

# Legislative Analysis



## **FIREWORKS SAFETY ACT**

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**House Bills 4293 (H-4) & 4294 (H-1)**

**Sponsor: Rep. Harold Haugh**

**Committee: Regulatory Reform**

**Complete to 9-21-11**

## **A SUMMARY OF HOUSE BILL 4293 - 4294 AS REPORTED FROM COMMITTEE**

### **BRIEF SUMMARY:**

House Bill 4293 (H-4) would establish the Michigan Fireworks Safety Act, a comprehensive new law regulating the sale, purchase, possession, and use of fireworks; provide civil and criminal penalties for violations of the act; impose various fees on wholesalers, distributors, and retailers; impose a five percent fee on the retail sale of fireworks; and establish a Fireworks Safety Fund. The bill would repeal Chapter XXXIX (Fireworks) of the Michigan Penal Code, which currently governs the sales, storage, manufacture, transportation, and display of fireworks.

Generally speaking, the bill would represent an expansion of the fireworks that could be lawfully sold to consumers without a permit. Currently, under the Michigan Penal Code, consumers may lawfully acquire (without a permit) certain low-grade fireworks (sparklers, etc.), whereas "consumer fireworks," a more expansive category of fireworks that includes aerial devices and other more spectacular devices, may be acquired only with a permit. The bill would allow consumers to purchase consumer fireworks without a permit.

House Bill 4294 (H-1) would make complementary amendments to the sentencing guideline provisions contained in the Code of Criminal Procedure. The following is a section-by-section description of House Bill 4293 (H-4).

A detailed section-by-section summary follows later.

### **BRIEF FISCAL IMPACT:**

House Bill 4293 (H-4) will have a fiscal impact on both state and local revenues. The bill creates a new restricted fund within the state treasury (Fireworks Safety Fund) and levies a series of new fees (Fireworks Certificate application fees and the Fireworks Safety Fee) and fines pertaining to the storage and sale of fireworks in the state. HB 4293 (H-4) requires the Bureau of Fire Services (Bureau) to administer new procedures, promulgate new rules, and investigate suspected violations. Additionally, HB 4293 (H-4) alters the regulatory authority of fireworks between state and local governments and enables the remittance of specified fees and the reimbursement for delegated duties to local governments.

HB 4293 (H-4) would increase state revenues by establishing new certification application fees, retail sales fees, and fines. Increases in state expenditure would be more than offset by the increases in revenues. HB 4293 (H-4) would likely decrease local government revenues by an indeterminate amount through the reduction of regulatory oversight over storage and most sales of fireworks. (More detail is provided later.)

## **DETAILED SECTION-BY-SECTION SUMMARY:**

### **House Bill 4293 (H-4) (Fireworks Safety Act)**

#### **Section 1 - Title**

The bill may be known as the Michigan Fireworks Safety Act.

#### **Section 2 - Definitions**

This section contains a number of definitions. Some of the notable definitions include:

- APA Standard 87-1: The 2001 APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, published by the American Pyrotechnics Association.
- Articles Pyrotechnic: Pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.
- Consumer Fireworks: fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1. Consumer fireworks does not include low-impact fireworks.
- Display Fireworks: large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provide in 29 CFR 555.11, 49 CFR 172, and APA standard 87-1.
- Firework: any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.
- Low-Impact fireworks: ground and handheld sparkling devices as that phrase is defined under APA standard 87-1 3.1 or novelties as defined under APA standard 87-1 3.2 and all of the following: (1) toy plastic or paper caps for toy pistols; (2) toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns; (3) flitter sparklers; (4) and toy snakes.
- Permanent building or structure: a building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive days.

- Retail sales facility (RSF): a permanent building or structure that is used for the retail display and sale of consumer fireworks or low-impact fireworks.
- Special effects: a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

### **Section 3 - Transfer, Possession, and Selling**

A person can only store, transfer, possess, or sell fireworks as provided for in this act.

### **Section 4 - Standards**

All fireworks sold would have to satisfy the minimum standards set by the U.S. Consumer Product Safety Commission and must be tested and/or certified by a third-party testing agency. Additionally, low-impact fireworks would have to meet the applicable NFPA standards.

