

By the Committee on Commerce and Tourism; and Senator Brandes

577-00953-14

2014314c1

1 A bill to be entitled
2 An act relating to fireworks; amending s. 791.01,
3 F.S.; removing and redefining terms; amending s.
4 791.012, F.S.; conforming a cross-reference to changes
5 made by the act; repealing s. 791.013, F.S., relating
6 to the testing and approval of sparklers and the
7 registration of manufacturers, distributors,
8 wholesalers, and retailers of sparklers; amending s.
9 791.015, F.S.; requiring a retailer or seasonal
10 retailor to register annually with the Division of the
11 State Fire Marshal; requiring the payment of a
12 registration fee; requiring a retailer or seasonal
13 retailor to obtain insurance and to provide the buyer
14 with a disclaimer, which must be signed at the point
15 of sale; repealing s. 791.02, F.S., relating to the
16 sale and use of fireworks; repealing s. 791.03, F.S.,
17 relating to the bond of licensees; amending s. 791.04,
18 F.S.; removing certain exemptions relating to the
19 prohibition of the sale of fireworks at wholesale;
20 creating s. 791.08, F.S.; prohibiting the sale of
21 fireworks, sparklers, and novelties to a person under
22 a specified age; creating s. 791.09, F.S.; authorizing
23 a county or municipality to regulate the sale and use
24 of fireworks, sparklers, and novelties; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 791.01, Florida Statutes, is amended to

577-00953-14

2014314c1

30 read:

31 791.01 Definitions.—As used in this chapter, the term:

32 ~~(1) "Distributor" means any person engaged in the business~~
33 ~~of selling sparklers to a wholesaler.~~

34 (1)~~(2)~~ "Division" means the Division of the State Fire
35 Marshal of the Department of Financial Services.

36 (2)~~(3)~~ "Explosive compound" means any chemical compound,
37 mixture, or device the primary or common purpose of which is to
38 function by the substantially instantaneous release of gas and
39 heat.

40 (3)~~(4)~~~~(a)~~ "Fireworks" means a ~~and includes any~~ combustible
41 or explosive composition or substance or combination of
42 substances or, except as otherwise ~~hereinafter~~ provided in this
43 subsection, an ~~any~~ article prepared for the purpose of producing
44 a visible or audible effect by combustion, explosion,
45 deflagration, or detonation. The term includes blank cartridges
46 and toy cannons in which explosives are used, the type of
47 balloons that ~~which~~ require fire underneath to propel them,
48 firecrackers, torpedoes, skyrockets, roman candles, daygo ~~daygo~~
49 bombs, and any fireworks containing any explosives or flammable
50 compound or any tablets or other device containing any explosive
51 substance. The term

52 ~~(b) "Fireworks"~~ does not include novelties, sparklers,
53 ~~approved by the division pursuant to s. 791.013~~; toy pistols,
54 toy canes, toy guns, or other devices in which paper caps
55 containing twenty-five hundredths grains or less of explosive
56 compound are used, providing they are so constructed that the
57 hand cannot come in contact with the cap when in place for the
58 explosion; or ~~and~~ toy pistol paper caps that ~~which~~ contain less

577-00953-14

2014314c1

59 than twenty hundredths grains of explosive mixture, ~~the sale and~~
60 ~~use of which shall be permitted at all times.~~

61 (4)(e) "Novelties" means the following devices or products
62 ~~"Fireworks" also does not include the following novelties and~~
63 ~~trick noisemakers:~~

64 (a)1. A snake or glow worm, which is a pressed pellet of up
65 to not more than 10 grams of pyrotechnic composition which that
66 produces a large, snakelike ash that ~~which~~ expands in length as
67 the pellet burns and that does not contain mercuric thiocyanate.

68 (b)2. A smoke device, which is a tube or sphere containing
69 not more than 10 grams of pyrotechnic composition which, when
70 burned ~~that, upon burning,~~ produces white or colored smoke as
71 the primary effect.

72 (c)3. A trick noisemaker, which is a device that produces a
73 small report intended to surprise the user and which includes:

74 1.a. A party popper, which is a small plastic or paper
75 device containing not more than 16 milligrams of explosive
76 composition that is friction sensitive, which is ignited by
77 pulling a string protruding from the device, and which expels a
78 paper streamer and produces a small report.

