

By the Committee on Regulated Industries; and Senator Steube

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1                   A bill to be entitled  
2       An act relating to fireworks; repealing s. 791.013,  
3       F.S., relating to the testing and approval of  
4       sparklers; repealing s. 791.015, F.S., relating to the  
5       registration of manufacturers, distributors,  
6       wholesalers, and retailers of sparklers; repealing s.  
7       791.03, F.S., relating to the bond of licensees;  
8       amending s. 791.01, F.S.; conforming provisions to  
9       changes made by the act; amending s. 791.012, F.S.;  
10      conforming a cross-reference; amending s. 791.02,  
11      F.S.; prohibiting persons, firms, copartnerships, and  
12      corporations from selling fireworks to any person  
13      under 18 years of age; authorizing the State Fire  
14      Marshal to adopt rules; conforming provisions to  
15      changes made by the act; amending s. 791.04, F.S.;  
16      conforming provisions to changes made by the act;  
17      reenacting s. 791.06, F.S., relating to penalties, to  
18      incorporate the amendment made by this act to s.  
19      791.02, F.S.; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Sections 791.013, 791.015, and 791.03, Florida  
24 Statutes, are repealed.

25       Section 2. Section 791.01, Florida Statutes, is amended to  
26 read:

27       791.01 Definitions.—As used in this chapter, the term:  
28       ~~(1) "Distributor" means any person engaged in the business~~  
29 ~~of selling sparklers to a wholesaler.~~

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30        (1)~~(2)~~ "Division" means the Division of the State Fire  
31 Marshal of the Department of Financial Services.

32        (2)~~(3)~~ "Explosive compound" means any chemical compound,  
33 mixture, or device whose ~~the~~ primary or common purpose ~~of which~~  
34 is to function by the substantially instantaneous release of gas  
35 and heat.

36        (3)~~(4)~~(a) "Fireworks" means and includes any combustible or  
37 explosive composition or substance or combination of substances  
38 or, except as hereinafter provided, any article prepared for the  
39 purpose of producing a visible or audible effect by combustion,  
40 explosion, deflagration, or detonation. The term includes blank  
41 cartridges and toy cannons in which explosives are used, the  
42 type of balloons that ~~which~~ require fire underneath to propel  
43 them, firecrackers, torpedoes, skyrockets, roman candles, dago  
44 bombs, and any fireworks containing any explosives or flammable  
45 compound or any tablets or other device containing any explosive  
46 substance.

47        (b) "Fireworks" does not include sparklers, ~~approved by the~~  
48 ~~division pursuant to s. 791.013;~~ toy pistols, toy canes, toy  
49 guns, or other devices in which paper caps containing twenty-  
50 five hundredths grains or less of explosive compound are used,  
51 providing they are so constructed that the hand cannot come in  
52 contact with the cap when in place for the explosion, and ~~and~~ toy  
53 pistol paper caps that ~~which~~ contain less than twenty hundredths  
54 grains of explosive mixture, the sale and use of which shall be  
55 permitted at all times.

56        (c) "Fireworks" also does not include the following  
57 novelties and trick noisemakers:

58        1. A snake or glow worm, which is a pressed pellet of not

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59 more than 10 grams of pyrotechnic composition that produces a  
60 large, snakelike ash that ~~which~~ expands in length as the pellet  
61 burns and that does not contain mercuric thiocyanate.

62 2. A smoke device, which is a tube or sphere containing not  
63 more than 10 grams of pyrotechnic composition that, upon  
64 burning, produces white or colored smoke as the primary effect.

65 3. A trick noisemaker, which is a device that produces a  
66 small report intended to surprise the user and which includes:

67 a. A party popper, which is a small plastic or paper device  
68 containing not more than 16 milligrams of explosive composition  
69 that is friction sensitive, which is ignited by pulling a string  
70 protruding from the device, and which expels a paper streamer  
71 and produces a small report.

