

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1548
Economic Matters

(Delegate Hornberger, *et al.*)

Public Safety - Consumer and Display Fireworks

This bill authorizes a person who is at least age 18 and meets the requirements under Title 10 of the Public Safety Article to purchase, possess, and use “consumer fireworks.” The bill also establishes prohibitions on intentionally igniting or discharging consumer fireworks. In addition, the bill limits the authority of the State Fire Marshal to issue permits and the requirement for a person to obtain and possess a permit relating to the discharge of fireworks to only apply to “display fireworks.” Further, the bill applies existing statutory penalties to violations of the bill.

Fiscal Summary

State Effect: State government finances are not anticipated to be materially affected.

Local Effect: Local government finances are not anticipated to be materially affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A person is prohibited from intentionally igniting or discharging consumer fireworks:

- on public property or on private property without the express permission of the owner;
- within, into, at, or from, a motor vehicle or building;
- at another person;

- while the person is under the influence of alcohol, a controlled substance, or another drug; or
- within 150 feet of an occupied structure.

These provisions may not be construed to regulate the sale, possession, or use of any of the following devices: (1) toy pistols, toy canes, toy guns, or other devices that use paper caps that contain 0.25 grains or less of explosive composition if the devices are constructed so that a hand cannot touch the cap when the cap is in place for use; (2) toy pistol paper caps that contain less than 0.20 grains of explosive composition; (3) sparklers that do not contain chlorates or perchlorates; (4) ground-based sparkling devices that are nonaerial and nonexplosive and are labeled in accordance with the requirements of the U.S. Consumer Product Safety Commission; (5) paper wrapped snappers that contain less than 0.03 grains of explosive composition; or (6) ash-producing pellets known as “snakes” that do not contain mercury and are not regulated by the U.S. Department of Transportation.

“Consumer fireworks” means any combustible or explosive composition or any substance or combination of substances that (1) is intended to produce visible or audible effects by combustion; (2) is suitable for use by the public; (3) complies with the construction, performance, composition, and labeling requirements promulgated by the Consumer Products Safety Commission in Title 16 of the Code of Federal Regulations, relating to commercial practices, or any successor regulation; and (4) complies with the provisions for “consumer fireworks” as defined in APA 87-1 or any successor standard.

“Display fireworks” means large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and include (1) salutes that contain more than 2 grains or 130 milligrams of explosive materials; (2) aerial shells containing more than 60 grams of pyrotechnic compositions; and (3) other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335, under Title 49, § 172.101 of the Code of Federal Regulations, relating to purpose and use of the hazardous materials table.

Current Law: Title 10 of the Public Safety Article generally regulates the manufacturing, storage, sale, possession, and use of fireworks and sparklers in the State.

Discharge of Fireworks: The State Fire Marshal may issue a permit to authorize the discharge of fireworks in a place where the discharge of fireworks is legal. The State Fire Marshal must issue a permit to discharge fireworks only if the State Fire Marshal determines that the proposed discharge of fireworks will (1) not endanger health or safety or damage property and (2) be supervised by an experienced and qualified person who has previously secured written authority from the State Fire Marshal to discharge fireworks. A permit to discharge fireworks:

- does not authorize the holder of the permit to possess or discharge fireworks in violation of an ordinance or regulation of the political subdivision where the fireworks are to be discharged; and
- does not relieve an applicant for a permit from any requirement to obtain any additional license or authority from the governing body of the political subdivision where the fireworks are to be discharged.

A person must have a permit to discharge fireworks before the person discharges fireworks or possesses fireworks with the intent to discharge fireworks or to allow the discharge of fireworks. An applicant for a permit to discharge fireworks must apply to the State Fire Marshal for the permit at least 10 days before the date of discharge, pay a \$50 permit fee, and post a bond with the State Fire Marshal, as specified. If the State Fire Marshal does not receive the application for a permit at least 10 days before the date of the discharge, the State Fire Marshal must charge the applicant an additional \$50 late fee. The fees do not apply to a volunteer fire department or volunteer ambulance and rescue company.

Unless the person holds a permit, a person may not discharge fireworks or possess fireworks, as specified. A permit to discharge fireworks is nontransferable.

A person who possesses or discharges fireworks without the required permit is guilty of a misdemeanor and on conviction subject to maximum fine of \$250 for each offense.

Sale of Fireworks: With specified exceptions, a person may not sell fireworks to another person without a permit. A person licensed by the State Fire Marshal may sell or deliver fireworks to a bona fide distributor, jobber, or wholesaler with a principal place of business in a state where the sale or possession of fireworks is allowed. The State Fire Marshal may require a person who is an out-of-state distributor, jobber, or wholesaler to submit a certificate issued by the person's state of operation that demonstrates authority to buy and receive fireworks.

A person who sells fireworks without the required license is guilty of a misdemeanor and on conviction, subject to a maximum fine of \$1,000 for each offense.

At the owner's expense, the State Fire Marshal must seize and remove all fireworks possessed or sold in violation of any of these provisions.

Sale of Sparklers: A person may not sell sparklers or sparkling devices to a person younger than age 16. A violator is guilty of a misdemeanor and on conviction subject to a maximum fine of \$1,000.

Distribution or Wholesale of Sparklers or Sparkling Devices: Generally, a distributor or wholesaler of sparklers or sparkling devices must register annually with the State Fire
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Marshal and pay a fee of \$750. A violator is guilty of a misdemeanor and on conviction subject to maximum penalties of imprisonment for one year and/or a \$1,000 fine.

Background: The Judiciary advises that in fiscal 2019, there were 11 violations and two convictions for discharging fireworks without a permit and 19 violations for possessing fireworks without a permit in the District Court.

Small Business Effect: The bill may have a meaningful effect on small businesses that are able to sell consumer fireworks without a permit or license as a result of the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

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an/lgc

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