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BILL ANALYSIS

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House Bill 4293 (Substitute S-1 as reported)
Sponsor: Representative Harold L. Haugh
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

CONTENT

The bill would repeal Chapter 34 (Fireworks) of the Michigan Penal Code, and create the "Michigan Fireworks Safety Act" to do the following:

-- Prohibit a person from selling consumer fireworks without obtaining an annual consumer fireworks certificate from the Bureau of Fire Services.
-- Prescribe certificate fees of $1,000 for each retail location that was a permanent building and $600 for each location that was not permanent, until January 1, 2014.
-- State a legislative intent that certificate fees be based on inspection cost data, beginning on January 1, 2014.
-- Impose a fireworks safety fee on retail transactions for the sale of consumer fireworks and low-impact fireworks.
-- Create the "Fireworks Safety Fund" and require certificate fees and fireworks safety fees to be deposited in it.
-- Allow up to $1.0 million from the Fund to be used each fiscal year for grants to local units of government to defray inspection costs associated with enforcing the Act.
-- Require each retail location selling consumer fireworks to be covered by liability insurance in an amount not less than $10.0 million per occurrence.
-- Require a retail location to meet National Fire Prevention Association requirements.
-- Require a retail location that was a permanent building to be equipped with a fire suppression system, beginning one year after the Act took effect.
-- Prohibit a person from selling low-impact fireworks without registering online, and require the Bureau to create an online registry.
-- Prohibit a person from using consumer fireworks or low-impact fireworks while under the influence of alcohol or drugs.
-- Prohibit the use of consumer fireworks on another person's property without permission.
-- Prohibit the sale of consumer fireworks to a minor.
-- Prescribe civil and criminal penalties for violations of the Act.
-- Require the Bureau or a law enforcement agency to investigate alleged violations, and provide for the seizure of fireworks.
-- Allow a city, village, or township to grant a permit for the use or display of fireworks, and to charge and retain a permit fee.
-- Require the State Fire Marshal to report to the Legislature by October 1, 2013, regarding the number of violations and the costs of inspecting retail locations.

The bill would take effect on January 1, 2012.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would likely have a positive effect on State revenue. The bill would generate new revenue from an annual $1,000 fireworks certificate fee imposed on permanent retail sales facilities. A $600 annual fee would be placed on nonpermanent structures. The bill also would establish a fireworks safety fee of 6% on the retail price of fireworks sold in the State. These new fees would generate an unknown amount of revenue to be deposited in the Fireworks Safety Fund, which the bill would create.

In addition, the proposed civil and criminal penalties, and sentencing guidelines, would have an indeterminate fiscal impact on State and local government. (The sentencing guidelines are proposed by Senate Bill 194 (S-5), which is tie-barred to the House bill.) There are no data to indicate how many individuals would be convicted of or found responsible for violations. An offender convicted of the Class G offense (a consumer fireworks certificate violation, subject to a maximum term of two years' imprisonment) would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. An offender convicted of the Class E offense (a violation of the proposed Act causing serious impairment of body function, subject to a five-year maximum) would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. An offender convicted of the Class C offense (a violation of the Act causing death, subject to a 15-year maximum) would receive a sentencing guidelines minimum sentence range of 0-11 months to 62-114 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 revenue from civil infraction fines and penal fines would benefit public libraries.

Date Completed: 11-4-11

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.