

AMENDED IN SENATE MAY 17, 2012
AMENDED IN SENATE MAY 1, 2012
AMENDED IN SENATE APRIL 18, 2012

SENATE BILL

No. 1468

Introduced by Senator Calderon

February 24, 2012

An act to add and repeal Sections 12599.4, 12599.5, and 12635.5 of the Health and Safety Code, relating to fireworks, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1468, as amended, Calderon. 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 the State Fire Marshal, until January 15, 2016, to issue annual one-time wholesaler licenses for the purpose of authorizing the sale of safe and sane fireworks by a wholesaler to an entity holding a retail license for the period surrounding New Year's Eve, subject to certain conditions. The bill would require the State Fire Marshal to annually establish the wholesaler license fee *express the Legislature's intent, for purposes of determining whether the Legislature should continue to allow safe and sane fireworks for the period immediately before each New Year's Eve, to conduct an enhanced fireworks data collection study in a limited number of jurisdictions. The bill would further declare the Legislature's intent that the cost of the Fireworks Special Data Collection Program be totally funded by*~~

voluntary contributions, as specified. The bill would require the State Fire Marshal, on or before December 1, 2013, and on or before December 1, 2014, in consultation with the State Fire Marshal's Fireworks Advisory Committee, to determine an appropriate sum that does not exceed the amount reasonably necessary for fireworks special data collection activities for targeted jurisdictions and the state for the following year. The bill would require ~~wholesaler license fees~~ the funding for these activities, from voluntary contributions from the fireworks industry or from federal or private grants, to be collected by the State Fire Marshal ~~to be deposited~~ for deposit in the Fireworks Special Data Collection Fund, which the bill would create as a continuously appropriated special fund in the State Treasury. Moneys in the fund would be available for actual reasonable costs incurred by the State Fire Marshal and local, participating jurisdictions to develop, implement, analyze, and report the enhanced fireworks special data collection program and for administrative expenses. By creating a new continuously appropriated special fund, the bill would make an appropriation.

This bill would further authorize, until January 2, 2016, the sale of certified safe and sane fireworks from 9 a.m. on December 26 of 2014 and 2015 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, 2016, 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.

~~This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

Vote: $\frac{2}{3}$ -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. The Legislature hereby finds and declares all of
2 the following:

3 (a) Existing law, Section 13110.5 of the Health and Safety Code,
4 requires the State Fire Marshal to gather statistical information on
5 all fires, medical aid incidents, and hazardous materials incidents
6 occurring within this state, including, but not limited to, those
7 related to all types of pyrotechnic devices such as illegal fireworks,
8 safe and sane fireworks, unknown fireworks, and public display
9 fireworks.

10 (b) Existing law further requires the chief fire official of each
11 fire department operated by the state, a city, city and county, fire
12 protection district, organized fire company, or other public or
13 private entity that provides fire protection, to furnish information
14 and data to the State Fire Marshal relating to each fire that occurs
15 within his or her area of jurisdiction.

16 (c) *The State Fire Marshal regularly appoints and maintains a*
17 *Fireworks Advisory Committee, consisting of representatives of*
18 *local fire and law enforcement agencies and the fireworks industry,*
19 *who meet regularly, at their own expense, and provide a state-level*
20 *forum for addressing issues related to pyrotechnic products and*
21 *activities in California.*

22 (e)

23 (d) For purposes of the continued regulation of all pyrotechnic
24 devices in California and, more specifically, for purposes of

1 determining whether the Legislature should continue to allow,
 2 after January 2, 2016, the sale and use of safe and sane fireworks
 3 for the period immediately before each New Year’s Eve, it is
 4 hereby determined that an enhanced fireworks data collection
 5 study, in a limited number of jurisdictions, is needed to assist the
 6 Legislature in determining if it should extend the rights and
 7 privileges conveyed by this act beyond January 2, 2016.

