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H.B. 253
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Rep. O'Brien

Local Impact Statement Procedure Required: No

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Highlights

- The bill imposes a 4% fee on purchasers of 1.4G consumer fireworks sold in the state beginning 100 days after the bill's effective date, to be deposited into the Fireworks Fee Receipts Fund, which the bill creates. The revenue that might be generated from the 4% fee on consumer fireworks purchases in Ohio is uncertain, but could be very substantial based on national sales data. The Fireworks Law is overseen by the State Fire Marshal within the Department of Commerce.
- Seven-eighths of the revenue deposited into the Fireworks Fee Receipts Fund will support firefighter training programs. One-eighth of the fee revenue will support the State Fire Marshal's expenses in administering the Fireworks Law.
- The bill creates a fountain device fireworks retailer license. The license fee is not to exceed \$25 and is to be renewed annually, with the proceeds to be deposited into the State Fire Marshal Fund (Fund 5460). According to the Department of Commerce, it is estimated that over 2,000 locations could be licensed, thus yielding a potential \$50,000 in annual fees from this source.
- The Department estimates four new staff (three fire safety inspectors and one assistant fire chief) will be needed for the State Fire Marshal to oversee fountain device retailers. Pay and fringe benefits costs would be between \$59,000 and \$72,000 per inspector and \$66,000 and \$79,000 for the assistant fire chief. These costs would be paid from Fund 5460.
- The bill extends an existing moratorium on issuing annual fireworks manufacturer and wholesaler licenses from the current lapse date of December 31, 2020, to 18 months after the geographic transfer moratorium expires (under the bill, the geographic transfer moratorium expires 260 days after the bill's effective date). If the moratorium is

not extended, licensing of manufacturers and wholesalers would resume. The licensing fee revenue would be deposited into the State Fire Marshal Fund (Fund 5460).

Detailed Analysis

State Fire Marshal

Four percent fee on consumer fireworks

The revenue generated by the 4% fee on gross receipts of retail sales of consumer fireworks slated to begin 100 days after the bill's effective date under the bill would be used by the State Fire Marshal within the Department of Commerce to (1) carry out firefighter training programs and (2) cover expenses related to administering the Fireworks Law. Specifically, the bill specifies seven-eighths of the 4% fee collected is to be used solely to fund firefighter training programs, while the remaining one-eighth of the proceeds from the new fee is to be used to regulate the fireworks industry. The fee will be deposited into the Fireworks Fee Receipts Fund which the bill creates. The amount of fee revenue that may be received under the bill is uncertain. According to the American Pyrotechnics Association (APA), overall sales of consumer fireworks in the United States totaled \$885 million in 2017. Although the amount of sales attributable to Ohio purchases is unknown, if the national sales data from the APA were prorated in proportion to Ohio's population, the 4% fee on gross retail fireworks receipts could generate a substantial amount of revenue for firefighter training programs and administering the Fireworks Law.

Fountain device retailer license

The State Fire Marshal will also incur costs to oversee the bill's requirement that fountain device sellers be licensed beginning 260 days after the bill's effective date. The State Fire Marshal estimates that over 2,000 retail locations would require licensure. Consequently, new staff will need to be hired to oversee these locations and conduct inspections as required under the bill. The bill defines a fountain device as a specific type of 1.4G firework: a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains not more than 75 grams of this mixture in any individual tube and not more than 500 grams of this mixture in total.

To cover these responsibilities, it is estimated that the State Fire Marshal will need to hire three fire safety inspectors and one assistant fire chief. Based on the state's employee classification plan, if fire safety inspectors are hired at the starting annual salary of approximately \$43,000, it will bring the Department's potential payroll costs to between \$59,000 and \$72,000 per inspector. This includes \$7,800 (18.1% of annual salary) to cover the employer's share of retirement and the employer's share of health insurance (\$7,830 for single coverage or \$21,494 for family coverage under the state's traditional health plan). Based on a starting annual salary of approximately \$49,000 for an assistant fire chief, the Department's potential payroll costs for that position would be between \$66,000 and \$79,000. This also includes \$8,900 (the employer's share of retirement as described above) and the employer's share of health insurance (single coverage or family coverage as described above). The payroll costs for both the new fire safety inspectors and the assistant fire chief would be paid from the State Fire Marshal Fund (Fund 5460).

The fee for a fountain device fireworks retailer license is \$25 and is to be renewed annually. The license fees will be deposited into Fund 5460. Given that 2,000 locations could be licensed; the license fee could generate \$50,000 annually (2,000 locations x \$25 license fee).

Other administrative expenses

The State Fire Marshal will also incur costs for enforcing the changes related to consumer fireworks in the Fireworks Law. The State Fire Marshal is also to ensure that licensees have safety glasses available for free or at a nominal charge if they are selling consumer grade fireworks. Additionally, the State Fire Marshal is required to adopt several rules including administering and enforcing the 4% fee and regulating the time, manner, and location consumer grade fireworks can be discharged. These costs would at least partially be offset by the additional funding from the 4% fee, one-eighth of which is to be used for these purposes.

Extension of fireworks manufacturer and wholesaler license moratorium

The bill also extends a general moratorium on the issuance of new licenses for fireworks manufacturers and fireworks wholesalers until 18 months after an existing geographic transfer moratorium expires (December 31, 2020, under current law changed in the bill to 260 days after the bill's effective date). If the moratorium is not extended, the State Fire Marshal could issue new licenses. The fees are \$2,750 and are deposited into Fund 5460. Any additional license revenue collected as a result of the moratorium ending will depend on the number of new manufacturers and wholesalers wishing to sell fireworks in Ohio. Currently, there are six licensed manufacturers and 44 licensed wholesalers.

Fire Code Rule Recommendation Committee

The bill creates the Ohio Fire Code Rule Recommendation Committee to review any sections of the Fireworks Law and make recommendations to the State Fire Marshal. The Committee, to consist of 16 members from the public and private sectors selected according to criteria specified in the bill, is to submit a report and recommendations by not more than 100 days after the bill's effective date. Consequently, the State Fire Marshal could incur some costs for carrying out these responsibilities.

Other provisions

The bill contains several other provisions that may have a minimal fiscal effect on state and local government expenditures. Chief among them is a provision that allows individuals to purchase and use consumer fireworks in the state. Under current law, consumer fireworks may be purchased legally in Ohio, but such fireworks are required to be transported out of Ohio within 48 hours of purchase. The bill eliminates the requirements that consumer fireworks must be transported out of the state beginning 260 days after the bill's effective date.

Among other provisions with little or no fiscal effect is one requiring the State Fire Marshal to adopt rules that allow licensed manufacturers or wholesalers to transfer their license from one geographic location to another. Currently, a moratorium on such transfers exists, expiring on December 31, 2020. The bill changes the date this moratorium expires to 260 days after the bill's effective date.

Lastly, the bill allows counties, townships, or municipal corporations to restrict or ban the discharge, ignition, or explosion of consumer fireworks. The bill also establishes new

prohibitions, including prohibiting a person who is under the influence of intoxicating liquor, alcohol, or controlled substances from discharging, igniting, or exploding fireworks. A person who violates this prohibition is guilty of a first degree misdemeanor. Altogether, it may be that local governments incur additional enforcement costs to ensure that people are complying with the provisions of the bill. If there are more violations cited and prosecuted under the bill, adjudication costs for counties and municipalities could increase. However, these costs would be at least partially offset by revenue from more citations being issued.