### **Section 5 - Fireworks Certificate**

This bill would prevent anyone from storing or selling fireworks unless annually obtaining a fireworks certificate from the Bureau. A certificate permits the sale, transportation, distribution, or storage of fireworks between May 1 and the following April 30. An application for a fireworks certificate would have to be submitted no later than March 1 of each year and must list the name and address of each retail sales facility or tent location from which fireworks are to be sold. Additionally, the Bureau would be required to issue or deny an application for a certificate within 30 days. The application fee would be as follows:

- For each retail sales facility or warehouse, \$1,000 for an original certificate and \$600 for a renewal certificate. An RSF or warehouse would be eligible for a renewal certificate after a year in which an original certificate was obtained, provided there were no changes in size or structure of the retail or storage area and the type of firework being sold.
- For each tent, \$600.

Failure to obtain a fireworks certificate is a misdemeanor punishable by a fine of not more than \$5,000, imprisonment for not more than two years, or both. Retailers would be required to prominently display the certificate and a violation would be punishable by a fine of \$100. All of the fees collected under this section must be deposited in the Fireworks Safety Fund.

Individuals convicted of a felony or individuals that have failed to collect or remit a fireworks safety fee are not eligible to receive a fireworks certificate. Anyone manufacturing fireworks in Michigan that transports them out of state by commercial carrier is not required to obtain a fireworks certificate. The State Fire Marshal would be required to create and maintain a website listing every person and entity that is issued a fireworks certificate.

## **Section 6 - Facilities Used for the Retail Sale of Fireworks**

Retailers selling consumer fireworks and low-impact fireworks could only do so from a facility that meets the following conditions:

- An RSF must meet the applicable requirements of National Fire Protection Association's Life Safety Code (101) and Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (1124) that are not inconsistent with the bill.
- A tent may not be larger than 35 feet by 50 feet and must satisfy the requirements of NFPA 1124 that are not inconsistent with the bill.
- Maintains at least \$2.0 million in public liability and product liability insurance.
- Retailers selling consumer fireworks must always have at least one employee on site during hours of operation that is trained in handling consumer fireworks, in accordance with the rules set by the bureau.
- All sites selling or storing fireworks have been inspected by the state fire marshal prior to initial certification.

## **Section 7 - Sale of Low-Impact Fireworks without a Permit**

Low-impact fireworks may be sold without obtaining a fireworks certificate provided they are sold from the same location during the year immediately preceding the year of the effective date of this bill and every year after that, and if the local unit of government has adopted an ordinance and the tent meets the requirements of the ordinance, when applicable.

## **Section 8 - Local Ordinance**

Local units of government are permitted to adopt ordinances permitting and regulating the sale of consumer and/or low-impact fireworks from a tent. Sales of these products may not be made from a tent unless the local unit where the tent is located adopts an ordinance permitting their sale. The regulations established by ordinance must include, but may exceed, the requirements under Section 6 of this bill.

## **Section 9 - Fireworks Safety Fee**

The bill would impose a fireworks safety fee on retail transactions made for fireworks. Revenue generated from the fee will be deposited in the Fireworks Safety Fund. The fee is to be collected by the retailer at the time of sale and failure to do so is a misdemeanor punishable by a \$10,000 maximum fine. Violators would also be ineligible to obtain a fireworks certificate for 1 year after being convicted.

## **Section 10 - Fireworks Safety Fee Schedule**

The fireworks safety fee would be determined by the gross retail income from fireworks received by a merchant in a retail unitary transaction. The fee would be 6% on transactions \$1.04 or more. The bill also contains a chart detailing the fees on lesser amounts. Retailers would be permitted to retain 1% of the fireworks safety fee collected as a collection allowance.

**Section 11 - Duty to Remit Fireworks Safety Fee**

Retailers would be responsible for remitting fireworks safety fee revenue to the Department of Treasury on a monthly basis, and would be personally liable for the payment.

**Section 12 - Fireworks Safety Fund**

Revenue from the fireworks safety fee would be credited to a new fund, known as the Fireworks Safety Fund. Money remaining in the fund at the close of a fiscal year would remain in the fund, rather than lapsing to the General Fund. The fund could only be expended to implement the bill and the Fire Prevention Code.

**Section 13 - Use of Fireworks**

The bill would prohibit individuals from igniting, discharging, or using consumer fireworks on public property, school property, church property, or the property of another person without permission. A violation would be a state civil infraction subject to a fine of not more than \$500.

Minors would not be allowed to purchase fireworks. Anyone found guilty of selling to a minor would be responsible for a state civil infraction and a fine of not more than \$500.

