



PA Municipal League

Testimony Regarding Consumer Fireworks and House Bill 1687

Before the House Agriculture and Rural Affairs Committee

September 24, 2019

Good Morning. I am Amy Sturges, Director of Governmental Affairs, for the PA Municipal League (The League). Thank you, Chairman Causer, Chairman Pashinski, and members of the Committee for the opportunity to testify today on House Bill 1687 and the expansion of consumer fireworks use in Pennsylvania.

The League's membership includes 107 cities, boroughs and townships. Our membership focus is on common issues, rather than form of government. As such, our members are typically older, full-service, urban or suburban communities.

As we have all seen in the many, many news reports since the enactment of Act 43, the expansion of consumer fireworks has created a dangerous scenario for life and property. Act 43 has also imposed an unfunded mandate on local government while pre-empting local regulation. Essentially, local governments' hands are tied when it comes to effectively managing and enforcing the proliferation of consumer fireworks across the Commonwealth.

The mandate at the local level primarily comes from enforcement costs. Public safety personnel are now patrolling, answering complaint calls and answering fire and EMS calls related to incidents resulting from consumer fireworks. This additional activity is year round, but more prevalent on certain holidays. With extra activity on and around holidays, holiday pay and overtime pay are a given as municipalities prepare for the onslaught with extra personnel. In

addition to personnel costs, there is an expenditure of valuable public safety resources. At the height of a holiday weekend, public safety personnel have reported being overwhelmed by calls across their jurisdictions. Arguably, the expansion of consumer fireworks is at odds with the Senate Resolution 6 initiative to support public safety personnel and improve the delivery of public safety services.

Our membership would gladly see this law repealed, but in light of the fact it is a revenue source for the Commonwealth, we not expecting repeal. We are, however, advocating for changes to Act 43 that will allow for effective local management making this mandate less of a burden.

In 2018, the League's membership adopted policy supporting several amendments to Act 43. The policy includes: the local option to set local regulations; an increase in the distance from an unoccupied structure for use; an increase in penalties; a reallocation of tax revenue to include funds for career fire departments; and mandated reporting of incidents caused by fireworks and collection of that data by the State Fire Commissioner. This policy was developed with input and assistance from the PA Fire Chiefs Association and the PA Fire and Emergency Services Institute.

House Bill 1687

House Bill 1687 is a step in the right direction, but amendments and clarification are necessary in order to make this law workable at the local level where the activity is occurring. We believe the state statute should provide the minimum regulation and allow municipalities to impose their own stricter local rules, as well as have the option to prohibit consumer fireworks altogether through a local opt-out.

Local Regulation

More local control is essential in light of the unfunded mandate Act 43 has created. Municipalities are charged with protecting the health, safety and welfare of residents. Local officials are best able to assess their municipality's ability to enforce the use of consumer fireworks, as well as the ability to pay for that enforcement. Each locality should be able to decide if it wants to expend tax dollars, and how much, on enforcing the use of consumer fireworks. Again, the state law should be the floor allowing municipalities the flexibility to implement stricter regulations or opt-out. If we can

authorize an opt-out from hosting a casino, we can allow local governments to opt-out of consumer fireworks.

Use Prohibited Within 150 Feet of a Building or Vehicle

As you are aware, the distance provision of the state law is not being followed. If it were, dense urban and suburban areas would not be dealing with consumer fireworks at all. The bill's change in language from "unoccupied structure" to "building or vehicle" is helpful, but municipalities need to be allowed to adjust the distance according to the make-up of individual communities.

Hours of Use

House Bill 1687 does reduce the hours of use, but they are still too broad. On any given day of the year, consumer fireworks would be allowed for 12 straight hours – 10 a.m. to 10 p.m. Over the July 4th holiday and on December 31, the revelry can continue until 1 a.m. And, Memorial Day and Labor Day seem to have no time restrictions at all. This is unacceptable from an enforcement standpoint. Additionally, the noise, smoke and abrupt nature of fireworks is at the very least a nuisance for those in the vicinity of the activity. And for those sensitive to noise, such as small children, veterans and pets, the constant activity can cause physical effects. Municipalities must be able to put additional parameters on hours of use.

Penalties and Enforcement

The penalties in House Bill 1687 need to be increased in order to be an effective deterrent to violating the law. While the bill does open the door to a fine higher than \$100, we think a \$1,000 minimum fine is more appropriate and would be an effective deterrent. (As an aside, municipalities do not receive the majority of the fine monies.) The bill adds a second offense, but it must be committed within one year of a prior conviction. A second offense is a misdemeanor of the third degree with a fine of not less than \$500. Again, we believe the fine needs to be set higher in order to actually be a deterrent.

Local enforcement of this law is very difficult. Essentially, one has to witness the violation. To help alleviate this issue, we believe the private property owner should ultimately be held

accountable and subject to the same fines and offenses as the person violating the law. This would act as both a deterrent and an enforcement tool.

Local Limitations Allowed Under House Bill 1687?

Language in the bill authorizes the enactment of local conditions, prohibitions and limitations on the use of consumer fireworks that are not in conflict with the law. What does this mean? What is an example of a local restriction that would not conflict with the law? The bill specifically states hours of use cannot be locally determined. Municipalities are certainly not going to let people younger than 18 purchase and use fireworks. They are not going to lower the distance from structures to under 150 feet. They are not going to allow fireworks to be pointed at people or structures. They cannot increase the penalties. And, they are not allowed to prohibit fireworks. Again, we ask, what local regulation is contemplated by this language?

Equal Treatment for Career Departments

Act 43 designates a portion of the tax revenue generated from the sale of consumer fireworks for volunteer fire company training programs. Career departments are impacted as much or more by Act 43 and should be treated equally with respect to receiving a portion of the tax revenue.

Incident Reporting

Our policy also supports better record keeping of all emergency medical incidents and property damage caused by use of consumer fireworks. Incident reports and medical reports need to be provide the ability to indicate that an injury or property damage was the result of consumer fireworks. This data should be collected by the State Fire Commissioner.

Conclusion

Consumer fireworks are dangerous and pose a significant threat to users, innocent bystanders and first responders. They also impose an expensive unfunded mandate on local governments. In order to effectively manage this mandate, municipalities must be given the flexibility to set stricter local laws, as well as the authority to prohibit the use of consumer fireworks altogether. We appreciate the opportunity to testify today and look forward to further work on this bill before it is voted out of committee. Thank you.