

ASSEMBLY BILL

No. 1378

Introduced by Assembly Member Portantino

February 18, 2011

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 1378, as introduced, Portantino. Fireworks: sale: training.

(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, until January 2, 2018, 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.

(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, until January 1, 2018, 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 training and education regarding dangerous fireworks. The fees would be deposited in the State Fire Marshal Dangerous Fireworks Training and Education 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 training local fire and law enforcement agencies, as specified.

(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 Safety
 2 Code, to read:
 3 12599.5. (a) Notwithstanding Sections 12599 and 12672, each
 4 year from 2012 to 2017, inclusive, the State Fire Marshal shall
 5 issue separate one-time retail licenses pursuant to this section that
 6 shall authorize the retail sale of safe and sane fireworks within this
 7 state only from 9 a.m. on December 26, of a year within 2012 to
 8 2017, inclusive, until midnight of January 1 of the following year.
 9 A license issued pursuant to this section shall be valid for only one
 10 seven-day period and shall expire at the end of the period for which
 11 it is valid. All fireworks sold pursuant to a license issued pursuant
 12 to this section shall have been certified as safe and sane by the
 13 State Fire Marshal as of June of the year in which the validity of
 14 the license commences. No other license issued pursuant to this
 15 chapter shall authorize the sale of fireworks during that period.

1 (b) No retail license shall be issued for the license period
2 authorized by this section unless the city, county, or city and county
3 having jurisdiction over the fixed location where the fireworks
4 would be sold adopts an ordinance or resolution allowing that sale,
5 and the application for that license is received by the State Fire
6 Marshal on or before December 15 of the year in which the validity
7 of the license is to commence. The ordinance or resolution
8 authorizing the sale of those fireworks may limit the period of use
9 of those fireworks to specified days and hours within the period
10 during which the sale is authorized by this section.

11 (c) This section shall become inoperative on January 2, 2018,
12 and, as of January 1, 2019, is repealed, unless a later enacted
13 statute, that is enacted before January 1, 2019, deletes or extends
14 the dates on which it becomes inoperative and is repealed.

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

17 12635.5. (a) The State Fire Marshal Dangerous Fireworks
18 Training and Education Fund is hereby established in the State
19 Treasury. Notwithstanding Section 13340 of the Government Code,
20 this fund is continuously appropriated without regard to fiscal
21 years to the State Fire Marshal for the purpose of training local
22 fire and law enforcement agencies regarding the identification,
23 risks, dangers, and proper disposal associated with dangerous
24 fireworks seized pursuant to this part.

25 (b) Pursuant to Section 12630, the State Fire Marshal shall
26 establish and collect an additional fee on permits issued pursuant
27 to Section 12640 in an amount necessary to enforce this part with
28 respect to training and education regarding dangerous fireworks.
29 Notwithstanding Section 12635, these fees shall be deposited in
30 the State Fire Marshal Dangerous Fireworks Training and
31 Education Fund.

32 (c) A local fire department, a local fire protection agency, a
33 local law enforcement agency, or any other public agency
34 authorized by statute to enforce the State Fire Marshal's regulations
35 and whose jurisdiction has adopted an ordinance or resolution
36 pursuant to subdivision (b) of Section 12599.5 may apply to the
37 State Fire Marshal for a grant for its costs in developing or
38 implementing an education and training program pursuant to this
39 section.

1 (d) This section shall remain in effect only until January 1, 2018,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2018, deletes or extends that date.

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