

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 2157

PRINTER NO. 3277

AMOUNT

See Fiscal Impact

FUND

General Fund

DATE INTRODUCED

December 13, 2021

PRIME SPONSOR

Representative Farry

DESCRIPTION

House Bill 2157 repeals Article XXIV (Fireworks) from the Tax Reform Code of 1971 and recodifies and amends it as a new Chapter 11 in Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes.

The previously freestanding Fireworks Law was modernized and placed into the Tax Reform Code of 1971 under Act 43 of 2017. Many of the changes made to the Fireworks Law by Act 43 of 2017 are now incorporated into Chapter 11 of Title 3, including the following provisions:

- Requires a municipal permit and bond to use display fireworks;
- Limits the use of consumer fireworks as follows:
 - Must be at least 18 years old to purchase, possess and use consumer fireworks;
 - Prohibits the use of consumer fireworks on public or private property without express permission;
 - May not be used within, directed at, or directed from a vehicle or building or directed at a person;
 - Prohibits use if under the influence of alcohol or drugs; and
 - Requires a 150-foot use setback from all buildings and vehicles.
- Establishes conditions for facilities selling consumer fireworks, including the existing building code and safety requirements, license fees and inspections by the Department of Agriculture, and prohibits the issuing of licenses to convicted felons;
- Requires business entities which provide or supervise fireworks displays to annually register with the Attorney General;
- Imposes a 12% tax on the retail sale of consumer fireworks; and

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- Authorizes police, sheriffs, or deputies to remove consumer fireworks and display fireworks offered for sale, stored, used or held in violation of the chapter.

House Bill 2157 includes the following additional provisions in Chapter 11 of Title 3:

- Prohibits use of consumer fireworks between the hours of 10:00 p.m. and 10:00 a.m. except on July 2, 3 and 4 and December 31, on which days use can be until 1:00 a.m. the following day. If July 4 falls midweek, use may occur until 1:00 a.m. on the immediately preceding and following Friday and Saturday;
- Restricts use of consumer fireworks to within 150 feet of an animal housing facility or a fenced area designed to contain livestock owned or managed by another person. Use within 150 to 300 feet from an animal housing facility or fenced area requires 72 hours advanced notice to the owner or manager of the livestock;
- Authorizes municipalities to enact conditions, prohibitions and limitations on the use and sale of consumer fireworks that are not in conflict with this chapter; however, with regard to sales, such regulation shall not apply to facilities that have a valid license prior to or within one year following the effective date of this legislation;
- Allows municipalities to require a permit at a reasonable fee for the use of consumer fireworks;
- Allows municipalities to prohibit the use of consumer fireworks if the building density within the municipality is such that use cannot comply with the 150-foot setback;
- Prohibits municipalities from restricting or regulating the use of consumer fireworks on the days listed in the first bullet point or on Memorial Day and Labor Day weekends;
- Requires facilities that sell consumer fireworks to conspicuously post or provide written notice with each sale enumerating the conditions and prohibitions for use in this chapter, and that additional conditions, prohibitions and limitations may be implemented by a municipality;
- Requires that a facility licensed after the effective date of the legislation be located no closer than 300 feet from a facility selling or dispensing gasoline, propane or other flammable products. The distance under current law is 250 feet, but 300 feet is the distance required by the National Fire Protection Association Standard 1124, which each facility is required to meet;
- Allows the sale of consumer fireworks to be conducted through online, mail-order or other transactions, but possession must take place at a licensed facility, and the sale is subject to the taxes imposed under Chapter 11;
- Changes the distribution of the existing 12% tax. Current law requires up to \$2 million of tax revenue to be transferred for EMS grants and online volunteer

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firefighter training programs and the remainder to be deposited into the General Fund;

- House Bill 2157 increases penalties for violations of Chapter 11 as follows:
 - The fine for the summary offense of using consumer fireworks in violation of the chapter is increased from not more than \$100 to not more than \$500. A subsequent conviction within three years results in a misdemeanor of the third degree and a fine of not more than \$1,000;
 - The offense for selling consumer fireworks in violation of the chapter is increased from a misdemeanor of the second degree to a misdemeanor of the first degree, and a fine of not less than \$10,000 for a first offense applies. A subsequent conviction within three years results in a felony of the third degree, a fine of not less than \$15,000 and a license revocation;
 - The offense of selling display fireworks in violation of Chapter 11 remains a felony of the third degree, and a fine of not less than \$10,000 for a first offense is added. A subsequent conviction within three years is a felony of the second degree and includes a fine of not less than \$15,000; and
 - The offense of selling federally illegal explosives in violation of federal law remains a felony of the third degree, and additional penalties are added to include a fine of not less than \$10,000 for a first offense. A subsequent conviction within three years is a felony of the second degree and a fine of not less than \$15,000.

FISCAL IMPACT:

House Bill 2157 will decrease General Fund revenue of the Commonwealth. Under current law, from the 12% tax imposed on fireworks, up to \$2 million annually of revenue is transferred to the Emergency Medical Services Grant Program and the Online Training Educator and Training Reimbursement Account. Tax revenue in excess of the amount transferred is maintained in the General Fund. For the current 2021-22 fiscal year, the consumer fireworks tax will generate approximately \$14.6 million, and \$2 million will be transferred from the General Fund for fire and EMS uses. Therefore, the consumer fireworks tax will generate approximately \$12.6 million in General Fund revenue for the current fiscal year.

Under current law, the 12% tax on fireworks is imposed on the total purchase price of the fireworks sold, including state and local sales taxes. House Bill 2157 stipulates that the purchase price shall not include state and local sales taxes. Therefore, the 12% tax will generate slightly less revenue than it otherwise would under current law because the taxable purchase price will be lower.

House Bill 2157 will divert all consumer fireworks tax revenue from the General Fund and distribute it as follows:

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- \$1,500,000 shall be used for the EMS Grant Program;
- \$250,000 shall be used for online firefighter training;
- \$1,000,000 shall be transferred to PHEAA and used for loan forgiveness and tuition assistance for students and graduates who are active volunteer firefighters and volunteer EMS providers;
- \$1,000,000 shall be used for training EMS personnel;
- \$500,000 shall be used for EMS training center capital grants;
- \$500,000 shall be used for career fire department capital grants;
- \$250,000 shall be used for a public safety campaign on the use of fireworks;
- Any remaining money shall be equally divided between the EMS Grant Program and for making grants under the Fire Company Grant Program; and
- Money transferred for tuition assistance, training EMS personnel and for both types of capital grants shall not be expended until legislation is enacted providing for such expenditures.