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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 329

01/19/2017 Authored by Rarick, Smith, Daudt, Theis, Pierson and others
The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; regulating the manufacture, sale, and use of fireworks;
1.3 dedicating a portion of revenues from the sale of certain fireworks for public safety
1.4 purposes; providing for a new account in the state treasury; amending Minnesota
1.5 Statutes 2016, sections 297A.94; 624.20, subdivision 1; proposing coding for new
1.6 law in Minnesota Statutes, chapter 88.

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

1.8 Section 1. **[88.068] VOLUNTEER FIRE ASSISTANCE GRANT ACCOUNT.**

1.9 A volunteer fire assistance grant account is established in the special revenue fund. Sales
1.10 taxes allocated under section 297A.94, for making grants under section 88.067, must be
1.11 deposited in the special revenue fund and credited to the volunteer fire assistance grant
1.12 account. Money in the account, including interest, is appropriated to the commissioner for
1.13 making grants under that section.

1.14 **EFFECTIVE DATE.** This section is effective beginning with deposits made in fiscal
1.15 year 2018.

1.16 Sec. 2. Minnesota Statutes 2016, section 297A.94, is amended to read:

1.17 **297A.94 DEPOSIT OF REVENUES.**

1.18 (a) Except as provided in this section, the commissioner shall deposit the revenues,
1.19 including interest and penalties, derived from the taxes imposed by this chapter in the state
1.20 treasury and credit them to the general fund.

1.21 (b) The commissioner shall deposit taxes in the Minnesota agricultural and economic
1.22 account in the special revenue fund if:

(1) the taxes are derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project; and

(2) the purchase was made on or after the date on which a conditional commitment was made for a loan guaranty for the project under section 41A.04, subdivision 3.

The commissioner of management and budget shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty account must be reduced by any refunds and by the costs incurred by the Department of Revenue to administer and enforce the assessment and collection of the taxes.

(c) The commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed on sales and purchases included in section 297A.61, subdivision 3, paragraph (g), clauses (1) and (4), in the state treasury, and credit them as follows:

(1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 16A.661, subdivision 3, paragraph (b); and

(2) after the requirements of clause (1) have been met, the balance to the general fund.

(d) The commissioner shall deposit the revenues, including interest and penalties, collected under section 297A.64, subdivision 5, in the state treasury and credit them to the general fund. By July 15 of each year the commissioner shall transfer to the highway user tax distribution fund an amount equal to the excess fees collected under section 297A.64, subdivision 5, for the previous calendar year.

(e) 72.43 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65, must be deposited by the commissioner in the state treasury as follows:

(1) 50 percent of the receipts must be deposited in the heritage enhancement account in the game and fish fund, and may be spent only on activities that improve, enhance, or protect fish and wildlife resources, including conservation, restoration, and enhancement of land, water, and other natural resources of the state;

(2) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only for state parks and trails;

(3) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only on metropolitan park and trail grants;

(4) three percent of the receipts must be deposited in the natural resources fund, and may be spent only on local trail grants; and

(5) two percent of the receipts must be deposited in the natural resources fund, and may be spent only for the Minnesota Zoological Garden, the Como Park Zoo and Conservatory, and the Duluth Zoo.

(f) The revenue dedicated under paragraph (e) may not be used as a substitute for traditional sources of funding for the purposes specified, but the dedicated revenue shall supplement traditional sources of funding for those purposes. Land acquired with money deposited in the game and fish fund under paragraph (e) must be open to public hunting and fishing during the open season, except that in aquatic management areas or on lands where angling easements have been acquired, fishing may be prohibited during certain times of the year and hunting may be prohibited. At least 87 percent of the money deposited in the game and fish fund for improvement, enhancement, or protection of fish and wildlife resources under paragraph (e) must be allocated for field operations.

(g) Beginning with sales taxes remitted after June 30, 2017, the commissioner shall deposit the revenues, including penalties and interest and less refunds, derived from the taxes imposed on the sale of aerial and audible devices, in the state treasury and credit: (1) 25 percent to the volunteer fire assistance grant account in the special revenue fund for use in making grants under section 88.067; (2) 25 percent to the fire safety account established under section 297I.06, subdivision 3; and (3) the remainder to the general fund. For purposes of this section, "aerial and audible devices" has the meaning given in section 624.20, subdivision 1, paragraph (a). The commissioner shall estimate the percentage of total sales tax revenue attributable to the sale of aerial and audible devices to calculate the amount of annual revenue that should be paid to the account under this paragraph in fiscal year 2018 and each subsequent fiscal year.

~~(g)~~ (h) The revenues deposited under paragraphs (a) to ~~(f)~~ (g) do not include the revenues, including interest and penalties, generated by the sales tax imposed under section 297A.62, subdivision 1a, which must be deposited as provided under the Minnesota Constitution, article XI, section 15.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2017.

