

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: SB 1554

INTRODUCER: Senator Wise

SUBJECT: Firesafety and Truss-type Construction

DATE: February 25, 2008 REVISED: 3/11/2008 _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------|--------------------|-----------|------------------------|
| 1. | <u>Mays</u> | <u>Deffenbaugh</u> | <u>BI</u> | <u>Fav/1 amendment</u> |
| 2. | _____ | _____ | <u>CA</u> | _____ |
| 3. | _____ | _____ | <u>GA</u> | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill requires the owner of any commercial or industrial structure, or multiunit residential structure of three units or more that use truss-type construction to post a sign or symbol, approved by the State Fire Marshal, indicating the existence of truss-type construction. The purpose of the sign is to warn fire control or other emergency personnel of truss-type construction.

This bill requires the State Fire Marshal to adopt rules governing such signs or symbols.

This bill requires the State Fire Marshal to enforce the provisions of this bill, whereas any owner who fails to comply is subject to penalties as provided in s. 633.161, F.S., which authorizes the State Fire Marshal to issue an order of compliance and provides that failure to comply is a second degree misdemeanor.

This bill creates the following section of the Florida Statutes: 633.027, F.S.

II. Present Situation:

Truss-type construction in commercial, industrial and residential structures is increasingly popular due to its cost effectiveness, versatility, and ease of construction. However, truss-type construction concerns the firefighting community since its structural collapse has caused many injuries and fatalities in the fire service.

A truss is a structural member, composed of boards, timbers, beams, or steel bars, joined together in a rigid framework. Most truss systems are either triangular or rectangular and constructed in a series. Individual trusses are typically engineered using wood, steel, or aluminum. The advantage in a truss system design is the separation of compressive and tensile stresses. This provides the truss the ability to carry the expected loads, with economical production, safe handling, and reduced construction costs.¹

Over 60 percent of all buildings in the United States use wooden trusses in roofing structures according to The Wood Truss Council of America.² Jeffery Pindelski, co-author of several firesafety training programs, cites that 65 percent of new commercial roofs use truss-type construction as well as 65 percent of new residential roofs. Furthermore, he claims 10 percent of commercial and 25 percent of residential buildings are using truss-type materials in new floor construction.³

Truss-type construction provides adequate strength under normal loading. However, fire conditions weaken truss systems causing possible collapse of roofs, floors, or the entire structure. Additionally, truss-type construction weakened by fire typically does not portray the indicators of pending collapse, such as a spongy feeling floor or visibly sagging structures.⁴

The structure of the truss-type construction also attributes to possible sudden collapse. The large area created by truss-type construction, sometimes further hidden by aesthetically pleasing designs, can trap heat and create an unknown hazard for firefighters. Furthermore, the truss-type construction relies on the sum of the total members for structural stability. Therefore, failure of any one-connection point will transfer the load of that truss to a potentially weakened truss resulting in a collapse of multiple trusses.

Three other states already have similar public policies codified into law. New Jersey enacted legislation in 1991 requiring an identifying emblem to be affixed to the front of specified structures with truss construction. The stated purpose of the New Jersey law is to protect firefighters by alerting of the potential danger of the truss-type construction that is present. The New York legislature enacted similar language in 2004 requiring truss identification on all entrances of specified buildings. The Illinois law is similar to the New York, where both specifically define “truss” or “truss construction”. Others states are also specific in the exact types of buildings captured by the law. There are also provisions included in these other state

¹ NIOSH – Preventing Injuries and Deaths of Fire Fighters due to Truss System Failures. 2005. Available online at www.cdc.gov/niosh

² NIOSH – Preventing Injuries and Deaths of Fire Fighters due to Truss System Failures. 2005

³ Rapid Intervention Company Operations – Fire Safety Manual. Mason, Michael and Pindelski, Jeffrey. 2006.

⁴ NIOSH – Preventing Injuries and Deaths of Fire Fighters due to Truss System Failures. 2005.

laws allowing local authorities to charge fees to building owners to offset the cost of implementation.

