

**Introduced by Senator Gaines**February 24, 2012

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 1468, as introduced, Gaines. Fireworks.

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. on December 26 to midnight of January 1 of the following year pursuant to a license issued by the State Fire Marshal, if authorized by a charter city, city, county, fire district, 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.

The bill would also authorize, until January 2, 2018, a charter city, city, county, fire district, or city and county that adopts an ordinance or resolution authorizing the sale of safe and sane fireworks to require each applicant receiving a permit to pay a fee to the charter city, city, county, fire district, or city and county of a pro rata portion of the costs incurred by the charter city, city, county, fire district, or city and county for, among other things, processing and issuing fireworks permits, inspection of fireworks stands, public awareness and education campaigns regarding the safe and responsible use of safe and sane

fireworks, and related fire operation and suppression efforts, as specified. The bill would specify that the pro rata portion of those costs shall be based on a percentage of the permittee’s sales and use tax return for the applicable permit period, not to exceed 7% of the gross sales of the fireworks sold in the charter city, city, county, fire district, or city and county.

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: no. 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 2013 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 2013 to  
 8 2017, inclusive, to midnight of January 1 of the following year,  
 9 inclusive. A license issued pursuant to this section shall be valid  
 10 for only one seven-day period and shall expire at the end of the  
 11 period for which it is valid. All fireworks sold pursuant to a license  
 12 issued pursuant to this section shall have been certified as safe and  
 13 sane by the State Fire Marshal as of June of the year in which the  
 14 validity of the license commences. No other license issued pursuant  
 15 to this chapter shall authorize the sale of fireworks during that  
 16 period.  
 17 (b) No retail license shall be issued for the license period  
 18 authorized by this section unless the charter city, city, county, fire  
 19 district, or city and county having jurisdiction over the fixed  
 20 location where the fireworks would be sold adopts an ordinance  
 21 or resolution allowing that sale, and the application for that license  
 22 is received by the State Fire Marshal on or before December 15  
 23 of the year in which the validity of the license is to commence.  
 24 The ordinance or resolution authorizing the sale of those fireworks

1 may limit the period of use of those fireworks to specified days  
2 and hours within the period during which the sale is authorized by  
3 this section.

4 (c) This section shall become inoperative on January 2, 2018,  
5 and, as of January 2, 2018, is repealed, unless a later enacted  
6 statute, that is enacted before January 2, 2018, deletes or extends  
7 the dates on which it becomes inoperative and is repealed.

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

10 12635.5. (a) A charter city, city, county, fire district, or city  
11 and county that adopts an ordinance or resolution pursuant to  
12 Section 12599 or 12599.5 may, through adoption of an ordinance  
13 or resolution by the governing body, require each applicant  
14 receiving a permit to pay a fee to the charter city, city, county, fire  
15 district, or city and county of a pro rata portion of the costs the  
16 charter city, city, county, fire district, or city and county incurs  
17 related to any of the following:

18 (1) Processing and issuing permits.

19 (2) Inspection of fireworks stands.

20 (3) Public education and awareness campaigns regarding the  
21 safe and responsible use of safe and sane fireworks, and the dangers  
22 and risks posed by the use of illegal fireworks.

23 (4) Enforcing the provisions of the code of the charter city, city,  
24 county, fire district, or city and county with respect to the sale and  
25 use of safe and sane fireworks, including extra personnel time, and  
26 cleanup of the fireworks trash and debris. "Extra personnel time"  
27 shall be defined as employee or contracted employee time that the  
28 charter city, city, county, fire district, or city and county would  
29 not otherwise incur but for the sale and use of safe and sane  
30 fireworks.

31 (5) Fire operation and suppression efforts that are directly related  
32 to safe and sane fireworks.

33 (b) The pro rata share of the costs shall be determined using  
34 gross sales as shown on each permittee's sales and use tax return  
35 for the applicable period. The pro rata share of costs shall not  
36 exceed 7 percent of the gross sales of the fireworks sold in the  
37 charter city, city, county, fire district, or city and county during  
38 the applicable period.

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