Individuals would be prohibited from possessing, purchasing, or selling consumer or low-impact fireworks while under the influence of alcohol or drugs. Additionally, an individual would be prohibited from smoking within 50 feet of a retail sales facility, tent, or warehouse that sells fireworks. A violation would be a misdemeanor punishable by up to 1 year of imprisonment and/or a fine of not more than \$1,000. Retailers would be required to post signs regarding the prohibition against smoking.

**Section 14 - New Explosives**

Individuals can only produce and transport a firework that is a new explosive and that is either a division 1.3 or division 1.4 explosive. Fireworks wholesalers are required to maintain a resident agent who resides in and has a physical address in Michigan. A post office box is not considered a physical address for purposes of this section.

**Section 15 - Authority of Law Enforcement**

A law enforcement agency that identifies a facility or firework that is in violation of this act, or a person possessing illegal fireworks, would be required to seize the firework and notify the bureau immediately. Pending an investigation the bureau could seize the firework and store it pending disposition of any criminal or civil proceedings.

**Section 16 - Seizing and Destroying of Fireworks**

Any seized fireworks would have to be stored in compliance with this act. The seizing agency would be responsible for destroying the firework following final disposition of a conviction. If the fireworks were determined to be hazardous waste it would have to be disposed of by the Department of Environmental Quality.

### **Section 17 - Permit from Local Legislative Body**

Upon completion of an application and payment of a fee, a local legislative body would be permitted to grant a permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, or special effects manufactured for outdoor pest control, agriculture purposes, or for public display.

Local legislative bodies may also grant permits to resident wholesale dealers to possess fireworks intended to be sold to individuals holding permits under this section. A permit for articles pyrotechnic cannot be issued until the organization applying for the permit provides proof of financial responsibility. Permits cannot be issued to nonresidents until that person has appointed a legal representative in Michigan upon whom all actions or proceedings against the person can be served.

Local units of government that issue permits under this section will retain all fees paid by the applicant.

### **Section 18 - Activities Not Prohibited**

The bill provides the following activities are not prohibited:

- A wholesaler, retailer, manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks.
- The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.
- The use of agricultural or wildlife fireworks.
- The sale or use of blank cartridges for a show or play, signal or ceremonial purposes in athletics or sports, use by military organizations, or use by law enforcement agencies.
- The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who possess a permit to possess, store, and sell explosives from the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- Interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

### **Section 19 - Violations of the Act**

Unless otherwise provided, violators of this act would be guilty of a crime as follows:

- Misdemeanor punishable by 30 days imprisonment and/or a fine not more than \$1,000.
- For violations causing personal or property damage: a misdemeanor punishable by 90 days imprisonment and/or a fine not more than \$5,000.
- For violations causing serious impairment of body function of another person: a felony punishable by 5 years imprisonment and/or a fine of not more than \$5,000.
- For violations resulting in the death of another person: a felony punishable by 15 years imprisonment and/or a fine not more than \$10,000.

Violators will also be required to reimburse the appropriate governmental agency for the costs of storing seized fireworks.



## **Section 20 - Delegation to Local Fire Department**

The bureau may delegate responsibility for inspections and other duties under this act to local fire departments. If delegation occurs, 80% of the cost of performing the delegated responsibilities must be provided to the local unit.

The bureau must enter into a contract with any local fire department it wants to delegate responsibility to. The contract would have to clearly state the authority and responsibility being delegated and the payments to be made.

## **Section 21 - Promulgation of Rules**

The bill would allow the bureau to promulgate rules under the Administrative Procedures Act to administer this new act. A year after the effective of this bill, the bureau would be required to promulgate new rules regarding the amount charged for fireworks certificates to accurately reflect the actual costs for processing applications and conducting inspections. All rules promulgated under this section must conform to the relevant codes developed by the National Fire Protection Association, except for any code that conflicts with this act.

## **Enacting Section 1**

The bill would repeal Chapter XXXIX of the Michigan Penal Code (MCL 750.243a-750.243e).

## **DETAILED FISCAL IMPACT:**

### **State Revenues**

HB 4293 (H-4) would **increase state revenues** through the collection of annual Fireworks Certificate application fees from persons storing or selling fireworks ("low-impact", "consumer", & "display") and the levy of a new Fireworks Safety Fee on the retail sale of fireworks as well as the institution of several new fines assessed for violations of the bill.