72 b. A booby trap, which is a small tube with a string  
73 protruding from both ends containing not more than 16 milligrams  
74 of explosive compound, which is ignited by pulling the ends of  
75 the string, and which produces a small report.

76 c. A snapper, which is a small, paper-wrapped device  
77 containing not more than four milligrams of explosive  
78 composition coated on small bits of sand, and which, when  
79 dropped, explodes, producing a small report. A snapper may not  
80 contain more than 250 milligrams of total sand and explosive  
81 composition.

82 d. A trick match, which is a kitchen or book match that  
83 ~~which~~ is coated with not more than 16 milligrams of explosive or  
84 pyrotechnic composition and that ~~which~~, upon ignition, produces  
85 a small report or shower of sparks.

86 e. A cigarette load, which is a small wooden peg that has  
87 been coated with not more than 16 milligrams of explosive

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88 composition and which produces, upon ignition of a cigarette  
89 containing one of the pegs, a small report.

90 f. An auto burglar alarm, which is a tube which contains  
91 not more than 10 grams of pyrotechnic composition that produces  
92 a loud whistle or smoke when ignited and which is ignited by use  
93 of a squib. A small quantity of explosive, not exceeding 50  
94 milligrams, may also be used to produce a small report.

95

96 The sale and use of items listed in this paragraph are permitted  
97 at all times.

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

100 ~~(6) "Retailer" means any person who, at a fixed place of  
101 business, is engaged in selling sparklers to consumers at  
102 retail.~~

103 ~~(7) "Seasonal retailer" means any person engaged in the  
104 business of selling sparklers at retail in this state from June  
105 20 through July 5 and from December 10 through January 2 of each  
106 year.~~

107 (4)~~(8)~~ "Sparkler" means a device that ~~which~~ emits showers  
108 of sparks upon burning, does not contain any explosive  
109 compounds, does not detonate or explode, is handheld or ground  
110 based, cannot propel itself through the air, and contains not  
111 more than 100 grams of the chemical compound that ~~which~~ produces  
112 sparks upon burning. ~~Any sparkler that is not approved by the  
113 division is classified as fireworks.~~

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

116 Section 3. Section 791.012, Florida Statutes, is amended to

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117 read:

118 791.012 Minimum fireworks safety standards.—The outdoor  
119 display of fireworks in this state is ~~shall be~~ governed by the  
120 National Fire Protection Association (NFPA) 1123, Code for  
121 Fireworks Display, 1995 Edition, approved by the American  
122 National Standards Institute. Any state, county, or municipal  
123 law, rule, or ordinance may provide for more stringent  
124 regulations for the outdoor display of fireworks, but in no  
125 event may any such law, rule, or ordinance provide for less  
126 stringent regulations for the outdoor display of fireworks. The  
127 division shall promulgate rules to carry out the provisions of  
128 this section. The Code for Fireworks Display does ~~shall~~ not  
129 govern the display of any fireworks on private, residential  
130 property and does ~~shall~~ not govern the display of those items  
131 included under s. 791.01(3)(b) and (c) ~~s. 791.01(4)(b) and (e)~~  
132 and authorized for sale thereunder.

133 Section 4. Section 791.02, Florida Statutes, is amended to  
134 read:

135 791.02 Sale of fireworks regulated; rules and regulations.—

136 (1) ~~Except as hereinafter provided~~ It is unlawful for any  
137 person, firm, copartnership, or corporation to offer for sale,  
138 expose for sale, sell at retail, or use or explode any  
139 fireworks; provided that the board of county commissioners shall  
140 have power to adopt reasonable rules and regulations for the  
141 granting of permits for supervised public display of fireworks  
142 by fair associations, amusement parks, and other organizations  
143 or groups of individuals when such public display is to take  
144 place outside of any municipality; provided, further, that the  
145 governing body of any municipality shall have power to adopt

