer fireworks, including specific provisions for tent sales.
- -- Require annual inspections of retail sales facilities (RSFs), buildings, and tents where consumer fireworks were stored or sold.
- -- Restrict the hours during which consumer fireworks could be used.
- -- Prohibit a convicted felon from holding a license in a business that sold fireworks in Michigan.
- -- Prohibit a person from possessing, purchasing, selling, discharging, or igniting consumer fireworks while under the influence of alcohol or drugs.
- -- Prohibit a person from smoking in a facility where consumer fireworks were sold.
- -- Prohibit the use of consumer fireworks on another person's property without permission.
- -- Prohibit a minor from possessing or purchasing consumer fireworks.
- -- Prohibit the sale or provision of fireworks to a minor; and require revocation of the permit or certificate of a retailer who violated the ban at least three times within one year.
- -- Prescribe civil and criminal penalties for violations of the proposed Act, including felony penalties for causing serious impairment of a body function or death.
- -- Allow the Bureau of Fire Services to delegate authority and responsibility to local fire officials.

A person could sell consumer fireworks at retail only under one of the following conditions:

- -- The person sold fireworks from an RSF that met certain fire prevention standards, and the total retail sales area for the display and sale of consumer fireworks to which the public could be admitted was at least 1,000 square feet.
- -- Before April 20, 2013, the person sold fireworks from an RSF that met the following criteria: the RSF was a permanent building at which low-grade fireworks were sold before the proposed Act took effect, sold no merchandise other than consumer grade fireworks, and was equipped with a fire and intrusion alarm system.

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- -- The person sold fireworks from an RSF that met the following criteria: the total retail sales area for all goods was greater than 25,000 square feet; the RSF was a grocery or general merchandise retail store; the RSF held a valid retail food establishment license; and the RSF complied with certain fire prevention standards.
- -- The person sold only low-grade fireworks from a permanent building or structure other than an RSF if the fireworks satisfied certain fire prevention standards.

In addition, a person could sell consumer fireworks from a tent that met the following criteria:

- -- The tent was not more than 35 feet by 50 feet and met certain fire prevention standards.
- -- The tent was located in the parking lot of an RSF that met the criteria described above.
- -- The location was allowed under applicable zoning laws.
- -- The parking lot contained at least 125 marked spaces.
- -- The tent was not located within 300 feet of another tent from which fireworks were sold.

House Bill 6000 (S-1) would amend the Michigan Penal Code to add several of the violations proposed by House Bill 5999 (S-1) to the sentencing guidelines, as shown in <u>Table 1</u>.

Table 1

Violation	Category	Class	Statutory Maximum
Consumer fireworks certificate violation	Public safety	G	Two years
Violation causing serious impairment of a body function	Public safety	G	Five years
Violation causing death	Public safety	Е	15 years

MCL 777.11b (H.B. 6000)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bill 5999 (S-1) would likely have a positive effect on State revenue. The bill would generate new revenue from the \$750 fee imposed annually on retail sales facilities as well as from an identical fee imposed on sites with up to five structures where consumer fireworks would be stored. This fee also would be charged for a tent where consumer fireworks would be stored. Beginning January 1, 2014, the Bureau of Fire Services would be able to set a fee based on expected gross revenue received by an individual RSF that was sufficient to cover the Bureau's cost of administering the proposed Act.

Additionally, new revenue would be collected from a fee imposed upon those wishing to possess and sell "display" fireworks, articles pyrotechnic, or special effects. These fees would be set administratively.

The amount of revenue raised by these fees is indeterminate, as it is not known how many retailers would apply to be RSFs, or what the volume of potential firework sales would be. However, the bill would create the Fireworks Safety Fund, which would receive all new revenue under the bill.

The State also would likely experience various increased costs under House Bill 5999 (S-1). The Bureau of Fire Services would be required to issue consumer fireworks certificates, inspect RSFs and storage facilities, establish guidelines for training RSF management personnel, and promulgate related administrative rules. The Department of Energy, Labor, and Economic Growth has not provided cost estimates for these responsibilities. In addition, the Department of Treasury would likely experience some costs resulting from the administration of the Fireworks Safety Fund.

In addition, the criminal penalties in House Bills 5999 (S-1) and 6000 (S-1) would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. An offender convicted of one of the Class G offenses under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. An offender convicted of the Class E offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,500, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 12-2-10 Fiscal Analyst: Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.