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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

S.B. 113
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by Senate Veterans & Public Safety

Primary Sponsors: Sens. Rulli and Johnson

Local Impact Statement Procedure Required: No

Shannon Pleiman, Senior Budget Analyst

Highlights

- The bill imposes a 4% fee on purchasers of 1.4G consumer fireworks sold in the state to be deposited into the Fireworks Fee Receipts Fund created by the bill. 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. If so, pay and fringe benefits costs would be between \$61,000 and \$75,000 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 new annual fireworks manufacturer and wholesaler licenses from the current lapse date of December 31, 2021, to January 1, 2023. Once the moratorium lapses, licensing of manufacturers and wholesalers would resume. Similarly, the bill moves a current law moratorium on the geographic transfer of

existing permits to January 1, 2023. Any revenue collected from new applicants would be deposited into the State Fire Marshal Fund (Fund 5460).

Detailed Analysis

The bill makes several changes to the Fireworks Law overseen by the Division of State Fire Marshal within the Department of Commerce. The first of these is a new fee on the receipts from the sale of consumer fireworks will be used for firefighter training and state oversight of the Fireworks Law. Another major change in the bill is a provision that allows for the use of consumer-grade fireworks in Ohio on certain dates. The bill also extends, from December 31, 2021, until January 1, 2023, an existing law moratorium on the issuance of new fireworks manufacturer or wholesaler permits and the geographic transfer of any such existing permits. Please consult the LSC bill analysis for an explanation of all changes in the bill and the particular effect dates that apply to them.

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 would be used by the State Fire Marshal 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.

This revenue collected from this new fee could be quite significant. According to the American Pyrotechnics Association (APA), overall sales of consumer fireworks in the United States totaled \$1.00 billion in 2019. LBO could not determine the amount of sales attributable to Ohio purchases. However, if this national sales data were prorated in proportion to Ohio's population, it suggests that 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. 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, the State Fire Marshal estimates that it will need to hire three fire safety inspectors and one assistant fire chief. If that is so, based on the state's employee classification plan, if fire safety inspectors are hired at the starting annual salary of approximately \$45,000, it will bring the Department's potential payroll costs to between \$61,000 and \$75,000 per inspector. This includes \$8,145 (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 not to exceed \$25 and is to be renewed annually. The license fees will be deposited into Fund 5460. If it is assumed that 2,000 retail locations would be licensed under this provision, the new license fee could generate up to \$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 extends a general moratorium on the issuance of new licenses for fireworks manufacturers and fireworks wholesaler until January 1, 2023. The moratorium is currently in force until December 31, 2021. After the moratorium expires, the State Fire Marshal would be able to issue new licenses. The annual fee for both a manufacturer and wholesaler license is \$2,750. The receipts 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. Similarly, the bill extends the moratorium on the geographic transfer of an existing manufacturer or wholesaler license from the current expiration date of December 31, 2021, to January 1, 2023.

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. Presumably, the State Fire Marshal could incur some costs for providing support to the committee and carrying out any recommendation the committee suggests and that are implemented.

Usage of consumer-grade fireworks

The bill contains several other provisions that affect local government oversight of fireworks. 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 fireworks cannot be discharged in Ohio. The bill eliminates the requirements that consumer fireworks must be transported out of the state.

The bill limits the discharge of consumer fireworks under the bill to the following days: New Year's Eve; New Year's Day; Chinese New Year; Cinco de Mayo; Memorial Day weekend; Juneteenth; July 3, 4, and 5; as well as the Fridays, Saturdays, and Sundays preceding and following; Labor Day weekend; and Diwali. The bill does not alter any existing penalties for the discharge of fireworks outside of these allowable dates. This will have the effect of reducing the number of violations issued by local law enforcement to some degree since consumer-grade fireworks would be allowed on these days.

New prohibitions

Finally, the bill establishes new prohibitions on the negligent use of fireworks. The first new prohibition bars anyone from using fireworks of any kind while under the influence of intoxicating liquor, alcohol, or controlled substances. This would be a first degree misdemeanor, to which a disorderly conduct violation could also attach. The second new violation would prohibit anyone from negligently using fireworks on someone else's property without their permission, a minor misdemeanor. Altogether, it may be that local governments incur additional enforcement costs as a result of these violations. The additional cost would to some degree be offset by revenue from the additional fines collected for these violations.