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AB-1403 Public safety: fireworks: enforcement: funding. (2023-2024)

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Assembly Bill No. 1403

CHAPTER 368

An act to amend Sections 12529, 12556, 12700, and 12702 of, and to add Sections 12635.5 and 12726.1 to, the Health and Safety Code, relating to fireworks.

[Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1403, Garcia. Public safety: fireworks: enforcement: funding.

(1) The State Fireworks Law requires the State Fire Marshal to adopt regulations relating to fireworks as may be necessary for the protection of life and property, and requires the State Fire Marshal to appoint deputies and employees as may be required to carry out the provisions of that law. Existing law requires the State Fire Marshal to classify all fireworks and pyrotechnic devices and prohibits any fireworks or pyrotechnic devices from being imported, sold, or offered for sale before the fireworks or devices have been examined and classified by the State Fire Marshal. Existing law authorizes the State Fire Marshal to issue licenses related to fireworks and pyrotechnic devices, including a wholesaler's license. Existing law makes it unlawful for a person to violate the State Fireworks Law or the regulations issued pursuant thereto, and to possess a specified amount of dangerous fireworks without a valid permit, punishable by a fine or by imprisonment, as specified.

This bill would increase the amounts of the fines to be imposed for violating the State Fireworks Law or related regulation, would increase the amount of certain fines for possessing specified amounts of dangerous fireworks, and would increase the amount of certain fines for selling, giving, or delivering dangerous fireworks to any person under 18 years of age.

(2) The State Fireworks Law defines "safe and sane fireworks" to mean any fireworks that do not come within the definition of dangerous fireworks or exempt fireworks, as those terms are defined.

This bill would redefine "safe and sane fireworks" to instead mean any fireworks that have been approved by the United State Consumer Product Safety Commission and that have been carefully examined and tested by the State Fire Marshal and determined by the State Fire Marshal to meet and comply with specified regulations.

(3) The State Fireworks Law requires the State Fire Marshal, on or before July 1, 2008, to identify and evaluate methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous fireworks and safe and sane fireworks.

This bill would move up the date by which the State Fire Marshal is required to identify and evaluate methods to capture the data described above to July 1, 2024. The bill would require, on or before January 1, 2025, the State Fire Marshal to collect and analyze data relating to fires, damages, seizures, arrests, administrative citations, and fireworks disposal issues caused by the sale and use of both dangerous illegal fireworks and safe and sane fireworks, as provided. The bill would require, on or before January 1, 2025, the State Fire Marshal to provide to the appropriate policy and budget committees of the respective houses of

the Legislature a workload analysis of resources needed to further assist in the training of local fire and law enforcement personnel regarding specified topics.

(4) The State Fireworks 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 a charter city, city, county, fire protection 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 protection district, or city and county of a pro rata portion of the actual and reasonable costs incurred by the charter city, city, county, fire protection 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 protection district, or city and county, except that a cost recovery ordinance or resolution in effect on or before January 1, 2024, would be authorized to supersede that provision.

(5) The State Fireworks Law requires any dangerous fireworks seized be managed by the State Fire Marshal in the manner prescribed by the State Fire Marshal, as provided.

This bill would require the State Fire Marshal to, in consultation with relevant state and local public agencies, the fireworks industry, and other relevant stakeholders, develop, publish, and provide necessary guidance and training to local agencies that seize, collect, transport, store, and treat seized fireworks, as provided. The bill would require the State Fire Marshal to train local fire and law enforcement personnel on fireworks enforcement, as provided.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12529 of the Health and Safety Code is amended to read:

12529. "Safe and sane fireworks" means any fireworks that have been approved by the United States Consumer Product Safety Commission and that have been carefully examined and tested by the State Fire Marshal and determined by the State Fire Marshal that the fireworks meet and are in compliance with the general and specific standards for design, construction, performance, and labeling for safe and sane fireworks, as set forth in Chapter 6 (commencing with Section 979) of Division 1 of Title 19 of the California Code of Regulations, as it reads on July 1, 2023.

SEC. 2. Section 12556 of the Health and Safety Code is amended to read:

12556. (a) In addition to the obligations described in Section 13110.5, on or before July 1, 2024, the State Fire Marshal shall identify and evaluate methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous fireworks and safe and sane fireworks. These evaluation methods shall include a cost analysis related to capturing and reporting the data and shall meet or exceed the specificity, detail, and reliability of the data captured under the former California Fire Incident Reporting System (CFIRS). The State Fire Marshal shall furnish a copy of these evaluation methods to any interested person upon request.

(b) On or before January 1, 2025, the State Fire Marshal shall collect and analyze data relating to fires, damages, seizures, arrests, administrative citations, and fireworks disposal issues caused by the sale and use of both dangerous illegal fireworks and safe and sane fireworks. The State Fire Marshal shall collect data pursuant to a methodology developed in consultation with the State Fire Marshal's General Fireworks Advisory Committee.