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146 reasonable rules and regulations for the granting of permits for  
147 supervised public display of fireworks within the boundaries of  
148 any municipality. Every such display shall be handled by a  
149 competent operator to be approved by the chiefs of the police  
150 and fire departments of the municipality in which the display is  
151 to be held, and shall be of such a character, and so located,  
152 discharged, or fired as in the opinion of the chief of the fire  
153 department, after proper inspection, shall not be hazardous to  
154 property or endanger any person. Application for permits shall  
155 be made in writing at least 15 days in advance of the date of  
156 the display. After such privilege shall have been granted,  
157 sales, possession, use, and distribution of fireworks for such  
158 display shall be lawful for that purpose only. No permit granted  
159 hereunder shall be transferable.

160 (2) A person, firm, copartnership, or corporation may not  
161 sell any fireworks to any person under 18 years of age A  
162 ~~sparkler or other product authorized for sale under this chapter~~  
163 ~~may not be sold by a retailer or seasonal retailer unless the~~  
164 ~~product was obtained from a manufacturer, distributor, or~~  
165 ~~wholesaler registered with the division pursuant to s. 791.015.~~  
166 ~~Each retailer and seasonal retailer shall keep, at every~~  
167 ~~location where sparklers are sold, a copy of an invoice or other~~  
168 ~~evidence of purchase from the manufacturer, distributor, or~~  
169 ~~wholesaler, which states the registration certificate number for~~  
170 ~~the particular manufacturer, distributor, or wholesaler and the~~  
171 ~~specific items covered by the invoice. Each seasonal retailer~~  
172 ~~shall, in addition, exhibit a copy of his or her registration~~  
173 ~~certificate at each seasonal retail location.~~

174 (3) The State Fire Marshal may adopt rules governing

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175 fireworks under this chapter.

176 Section 5. Section 791.04, Florida Statutes, is amended to  
177 read:

178 791.04 Exemptions ~~Sale at wholesale, etc., exempted.-~~  
179 ~~Nothing in~~ This chapter does not: ~~shall be construed to prohibit~~  
180 ~~any manufacturer, distributor, or wholesaler who has registered~~  
181 ~~with the division pursuant to s. 791.015 to sell at wholesale~~  
182 ~~such fireworks as are not herein prohibited; to prohibit the~~  
183 ~~sale of any kind of fireworks at wholesale between~~  
184 ~~manufacturers, distributors, and wholesalers who have registered~~  
185 ~~with the division pursuant to s. 791.015; to prohibit the sale~~  
186 ~~of any kind of fireworks provided the same are to be shipped~~  
187 ~~directly out of state by such manufacturer, distributor, or~~  
188 ~~wholesaler; to prohibit the sale of fireworks to be used by a~~  
189 ~~person holding a permit from any board of county commissioners~~  
190 ~~at the display covered by such permit; or to~~

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

194 (2) Prohibit ~~or~~ the sale or use of blank cartridges for a  
195 show or theater, ~~or~~ for signal or ceremonial purposes in  
196 athletics or sports, or for use by military organizations~~7~~ or  
197 organizations composed of the Armed Forces of the United  
198 States.7 ~~provided, nothing in this chapter shall be construed as~~  
199 ~~barring~~

200 (3) Bar the operations of manufacturers, duly licensed,  
201 from manufacturing, experimenting, exploding, and storing such  
202 fireworks in their compounds or proving grounds.

203 Section 6. For the purpose of incorporating the amendment

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204 made by this act to section 791.02, Florida Statutes, section  
205 791.06, Florida Statutes, is reenacted to read:

206       791.06 Penalties.—Any firm, copartnership, or corporation  
207 violating the provisions of this chapter shall be guilty of a  
208 misdemeanor of the first degree, punishable as provided in s.  
209 775.083 or, in the case of individuals, the members of a  
210 partnership and the responsible officers and agents of an  
211 association or corporation, punishable as provided in s. 775.082  
212 or s. 775.083.

213       Section 7. This act shall take effect upon becoming a law.