



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. S.B. 386 of the 130th G.A.](#) **Date:** December 9, 2014

Status: As Reported by Senate Commerce & Labor **Sponsor:** Sen. Burke

Local Impact Statement Procedure Required: No

Contents: Legalizes the use of 1.4G consumer grade fireworks

State Fiscal Highlights

- The bill imposes a 4% fee on purchasers of 1.4G consumer grade fireworks sold in the state beginning January 1, 2016. Fees are to be deposited into the Fireworks Fee Recipient Fund, which the bill creates. Revenue from the new 4% fee may be up to \$960,000, though this amount is quite uncertain.
- The State Fire Marshal Fund (Fund 5460) will gain revenue from the transfer of the fees after any refunds deposited into the Fireworks Fee Recipient Fund. The revenue deposited into Fund 5460 will support firefighter training programs and the regulation and enforcement of the fireworks industry.
- The State Fire Marshal will incur minimal administrative costs to prepare and distribute a safety pamphlet for using 1.4G consumer fireworks to all licensed wholesalers and manufactures who sell 1.4G consumer fireworks. Additionally, the State Fire Marshal will incur minimal administrative costs to enforce the requirement that all licensed wholesalers and manufactures who sell 1.4G consumer fireworks provide the safety pamphlet to purchasers of these fireworks and have safety glasses available for sale.
- The bill extends an existing moratorium on issuing annual fireworks manufacturer and wholesaler licenses by three years, from the current lapse date of December 15, 2015 to December 15, 2018. If the moratorium is not extended, beginning in December 2016, there may be a gain in annual license revenue deposited into Fund 5460.

Local Fiscal Highlights

- County, townships, or municipal corporations may incur additional enforcement costs to ensure compliance with the consumer fireworks provisions established in the bill. It is possible that the bill could increase the number of consumer firework violations. If this occurs, adjudication costs for counties and municipalities could

increase. However, these costs would be at least partially offset by revenue from more citations being issued.

- 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 legalization of use of all consumer fireworks in Ohio results in increased sales, revenue from permissive sales and use taxes could increase. Any such change appears quite uncertain.

Detailed Fiscal Analysis

Overview

The bill allows individuals to purchase and use 1.4G consumer grade fireworks in Ohio. Such fireworks have limited explosive power and include firecrackers, bottle rockets, sparklers, and other devices. Under current law, consumer grade fireworks may be purchased legally in Ohio, but most such fireworks are required to be transported out of the state within 48 hours of purchase. An exception is made for certain consumer fireworks that are allowed to be used in this state, including wire sparklers, novelties, and trick noisemakers. Under current law, consumer grade fireworks are subject to state and permissive local sales and use taxes. The bill imposes in addition a 4% fee on the retail sale of consumer grade fireworks in the state and creates the Fireworks Fee Recipient Fund. Fees are to be deposited into this fund, with amounts remaining after any refunds transferred to the State Fire Marshal Fund (Fund 5460) for specified uses. The bill also extends a general moratorium on issuing fireworks manufacturer and wholesaler licenses to December 15, 2018. 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. Fireworks vendors are to collect the sales tax and the 4% fee from consumers. 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. Data at the state level are scant. The State Fire Marshal's Office does not collect this information. Department of Taxation published data on sales and use tax collections by industry combine consumer fireworks sales with those of many other industries. According to the American Pyrotechnics Association (APA), consumer fireworks revenue in the United States totaled \$662.0 million in 2013. Ohio's pro rata share of this total, based solely on population, would have been about \$24.0 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. If sales of consumer fireworks in Ohio were \$24.0 million, state sales tax revenue at the current 5.75% rate would be about \$1.4 million. How accurate this figure is appears quite uncertain, as does how much sales might change with passage of the bill.

Assuming sales of consumer fireworks in this state totaling \$24.0 million implies that the new 4% fee would raise an additional \$960,000. 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. Total revenue to the state resulting from passage of the bill would increase by up to \$960,000. However, revenue from the 4% fee may be different than this estimate if the fee potentially results in reduced sales. On the other hand, the legalization of use of consumer fireworks may also result in higher state 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.

State Fire Marshal

Use of additional 4% fee

The 4% fee imposed on consumer fireworks created by the bill will increase revenue that is deposited into the State Fire Marshal Fund (Fund 5460). Specifically, the bill requires that seven-eighths of the additional 4% fee collected is to be used solely to fund firefighter training programs. The remaining one-eighth of the proceeds from the new fee are 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 \$960,000 to be deposited into Fund 5460, although that figure is speculative and based on national fireworks sales data from 2013.

The State Fire Marshal will also incur new costs for enforcing the consumer 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 manufactures to distribute to each consumer purchaser. The State Fire Marshal is to ensure that each licensed wholesaler and manufacturer are distributing the pamphlet to each consumer purchaser. Additionally, the State Fire Marshal is to ensure that each licensed wholesaler or manufacturers has 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 that is to be used for regulation and enforcement of the fireworks industry.

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 December 15, 2018. However, it eliminates, beginning January 1, 2016, the moratorium on geographic transfer of fireworks manufacturer and wholesaler licenses. Currently, both of these restrictions end December 15, 2015. If the moratorium is not extended, the State Fire Marshal could issue new annual licenses beginning on December 1, 2016. The fees are \$2,750 and are deposited into Fund 5460. Any additional license revenue collected as a result of the moratoria ending will depend on the number of new manufacturers and wholesalers wishing to sell fireworks in Ohio. However, both the number of additional licenses issued and revenue collected as a result is likely to be fairly small since most fireworks used in the United States are imported.

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 are not under the influence of intoxicating liquor, alcohol, or controlled substance. Local governments may incur additional enforcement costs to ensure that people are following the consumer fireworks law under the bill. This could result in more individuals being prosecuted for consumer fireworks violations. If this occurs, 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

If sales of consumer fireworks in Ohio totaled \$24.0 million in 2013, as described above, permissive county and transit authority sales tax collections might have totaled \$0.3 million, based on a statewide average of local sales tax rates. If passage of the bill resulted in a change in sales of consumer fireworks, this amount might also change, depending on the locations of the change in sales and the applicable tax rates. In addition, 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.