(c) (1) On or before January 1, 2025, the State Fire Marshal shall provide to the appropriate policy and budget committees of the respective houses of the Legislature a workload analysis of resources needed to further assist in the training of local fire and law enforcement personnel regarding all the following:

- (A) The seizure, collection, transportation, and storage of seized fireworks.
- (B) The enforcement of statewide programs concerning illegal and dangerous fireworks.
- (C) Prosecution related to seized fireworks.
- (D) Investigations of illegal and dangerous fireworks.

(2) The requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2028, pursuant to Section 10231.5 of the Government Code.

SEC. 3. Section 12635.5 is added to the Health and Safety Code, to read:

12635.5. (a) A charter city, city, county, fire protection district, or city and county that adopts an ordinance or resolution pursuant to Section 12599 may, through adoption of an ordinance or resolution by the governing body, require each applicant receiving a permit to pay a fee to the charter city, city, county, fire protection district, or city and county of a pro rata portion of the actual and reasonable costs the charter city, city, county, fire protection district, or city and county incurs that is related to any of the following:

(1) Processing and issuing permits.

(2) Inspection of fireworks stands.

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

(4) Enforcing the provisions of the code of the charter city, city, county, fire protection district, or city and county with respect to the sale and use of safe and sane fireworks, including extra personnel time and cleanup of the fireworks trash and debris. "Extra personnel time" means employee or contracted employee time that the charter city, city, county, fire protection district, or city and county would not otherwise incur but for the sale and use of safe and sane fireworks.

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

(b) The pro rata share of the costs shall be specified in the ordinance or resolution and calculated using gross sales as shown on each permittee's sales and use tax return for the applicable period. The pro rata share of costs shall not exceed 7 percent of the gross sales of the fireworks sold in the charter city, city, county, fire protection district, or city and county during the applicable period. A cost recovery ordinance or resolution in effect on or before January 1, 2024, may supersede this subdivision.

SEC. 4. Section 12700 of the Health and Safety Code is amended to read:

12700. (a) Except as provided in Section 12702 and subdivision (b), a person who violates any provision of this part, or any regulations issued pursuant to this part, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one thousand dollars (\$1,000) or more than two thousand dollars (\$2,000), or by imprisonment in the county jail for not exceeding one year, or by both that fine and imprisonment.

(b) A person who violates any provision of this part, or any regulations issued pursuant to this part, by possessing dangerous fireworks shall be subject to the following:

(1) A person who possesses a gross weight, including packaging, of less than 25 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one thousand dollars (\$1,000) or more than two thousand dollars (\$2,000), or by imprisonment in the county jail for not exceeding one year, or both that fine and imprisonment. Upon a second or subsequent conviction, a person shall be punished by a fine of not less than two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year or by both that fine and imprisonment.

(2) A person who possesses a gross weight, including packaging, of not less than 25 pounds or more than 100 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not less than two thousand dollars (\$2,000) or more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(3) A person who possesses a gross weight, including packaging, of not less than 100 pounds or more than 5,000 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or a county jail for not more than one year, or by a fine of not less than ten thousand dollars (\$10,000) or more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(4) A person who possesses a gross weight, including packaging, of more than 5,000 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or a county jail for not more than one year, or by a fine of not less than twenty thousand dollars (\$20,000) or more than one hundred thousand dollars (\$100,000), or by both that fine and imprisonment.

(c) Subdivision (b) shall not apply to a person who holds and is operating within the scope of a valid license as described in Section 12516 or valid permit as described in Section 12522.

SEC. 5. Section 12702 of the Health and Safety Code is amended to read:

12702. Notwithstanding Section 12700:

(a) A person who violates this part by selling, giving, or delivering any dangerous fireworks to any person under 18 years of age is guilty of a misdemeanor and upon a first conviction shall be punished as prescribed in subdivision (b) of Section 12700.

(b) Upon a second or subsequent conviction of the offense, the person shall be punished by an additional fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for up to one year or by both that fine and imprisonment. The person shall not be granted probation and the execution of the sentence imposed upon the person shall not be suspended by the court.

SEC. 6. Section 12726.1 is added to the Health and Safety Code, to read:

12726.1. (a) Subject to an appropriation by the Legislature, the State Fire Marshal shall train local fire and law enforcement personnel on the requirements of this chapter.

(b) The State Fire Marshal shall, in consultation with relevant state and local public agencies, the fireworks industry, and other relevant stakeholders, develop, publish, and provide necessary guidance and training to local agencies that seize, collect, transport, store, and treat seized fireworks. This training and education may include, but is not limited to, the following specific areas:

(1) Standards for the transportation, storage, and handling of fireworks and pyrotechnic articles in accordance with Chapter 6 (commencing with Section 979) of Division 1 of Title 19 of the California Code of Regulations and the National Fire Protection Association 1124: Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles of 2013.

(2) Recognition of explosive materials and isolation procedures in accordance with Chapter 10 (commencing with Section 1550) of Division 1 of Title 19 of the California Code of Regulations and the National Fire Protection Association 495: Explosive Materials Code of 2013.

(3) Recognition of commercial, consumer, and illegal fireworks in accordance with Chapter 6 (commencing with Section 979) of Division 1 of Title 19 of the California Code of Regulations and the National Fire Protection Association 1124: Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles of 2013.