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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3602**

March 11, 2010

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

1.1 A bill for an act
1.2 relating to public safety; authorizing limited personal use of fireworks; requiring
1.3 an affidavit of safety guidelines; providing for criminal penalties; appropriating
1.4 money; proposing coding for new law in Minnesota Statutes, chapter 624.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[624.222] FIREWORKS; LIMITED PERSONAL USE;**
1.7 **AUTHORIZATION.**

1.8 Subdivision 1. **Limited personal use of fireworks.** Notwithstanding sections
1.9 624.20 to 624.221 and 624.23 to 624.25, class 1.4G fireworks may be used or ignited for
1.10 personal use only. A retail seller may offer for sale, advertise, or sell 1.4G fireworks, as
1.11 defined in Code of Federal Regulations, title 49, for personal use. All 1.4G fireworks held
1.12 for sale under this section must carry a label warning that personal use only is permitted.
1.13 Personal use of fireworks is not permitted on public property. Anyone selling 1.4G
1.14 fireworks under this section must post in a conspicuous location the following warning in
1.15 block letters not less than one inch in height: "FIREWORKS MAY BE PURCHASED
1.16 FOR PERSONAL USE ONLY UNDER MINNESOTA STATUTES, SECTION 624.222."
1.17 A retail seller of 1.4G fireworks shall require each purchaser of 1.4G fireworks for limited
1.18 personal use to complete an application stating that the purchaser:

- 1.19 (1) is 18 years of age or older verified by a photograph identification;
- 1.20 (2) has received a copy of safety information for the use of fireworks;
- 1.21 (3) agrees to use the 1.4G fireworks in Minnesota only; and
- 1.22 (4) agrees to supervise and be responsible for any use of the 1.4G fireworks.

1.23 Subd. 2. **License applications; fees.** An application for a license to sell 1.4G
1.24 fireworks must be submitted to the state fire marshal by January 15 of each year on a form

2.1 prescribed and provided by the state fire marshal. A license shall be issued no later than
2.2 March 1 of each year. The license application shall be accompanied by an annual license
2.3 fee of \$1,000. The fire marshal shall deposit the fee in the general fund. The fire marshal
2.4 shall annually inspect the facility to ensure that all requirements are met. A license may
2.5 not be issued to a convicted felon or to an entity where a convicted felon owns five percent
2.6 or more of the equity in the entity.

2.7 Subd. 3. **Exemption for novelty items.** The sale of novelty items described
2.8 in section 624.20, subdivision 1, paragraphs (b) and (c), are exempt from the licensing
2.9 requirements under subdivision 2.

2.10 Subd. 4. **Facility operation requirements.** A person operating a 1.4G fireworks
2.11 sales facility:

2.12 (1) may not permit smoking in the facility;

2.13 (2) may not permit cigarettes or tobacco products, matches, lighters, or other
2.14 flame-producing devices in the facility;

2.15 (3) may not permit minors in the facility unless the minor is accompanied by an
2.16 adult, and shall require that the minor stay with the adult in the facility;

2.17 (4) shall only sell 1.4G fireworks that comply with the United States Consumer
2.18 Product Safety Commission standards;

2.19 (5) shall carry at least \$2,000,000 in personal and product liability insurance;

2.20 (6) may not store or locate class 1.3G fireworks at the facility;

2.21 (7) may not admit a person under the influence of intoxicating liquor or drugs into
2.22 the facility and may not permit liquor, beer, or wine in the facility;

2.23 (8) may not permit fireworks to be ignited within 300 feet of the facility;

2.24 (9) shall locate the facility no closer than 50 feet from any facility selling or
2.25 dispensing gasoline, propane, or other flammable products;

2.26 (10) shall conspicuously post emergency evacuation plans in appropriate locations
2.27 within the facility; and

2.28 (11) shall distribute information on the safe use of fireworks to all purchasers.

2.29 Subd. 5. **Fireworks safety guidelines.** The state fire marshal shall distribute
2.30 information on 1.4G fireworks safety designed to ensure that personal use and ignition of
2.31 1.4G fireworks each year follows best fireworks safety practices.