79 2.b. A booby trap, which is a small tube with a string
80 protruding from both ends containing not more than 16 milligrams
81 of explosive compound, which is ignited by pulling the ends of
82 the string, and which produces a small report.

83 3.c. A snapper, which is a small, paper-wrapped device
84 containing not more than 4 ~~four~~ milligrams of explosive
85 composition coated on small bits of sand, and which, when
86 dropped, explodes, producing a small report. A snapper may not
87 contain more than 250 milligrams of total sand and explosive

577-00953-14

2014314c1

88 composition.

89 ~~4.d.~~ A trick match, which is a kitchen or book match that
90 ~~which~~ is coated with not more than 16 milligrams of explosive or
91 pyrotechnic composition and which, upon ignition, produces a
92 small report or shower of sparks.

93 ~~5.e.~~ A cigarette load, which is a small wooden peg that has
94 been coated with not more than 16 milligrams of explosive
95 composition and which produces, upon ignition of a cigarette
96 containing one of the pegs, a small report.

97 ~~6.f.~~ An auto burglar alarm, which is a tube which contains
98 not more than 10 grams of pyrotechnic composition that produces
99 a loud whistle or smoke when ignited and which is ignited by use
100 of a squib. A small quantity of explosive, not exceeding 50
101 milligrams, may also be used to produce a small report.

102

103 ~~The sale and use of items listed in this paragraph are permitted~~
104 ~~at all times.~~

105 ~~(5) "Manufacturer" means any person engaged in the~~
106 ~~manufacture or construction of sparklers in this state.~~

107 ~~(5)(6)~~ "Retailer" means any person who, at a fixed place of
108 business, is engaged in selling fireworks, sparklers, or
109 novelties to consumers at retail.

110 ~~(6)(7)~~ "Seasonal retailer" means any person engaged in the
111 business of selling sparklers at retail in this state from June
112 20 through July 5 and from December 10 through January 2 of each
113 year.

114 ~~(7)(8)~~ "Sparkler" means a device that ~~which~~ emits showers
115 of sparks upon burning, does not contain any explosive
116 compounds, does not detonate or explode, is handheld or ground

577-00953-14

2014314c1

117 based, cannot propel itself through the air, and contains not
118 more than 100 grams of the chemical compound that ~~which~~ produces
119 sparks upon burning. ~~Any sparkler that is not approved by the~~
120 ~~division is classified as fireworks.~~

121 ~~(9) "Wholesaler" means any person engaged in the business~~
122 ~~of selling sparklers to a retailer.~~

123 Section 2. Section 791.012, Florida Statutes, is amended to
124 read:

125 791.012 Minimum fireworks safety standards.—The outdoor
126 display of fireworks in this state is ~~shall be~~ governed by the
127 National Fire Protection Association (NFPA) 1123, Code for
128 Fireworks Display, 2014 ~~1995~~ Edition, approved by the American
129 National Standards Institute. Any state, county, or municipal
130 law, rule, or ordinance may provide for more stringent
131 regulations for the outdoor display of fireworks, but in no
132 event may any such law, rule, or ordinance provide for less
133 stringent regulations for the outdoor display of fireworks. The
134 division shall adopt ~~promulgate~~ rules to carry out ~~the~~
135 ~~provisions of~~ this section. The Code for Fireworks Display does
136 ~~shall~~ not govern the display of any fireworks on private,
137 residential property or ~~and shall not govern~~ the display of
138 those items excluded from the definition of fireworks included
139 under s. 791.01 s. 791.01(4)(b) and (c) and authorized for sale
140 thereunder.

141 Section 3. Section 791.013, Florida Statutes, is repealed.

142 Section 4. Section 791.015, Florida Statutes, is amended to
143 read:

144 (Substantial rewording of section. See s. 791.015, F.S.,
145 for present text.)

577-00953-14

2014314c1

146 791.015 Registration, insurance, and disclaimer
147 requirements for retailers.-

148 (1) REGISTRATION.-A retailer or seasonal retailer who
149 wishes to do business in this state or to otherwise sell, ship,
150 or assign for sale its products in this state shall register
151 annually with the division on a form prescribed by the division.
152 Each retailer must annually pay a registration fee of \$15 to the
153 division for each retail location registered. Each seasonal
154 retailer must pay an annual registration fee of \$200 to the
155 division.

