

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 Community Affairs Committee

BILL: SB 1554

INTRODUCER: Senator Wise

SUBJECT: Firesafety/Structure Markings

DATE: March 28, 2008 REVISED: 04/17/08

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mays	Deffenbaugh	BI	Fav/1 amendment
2.	Molloy	Yeatman	CA	Fav/1 amendment
3.			GA	
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 checked="" type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill requires that prior to entering certain structures for emergency purposes, fire-control or emergency operations personnel must be warned that the structure uses truss-type construction. The owner of any commercial, industrial, or multi-unit residential structure of three units or more, which uses truss-type construction, must mark the structure with sign or symbol, approved by the State Fire Marshal (Marshal), that indicates the presence of truss-type construction.

The bill requires the Marshal to adopt rules governing the size, color, and placement of the signs or symbols, and the Marshal is required to enforce the provisions of the bill. An owner of a structure using truss-type construction who fails to comply with the sign or symbol requirements of the bill is subject to an order of compliance issued by the Marshal and upon failure to comply with the order, commits a second degree misdemeanor punishable by imprisonment for not more than 60 days, a fine of not more than \$500, or both.

The bill creates s. 633.027, Florida Statutes.

II. Present Situation:

Truss type construction - Truss type construction in commercial, industrial and residential structures is increasingly popular due to its cost effectiveness, versatility, and ease of use. A truss system can be comprised of boards, timbers, beams, or steel bars, all of which are joined together in a rigid framework. Most truss-type systems are either triangular or rectangular and constructed in a series. The advantage of a truss-type system design is the separation of compressive and tensile stresses which allows the truss to carry the expected loads, with economical production, safe handling, and reduced construction costs. The three most common types of truss systems are heavy timber roof and floor, lightweight wooden roof and floor, and steel roof and floor.¹

However, truss-type construction concerns the firefighting community because certain roof and floor truss systems can collapse without warning during a firefighting operation due to the fact that the truss system is often hidden and may be on fire for long periods of time before being noticed. The United States Fire Administration reported that in 1999-2000, structural fires and explosions accounted for more than 45 percent of fire fighter fatalities. The National Institute for Occupational Safety and Health (NIOSH) investigated fifteen separate incidents between 1998-2003 and reported that at least 20 fatalities and 12 injuries occurred during fire-fighting operations in buildings containing truss systems.² The three main circumstances in which firefighters are fatally or seriously injured are:

- When working above a burning roof or floor truss, the sheathing or truss system collapses beneath them and they fall into the fire.
- When working below a burning roof or floor truss system, the system collapses inward.
- When working outside a building with a burning truss system, the roof or floor trusses collapse causing the secondary walls to also collapse.³

The Wood Truss Council of America reports that more than 60 percent of all buildings in the United States use wooden roof truss systems.⁴ Jeffery Pindelski, co-author of several firesafety training programs, cites that 65 percent of both new commercial and residential roofs use truss-type construction, and 10 percent of commercial and 25 percent of residential buildings are using truss-type materials in new floor construction.⁵

Sign and symbol warnings in other states – The New Jersey Legislature enacted legislation in 1991 requiring an identifying emblem to be affixed to the front of specified structures with truss construction.⁶ 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 State Assembly enacted a similar law in 2004 requiring truss identification on all entrances of specified buildings.⁷ In Illinois, cities and counties are authorized to require a truss construction emblem to be affixed to the front or all or any class of structures, excluding residential, that have truss

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

² Id. at 1 and 2.

³ Id. at 4.

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

⁵ Rapid Intervention Company Operations – Fire Safety Manual. Mason, Michael and Pindelski, Jeffrey. 2006.