Under current law the state does not collect any fees from personal storing or selling fireworks. Sec. 5 of HB 4293 (H-4) stipulates that persons who intend to store or sell fireworks must obtain a Fireworks Certificate. The initial application fee for a Fireworks Certificate for a warehouse or retail sales facility is \$1,000.00, and \$600.00 for each annual renewal certificate. The application fee for a "tent" where fireworks are to be sold is \$600.00.

In addition to the application fees, Sec. 9 of HB 4293 (H-4) imposes a new Fireworks Safety Fee on retail transactions of fireworks. This fee is equivalent to a consumption tax and would levy 6% on retail transactions of fireworks generating more than \$1.04 of gross retail income; with 1% remitted to the retailer for collection expenses and 5% deposited into the Fireworks Safety Fund.

Additionally, by permitting the legal sales of currently prohibited fireworks, HB 4293 (H-4) would have a positive impact on state sales tax revenues. The exact magnitude of this

impact is unknown and would depend on quantity of sales of "consumer" fireworks within the state.

HB 4293 (H-4) also institutes a variety of fines relating to the improper sale, storage, or use of fireworks. These fines range from violations of subsections of the bill<sup>1</sup> to civil infractions<sup>2</sup>, from misdemeanors<sup>3</sup> to felonies<sup>4</sup>. Under current law fines collected from criminal violations and civil infractions are dedicated to the support of public libraries. Since HB 4293 (H-4) does specifically dedicate other "civil fines" collected from violation of subsections of the bill, the revenues collected from these fines would (under the Management and Budget Act) likely be deposited into the state General Fund.

The magnitude of the increase in state revenues would depend on how many persons apply for fireworks certificates, how many fireworks are sold by retailers, and how many violations of HB 4293 (H-4) occur. Neither the state nor federal government currently collect data on the number of establishments storing or selling fireworks or revenues from firework sales and it is inexact to estimate future violations of a new regulations. However, since the fees imposed and fines instituted in HB 4293 (H-4) are new while the market demand for fireworks already exists, it can be assumed that HB 4293 (H-4) will increase revenue collected for the state. In regards solely to the Fireworks Safety Fee, according to the "Indiana Handbook of Taxes, Revenues, and Appropriations"<sup>5</sup> for the fiscal year 2009, the state collected over \$2.5 million from a 5% tax levied on retail fireworks which was established when the state liberalized its fireworks laws in 2006.<sup>6</sup>

Under Sec. 12 of HB 4293 (H-4), the revenue collected from Fireworks Certificates application fees and the Fireworks Safety Fee would be deposited into a *newly* created Fireworks Safety Fund within the state treasury and directed by the state treasurer. Monies deposited in the Fireworks Safety Fund would be available to the Bureau to carry out the purposes of HB 4293 (H-4) and the Fire Prevention Code (1941 PA 207). At the close of the fiscal year, all monies remaining in the Fireworks Safety Fund would remain within that Fund and *not* lapse into the General Fund. The administration of the fund would have a modest fiscal impact on the Department of Treasury.

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<sup>1</sup> \$100.00 fine per day for failing to prominently display the fireworks certificate, up to \$2,500.00 fine per violation per day for failing to meet applicable conditions, and up to \$5,000.000 fine for not maintaining adequate liability insurance.

<sup>2</sup> Up to \$500.00 fine for use of fireworks on property without permission and up to \$500.00 fine for the sale of fireworks to minors.

<sup>3</sup> Up to \$5,000.00 fine per day for storing or selling fireworks without a fireworks certificate, up to \$10,000.00 fine for failure to collect or remit fireworks safety fee, up to \$1,000.00 fine for smoking within 50 feet where fireworks are sold, up to \$1,000.00 fine for other violations, and up to \$5,000.00 fine if property damage occurs from violation.

<sup>4</sup> Up to \$5,000.00 fine if serious bodily impairment occurs from violation and up to \$10,000.00 fine if death occurs from violation.

<sup>5</sup> Published by the Indiana Legislative Services Agency Office of Fiscal and Management Analysis. Accessed on 09/14/2011 at [http://www.in.gov/legislative/pdf/TaxHandbook09\\_online.pdf](http://www.in.gov/legislative/pdf/TaxHandbook09_online.pdf).

<sup>6</sup> While the level of the tax is similar (5% of gross retail income in Indiana, 6% of the gross retail income on transactions above \$1.04 minus 1% to retailer in Michigan), the differences in population (Michigan's population is more than 50% larger than Indiana's) and geography (Indiana shares long land borders with four states which currently prohibit "consumer" fireworks) limit the applicability of the fiscal impact of Indiana's fireworks laws. However, the Indiana's experience can shed a light on the probable revenue effects in Michigan if HB 4293 (H-4) were enacted.



