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MEMORANDUM

To: Senate Committee on Commerce

From: The Office of Revisor of Statutes

Date: 02/01/2022

Re: S.B. 378; Allowing the retail sale of fireworks all year and extending the time period for the seasonal retail sale of fireworks.

New section 1, starting on line 7, would state that “Any city or county may prohibit the sale of fireworks by annual retailers or seasonal retailers. Any city or county may establish a fireworks season for seasonal retailers different than provided by K.S.A. 31-502(j), and amendments thereto.”

In Section 2 of the bill, page 2, starting on line 23, you can see that the bill strikes out the current language in K.S.A. 31-502(j). The current law authorizes the state fire marshal to designate the annual fireworks season through rules and regulations. The applicable regulation that the state fire marshal adopted, K.A.R. 22-6-5, states that: (1) A seasonal retailer shall not sell fireworks, except during the fireworks season; and (2) the fireworks season begins on June 27 and ends on July 5 of each calendar year.

If S.B. 378 were to pass, the new language starting on page 2, line 27, would override the current regulation. The new language would define “fireworks season” for seasonal retailers: June 15 through July 6; and for annual retailers: January 1 through December 31.

The term “seasonal retailer” is already defined above in subsection (h)¹ but the bill would insert a new definition for the term “annual retailer” which would mean a person who: (1) Receives

¹ (h) "Seasonal retailer" means a person who receives consumer fireworks and sells, delivers, consigns, gives or otherwise furnishes consumer fireworks only to the public for their personal use and only during a fireworks season.

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consumer fireworks² and sells, delivers, consigns, gives or otherwise furnishes consumer fireworks only to the public for their personal use during the entire calendar year; and (2) operates out of a building that meets state and local fire safety codes.

Under current law, seasonal retailers are not required to obtain a license from the state fire marshal. This exemption for seasonal retailers would remain the same under S.B. 378 but annual retailers would be required to be licensed (page 3, line 8) and such licenses would be valid for a period of two years (page 3, line 27).

S.B. 378 would become effective upon publication in the statute book.

² The terms “fireworks”, “consumer fireworks”, and “display fireworks” are used throughout the Kansas fireworks act but are not actually defined within the act. However, these terms are defined by rules and regulations adopted by the bureau of alcohol, tobacco, firearms and explosives, department of justice, which regulates the manufacture and storage of fireworks.

27 C.F.R. § 555.11

Consumer fireworks. Any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder.

Display fireworks. Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as “consumer fireworks.” Display fireworks are classified as fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused setpieces containing components which together exceed 50 mg of salute powder.

Fireworks. Any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of “consumer fireworks” or “display fireworks” as defined by this section.