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House Bill 4743 (Substitute H-1 as passed by the House)
Sponsor: Representative Harold Haugh
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 6-6-13

CONTENT

The bill would amend the Michigan Fireworks Safety Act to do the following:

- **Allow a local unit of government to regulate the use of consumer fireworks between midnight or 1:00 a.m. and 8:00 a.m. on the day before, the day of, and the day after a national holiday.**
- **Remove a January 1, 2014, sunset concerning the payment of an application fee for a consumer fireworks certificate.**
- **Revise the allocation of money received from fireworks safety fees and consumer fireworks certificate fees.**
- **Allow the Department of Licensing and Regulatory Affairs (LARA) to establish a program for delegating inspection duties to local units of government.**
- **Require LARA to pay 70% of a retailer's certificate fee to a local unit that inspected the retail location.**
- **Set a deadline for a retailer to remit fireworks safety fees to LARA, and require LARA to inspect fees reported but not paid.**
- **Allow LARA to refer past-due fireworks safety fees to the Department of Treasury for collection.**
- **Provide that any provision of the Single State Construction Code Act that conflicted with particular National Fire Protection Association codes would be superseded by those codes.**

Local Regulation

The Act permits local units of government (cities, villages, and townships) to enact an ordinance regulating the ignition, discharge, and use of consumer fireworks. Under the bill, this could include, but would not be limited to, an ordinance prescribing the hours of the day or night during which a person could ignite, discharge, or use consumer fireworks.

Currently, an ordinance may not regulate the use of consumer fireworks on the day before, the day of, or the day after a national holiday. Under the bill, an ordinance could not regulate the ignition, discharge, or use of consumer fireworks on the day before, the day of, or the day after a national holiday except as follows:

- For a city with a population of 50,000 or more, or a local unit of government in a county with a population of 750,000 or more: between midnight and 8:00 a.m., or between 1:00 a.m. and 8:00 a.m. on New Year's Day.

-- For a city with a population of less than 50,000, or a local unit in a county with a population of less than 750,000: between 1:00 a.m. and 8:00 a.m.

An ordinance could not impose any fine or sanction except a maximum civil fine of \$500 for each violation.

Certificate Application Fee

The Act prohibits a person from selling consumer fireworks without an annual certificate from LARA. An application for a certificate must be accompanied by a fee of \$1,000 for each retail location that is a permanent building or structure, or \$600 for each retail location that is not a permanent building or structure. The Act states that the fee required for a location that is not a permanent building or structure may not exceed 60% of the fee for a retail location that is a permanent building or structure.

These provisions apply until January 1, 2014. The bill would remove that sunset.

Fee Revenue Distribution; Local Inspection

In addition to consumer fireworks certificate fees, the Act imposes a fireworks safety fee on retail transactions for the sale of consumer fireworks and low-impact fireworks. All fees must be deposited in the Fireworks Safety Fund.

The Act requires LARA to spend money in the Fund to carry out the purposes of the Act, the Fire Prevention Code, and the Firefighters Training Council. Of the first \$1.0 million collected in the Fund each year, LARA may spend up to that amount in discretionary grants to local units of government to defray inspection costs associated with enforcement of the Act. The bill would delete these provisions.

The bill would require 100% of the money received from fireworks safety fees to be used for the training of firefighters under the direction and approval of the Firefighters Training Council.

The bill also would require LARA to use 100% of the money received from consumer fireworks certificates to administer the Act and to pay the costs of delegating inspections under it to local units of government.

The bill would permit LARA to establish a program for delegating inspection duties under the Act to one or more local units of government. If a local unit agreed to carry out inspections, LARA would have to pay 70% of the consumer fireworks certificate fee paid by each local retail location inspected by the local unit, and retain 30% of the fee. If a local unit declined to participate in the program, LARA would retain its inspection duties.

Fee Remittal & Collection

The Act requires retailers to remit fireworks safety fees to LARA as prescribed by the Department, and to hold the fees collected in trust for the State until they are remitted. Retailers are personally liable for payment of the fees to the State. Under the bill, these provisions also would apply to a person to whom a consumer fireworks certificate was issued.

The bill would require a retailer to remit the fees within 20 days after the end of each preceding month.

The Department would have to investigate any fireworks safety fees reported, but not paid, by a retailer by September 30 each year.

The Department could refer for collection to the Department of Treasury past due amounts of the fireworks safety fee.

NFPA Codes

The Act requires a retail location to satisfy the applicable requirements of National Fire Protection Association (NFPA) 101 and NFPA 1124 that are not in conflict with the Act. Under the bill, a retail location would have to satisfy those requirements not in conflict with the Act and the Single State Construction Code Act. Any provision of the Construction Code Act, however, that is inconsistent with the applicable requirements of NFPA 101 and 1124 would be superseded to the extent of the inconsistency or conflict.

The bill would retain a requirement that a permanent building or structure be equipped with a fire suppression system in compliance with NFPA 1124.

("NFPA 101" is the "Life Safety Code" developed by the Association. "NFPA 1124" is the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles.)

Use under the Influence

The Act prohibits a person from using consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or both. The bill also would prohibit a person from discharging or igniting consumer or low-impact fireworks while under the influence.

MCL 28.454 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a significant positive fiscal impact on the Department of Licensing and Regulatory Affairs, and a positive fiscal impact on local units of government. The bill would remove January 1, 2014, sunsets on the certificate fees paid by fireworks retailers. This would allow LARA to continue collecting these fees, which are used to administer the Michigan Fireworks Safety Act and provide discretionary grants to local units of government.

The bill also would require that the penalty for violating fireworks ordinances enacted by local units of government be no greater than a \$500 civil fine. This would likely have no fiscal impact on local units, as it appears that no local units have enacted a penalty greater than \$500 for the violation of a local fireworks ordinance.

The bill would redirect the expenditure of firework safety and certificate fees by LARA. Currently, the fees are deposited into the Fireworks Safety Fund and then spent, upon appropriation, on the administration of the Michigan Fireworks Safety Act, administration of the Fire Prevention Code, support of Section 3 of the Firefighters Training Council Act, and up to \$1.0 million annually on discretionary grants to local units to help defray inspection costs. Under the bill, all of the fireworks safety fees would have to be spent on the training of firefighters, and all of the certificate fees would have to be spent on the administration of the Act and to help defray the costs of delegating inspection to locals. It is unknown at this time what impact this change would have on both LARA and local units of government.

Fiscal Analyst: Josh Sefton

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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.