## **State Expenditures**

HB 4293 (H-4) would impose several new duties on the Bureau of Fire Services, specifically:

1. Bureau to review Fireworks Certificate applications and approve or deny within 30 days of submission; review denied application if resubmitted within 45 days. [Sec. 5(5)]
2. Fire Marshal to create and maintain (or contract to create and maintain) a website that maintains a list of every person/entity that is issued a Fireworks Certificate. [Sec. 5(15)]
3. Bureau to promulgate rules that create an approved training program for employees working around "consumer" fireworks and maintain a list of individuals who have completed this training. [Sec. 6(4)]
4. Fire Marshal (or staff) to inspect all retail sales facilities, tents, and warehouses where fireworks are stored or sold prior to certification and at least annually thereafter. [Sec. 6(5)] (This duty can be delegated to local fire officials.)
5. Bureau to investigate suspected violations of the act and seize and dispose (DEQ) of fireworks in violation of the act. [Sec. 15(1-2)]
6. Bureau to promulgate rules, create application forms, and determine fees (reestablish fees one year following effective date of the act to reflect actual costs of administration and inspection) [Sec. 17(1-2) & 21(1-4)]

The Department has not yet estimated the magnitude of the fiscal impact on the Bureau from these new duties. Part of the difficulty in estimating the costs of carrying out these duties in the uncertainty surrounding the number of warehouses, retail sales facilities, and tents that would require inspection and the willingness of local fire officials to accept the delegation of inspection duties.

Beginning one year after the effective date of HB 4293 (H-4), Sec. 21(2) directs the Bureau to reestablish the application fees for Fireworks Certificates to accurately reflect the costs of processing applications and carrying out requisite inspections. Thus, HB 4293 (H-4) would not increase state expenditures without generating sufficient new state revenues.

In addition, Sec. 20 requires that the Bureau reimburse 80% of the inspections costs to local fire officials to whom inspections duties are delegated, while the Fireworks Certificate application fees will be reestablished to cover the total costs of inspections; therefore, the state would collect more revenue from the application fees than it would be reimbursing to local officials. The difference of 20% between reestablished fees and local reimbursements is an unambiguous increase in state revenues.

**Overall**, HB 4293 (H-4) would increase state revenues through application fees for Fireworks Certificates established to cover the costs of safety inspections, the Firework Safety Fee from which the state would collect 5% on most firework transactions, and increased sales tax revenue. Furthermore, the new fines instituted under HB 4293 (H-4) would generate revenue for public libraries and the General Fund.

### Changes in Local Regulatory Authority

Under current law (Chapter XXXIX of the Michigan Penal Code) local governments are empowered to regulate and grant permits for the storage, sale, and use of fireworks otherwise prohibited by the Code ("consumer" and "display" fireworks) within their jurisdiction. Storage and sale of fireworks that are not prohibited under the current law ("low-impact" fireworks) is currently regulated by local governments. Local governments may currently levy fees and fines in the regulation of fireworks.

HB 4293 (H-4) would delegate the authority to regulate the storage, sale, and use of all fireworks ("low-impact", "consumer", & "display") solely to the state Bureau. This authority would include the ability to levy fees and fines on wholesalers, retailers, and users of these fireworks. Local governments would have the authority to regulate "tent" sales of "low-impact" and "consumer" fireworks in excess of state regulation. Local governments would be able to levy fees and fines as part of the local regulation of "tent" sales.

HB 4293 (H-4) directs the Bureau to determine application forms and fees for the sale and use of "display" and other large fireworks and pyrotechnics. Local governments have the authority to grant permits for the sale and use of these fireworks within their jurisdiction and retain all of the application fees.

HB 4293 (H-4) allows the Bureau to delegate inspections and other duties under the bill to local fire officials and requires that the Bureau reimburse local fire officials 80% of the costs of performing these inspections and duties.

The following tables help to illustrate the regulatory changes made to current law by HB 4293 (H-4).

