

MAR 7 2006
WAYS AND MEANS

HOUSE FILE 2668
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 2254)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the licensure of operators authorized to use
2 and explode fireworks and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2668

1 Section 1. NEW SECTION. 101B.1 FIREWORKS OPERATOR
2 LICENSE.

3 The state fire marshal shall provide for the issuance of
4 fireworks operator licenses to eligible persons. Licenses
5 shall be issued for a period not to exceed one year and may be
6 issued for shorter periods. The state fire marshal shall
7 adopt rules governing criteria for the issuance and renewal of
8 a license, the license fee, and for the revocation or
9 suspension of a license. The license fee shall be reasonably
10 related to the costs to the state fire marshal for
11 administering this section and fees received shall be retained
12 by the state fire marshal for this purpose.

13 Sec. 2. Section 461A.42, subsection 2, Code 2005, is
14 amended to read as follows:

15 2. The use of fireworks, as defined in section 727.2, in
16 state parks and preserves is prohibited except as authorized
17 by a permit issued by the department. The commission shall
18 establish, by rule adopted pursuant to chapter 17A, a
19 fireworks permit system which authorizes the issuance of a
20 limited number of permits to qualified persons with a
21 fireworks operator license issued pursuant to section 101B.1
22 to use or display fireworks in selected state parks and
23 preserves. A person violating this subsection is guilty of a
24 simple misdemeanor. In addition to any other penalties, the
25 punishment imposed for a violation of this subsection shall
26 include assessment of a fine of not less than two hundred
27 fifty dollars. The court shall order restitution if any
28 damages were caused by the violation which may include, but is
29 not limited to, community service.

30 Sec. 3. Section 727.2, unnumbered paragraph 2, Code 2005,
31 is amended to read as follows:

32 A person, firm, copartnership, or corporation who offers
33 for sale, exposes for sale, sells at retail, or uses or
34 explodes any fireworks, commits a simple misdemeanor. In
35 addition to any other penalties, the punishment imposed for a

1 violation of this section shall include assessment of a fine
2 of not less than two hundred fifty dollars. However, the
3 council of a city or a county board of supervisors may, upon
4 application in writing, grant a permit for the display of
5 fireworks by municipalities, fair associations, amusement
6 parks, and other organizations or groups of individuals
7 approved by the city or the county board of supervisors when
8 the fireworks display will be handled by a competent operator,
9 but-no-such with a fireworks operator license issued pursuant
10 to section 101B.1. A permit shall not be required for the
11 display of fireworks at the Iowa state fairgrounds by the Iowa
12 state fair board, at incorporated county fairs, or at district
13 fairs receiving state aid except that the display of fireworks
14 shall be handled by an operator with a fireworks operator
15 license issued pursuant to section 101B.1. Sales of fireworks
16 for such display may be made for that purpose only.

17 EXPLANATION

18 This bill establishes a fireworks operator license to be
19 issued by the state fire marshal which authorizes the holder
20 to use or detonate fireworks as authorized by law. The bill
21 provides that licenses shall be issued for no longer than one
22 year. The bill provides that the state fire marshal shall
23 adopt rules governing the issuance of the license, the fee for
24 the license, and provisions for the revocation or suspension
25 of a license. The bill provides that the fee charged shall be
26 retained by the state fire marshal for administering this new
27 provision.

28 The bill provides that entities otherwise authorized to
29 allow the display of fireworks shall only permit the display
30 to be conducted by a person with a fireworks operator license.

31 Code section 461A.42, which permits the use of fireworks in
32 state parks and preserves under certain circumstances, is
33 amended to provide that any person authorized to use and
34 explode fireworks shall have a fireworks operator license.

35 Code section 727.2, which authorizes fireworks displays for

1 fairs or if allowed by the applicable city or county, is also
2 amended to provide that any person authorized to use and
3 explode fireworks shall have a fireworks operator license. A
4 violation of this section concerning fireworks is a simple
5 misdemeanor and subjects the violator to a fine of not less
6 than \$250.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 2668 - Fireworks (LSB 5496 HV)

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Fiscal Note Version - New

Description

House File 2668 establishes a one-year Fireworks Operators License to be issued by the State Fire Marshal's Office, which authorizes the holder to use or detonate fireworks as authorized by law. The Fire Marshal's Office will adopt rules governing the issuance of the license, the fee for the license, and provisions for the revocation or suspension of the license. The license fee will be retained by the State Fire Marshal's Office for administering the new provision. Violators are subject to a simple misdemeanor penalty.

Assumptions

1. The law will become effective July 1, 2006. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system (to allow for court case processing time).
2. In FY 2005, there were 50 convictions for violations of Section 727.2, Code of Iowa, for fireworks possession or sale.
3. In FY 2005, there were five convictions for improper fireworks in State parks.
4. The fireworks industry estimates approximately 1,000 citizens would pursue licensing in Iowa. The number of fireworks shows is unknown; however, the estimate is approximately 350 inspections per year.
5. Under the Bill, the State Fire Marshal's Office is allowed to keep the revenue from licensing and permits to offset staff costs.
6. The annual licensing fee will be established in Administrative Rules; however, the Department of Public Safety estimates the fee necessary to make the licensing portion of the Bill self-sustaining is an annual fee of \$60 per license.
7. The permit fee will be established in Administrative Rules; however, the Department estimates the fee necessary to make the inspection portion of the Bill self-sustaining is \$100 per show.
8. The Department estimates 1.5 FTE positions for an investigator (\$64,000) and a part-time clerical person (\$18,000) would be needed to perform these functions. Office expenses, travel, and equipment for the first year are estimated to be approximately \$36,000, of which \$25,000 are one-time expenses. The salary for the second year would be \$66,000 for the investigator and \$18,000 for the clerical person. Office expenses would be \$11,000.
9. Under the Bill, where a local jurisdiction conducts the inspection of a display show, they would be allowed to collect the permit fee. This is in addition to the 350 anticipated inspections the Department of Public Safety would perform.

Correctional Impact

By requiring a license, there may be a few additional violations; however, the impact will be minimal on the correctional system due to the simple misdemeanor penalty.

Fiscal Impact

Based on the fees established in Administrative Rules, the total revenue generated from fireworks licensing and permitting would be approximately \$95,000, which is intended to offset any operating costs incurred by the State Fire Marshal's Office. Due to a lag in hiring, the estimated revenue should be sufficient to fund the 1.5 FTE positions in both the first and second year.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJPD)
Department of Public Safety, State Fire Marshal's Office

Dennis C Prouty

March 13, 2006

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