8 (d)

9 (e) It is further the intent of the Legislature that the annual New
 10 Year’s Eve license fee imposed on a wholesaler of safe and sane
 11 fireworks shall not exceed the reasonable costs for the benefit
 12 conferred in granting this privilege to a wholesaler *wholesaler cost*
 13 *of the Fireworks Special Data Collection Program established by*
 14 *this act shall be totally funded by voluntary contributions from the*
 15 *fireworks industry or federal or private grants.*

16 SEC. 2. Section 12599.4 is added to the Health and Safety
 17 Code, to read:

18 12599.4. ~~(a) Notwithstanding any other law, the State Fire~~
 19 ~~Marshal shall issue separate one-time annual New Year’s Eve~~
 20 ~~wholesaler licenses pursuant to this section for the purpose of~~
 21 ~~authorizing the sale of safe and sane fireworks by a wholesale~~
 22 ~~distributor to an entity already having an existing standard~~
 23 ~~wholesaler license for sale to an entity holding a retailer’s license,~~
 24 ~~pursuant to Section 12599.5, for retail sale within this state for the~~
 25 ~~period beginning from 9 a.m. on December 26 of 2014 and 2015,~~
 26 ~~to midnight of January 1 of the following year, inclusive.~~

27 (1) ~~The wholesaler license fee shall be paid to the State Fire~~
 28 ~~Marshal on or before September 1 of each year.~~

29 (2) ~~Only a wholesaler who has paid the annual New Year’s Eve~~
 30 ~~wholesaler license fee and has been issued a license by the State~~
 31 ~~Fire Marshal for the privilege of selling or distributing safe and~~
 32 ~~sane fireworks may sell fireworks to an entity holding a retail~~
 33 ~~license for the sale of safe and sane fireworks for the period~~
 34 ~~beginning 9 a.m. on December 26 to midnight of January 1 of the~~
 35 ~~following year, inclusive.~~

36 ~~(b)(a) On or before April 1 of 2014 and 2015 December 1,~~
 37 ~~2013, and on or before December 1, 2014, the State Fire Marshal~~
 38 ~~shall, pursuant to his or her regulatory authority, and in consultation~~
 39 ~~with the State Fire Marshal’s Fireworks Advisory Committee,~~
 40 ~~which consists of representatives from local fire and law~~

1 enforcement agencies and the fireworks industry, ~~establish a New~~
2 ~~Year's Eve wholesaler license fee, in a~~ *determine an appropriate*
3 *sum that does not exceed the amount reasonably necessary for the*
4 *fireworks special data collection activities of the state that benefit*
5 *the recipients of a wholesaler license pursuant to this section for*
6 *the targeted jurisdictions and the state for the following year.*

7 ~~(e)~~

8 ~~(b) The New Year's Eve wholesaler license fees moneys~~
9 *collected by the State Fire Marshal pursuant to this section shall*
10 *be deposited in the Fireworks Special Data Collection Fund, which*
11 *is hereby established as a special fund in the State Treasury,*
12 *separate and apart from all other public money or funds of this*
13 *state. All other moneys received pursuant to this section shall be*
14 *deposited in the fund. Notwithstanding Section 13340 of the*
15 *Government Code, all moneys in the fund shall be continuously*
16 *appropriated to the State Fire Marshal for the study and the actual*
17 *reasonable costs incurred by the State Fire Marshal and the local,*
18 *participating jurisdictions to develop, implement, analyze, and*
19 *report the enhanced fireworks special data collection program, as*
20 *described in subdivision (e), and for reasonable administrative*
21 *expenses incurred in the collection of the license fees pursuant to*
22 *this section (d). Moneys in the fund shall not be used for any other*
23 *purpose.*

24 ~~(d)~~

25 ~~(c) The Fireworks Special Data Collection Fund may also~~
26 *receive funding from any of the following sources:*

27 (1) *Voluntary contributions from the fireworks industry.*

28 (2) *Federal, state, or private grants.*

29 ~~(e)~~

30 ~~(d) In addition to the obligations described in Section 13110.5,~~
31 ~~on or before May 1, 2014, November 1, 2013, the State Fire~~
32 ~~Marshal's Fireworks Advisory Committee shall review and approve~~
33 ~~a plan developed by the fireworks industry to collect and analyze~~
34 ~~data relating to the sale of fireworks and related fire, injury, and~~
35 ~~disposal issues.~~

36 (1) *The plan shall contain, but not be limited to, a sample design*
37 *and selection method to accurately capture a data set to be used*
38 *for statistical analysis relating to fires, damages, seizures, arrests,*
39 *administrative citations, and fireworks disposal issues caused by*

1 dangerous fireworks and safe and sane fireworks for the period
2 surrounding both the 4th of July and New Year’s Eve.

