

SESSION OF 2013

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2167**

As Recommended by Senate Committee on
Federal and State Affairs

Brief*

Senate Sub. for HB 2167 would add new administrative procedures to the Kansas Fireworks Act. The bill would recodify two sections of current law regarding bottle rockets by adding these provisions to the Kansas Fireworks Act, and would modify provisions regarding the sale of bottle rockets.

First, the bill would make the following changes in the Kansas Fireworks Act by adding administrative procedures to:

- Authorize the State Fire Marshal or local law enforcement to seize fireworks stored, possessed, or transported in violation of either the Kansas Fireworks Act or any State Fire Marshal regulation;
- Direct the process for making an inventory of the seized fireworks and for the destruction of the seized fireworks;
- Direct the process for a hearing pursuant to the Kansas Administrative Procedure Act;
- Allow the State Fire Marshal or the Fire Marshal's authorized representative to apply to the applicable court for an emergency order authorizing the State Fire Marshal or authorized representative to destroy or dispose of fireworks that are an

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

immediate danger to the public safety, health, or welfare;

- Establish a civil penalty not to exceed \$1,000 for the failure to obtain a license. (Each day the violation continues would be deemed a separate violation.);
- Establish a civil penalty not to exceed \$1,000 for all other violations. (Each day the violation continues following written notice would be deemed a separate violation.);
- Require fees collected from civil penalties to be deposited into the State General Fund;
- Establish the Explosives Regulatory and Training Fund;
- Require non-civil penalty proceedings under the Kansas Fireworks Act to be conducted in accordance with the Kansas Administrative Procedure Act; and
- Provide that fees collected under the Act would be credited to the Explosives Regulatory and Training Fund.

Second, the bill would relocate bottle rocket provisions currently contained in KSA 31-155 and KSA 31-156 to the Kansas Fireworks Act (KSA 31-501 *et seq*).

Third, the bill would allow the possession, transportation, and sale of bottle rockets within Kansas by persons or manufacturers licensed by the State Fire Marshal. Sales would be permitted to other Kansas registered persons and manufacturers, and to non-registered persons for resale out-of-state. The registered seller or manufacturer would be required to notify the State Fire Marshal of all certifications for resale of bottle rockets out-of-state that must be submitted by all non-registered persons. The bill would clarify that Kansas

registration would not be required of any persons who purchase and transport bottle rockets for out-of-state resale, and that such persons would be required to certify such intent to the seller.

The bill would be in effect upon publication in the *Kansas Register*.

Background

HB 2167, as introduced, established "Native American Legislative Day at the Capitol." The Senate Committee of the Whole passed SB 111 which contained similar language. The Senate Committee on Federal and State Affairs removed the contents of HB 2167, as introduced, and inserted the contents of House Sub. for SB 226, as amended by the House Committee on Federal and State Affairs. The Senate Committee then recommended a substitute bill to incorporate the provisions of House Sub. for SB 226.

Bottle Rockets

The sections in the bill dealing with bottle rockets were originally contained in Sub. for SB 214. The Senate Committee heard support of the bill from a representative of the Kansas Fireworks Association and a private fireworks wholesaler who indicated the bill would allow out-of-state retailers to buy bottle rockets from registered Kansas sellers and wholesalers. Testimony opposing the original bill was provided by the State Fire Marshal.

The Senate Committee on Federal and State Affairs recommended a substitute bill containing amendments to modify the current bottle rocket statutes regarding sales for out-of-state use suggested by the State Fire Marshal.

The House Committee on Federal and State Affairs was told by the State Fire Marshal that he supported the substitute

bill passed by the Senate.

The fiscal note provided by the Division of the Budget on the original SB 214 indicated its passage would have no fiscal effect on the State Fire Marshal budget.

Other Fireworks Amendments

The remainder of the substitute bill is comprised of the original SB 226. The Senate Committee heard testimony in support of SB 226 by the State Fire Marshal and a representative of the Kansas Fireworks Association.

The House Committee on Federal and State Affairs adopted all provisions in the Senate version of SB 226 and combined provisions from Sub. for SB 214 into House Sub. for SB 226.

The fiscal note provided by the Division of the Budget indicated for SB 226 would have no impact on State Fire Marshal operations, but there would be an increase in revenue to the State General Fund because of the two new civil penalties. The Office of Judicial Administration stated enactment of the bill could result in the collection of additional docket fees and penalties. The League of Kansas Municipalities stated enactment could have a fiscal effect on cities, but the exact effect cannot be estimated.