

Department of Legislative Services  
 Maryland General Assembly  
 2024 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1443  
 Economic Matters

(Delegate Hornberger, *et al.*)

Consumer and Display Fireworks – Regulation and Tax

This bill makes various changes relating to the sale and use of fireworks in the State. In addition, the bill imposes a 16% State sales and use tax on the purchase of consumer fireworks, beginning July 1, 2025. A portion of the revenues is distributed to the 9-1-1 Trust Fund and the Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

Fiscal Summary

**State Effect:** General fund and special fund revenues increase beginning in FY 2026. Under one set of assumptions, total sales and use tax revenues increase by \$8.3 million in FY 2026 and by \$9.9 million in FY 2029. General fund expenditures increase by \$1.1 million in FY 2025, which includes one-time computer programming changes, and by \$189,400 in FY 2029. Future years reflect annualization and inflation.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
GF Revenue	\$0	\$3.2	\$3.4	\$3.5	\$3.7
SF Revenue	\$0	\$5.2	\$5.5	\$5.8	\$6.1
GF Expenditure	\$1.1	\$0.2	\$0.2	\$0.2	\$0.2
Net Effect	(\$1.1)	\$8.2	\$8.6	\$9.1	\$9.7

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** The bill is not anticipated to have a material, direct effect on local government operations or finances.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** The bill makes various changes that generally relate to the sale and use of fireworks in the State. More specifically, the bill (1) generally authorizes a person who is at least age 18 and meets the requirements under Title 10 of the Public Safety Article to purchase, possess, and use “consumer fireworks,” but establishes prohibitions on intentionally igniting or discharging consumer fireworks in specified situations; (2) establishes licensing and other requirements for structures where consumer fireworks may be sold; and (3) alters provisions that relate to the authority of the State Fire Marshal to issue permits for the discharge of fireworks – and the requirement for a person to obtain and possess such a permit – to apply to “display fireworks,” as defined by the bill. Existing penalty provisions apply to the bill’s provisions.

### *General Authorization to Purchase, Possess, and Use Consumer Fireworks, with Specified Exceptions*

A person who is at least age 18 and meets the requirements of Title 10 of the Public Safety Article is authorized to purchase, possess, and use consumer fireworks. However, a person is prohibited from intentionally igniting or discharging consumer fireworks:

- on public property or on private property without the express permission of the owner;
- within, into, at, or from a motor vehicle, a watercraft, an aircraft, an unmanned aircraft, or a building;
- at another person;
- while the person is under the influence of alcohol, a controlled substance, or another drug; or
- within 300 feet (ft.) of a structure.

These provisions may not be construed to regulate the sale, possession, or use of any of several specified devices.

### *Sale of Consumer Fireworks – Licensing and Other Requirements*

In general, consumer fireworks may only be sold from a stand-alone permanent structure that (1) is licensed by the State Fire Marshal; (2) has a storage area that is separated from wholesale or retail sales areas to which a purchaser may be admitted by appropriately rated fire separation; (3) is located at least 250 ft. from any facility that stores, sells, or dispenses gasoline, propane, or other flammable products; (4) is located at least 1,500 ft. from any other facility licensed to sell consumer fireworks; (5) has a monitored burglar and fire

alarm system; and (6) conducts quarterly fire drills and preplanning meetings as required by the primary fire department in the jurisdiction of the facility.

However, consumer fireworks may be sold from a temporary structure if the temporary structure (1) is licensed by the State Fire Marshal; (2) is located at least 250 ft. from any facility that stores, sells, or dispenses specified flammable products; (3) has an evacuation plan posted in a conspicuous location, as specified; (4) if it has an outdoor storage unit, has the unit separated from the wholesale or retail sales area to which a purchaser may be admitted by appropriately rated fire separation; (5) complies with NFPA 1124, as it relates to retail sales of consumer fireworks in temporary structures; (6) is located at least two miles from any permanent facility licensed to sell consumer fireworks; (7) does not exceed 2,500 square ft.; (8) is secured at all times during which consumer fireworks are displayed within the structure; (9) has a minimum of \$2.0 million in public and product liability insurance; (10) has a sales period limited to June 15 through July 8 and December 21 through January 2 each year; and (11) stores consumer fireworks not on display for retail sale in an outdoor storage unit. In addition, the sale of consumer fireworks from a temporary structure is limited to specified types of fireworks.

