



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5939 (Substitute S-1 as reported)
House Bill 5940 (Substitute H-3 as reported without amendment)
House Bill 5941 (Substitute H-3 as reported without amendment)
Sponsor: Representative Jim Lilly (H.B. 5939 & 5941)
Representative John Chirkun (H.B. 5940)
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

CONTENT

House Bill 5939 (S-1) would amend the Michigan Fireworks Safety Act to do the following:

- Specify that a person who sold consumer fireworks and failed to obtain and maintain a consumer fireworks certificate would be responsible for a civil fine, instead of a misdemeanor.
- Increase the fees an applicant would have to pay to obtain a certificate.
- Require an applicant to submit a bond to secure the collection of estimated sales tax and fireworks safety fees, under certain circumstances.
- Prohibit the Department of Licensing and Regulatory Affairs (LARA) from issuing an initial certificate until the Department of Treasury had confirmed to LARA that each sales tax license submitted by the applicant was current and valid.
- Allow LARA to deny a certificate renewal if the applicant had not paid all of the required fees for all preceding years, or sales tax for any of the preceding five years.
- Increase the civil fine for failing to prominently display a certificate at each retail location the certificate applied.
- Require a retailer to provide with every purchase of consumer fireworks a notice listing the dates and times permitted under the Act for the ignition, discharge, and use of consumer fireworks, and require a notice to contain certain language.
- Specify that a retailer who failed to provide the notice would be responsible for a civil fine for each day on which one or more violations occurred.
- Prohibit a person from selling at retail consumer fireworks over the phone, internet, or other like manner unless the fireworks were picked up or shipped from a permanent location for which the person held a valid certificate.
- Specify that a person who failed to pay a fireworks safety fee would be responsible for a civil fine.
- Increase the civil fine for a person who sold consumer fireworks to a minor.
- Specify that an individual who discharged, ignited, or used consumer fireworks or low-impact fireworks while under the influence would be responsible for a civil fine.
- Prohibit a person from igniting, discharging, or using consumer fireworks or low-impact fireworks in a manner that was intended to harass, scare, or injure livestock.
- Specify that a person from whom fireworks were seized would have to pay the actual costs for the storage and disposal of the seized firework if the person were found guilty, responsible, or liable for a violation of the Act.
- Specify that LARA, instead of LARA and the Department of State Police, could use the disposal or destruction of a seized firework for training purposes

- Specify that LARA could not issue, and an individual would not be eligible to be issued, a certificate if he or she had ever been convicted of a felony involving theft, fraud, or arson.

The bill also would repeal Section 13 of the Act, which requires a wholesaler of consumer fireworks or low-impact fireworks to maintain a resident agent.

House Bill 5940 (H-3) would amend the Act to modify when a local unit of government could not enact an ordinance to regulate the ignition, discharge, or use of consumer fireworks, and to allow a local unit that met certain population thresholds to enact or enforce an ordinance that regulated the use of a temporary structure.

House Bill 5941 (H-3) would amend the Fire Prevention Code to do the following:

- Grant the commanding officer of the fire department of a city, village, township, or county the authority to enforce a no-burning restriction if the environment concerns based on the Department of Natural Resources (DNR) Fire Division criteria were elevated to extreme fire conditions, or if the environmental concerns were elevated to "very high" for 72 consecutive hours.
- Allow the Governor, the DNR, or the State Fire Marshal to enforce a statewide no-burning restriction.
- Require a commanding officer to lift a ban and inform the public that the ban was lifted, nor more than 24 hours after the fire condition had been downgraded.

MCL 28.452 et al. (H.B. 5939)
 28.457 (H.B. 5940)
 29.7a (H.B. 5591)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 5939 (S-1) would have a positive fiscal impact on the Department of Licensing and Regulatory Affairs (LARA).

The bill contains several proposed fee increases for Consumer Fireworks Certificates:

Fee Type	Current Law	HB 5939 (S-1)
Certificate (permanent structure)	\$1,000	\$1,250
Certificate (non-permanent structure)	\$600	\$1,000
Certificate (10+ nonpermanent structures) [†]	\$600	\$700
Transfer	\$25	\$250

[†] fee per structure

The magnitude of the increase in fee revenue would depend on the number of Consumer Fireworks Certificate applications received. This fee revenue is used to administer the Act and to pay the cost of delegating inspections to local units of government. As of August 2018, there were 665 active temporary certificates and 260 active permanent certificates. If the same number of certificates were issued under the new fee structure, the Department would see a fee revenue increase of \$350,000.

The bill also would add a registry application fee of \$100 for each retail location selling low-impact fireworks, with a maximum fee of \$1,000 per person. The magnitude of this impact would depend on the number of persons registering a low-impact retail location. As of August

2018, there were 558 active low-impact temporary registrations and 1,227 active low-impact permanent registrations.

Under the bill, a person who failed to register would be subject to a civil fine of not more than \$1,000. The bill also would increase the civil fine for failure to properly display a consumer fireworks certificate from \$100 to \$200. A person who failed to remit a Fireworks Safety Fee as required under the Act would be responsible for a civil fine of up to \$5,000 for a first violation, up to \$20,000 for a second violation, and up to \$40,000 for a third or subsequent violation. Revenue from each of these civil fines would be deposited into the Fireworks Safety Fund within LARA. The Department estimates that these increase would result in an additional \$14,000 annually, depending on the number and type of violations.

In addition, the bill would revise the percentage of the certificate fees paid to local governments that agree to carry out inspection duties under the Act. Under the bill, the Department would retain 50% of the fee rather than the 30% retained under current law.

Overall, the Department expects the bill would result in an additional \$1.2 million in annual revenue.

Otherwise, the bill would have no fiscal impact on the State and likely would increase revenue to local law enforcement agencies by an indeterminate amount. Aside from those civil fines discussed above, the bill would mandate a \$100 per day civil fine on retailers who failed to provide notice of the permitted dates and times for the use of fireworks. Fines collected for this violation would be remitted to the local law enforcement agency responsible for enforcing the notice requirement. The amount of increased fine revenue would depend on the number of violations.

The bill also would remove misdemeanor offenses for violations surrounding the sale and use of consumer fireworks. To the extent that changes in the bill led to decreased misdemeanor arrests and prosecutions, it could reduce resource demands on law enforcement, court systems, and jails. Any related decrease in penal fine revenue would reduce funding to public libraries.

House Bill 5940 (H-3) would have no fiscal impact on the State and likely would increase revenue to local law enforcement agencies by an indeterminate amount. It would increase the civil fine for violations of local ordinances regulating the ignition, discharge, and use of consumer fireworks. The Act currently allows for a civil fine of up to \$500, while the bill would mandate a fine of \$1,000, with \$500 to be remitted to the local law enforcement agency responsible for enforcing the ordinance. The amount of increased fine revenue would depend on the number of violations.

House Bill 5941 (H-3) would have no fiscal impact on State or local government.

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Bill Analysis @ www.senate.michigan.gov/sfa

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