

HB 336-FN – AS INTRODUCED

2013 SESSION

13-0637
05/04

HOUSE BILL **336-FN**

AN ACT prohibiting the retail sale of certain fireworks devices.

SPONSORS: Rep. Takesian, Hills 37; Rep. Rhodes, Hills 30; Sen. Morse, Dist 22

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the retail sale of helicopters, aerial spinners, reloadable aerial shells, and parachute aerial devices. The bill also establishes a violation for permissible fireworks retailers who fail to distribute required safety information to the purchaser.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT prohibiting the retail sale of certain fireworks devices.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Sections; Fireworks; Retail Sale of Certain Devices Prohibited. Amend RSA 160-B by
2 inserting after section 16-c the following new sections:

3 160-B:16-d Retail Sales of Helicopters, Aerial Spinners or Similar Devices Prohibited; Penalty.
4 The retail sales of any helicopter, aerial spinner, or similar device shall be prohibited. In this
5 section, “helicopter, aerial spinner, or similar device” means any consumer firework device
6 containing not more than 20 g of chemical or pyrotechnic composition, which may have a propeller,
7 blade, or wing attached and upon ignition is designed to rapidly spin or otherwise launches itself into
8 the air. A visible or audible effect may be produced by the device. Any person who violates the
9 provisions of this section shall be guilty of a misdemeanor.

10 160-B:16-e Retail Sale of Reloadable Aerial Shells Prohibited; Penalty. The retail sale of
11 reloadable aerial shells shall be prohibited. In this section, “reloadable aerial shells” means any
12 consumer firework device that is individually fused, and designed to be inserted by the consumer
13 into a tube prior to firing. Any person who violates the provisions of this section shall be guilty of a
14 misdemeanor.

15 160-B:16-f Retail Sale of Parachute Aerial Devices Prohibited; Penalty. The retail sale of
16 parachute aerial devices shall be prohibited. In this section, “parachute aerial device” means any
17 consumer firework device that is designed to launch a parachute aerial effect into the air and float
18 back to the ground, which may have a pyrotechnic, smoke or other similar effect attached to the
19 parachute. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

20 2 Definition of Permissible Fireworks. Amend RSA 160-C:1, V to read as follows:

21 V. “Permissible fireworks” means consumer fireworks, except for those items that are
22 prohibited pursuant to RSA 160-B:16, 160-B:16-b, ~~and~~ 160-B:16-c, **160-B:16-d, 160-B:16-e, and**
23 **160-B:16-f.**

24 3 Distribution of Safety Information Required. Amend RSA 160-C:12 to read as follows:

25 160-C:12 Distribution of ~~Pamphlet~~ **Safety Information** Required. Any person engaged in
26 selling permissible fireworks shall ~~make available~~ **provide** to the purchaser a pamphlet, approved
27 by the commissioner, detailing the appropriate and safe use of the permissible fireworks being sold.
28 **Anyone who violates the provisions of this section shall be guilty of a violation.**

29 4 Effective Date. This act shall take effect 60 days after its passage.

HB 336 FISCAL NOTE

AN ACT prohibiting the retail sale of certain fireworks devices.

FISCAL IMPACT:

The Judicial Branch and the New Hampshire Association of Counties state this bill, as introduced, may increase state and county expenditures by an indeterminable amount in FY 2013 and each fiscal year thereafter. There will be no fiscal impact on local expenditures, or state, county, and local revenues

METHODOLOGY:

The Judicial Branch states this bill prohibits the sale of certain fireworks devices and establishes the sale thereof as an unspecified misdemeanor. The proposed legislation also specifies a retailer's failure to provide required safety information to the purchasers of fireworks shall be deemed a violation. The Branch does not have information on which to estimate the number of additional violation or misdemeanor offenses that will result from this bill. The Judicial Branch does have information on the average cost of processing these cases in the trial court. The cost to the Judicial Branch of an average violation offense in the district division of the circuit court will be \$42.85 in FY 2014 and \$44.36 in FY 2015. For an average class A misdemeanor the cost in the district division of the circuit court will be \$62.71 in FY 2014 and \$64.40 in FY 2015. For a class B misdemeanor the cost will be \$44.32 in FY 2014 and \$45.84 in FY 2015. These amounts do not include the cost of any appeals that may be taken following trial. The Branch states the case cost estimates are based on data that is more than seven years old and does not reflect the changes to the courts over that same period of time or the impact these changes may have on the processing of these types of cases. Finally, the Branch has no information on how many appeals of administrative fines may arise. The Branch states the Supreme Court has discretionary review of appeals, and cannot predict how many appeals would be accepted for full appellate review, how many would be accepted for more limited review, or how many will be denied.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be charged, convicted or incarcerated as a result of this bill to determine an exact

fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice states the criminal offense created by the bill could be prosecuted by a local prosecutor or county attorney's office. However, the Department notes they would be charged with representing the state in an appeal of any resulting convictions. The Department states any increase in the appellate workload resulting from the proposed legislation would likely be nominal and could be absorbed within the Department's current budget.

The Judicial Council states because the proposed legislation seeks to regulate the retail sale of fireworks, it can be reasonable assumed there would be very few criminal charges, on an annual basis, if the legislation were to be enacted. The Council notes it is also likely any violations of the proposed legislation would occur in the context of an individual's employment and therefore ineligible for the appointment of council. Accordingly, the Council states the proposed legislation is unlikely to have any fiscal impact on the Council.

The Department of Safety states the proposed legislation will have no fiscal impact on the Department.