III. Effect of Proposed Changes:

Section 1 creates s. 633.027, F.S., requiring the owners of buildings (commercial, industrial, or multiunit residential with three units or more) constructed using truss-type components to mark the structure with a sign or symbol approved by the State Fire Marshal.

This bill gives the State Fire Marshal the authority to adopt the rules necessary to implement the provisions of this section: e.g., the specific dimensions and placement of the sign or symbol.

This bill also requires the State Fire Marshal to enforce the provisions of this section, and specifies that a building owner who fails to comply is subject to penalties as provided in s. 633.161, F.S. That section allows the State Fire Marshal to issue an order to cease and desist from a violation, to correct any hazardous condition, and related orders. It further provides that any person who violates or fails to comply with an order is guilty of a second degree misdemeanor. The bill does not refer to enforcement by local government fire officials, but s. 633.121, F.S. currently provides that the chiefs of county, municipal, and special-district fire departments and certain other personnel are authorized to enforce fire safety laws and rules within their respective jurisdictions.

The signage mandate for building owners brings into question the possible civil liability of owners who fail to erect signs to warn fire control or other emergency personnel. The Third District Court of Appeal summarized three categories of statutory violations in *Grand Union Co. v. Rocker*.⁵ The Court found that a violation of a statute establishing a duty to take precautions to protect a particular class of persons from a particular injury or type of injury, constituted negligence per se. *Negligence per se* is a form of ordinary negligence that results from the violation of a statute.⁶ The particular class protected in the bill appears to be “persons conducting fire control and other emergency operations”. The purpose in posting the sign is to “warn” this particular class of the “existence of truss-type construction.” Failure of a business owner to display the warning sign as directed by the State Fire Marshal that results in injury may expose the owner to civil liability.

The Florida Supreme Court has found that not all violations of statutes constitute negligence per se in *deJesus v. Seaboard Coast Line Railroad*.⁷ The court found that violations of statutes, other than those imposing a form of strict liability, may be either negligence per se or evidence of negligence.⁷

Section 2 establishes an effective date of July 1, 2008.

⁵ 454 So2d 14 (Fla.3d DCA 1984)

⁶ Black's Law Dictionary. 6th Ed. Page 1032.

⁷ 281 So2d 198 (Fla.1973)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Building owners will have a fiscal impact. The costs of the required signs from other states range from \$14 to \$18 per sign. The total fiscal impact per building owner depends on the dimensions, placement, and total number of signs required by each business owner as determined by the State Fire Marshal pursuant to its rule making process. The total number of buildings affected across the state is significant but indeterminate.

C. Government Sector Impact:

The Department of Financial Services estimated a \$5,000 fiscal impact for rulemaking. In addition, a \$4,000 fiscal impact was estimated for the cost of providing an initial public notice to owners affected. The periodic enforcement will be incorporated into existing inspection procedures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

General undefined terms in the bill including “truss-type construction” and “any commercial or industrial, or any multiunit residential structure of three units or more” may lead to ambiguous and open interpretation. The New York model is extremely specific in defining truss-type construction, as well as specifying those types of trusses that are exempted. A reference from the building code in New York specifically lists the types of buildings that will be captured by their law. New Jersey law includes all buildings with truss construction, with the exemption of certain residential units. However, SB 1554 provides specific rule making authority to the State Fire Marshal, which is likely to address these issues.

The Department of Financial Services analysis remarked that the language of the bill inferred the enforcement to be limited to the State Fire Marshal. Local fire officials enforce Fire Safety standards within their respective jurisdictions. The DFS analysis recommended a clarification to reference the statutory authority for local fire officials to enforce the bill's provisions.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

Barcode 422400 by Banking and Insurance on March 11, 2008

Local fire officials enforce fire codes in accordance with s. 633.121, F.S.

This amendment clarified that the State Fire Marshal and local fire officials, in accordance with s. 633.121 F.S., shall enforce the provisions of this section.