3 (2) The data set shall be verified by a university or other
4 nationally recognized independent survey design expert. This plan
5 for data collection shall attempt to collect the requisite data not
6 only in the target communities, but also in those communities
7 immediately adjoining or contiguous to the target communities.

8 (f)

9 (e) The sale of safe and sane fireworks for the period of 9 a.m.
10 on December 26 of 2014 and 2015 to midnight of January 1 of the
11 following year, inclusive, shall only be permitted if, by ~~September~~
12 ~~15 of each~~ *December 31 of the previous* year, the State Fire
13 Marshal, in consultation with the State Fire Marshal’s Fireworks
14 Advisory Committee, determines that there are sufficient funds
15 within the Fireworks Special Data Collection Fund to cover the
16 actual and reasonable costs for that year associated with the special
17 data collection program established by this section.

18 (g)

19 (f) This section shall remain in effect only until January 15,
20 2016, and as of that date is repealed, unless a later enacted statute,
21 that is enacted before January 15, 2018, deletes or extends that
22 date.

23 SEC. 3. Section 12599.5 is added to the Health and Safety
24 Code, to read:

25 12599.5. (a) Notwithstanding Sections 12599 and 12672, in
26 2014 and 2015 the State Fire Marshal shall issue separate one-time
27 retail licenses pursuant to this section that shall authorize the retail
28 sale of safe and sane fireworks within this state only from 9 a.m.
29 on December 26 of 2014 and 2015 to midnight of January 1 of the
30 following year, inclusive. A license issued pursuant to this section
31 shall be valid for only one seven-day period and shall expire at the
32 end of the period for which it is valid. All fireworks sold pursuant
33 to a license issued pursuant to this section shall have been certified
34 as safe and sane by the State Fire Marshal as of June of the year
35 in which the validity of the license commences. No other license
36 issued pursuant to this chapter shall authorize the sale of fireworks
37 during that period.

38 (b) No retail license shall be issued for the license period
39 authorized by this section unless the charter city, city, county, fire
40 district, or city and county having jurisdiction over the fixed

1 location where the fireworks would be sold adopts an ordinance
2 or resolution allowing that sale, and the application for that license
3 is received by the State Fire Marshal on or before December 15
4 of the year in which the validity of the license is to commence.
5 The ordinance or resolution authorizing the sale of those fireworks
6 may limit the period of use of those fireworks to specified days
7 and hours within the period during which the sale is authorized by
8 this section.

9 (c) This section shall become inoperative on January 2, 2016,
10 and, as of January 2, 2016, is repealed, unless a later enacted
11 statute, that is enacted before January 2, 2016, deletes or extends
12 the dates on which it becomes inoperative and is repealed.

13 SEC. 4. Section 12635.5 is added to the Health and Safety
14 Code, to read:

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

- 23 (1) Processing and issuing permits.
- 24 (2) Inspection of fireworks stands.
- 25 (3) Public education and awareness campaigns regarding the
26 safe and responsible use of safe and sane fireworks, and the dangers
27 and risks posed by the use of illegal fireworks.
- 28 (4) Enforcing the provisions of the code of the charter city, city,
29 county, fire district, or city and county with respect to the sale and
30 use of safe and sane fireworks, including extra personnel time, and
31 cleanup of the fireworks trash and debris. "Extra personnel time"
32 shall be defined as employee or contracted employee time that the
33 charter city, city, county, fire district, or city and county would
34 not otherwise incur but for the sale and use of safe and sane
35 fireworks.

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

38 (b) The pro rata share of the costs shall be determined using
39 gross sales as shown on each permittee's sales and use tax return
40 for the applicable period. The pro rata share of costs shall not

1 exceed 7 percent of the gross sales of the fireworks sold in the
2 charter city, city, county, fire district, or city and county during
3 the applicable period.

4 (c) This section shall remain in effect only until January 2, 2016,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 2, 2016, deletes or extends that date.

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