The bill does not establish any new licensing fees for such structures.

#### *Selected Definitions*

“Consumer fireworks” means any combustible or explosive composition or any substance or combination of substances that (1) is intended to produce visible or audible effects by combustion; (2) is suitable for use by the public; (3) complies with the construction, performance, composition, and labeling requirements adopted by the Consumer Product Safety Commission, as specified; and (4) complies with the provisions for “consumer fireworks” as defined in APA 87-1 or any successor standard.

“Display fireworks” means large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. The term includes (1) salutes that contain more than 2 grains or 130 milligrams of explosive materials; (2) aerial shells containing more than 60 grams of pyrotechnic compositions; and (3) other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335, under Title 49, § 172.101 of the Code of Federal Regulations, relating to purpose and use of the hazardous materials table.

“Fireworks,” as modified by the bill, includes 1.3 G fireworks, 1.4 G fireworks, consumer fireworks, and display fireworks. The bill also alters the definitions of “1.3 G fireworks” and “1.4 G fireworks.”

### *Distribution of Sales and Use Tax Revenue*

The bill imposes a 16% State sales and use tax on the purchase of consumer fireworks, beginning July 1, 2025. After specified distributions, sales and use tax revenues from the purchase of consumer fireworks must be distributed quarterly as follows:

- 31% to the 9-1-1 Trust Fund;
- 31% to the Senator William H. Amoss Fire, Rescue, and Ambulance Fund; and
- 38% to the general fund.

**Current Law:** Title 10 of the Public Safety Article generally regulates the manufacturing, storage, sale, possession, and use of fireworks and sparklers in the State.

*Discharge of Fireworks:* The State Fire Marshal may issue a permit to authorize the discharge of fireworks in a place where the discharge of fireworks is legal. The State Fire Marshal must issue a permit to discharge fireworks only if the State Fire Marshal determines that the proposed discharge of fireworks will (1) not endanger health or safety or damage property and (2) be supervised by an experienced and qualified person who has previously secured written authority from the State Fire Marshal to discharge fireworks. A permit to discharge fireworks:

- does not authorize the holder of the permit to possess or discharge fireworks in violation of an ordinance or regulation of the political subdivision where the fireworks are to be discharged; and
- does not relieve an applicant for a permit from any requirement to obtain any additional license or authority from the governing body of the political subdivision where the fireworks are to be discharged.

A person must have a permit to discharge fireworks before the person discharges fireworks or possesses fireworks with the intent to discharge fireworks or to allow the discharge of fireworks. An applicant for a permit to discharge fireworks must apply to the State Fire Marshal for the permit at least 10 days before the date of discharge, pay a \$50 permit fee, and post a bond with the State Fire Marshal, as specified. If the State Fire Marshal does not receive the application for a permit at least 10 days before the date of the discharge, the State Fire Marshal must charge the applicant an additional \$50 late fee. The fees do not apply to a volunteer fire department or volunteer ambulance and rescue company.

Unless the person holds a permit, a person may not discharge fireworks or possess fireworks, as specified. A permit to discharge fireworks is nontransferable.

*Sale of Fireworks:* With specified exceptions, a person may not sell fireworks to another person without a permit. A person licensed by the State Fire Marshal may sell or deliver fireworks to a *bona fide* distributor, jobber, or wholesaler with a principal place of business in a state where the sale or possession of fireworks is allowed. The State Fire Marshal may require a person who is an out-of-state distributor, jobber, or wholesaler to submit a certificate issued by the person's state of operation that demonstrates authority to buy and receive fireworks.

*Penalties:* A person who possesses or discharges fireworks in violation of these provisions is guilty of a misdemeanor and on conviction subject to a maximum fine of \$250 for each offense. A person who sells fireworks in violation of these provisions is guilty of a misdemeanor and on conviction subject to a maximum fine of \$1,000 for each offense. At the owner's expense, the State Fire Marshal must seize and remove all fireworks possessed or sold in violation of any of these provisions. Any fireworks seized pursuant to this provision must be forfeited and destroyed.

