

AMENDED IN ASSEMBLY APRIL 28, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1295

Introduced by Assembly Member Bermudez

February 22, 2005

An act to add and repeal Sections 12599.5 and 12635.5 of the Health and Safety Code, relating to fireworks, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, as amended, Bermudez. Fireworks: sale: disposal.

(1) Existing law authorizes the retail sale of safe and sane fireworks from June 28 to July 6 annually pursuant to a license issued by the State Fire Marshal, unless otherwise prohibited or regulated by law or ordinance.

This bill would authorize the sale of certified safe and sane fireworks from 9 a.m. December 26 through January 1 pursuant to a license issued by the State Fire Marshal, if authorized by a city, county, or city and county ordinance or resolution that may also restrict the hours of use of those fireworks. Since a violation of this provision or other existing related provisions in connection with the sale of those fireworks would be a misdemeanor, the bill would impose a state-mandated local program by creating new crimes. These provisions would become inoperative on January 2, 2012, and would be repealed on January 1, 2013.

(2) Existing law authorizes the State Fire Marshal, his or her salaried deputies, or any chief of a fire department, or his or her authorized representatives, any fire protection agency, or any other public agency authorized by statute to enforce the State Fire Marshal's regulations, to seize any fireworks described in specified provisions

and to charge any person, firm, or corporation, whose fireworks are seized, an amount that is sufficient to cover the cost of transporting, storing, and handling the seized fireworks. Existing law requires the State Fire Marshal to dispose of seized dangerous fireworks, as specified.

Existing law also requires the State Fire Marshal to establish and collect the original and annual renewal fees for fireworks licenses that are required by applicable laws.

This bill would require the State Fire Marshal to establish and collect an additional fee on permits issued to licensees in an amount necessary to enforce applicable laws with respect to collection and disposal of fireworks. The fees would be deposited in the State Fire Marshal Dangerous Fireworks Management Fund, which the bill would establish. Moneys in this fund would be continuously appropriated without regard to fiscal years to the State Fire Marshal for the purpose of covering the disposal costs associated with any seized fireworks. These provisions would be repealed on January 1, 2012.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12599.5 is added to the Health and
 2 Safety Code, to read:
 3 12599.5. (a) Notwithstanding Sections 12599 and 12672,
 4 each year from 2006 to 2011, inclusive, the State Fire Marshal
 5 shall issue separate one-time retail licenses pursuant to this
 6 section that shall authorize the retail sale of safe and sane
 7 fireworks within this state only from 9 a.m. on December 26, of
 8 a year within 2006 to 2011, inclusive, until midnight of January 1
 9 of the following year. A license issued pursuant to this section
 10 shall be valid for only one seven-day period and shall expire at
 11 the end of the period for which it is valid. All fireworks sold

1 pursuant to a license issued pursuant to this section shall have
2 been certified as safe and sane by the State Fire Marshal as of
3 June of the year in which the validity of the license commences.
4 No other license issued pursuant to this chapter shall authorize
5 the sale of fireworks during that period.

6 (b) No retail license shall be issued for the license period
7 authorized by this section unless the city, county, or city and
8 county having jurisdiction over the fixed location where the
9 fireworks would be sold adopts an ordinance or resolution
10 allowing that sale, and the application for that license is received
11 by the State Fire Marshal on or before December 15 of the year
12 in which the validity of the license is to commence. *A public*
13 *safety report shall be presented at the public meeting in which*
14 *the ordinance or resolution allowing the sale of fireworks is*
15 *considered.* The ordinance or resolution authorizing the sale of
16 those fireworks may limit the period of use of those fireworks to
17 specified days and hours within the period during which the sale
18 is authorized by this section.

19 (c) This section shall become inoperative on January 2, 2012,
20 and, as of January 1, 2013, is repealed, unless a later enacted
21 statute, that becomes operative on or before January 1, 2013,
22 deletes or extends the dates on which it becomes inoperative and
23 is repealed.

24 SEC. 2. Section 12635.5 is added to the Health and Safety
25 Code, to read:

26 12635.5. (a) The State Fire Marshal Dangerous Fireworks
27 Management Fund is hereby established in the State Treasury.
28 Notwithstanding Section 13340 of the Government Code, this
29 fund is continuously appropriated without regard to fiscal years
30 to the State Fire Marshal for the purpose of covering the
31 collection and disposal costs associated with fireworks seized
32 pursuant to this part.

33 (b) Pursuant to Section 12630, the State Fire Marshal shall
34 establish and collect an additional fee on permits issued pursuant
35 to Section 12640 in an amount necessary to enforce this part with
36 respect to collection and disposal of fireworks. Notwithstanding
37 Section 12635, these fees shall be deposited in the State Fire
38 Marshal Dangerous Fireworks Management Fund.

39 (c) A local fire department, a local fire protection agency, or
40 any other public agency authorized by statute to enforce the State

1 Fire Marshal’s regulations may apply to the State Fire Marshal
2 for reimbursement of its costs in disposing of any fireworks
3 seized pursuant to this part.

4 (d) This section shall remain in effect only until January 1,
5 2012, and as of that date is repealed, unless a later enacted
6 statute, that is enacted before January 1, 2012, deletes or extends
7 that date.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the
13 penalty for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition of a
15 crime within the meaning of Section 6 of Article XIII B of the
16 California Constitution.