⁶ 52:27D-198.4, New Jersey Permanent Statutes

⁷ Executive Law 382-A

construction.⁸ Other states are also specific in the exact types of buildings captured by the law. There are also provisions included in these other state 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., to require that the owner of any commercial or industrial structure built with truss-type systems, and the owner of any residential structure with three units or more which is built using truss-type systems, mark the structure with a sign or symbol that will provide sufficient warning of the existence of truss systems in the structure. The warning sign or symbol must be approved by the Marshal who is provided with rulemaking authority to adopt rules that govern the size, color, and placement of the warning signs and symbols.

The Marshal is required to enforce the provisions of the bill. An owner of a structure using truss-type construction who fails to comply with the sign or symbol requirements of the bill is subject to an order of compliance issued by the Marshal and upon failure to comply with the order, commits a second degree misdemeanor punishable by imprisonment for not more than 60 days, a fine of not more than \$500, or both, as provided in s. 633.161, F.S.

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

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:

The provisions of the bill will have an indeterminate fiscal impact on the owners of the designated structures but in other states which have enacted similar legislation, the signs range from \$14 to \$18 in cost, per sign. The total fiscal impact per building owner depends on the dimensions, placement, and total number of signs necessary to provide

⁸ 425 ILCS 68

sufficient warning as determined by the Marshall 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 non-recurring fiscal impact of \$5,000 fiscal rulemaking, and \$4,000 for the cost of providing the initial public notice to affected owners. The periodic enforcement will be incorporated into existing inspection procedures.

VI. Technical Deficiencies:

The bill does not provide for enforcement by local government fire officials who are authorized in s. 633.121, F.S., to enforce fire safety laws and rules within their respective jurisdictions. The Department of Financial Services recommends that the bill be amended to provide for enforcement by the chiefs of county, municipal, and special-district fire departments and designated personnel.

VII. Related Issues:

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. Roker*.⁹ 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.¹⁰ 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 found that not all violations of statutes constitute negligence per se in *deJesus v. Seaboard Coast Line Railroad*. 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.¹¹

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 specific in defining truss-type construction, as well as specifying the types of trusses that are exempt. A reference from the building code in New York specifically lists the types of buildings that will be captured by the law. New Jersey law includes all buildings with truss construction, with the exemption of certain residential units.

⁹ 454 So2d 14 (Fla.3d DCA 1984)

¹⁰ Black’s Law Dictionary. 6th Ed. Page 1032.

¹¹ 281 So2d 198 (Fla.1973)

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 #914312 by the Community Affairs Committee on April 17, 2008:

This amendment provides that the act may be cited as the "Aldridge/Benge Firefighter Safety Act", and provides that signage provisions of the bill apply to certain structures using light-frame truss-type construction. The structures must be marked to warn persons conducting fire control and other emergency operations of the existence of the truss-type. The State Fire Marshal is provided with rulemaking authority, and local fire officials and the State Fire Marshal may enforce the signage provisions of the bill.

Notwithstanding other requirements of chapter 633, the State Fire Marshal is directed to study the use of managed, facilities-based voice over Internet protocol telephone service for monitoring fire alarm signals. If the study determines that the voice over Internet protocol telephone service provides a level of protection equal to that required in the National Fire Alarm Code, the State Fire Marshal must begin rulemaking by December 1, 2008, to allow the use of the technology as an additional method of monitoring fire alarm systems.

This amendment further provides that notwithstanding other provisions of law to the contrary, nursing homes licensed under part II of chapter 400 must be protected throughout by approved automatic sprinkler systems by December 31, 2010. Requirements that an approved system be installed in each hazardous area of a nursing home by December 31, 2008, as deleted. After July 1, 2009, the State Fire Marshal may not accept applications for participation in the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program. A nursing home licensee must submit complete sprinkler construction documents to the Agency for Health Care Administration for review by December 31, 2008, and the licensee must have final agency approval by June 30, 2009, to begin construction. Exceptions are provided for nursing home licensees if the construction documents are contingent upon approval of an application for the loan guarantee program. (WITH TITLE AMENDMENT)

Barcode #422400 by Banking and Insurance on March 11, 2008

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