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FISCAL IMPACT REPORT

ORIGINAL DATE 2/3/07.

SPONSOR SCORC LAST UPDATED 2/16/07 HB _____

SHORT TITLE Define Permissible Fireworks SB 267/aSPAC/aSCORC

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
\$0.1	\$0.1	\$0.1	Recurring	Fire Protection Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy Minerals & Natural Resources (EMNRD)

Public Regulation Commission (PRC)

Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations & Transportation Committee amendment for Senate Bill 267 deletes the requirement that the state fire marshal must maintain a list of permissible fireworks for sale in New Mexico.

The amendment also adds to the definition of “wildlands” the requirement that the lands must be owned by the governing body of a county or municipality and lands must be designated for public recreational purposes.

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment for Senate Bill 267 permits the state fire marshal’s office to charge a \$20 replacement fee.

The amendment also clarifies that sales clerks and ancillary personnel employed at temporary retail locations where fireworks are sold can be volunteering their services, but they still must be at least sixteen years of age.

Synopsis of Original Bill

Senate Bill 267 provides cleanup language and amends portions of the Fireworks Licensing and Safety Act. The bill requires the State Fire Marshal to compile and maintain a list of permissible fire works and annually transmit the list to each licensed wholesaler before January 1st. The licensed wholesaler is required to review the list and update the list according to the permissible fireworks the wholesaler currently holds for sale and certify the list to the State Fire Marshal. The State Fire Marshal shall transmit the completed list to all local fire chiefs and fire marshals in the state, as well as prescribe any rules, forms and instructions necessary to implement these requirements.

The bill adds aerial shell kit-reloadable tubes and multiple tube devices to the compliment of devices that are permissible and removes toy smoke devices from this list. The bill changes the inside diameter of stick type rockets in the types of fireworks that are not permissible and adds fireworks intended for sale to the public that produce an audible effect, other than a whistle, by a charge of more than one hundred thirty milligrams of explosive composition per report.

The bill adds language stating all places where fireworks are stored, sold or displayed shall be in compliance with the code of safety standards published by the National Fire Protection Association for the manufacture, transportation, storage and retail sales of fireworks and pyrotechnics articles. Additionally, sales clerks and ancillary personnel at retail locations must be at least sixteen years of age.

In addition to state forest land, wild lands or a Bosque are included as locations where fireworks cannot be sold or used.

The bill adds a new section regarding theatrical pyrotechnics articles. This new section requires all places where theatrical pyrotechnics articles are manufactured, stored, sold or displayed shall be in compliance with the code of safety standards published by the national fire protection association for the use of pyrotechnics before a proximate audience.

The bill includes an emergency clause

FISCAL IMPLICATIONS

The State Fire Marshal's Office (SFMO) states there is no significant fiscal impact. Currently a portion of the receipts collected from the sale of regulated fireworks are earmarked for the Fire Protection Fund. After distributions are made to the fire districts the remainder is reverted to the general fund. The revisions and additions to current statute from SB267 do not affect sales, which are based on economic activity within the market.

SIGNIFICANT ISSUES

The bill will require the SFMO to compile and distribute lists provided by the manufacturers and represent them as legal products. The SFMO will have no way of knowing if a product, listed only by name, is indeed a legal product without conducting expensive lab analysis of each product. Between all the manufacturers the number of products to be tested could be in the tens of thousands.

ADMINISTRATIVE IMPLICATIONS

The State Forester works to coordinate fire restrictions with federal agencies, counties and municipalities, to the greatest extent possible, so that fire and law enforcement agencies can work together and citizens could have access to the technical information on what is banned. The State Forestry Division (SFD) responds to numerous public inquiries during the fire season explaining what is permissible and banned.

This bill will not significantly change the SFD's role.

The SFMO will be required to implement the provisions of this bill. Under Significant Issues the SFMO claimed that he might have to test tens of thousands of products.

TECHNICAL ISSUES

EMNRD provided the following:

Section 60-2C-8 (I) states that no fireworks shall be used or sold on state forest land, wild lands or a Bosque. The definition of wild land includes all lands covered wholly or in part by timber, brush or native grass. This will include the Bosque. This definition prevents even public displays in state parks. In addition, except for forested state trust lands and forested land within state parks, the state does not own forest lands. There are no "State Forests" similar to the National Forests managed by the US Forest Service.

Therefore, if the intent of the bill is to prevent the use of fireworks in state owned or managed lands, "state" should be removed from paragraph (I) and the sentence should be revised to read: "Except for public fireworks displays approved by the governmental entity with jurisdiction over the land, no fireworks shall be sold or used on state owned or managed lands."

If the intent is to prevent the use of fireworks in wild land areas including forest lands and the Bosque Section 60-2C-8(I) should be amended to read: "Except for public fireworks displays approved by the governmental entity with jurisdiction over the land, no fireworks shall be sold or used on wild lands." If there is concern that Bosque is not specifically referenced the definition of wild land could be amended to read "wild lands mean lands covered wholly in part by trees, brush or native grass".

DW/mt