Sec. 3. Minnesota Statutes 2016, section 624.20, subdivision 1, is amended to read:

Subdivision 1. **Regulation.** (a) As used in sections 624.20 to 624.25, ~~the term "fireworks" means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the~~

~~type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in paragraph (e), or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks.;~~

~~(b) The term "fireworks" shall not include toy pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps which contain less than 20/100 grains of explosive mixture.~~

~~(c) The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 500 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture. The use of items listed in this paragraph is not permitted on public property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification.~~

(1) "aerial and audible devices" means fireworks in a finished state, suitable for use by the public, listed in APA 87-1, sections 3.1.2, 3.1.3, and 3.5, and containing 75 grams or less of chemical mixture per tube for a total of 500 grams or less for multiple tubes in a device;

(2) "APA 87-1" means the American Pyrotechnic Association Standard 87-1 from the Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 Edition;

(3) "display fireworks" means firework devices in a finished state, exclusive of mere ornamentation, primarily intended for commercial displays that are designed to produce visible effects, audible effects, or both, by combustion, deflagration, or detonation. The term includes, but is not limited to, salutes containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of chemical composition exclusive of light charge, and other exhibition display items that exceed the limits contained in APA 87-1 for aerial and audible devices;

(4) "fireworks" means any device, other than sparkling devices, novelties, aerial and audible devices, or theatrical pyrotechnic articles that are intended to produce visible effects,

5.1 audible effects, or both, by combustion, deflagration, or detonation. The term includes
5.2 display fireworks;

5.3 (5) "novelties" means devices containing small amounts of pyrotechnic composition
5.4 that are listed in APA 87-1, sections 3.2, 3.3, and 3.4. The term includes deregulated
5.5 sparklers, snakes and glow worms, smoke devices, and trick noisemakers, including paper
5.6 streamers, party poppers, string poppers, snappers, drop pops, each consisting of not more
5.7 than 25/100 grains of explosive mixture; toy pistols, toy guns, in which paper caps containing
5.8 25/100 grains or less of explosive compound are used; and toy pistol caps that contain less
5.9 than 20/100 grains of explosive mixture; and

5.10 (6) "sparkling devices" means ground-based or handheld devices that produce a shower
5.11 of sparks that are listed in APA 87-1, sections 3.1.1 and 3.5. The term includes fountains,
5.12 torches, wheels, ground spinners, flitter sparklers, toy smoke devices, and sparklers.

5.13 (b) Nothing in sections 624.20 to 624.25 authorizes the possession or use of sparkling
5.14 devices or aerial and audible devices on public property or the purchase of these items by
5.15 persons younger than 18 years of age. A person selling sparkling devices or aerial and
5.16 audible devices shall verify the age of a purchaser by photographic identification.

5.17 ~~(d)~~ (c) A local unit of government may impose an annual license fee for the retail sale
5.18 of items authorized under paragraph (e) sparkling devices and aerial and audible devices.
5.19 The annual license fee of each retail seller that is in the business of selling only the items
5.20 authorized under paragraph (e) sparkling devices or aerial and audible devices, or both, may
5.21 not exceed \$350 for a single retail location, and the annual license of each other retail seller
5.22 may not exceed \$100. A local unit of government may assess a fee, not to exceed \$100, to
5.23 a licensee for each additional retail location that the licensee operates. A license application
5.24 must be made before June 1 of each year and must require, at a minimum, the location of
5.25 each retail location the licensee intends to operate. The local authority having jurisdiction
5.26 shall, within 14 days after the receipt of an application for a license, either issue the license
5.27 or notify the applicant of the denial of the license. A licensee must display the license issued
5.28 pursuant to this paragraph at each point of sale operated by the licensee. A license issued
5.29 under this paragraph expires May 31 of the year following the year of issuance. A local unit
5.30 of government may not:

5.31 (1) impose any fee or charge, other than the fee authorized by this paragraph, on the
5.32 wholesale or retail sale of items authorized under paragraph (e) sparkling devices and aerial
5.33 and audible devices;

(2) prohibit or restrict the sale or display of items for sparkling devices, novelties, or aerial and audible devices from any permanent or temporary retail sale authorized under paragraph (e) structure that comply complies with National Fire Protection Association Standard 1124 (2003 2006 edition); ~~or~~

(3) impose on a retail seller any financial guarantee requirements, including bonding or insurance provisions, containing restrictions or conditions not imposed on the same basis on all other business licensees; or

(4) enact any ordinance, rule, or regulation that prohibits, limits, or restricts the wholesale or retail sale of novelties.

(d) This section does not preempt a town or home rule charter or statutory city from enacting and enforcing ordinances under the city charter or chapter 365, 368, 412, or 462, that regulate the conditions of sale or use for sparkling devices, aerial and audible devices, and display fireworks.

(e) For the purposes of regulating the conditions of sale or use for aerial and audible devices, display fireworks, sparkling devices, and novelties, a county has the same authority and power granted to a statutory city by paragraph (d) and chapter 412. If a home rule charter or statutory city or town has enacted an ordinance, rule, or regulation under paragraph (d), that ordinance, rule, or regulation prevails within the city or town.

(f) Aerial and audible devices may only be sold in the state from June 1 to July 10 of any year.

EFFECTIVE DATE. This section is effective June 1, 2017.