156 (2) INSURANCE.-A retailer or seasonal retailer in this
157 state shall obtain an insurance policy providing general,
158 comprehensive, liability, and property damage insurance coverage
159 on an occurrence basis with minimum limits in the policy of at
160 least \$2 million combined single limit coverage for each loss
161 that may result from the activities of the seller. Proof of such
162 insurance coverage must be submitted with the registration form
163 required in subsection (1).

164 (3) DISCLAIMER.-A retailer or seasonal retailer shall
165 provide to the buyer of fireworks or sparklers, and the buyer
166 shall sign and date at the point of sale, a disclaimer that
167 provides, in bold, uppercase type, the following:

168
169 I ACKNOWLEDGE AND AGREE THAT:

170
171 I AM SIXTEEN (16) YEARS OF AGE OR OLDER;

172
173 I HAVE REVIEWED CHAPTER 791, FLORIDA STATUTES, AND MY
174 PURCHASE AND USE OF FIREWORKS ARE WITHIN THE

577-00953-14

2014314c1

175 AGRICULTURAL AND FISHERIES EXCEPTION IN SECTION
 176 791.07, FLORIDA STATUTES, OR MY PURCHASE OF FIREWORKS
 177 IS FOR PERSONAL RECREATIONAL USE; AND
 178
 179 THE USE OF FIREWORKS, NOVELTIES, OR SPARKLERS, IS
 180 INHERENTLY DANGEROUS AND MAY RESULT IN FIRE, PROPERTY
 181 DAMAGE, OR SERIOUS BODILY HARM TO MYSELF OR OTHERS FOR
 182 WHICH I MAY BE LIABLE FOR DAMAGES.

183 Section 5. Sections 791.02 and 791.03, Florida Statutes,
 184 are repealed.

185 Section 6. Section 791.04, Florida Statutes, is amended to
 186 read:

187 791.04 Exemptions ~~Sale at wholesale, etc., exempted.-~~
 188 ~~Nothing in This chapter does not: shall be construed to prohibit~~
 189 ~~any manufacturer, distributor, or wholesaler who has registered~~
 190 ~~with the division pursuant to s. 791.015 to sell at wholesale~~
 191 ~~such fireworks as are not herein prohibited; to prohibit the~~
 192 ~~sale of any kind of fireworks at wholesale between~~
 193 ~~manufacturers, distributors, and wholesalers who have registered~~
 194 ~~with the division pursuant to s. 791.015; to prohibit the sale~~
 195 ~~of any kind of fireworks provided the same are to be shipped~~
 196 ~~directly out of state by such manufacturer, distributor, or~~
 197 ~~wholesaler; to prohibit the sale of fireworks to be used by a~~
 198 ~~person holding a permit from any board of county commissioners~~
 199 ~~at the display covered by such permit; or to~~

200 (1) Prohibit the use of fireworks by railroads or other
 201 transportation agencies for signal purposes or illumination or
 202 when used in quarrying or for blasting or other industrial use.7

203 (2) Prohibit ~~or~~ the sale or use of blank cartridges for a

577-00953-14

2014314c1

204 show or theater, or for signal or ceremonial purposes in
205 athletics or sports, or for use by military organizations, or
206 organizations composed of the Armed Forces of the United
207 States.~~;~~ ~~provided, nothing in this chapter shall be construed as~~
208 ~~barring~~

209 (3) Prohibit the operations of manufacturers, duly
210 licensed, from manufacturing, experimenting, exploding, and
211 storing such fireworks in their compounds or proving grounds.

212 Section 7. Section 791.08, Florida Statutes, is created to
213 read:

214 791.08 Age restriction.—Fireworks, sparklers, and novelties
215 may not be sold to a person under 16 years of age.

216 Section 8. Section 791.09, Florida Statutes, is created to
217 read:

218 791.09 Local regulation.—Except for the sale and use
219 exemption provided under ss. 791.04 and 791.07, a county or
220 municipality may regulate the sale and use of fireworks,
221 sparklers, and novelties. However, a county or municipality may
222 require a retailer or seasonal retailer to take reasonable steps
223 to determine a buyer's eligibility to purchase such items under
224 an exemption provided under ss. 791.04 and 791.07.

225 Section 9. This act shall take effect upon becoming a law.