2.32 Subd. 6. **Penalties.** (a) A person who ignites, discharges, or uses 1.4G fireworks at a
2.33 site other than (1) the property of the person, or (2) the property of another who has given
2.34 permission to use the consumer fireworks, is guilty of a petty misdemeanor. If a person
2.35 commits an offense under this subdivision not later than five years after the date of the
2.36 commission of a prior offense, the person is guilty of a misdemeanor.

3.1 (b) A person commits a gross misdemeanor if the person recklessly, knowingly, or
3.2 intentionally uses consumer fireworks and it results in serious bodily injury to a person.

3.3 (c) A person commits a felony if the person recklessly, knowingly, or intentionally
3.4 uses consumer fireworks and it results in the death of a person.

3.5 (d) A person commits a felony if the person knowingly fails to collect or remit to
3.6 the state the public safety fees due under subdivision 7.

3.7 Subd. 7. User fees. (a) A user fee, known as the public safety fee, is imposed on
3.8 retail transactions of 1.4G fireworks made in Minnesota.

3.9 (b) The person who acquires 1.4G fireworks in a retail transaction is liable for the
3.10 public safety fee on the transaction and shall pay the public safety fee to the retailer as a
3.11 separate added amount to the consideration in the transaction. The retailer shall collect
3.12 and remit the public safety fees to the commissioner of public safety.

3.13 (c) Seventy percent of the public safety fee shall be paid to the general fund and
3.14 30 percent of the public safety fee shall be paid to the fire safety account to be used for
3.15 the following purposes:

- 3.16 (1) State Fire Marshal Division;
- 3.17 (2) Board of Firefighter Training Education; and
- 3.18 (3) fire service-related regional response team programs.

3.19 The Fire Service Advisory Committee shall determine the distribution of the funds
3.20 received by the department from the public safety fee.

3.21 (d) The public safety fee is measured by the gross retail income received by a retailer
3.22 in a retail unitary transaction of 1.4G fireworks and is imposed at the following rates:

<u>PUBLIC SAFETY FEE</u>	<u>GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION</u>	
3.26 <u>\$0.00</u>		<u>less than \$0.25</u>
3.27 <u>\$0.01</u>	<u>at least \$0.25</u>	<u>but less than \$0.50</u>
3.28 <u>\$0.02</u>	<u>at least \$0.50</u>	<u>but less than \$0.75</u>
3.29 <u>\$0.03</u>	<u>at least \$0.75</u>	<u>but less than \$1.00</u>
3.30 <u>\$0.04</u>	<u>at least \$1.00</u>	

3.31 On a retail unitary transaction in which the gross retail income received by the retail
3.32 merchant is \$1 or more, the public safety fee is four percent of that gross retail income.

3.33 (e) If the public safety fee computed under paragraph (d) results in a fraction of
3.34 one-half cent or more, the amount of the public safety fee shall be rounded to the next
3.35 additional cent.

3.36 (f) A retailer liable for collecting the public safety fee from a purchaser shall file a
3.37 return for each calendar month and pay the public safety fees that the retailer has collected

4.1 during that month. A retailer shall file the retailer's return for a particular month with the
4.2 department and make the retailer's payment of the public safety fees collected for that
4.3 month to the department not more than 30 days after the end of that month.

4.4 (g) Notwithstanding the 12 monthly reporting periods required by paragraph (f),
4.5 the department may permit a retailer to:

4.6 (i) divide a year into a different number of reporting periods, with the return and
4.7 payment for each reporting period due not more than 20 days after the end of the period; or

4.8 (ii) report and pay the retailer's public safety fees for a period covering a calendar
4.9 year, if the retailer's public safety fee liability for a calendar year does not exceed \$75, and
4.10 the retailer files the retailer's return and pays the retailer's public safety fee liability not later
4.11 than the last day of January immediately following the close of the prior calendar year.

4.12 (h) An individual retailer, or an employee, officer, or member of a corporate or
4.13 partnership retailer, who has a duty to remit the public safety fee under this subdivision to
4.14 the Department of Public Safety holds the public safety fees collected in trust for the state
4.15 and is personally liable for the payment of the public safety fee money to the state.

4.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.17 **Sec. 2. APPROPRIATION.**

4.18 \$250,000 in fiscal year 2010 is appropriated from the general fund to the
4.19 commissioner of public safety to administer section 1.