*Sale of Sparklers:* A person may not sell sparklers or sparkling devices to a person younger than age 16. A violator is guilty of a misdemeanor and on conviction subject to a maximum fine of \$1,000.

*Distribution or Wholesale of Sparklers or Sparkling Devices:* Generally, a distributor or wholesaler of sparklers or sparkling devices must register annually with the State Fire Marshal and pay a fee of \$750. A violator is guilty of a misdemeanor and on conviction subject to maximum penalties of imprisonment for one year and/or a \$1,000 fine.

*Other States:* Pennsylvania imposes a 12% consumer fireworks tax on the purchase of consumer fireworks which is imposed in addition to the State's 6% sales and use tax.

**State Revenues:** The bill imposes a 16% State sales and use tax on the sale of consumer fireworks beginning in fiscal 2026 and specifies the distribution of the resulting revenue. As a result, general fund and special fund revenues increase beginning in fiscal 2026. The amount of the revenue increase depends on the volume of sales of consumer fireworks that occur each year. Under the following set of assumptions, total sales and use tax revenues could increase by approximately \$8.3 million in fiscal 2026 and by \$9.9 million in fiscal 2029 as shown in **Exhibit 1**:

- the American Pyrotechnics Association reported approximately \$2.3 billion in revenue from the sale of consumer fireworks nationwide in 2022;
- Maryland is approximately 1.9% of the U.S. population; and,
- fireworks sales increase by 5.8% annually.

**Exhibit 1**  
**Distribution of Fireworks Sales Tax Revenue**  
**(\$ in Millions)**

<u>Fiscal Year</u>	<u>General Fund</u>	<u>911 Trust Fund</u>	<u>Amoss Fire Rescue and Ambulance Fund</u>	<u>Total</u>
2026	\$3.2	\$2.6	\$2.6	\$8.3
2027	3.4	2.7	2.7	8.8
2028	3.5	2.9	2.9	9.3
2029	3.7	3.1	3.1	9.9

Source: Department of Legislative Services

**State Expenditures:** The bill creates a new sales and use tax for the sale of consumer fireworks to be collected and administered by the Comptroller. As a result, general fund expenditures for the Comptroller’s Office increase by \$1.1 million in fiscal 2025. The estimate reflects the cost of hiring two accountants to administer the new sales and use tax and verify proper distribution of revenues to the specified funds. The estimate also reflects a one-time expenditure increase of \$1.0 million in fiscal 2025 for computer programming changes to the Compass/Relevant Passthrough Entity (known as Compass/RPE) tax system to accommodate the new sales and use tax rate for consumer fireworks. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and fringe benefits	\$126,576
Computer programming changes	1,000,000
Operating expenses	<u>14,512</u>
<b>Total FY 2025 State Expenditures</b>	<b>\$1,141,088</b>

Future year expenditures increase by \$166,400 in fiscal 2026 and by \$189,400 in fiscal 2029, which reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

**Small Business Effect:** By establishing a legal framework for the licensing of structures (*e.g.*, stores) to sell consumer fireworks in the State, and by generally authorizing the purchase, possession, and use of such fireworks in the State, the bill likely has a meaningful positive effect on any small businesses that wish to sell consumer fireworks in Maryland.

**Additional Comments:** The Department of State Police and the Office of the State Fire Marshal report that only gold-labeled sparklers, novelty items, such as party poppers, snap pops, and snakes, and ground-based sparkler devices are permitted for use in Maryland. However, all fireworks are illegal in Baltimore City, and Montgomery and Prince George's counties. Ground-based sparklers are prohibited in the Town of Ocean City, and Harford and Howard counties.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 560 of 2022 and HB 696 of 2021.

**Designated Cross File:** None.

**Information Source(s):** American Pyrotechnics Association; Maryland Institute for Emergency Medical Services Systems; Maryland Department of Emergency Management; Comptroller's Office; Department of State Police; Department of Legislative Services

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