House Bill 3435

Sponsored by Representatives CLEM, GORSEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor’s brief statement of the essential features of the measure as introduced.

Establishes additional permissible periods for permits to sell consumer fireworks at retail.

Increases civil penalty for most violations of fireworks laws to be minimum of $500 and maximum of $5,000.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to fireworks; creating new provisions; amending ORS 480.127, 480.130 and 480.165; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 480.127 is amended to read:

480.127. (1) Any person who desires to sell consumer fireworks at retail to individual members of the general public for personal use shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the proposed sale and that the proposed sale will conform to the provisions of ORS 480.111 to 480.165 and any rules adopted under ORS 480.111 to 480.165. A fee may be charged for the permit. Subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, the amount of the fee shall be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2)(a) A retail sales permit issued under this section authorizes the sale of consumer fireworks only [in the year for which the permit is issued during the period that begins on June 23 and ends on July 6 of the year for which the permit is issued.] during the period described in paragraph (b) of this subsection for which the permit is issued.

(b) A retail sales permit authorizes the retail sale of consumer fireworks during one of the following periods as set forth in the permit:

(A) The date of Chinese New Year and the five days immediately preceding that date.

(B) June 23 through July 6.

(C) The first day of the festival known as Diwali and the five days immediately preceding that day.

(D) December 15 through December 31.

(3) A retail sales permit holder shall store consumer fireworks in accordance with any fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks. The matters that the State Fire Marshal considers when adopting storage rules for fireworks may include, but

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

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are not limited to, any United States Department of Transportation requirements relating to haz-
ardous materials storage.

SECTION 2. ORS 480.130 is amended to read:

480.130. (1) All persons, municipalities, associations or organizations or groups of individuals
desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell con-
sumer fireworks to persons who possess the permit referred to in ORS 480.127, shall apply in writing
to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale or date of
the display. The State Fire Marshal, upon receipt of such application, shall determine if the proposed
sale or display will conform to law and any rules promulgated thereunder. If the State Fire Marshal
finds that the applicant is qualified to conduct such sale or display and that the proposed sale or
display is in accordance with the law and all rules, the State Fire Marshal shall issue a permit;
otherwise the State Fire Marshal shall refuse to issue it.

(2) The fee for a permit for the public display of fireworks and each permit for the sale of any
fireworks shall be established by rule by the State Fire Marshal, subject to prior approval by the
Oregon Department of Administrative Services and a report to the Emergency Board prior to
adopting the fee, and subsequently shall be adjusted to finance the administrative expenses incurred
under this section and shall be within the budget authorized by the Legislative Assembly as that
budget may be modified by the Emergency Board. All fees collected shall be deposited to the credit
of the State Fire Marshal Fund.

SECTION 3. ORS 480.165 is amended to read:

480.165. (1) Except as provided in this subsection, in addition to any other penalty provided
by law, any person who violates any provision of ORS 480.111 to 480.165, or any rule adopted by the
State Fire Marshal under ORS 480.111 to 480.165, is subject to a civil penalty imposed by the State Fire Marshal in an amount not to exceed $500 per violation. [However,] An
individual member of the general public who possesses fireworks of a retail value less than $50 is
not subject to a civil penalty.

(2) A civil penalty imposed under this section:

(a) For a violation of ORS 480.123 or 480.124, or of a rule for the administration or
enforcement of ORS 480.123 or 480.124, may not exceed $500 per violation.

(b) Except as provided in paragraph (a) of this subsection, may not be less than $500 or
more than $5,000 per violation.

(3) For purposes of subsection (2) of this section, each day a violation continues shall be
considered a separate offense.

[(2)] (4) All moneys recovered pursuant to this section shall be paid into the State Fire Marshal
Fund.

[(3)] (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

SECTION 4. The amendments to ORS 480.165 by section 3 of this 2019 Act apply to viol-
ations of ORS 480.111 to 480.165, or of State Fire Marshal rules adopted under ORS 480.111
to 480.165, that occur on or after the effective date of this 2019 Act.

SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019
regular session of the Eightieth Legislative Assembly adjourns sine die.