State & Local Regulation of Fireworks				
UNDER CURRENT LAW				
Firework Type	Where Stored or Sold			Use
	Warehouse	Retail Sales Facility	Tent	
No Permit Req Prohibited	LOCAL	LOCAL	LOCAL	LOCAL
	LOCAL	PROHIBITED	PROHIBITED	LOCAL

Who Regulates Fireworks?				
UNDER HB 4293 (H-4)				
Firework Type	Where Stored or Sold			Use
	Warehouse	Retail Sales Facility	Tent	
Low-Impact Consumer	STATE	STATE	STATE/ LOCAL	STATE/ LOCAL
	STATE	STATE	STATE/ LOCAL	STATE/ LOCAL
Display	STATE/ LOCAL	PROHIBITED	PROHIBITED	STATE/ LOCAL

\* In addition, the Federal government through the Bureau of Alcohol, Tobacco, & Firearms regulates the sale and use of "display" fireworks and the manufacturing of all fireworks.

## Local Fiscal Impacts

1. Local governments would experience a likely **decrease in current revenue** collected from the storage and sale of "low-impact" fireworks sold within its jurisdiction. (Revenue is not raised from "consumer" fireworks since they are prohibited by state law). The state will become the sole regulator of warehouse and retail sales facilities that store or sell fireworks, while local governments will be able to regulate the state of fireworks from "tents" in excess of state regulation
  - How much (or even whether) local revenues decrease is dependent upon the amount of revenue loss resulting from no longer regulating the storage and sale of fireworks in warehouses and retail sales facilities netted against any increases in revenue from regulating sales in "tents" which would now include "consumer" as well as "low-impact" fireworks. Whether the increase in state fees and regulations would reduce the number of "tents" or whether the ability of "tents" to sell (currently) prohibited "consumer" fireworks would increase the number of "tents" is unknown. However, it is likely that the net impact will be a decrease in local revenues.
2. Local governments would experience an **indeterminate effect on current revenues** collected by granting permits for the storage, sale, and use of fireworks otherwise prohibited. These permits are generally for the outdoor, public display of large fireworks. The current revenue generated from issuing permits would, to an indeterminate degree, be replaced with the application fees for the storage, sale, and use of "display" fireworks determined by the Bureau and remitted to local governments.
  - Since the application fees for the storage, sale, and use of "display" fireworks determined by the Bureau will be set at a uniform rate throughout the state, the revenue effect will be contingent on whether the application fees remitted to a local government are greater or less than the level of revenue currently collected through locally determined permits fees for the storage, sale, and use of otherwise prohibited fireworks.
3. Local governments would experience a **decrease in revenues** through an increase in expenditures from the delegation of investigation and other duties from the Bureau to local fire official since the Bureau will be reimbursing only 80% of the costs of delegated duties.
  - Currently local governments are responsible for the investigation and enforcement of regulations pertaining to the storage, sales, and use of otherwise prohibited fireworks. If local permit fees currently cover the costs of investigation and enforcement, then this provision would increase expenditures for local governments who would be responsible for 20% of the costs of investigation and other delegated duties.

The **net fiscal impact** on local governments will be the sum of the three fiscal impacts described above. HB 4293 (H-4) will likely result in **decreases in local revenues** but will be dependent on how much a local government currently raises in fees and fines

pertaining to the storage, sale, and use of fireworks<sup>7</sup> and how HB 4293 (H-4) will affect the market demand for "consumer" fireworks.

**Corrections Impact:** To the extent that the bills increased the numbers of misdemeanor or felony convictions for fireworks violations, it could increase state or local costs related to jail or prison incarceration or probation. The average annual cost of housing a prisoner in a state prison is about \$34,000, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. Local jail costs vary by jurisdiction. Any increase in penal fine revenues would benefit local libraries, which are the constitutionally-designated recipients of those revenues.

## **POSITIONS:**

The Michigan State Fire Marshal supports the bills. (5-4-11)

Michigan Township Association supports the bills. (5-4-11)

Michigan Municipal League is neutral on the bills. (4-13-11)

Meijer opposes the bills. (5-4-11)

Wal-Mart opposes the bills. (5-4-11)

Michigan Retailers Association opposes the bills. (5-4-11)

A representative of Captain Boom Fireworks testified in opposition to the bills. (5-4-11)

A representative of TNT Fireworks testified in opposition to the bills. (5-4-11)

Legislative Analyst: Jeff Stoutenburg  
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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>7</sup> For a point of reference: In 2010 the city of Lansing collected \$1,750 in display, \$1,380 in retail, and \$115 in wholesale fireworks licensing fees, for a total of \$3,245. The city of Lansing substantially raised the application fees for 2011 onward to raise additional revenue for the city.