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## Local Government Committee

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### SB 5914

**Brief Description:** Addressing local authority in the regulation of fireworks.

**Sponsors:** Senators Benton, Padden, Miloscia, Keiser, Conway, Roach, Warnick, Hewitt, Hatfield, Angel, Ericksen, Hobbs and O'Ban.

#### Brief Summary of Bill

- Provides that a county or city may enact an ordinance regulating fireworks that is more restrictive than state law only as to the days and hours of legal sale or use of consumer fireworks, and the types of consumer fireworks sold and used within the geographical boundaries of a county or city.
- Adopts the 2013 edition of the National Fire Protection Association's fireworks code, *NFPA 1124: Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles* in its entirety and without amendment.
- Repeals authority requiring the Chief of the Washington State Patrol (Chief), through the Director of Fire Protection (Director), to prescribe uniform, statewide standards for retail fireworks standards, and instead requires the Chief, through the Director, to prescribe standards and rules that implement and give effect to the State Fireworks Law and the NFPA 1124.

**Hearing Date:** 3/18/15

**Staff:** Michaela Murdock (786-7289).

#### **Background:**

##### The Chief of the Washington State Patrol.

The Washington State Patrol (WSP) is a department of state government headed by the Chief of the WSP (Chief). The Chief is appointed by the Governor, and is responsible for appointing WSP officers, special deputies, and certain employees of the Office of the State Treasurer. The Chief and other officers of the WSP may exercise the police powers and duties vested in sheriffs and peace officers generally, as well as other powers and duties prescribed by law.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### The Director of Fire Protection.

The Chief is responsible for appointing an officer known as the Director of Fire Protection (Director), also known as the State Fire Marshal. The Director must implement and administer all duties of the Chief that are to be carried out through the Director, as well as all duties of the Director.

### The State Fireworks Law.

The State Fireworks Law (SFL) provides that fireworks purchased and used in compliance with its provisions are legal. "Fireworks" are any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, that also meets the definition of articles of pyrotechnic, consumer fireworks, or display fireworks:

- *Articles Pyrotechnic* - Pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction, but not intended for consumer use, and otherwise meet federal standards and regulations.
- *Consumer Fireworks* - Small fireworks devices designed to produce visible effects by combustion that comply with federal regulations of the U.S. Consumer Product Safety Commission.
- *Display Fireworks* - Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. Display fireworks include display pieces that exceed the limits of explosive materials for classification as consumer fireworks.

No license or permit is required to possess or use consumer fireworks that are lawfully purchased at retail. However, a state license must be obtained from the Chief, or a permit from the applicable county or city, for other fireworks activities, such as to manufacture or sell fireworks, make a public display of fireworks, or transport fireworks.

Under the SFL, it is legal to sell and purchase consumer fireworks during specified times from June 29 through July 5, and from December 27 through December 31. Similarly, it is legal to use or discharge consumer fireworks during specified times from June 29 through July 5, and from December 31 to January 1.

The Chief, through the Director, is required to adopt rules necessary to ensure statewide minimum standards for enforcement of the SFL. Cities and counties are required to comply with these minimum standards, but may adopt ordinances that are more restrictive than state law. More restrictive ordinances do not become effective until at least one year after their adoption.

### Fireworks - Rules and Standards.

The Chief, through the Director, has various duties prescribed by the SFL, including to:

- enforce and administer the SFL;
- adopt rules related to fireworks;
- adopt rules to ensure statewide minimum standards for enforcement of the SFL; and
- prescribe uniform, statewide standards for retail fireworks stands.

In addition, each year by October 1, the Chief, through the Director, must adopt a list of the consumer fireworks that may be sold to the public and file the list with the Office of the Code Reviser for publication, unless the previous list is still current.

Counties and cities are required to comply with rules adopted by the Chief. For cities and counties that allow retail fireworks sales, they must also comply with the standards adopted by the Chief for retail fireworks stands.

The National Fire Protection Association.

The National Fire Protection Association (NFPA) is a nonprofit organization that develops and provides consensus codes and standards, research, training, and education related to fire safety and prevention. The NFPA develops standards related to the sale, manufacture, storage, and transportation of fireworks, pyrotechnic articles, and other explosive materials. The standards are known as the "NFPA 1124."

The 2013 edition of the NFPA 1124, also known as the *NFPA 1124: Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles*, was adopted in August 2012. This edition was withdrawn by the NFPA in 2014 for the purpose of deleting provisions related to consumer fireworks. The NFPA has announced that it will no longer develop standards regarding the retail sale and storage of consumer fireworks, and future editions of the NFPA 1124 will not contain such standards.

**Summary of Bill:**

Provisions of the SFL are amended to specify that a county or city may enact more restrictive ordinances than state law only as to the following:

- the days and hours for the legal sale of consumer fireworks;
- the days and hours for the legal use of consumer fireworks; and
- the types of consumer fireworks that may be sold and used within the geographical boundaries of the county or city.

The Chief's rulemaking authority related to fireworks is modified. The Chief, through the Director, must adopt statewide standards, rather than statewide minimum standards, for the enforcement of the SFL. Additionally, the Chief, through the Department, is no longer responsible for adopting standards for retail fireworks stands. Instead, the 2013 edition of the NFPA 1124, as published in August 2012, is adopted in its entirety and without amendment. The Chief, through the Director, must prescribe uniform, statewide standards and rules to implement and give full effect to requirements in the SFL for retail fireworks stands, including requirements contained in the NFPA 1124 as adopted.

Any ordinance, standard, rule, or regulation adopted by a county or city that is in conflict with the SFL is null and void and has no effect. The Chief, through the Director, must enforce the SFL.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.