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FISCAL IMPACT STATEMENT

LS 7189

BILL NUMBER: HB 1625

NOTE PREPARED: Feb 12, 2003

BILL AMENDED: Feb 10, 2003

SUBJECT: Fireworks.

FIRST AUTHOR: Rep. Mahern

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill changes the definition of "common fireworks" to "consumer fireworks". This bill allows the fire chief of a municipality to grant a permit allowing for a special discharge location for the discharge of common fireworks in the municipality. It establishes requirements for obtaining a special discharge location permit.

The bill also establishes building and fire suppression requirements for the sale of fireworks. The bill also requires a \$100 registration fee for additional firework sales locations.

It prohibits the sale of certain fireworks to a person less than 18 years of age; requires photographic identification of purchasers who appear to be less than 25 years of age; requires seller to maintain record of identification; prohibits the sale, distribution, use of specific sky rockets; and provides that a violation of these restrictions and prohibitions is a Class A misdemeanor.

The bill also provides that a person who ignites, discharges, or uses any fireworks intended to be used at a special discharge location at a site other than a special discharge location commits a Class D infraction for the first offense or a Class C infraction for a subsequent offense within five years of the first offense.

The bill requires that all fees collected in connection with permits be deposited in the Firefighting and Emergency Equipment Revolving Loan Fund and the Firefighters' Pension Relief Fund.

Effective Date: (Revised) Upon passage; July 1, 2003; July 1, 2004.

Explanation of State Expenditures:

Explanation of State Revenues: If a person satisfies the conditions of this bill with regard to sponsoring a special discharge location in a municipality, the person is required to pay a permit fee of \$1,000. If the person seeks to sponsor more than one special discharge location, the person must pay a \$1,000 permit fee for each special discharge location. A person must also pay a \$5,000 annual registration fee for the purpose of conducting one or more special discharge locations. It is unknown how many special discharge locations will be sponsored. All revenue from the permit and registration fees are to be deposited equally between the Firefighting and Emergency Equipment Revolving Loan Fund and the Pension Relief Fund for the benefit of firefighters.

Fireworks permits are also issued by the State Fire Marshal's Office and are \$1,000 per permit. This bill requires that an additional fee of \$100 be paid for each subsequent location from which fireworks are being sold. In FY 2002, more than 190 fireworks permits were issued by the State Fire Marshal, generating approximately \$193,000 in revenue, which was deposited into the Fire and Building Services Fund. Assuming that half, or 95, permits are required for each subsequent location, the additional estimated revenue would be \$9,500. This revenue would be deposited equally between the Firefighting and Emergency Equipment Revolving Loan Fund and the Pension Relief Fund for the benefit of firefighters.

The Firefighting and Emergency Equipment Revolving Loan Fund was established (IC 22-14-5-1) to make loans to volunteer fire departments for the purpose of purchasing new or used firefighting and other emergency equipment of apparatus and legal and other incidental expenses that are directly related to acquiring the equipment or apparatus. The balance of loans outstanding as of June 30, 2002, was \$940,415, and loans pending totaled \$470,000.

The Pension Relief Fund, with certain exceptions, covers all police officers and firefighters hired before May 1, 1977, who did not elect to convert their benefit coverage to the 1977 plan. The 1925 Police Pension Fund covers police officers, and the 1937 Firefighter's Pension Fund covers firefighters. The 1953 Police Pension Fund applies only to Indianapolis police officers. The Funds are a collection of separate funds administered by each city. The Funds pay the retirement, disability, and survivor benefits of eligible police and firefighters. The necessary funds for each local fund are appropriated annually in the municipality's budget. The state has dedicated 8.49% of the cigarette tax and 13% of the tax on liquor to provide relief to the police and fire funds. Surplus lottery revenues of \$10 M are transferred to the Pension Relief Fund each year. In addition, the lottery revenues provided an additional distribution of pension relief to local units of government. As of June 30, 2002, the dedicated and undistributed balance of the Pension Relief Fund was \$426,914,000. Two distributions of \$196,579,000 were made to municipalities from the Pension Relief Fund for FY 2002.

Penalty Provisions - This bill provides that if specific fireworks are sold to an individual under the age of 18 or if a person sells, distributes, or uses a specific sky rocket for a purpose other than out-of-state distribution, the individual commits a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county, or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

This bill provides that a person who ignites, discharges, or uses any fireworks intended to be used at a special discharge location at a site other than a special discharge location commits a Class D infraction for the first offense or a Class C infraction for a subsequent offense within five years of the first offense. The maximum

judgment for a Class D infraction is \$25, and the maximum judgment for a Class C infraction is \$500, both of which are deposited in the state General Fund. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: This bill provides that the local fire chief must approve a permit for a special discharge location. If the permit is denied, the person requesting the special discharge location may appeal the denial of the permit to the circuit or superior court of the county where the special discharge location is situated. There could be an increase in the number of cases filed in a circuit or superior court. The impact should be minimal.

Penalty Provision - A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Penalty Provisions* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the court fee (\$120 for misdemeanors or \$70 for infractions) that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: State Fire Marshal.

Local Agencies Affected: Fire departments serving municipalities; trial courts; local law enforcement; circuit or superior court of the county where the special discharge location is situated.

Information Sources: Mara Snyder, State Fire Marshal's Office, (317) 233-5341; *Indiana Pension Handbook*, Indiana Legislative Services Agency.

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