

Tab 1 SB 198 by Steube; Fireworks							
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Hukill, Vice Chair

MEETING DATE: Wednesday, October 11, 2017
TIME: 2:00—4:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 198 Steube	Fireworks; Repealing provisions relating to the testing and approval of sparklers and the registration of manufacturers, distributors, wholesalers, and retailers of sparklers, respectively, etc. RI 09/14/2017 RI 10/11/2017 Fav/CS CM RC	Fav/CS Yeas 8 Nays 2
	Presentation on the Department of Lottery, Secretary Jim Poppell		Presented
	Other Related Meeting Documents		

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 Committee on Regulated Industries

BILL: CS/SB 198

INTRODUCER: Regulated Industries Committee and Senator Steube

SUBJECT: Fireworks

DATE: October 11, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 198:

- Prohibits the sale of fireworks to any person under 18 years of age.
- Authorizes the State Fire Marshal to adopt rules governing fireworks under ch. 791, F.S.
- Repeals the requirement for county commissioners to impose a bond for the payment of damages caused by a public display of fireworks.

As to sparklers¹, CS/SB 198 repeals:

- The required testing and approval of sparklers by the Division of the State Fire Marshal of the Department of Financial Services;
- All associated registration of sparkler distributors, manufacturers, wholesalers, and retailers;
- A requirement that sparklers for retail sale must be obtained from a registered manufacturer, distributor, or wholesaler; and
- All annual registration fees for the sale or shipping of sparklers in Florida.

¹ Sparklers, either hand-held or ground-based devices, emit showers of sparks when they are burned, do not contain explosive compounds, are not self-propelled, and have a limited amount of combustible chemicals. *See* s. 791.01(8), F.S.

The bill also repeals:

- A requirement for retailers to keep a copy of every invoice or proof of purchase from registered manufacturers, distributors, or wholesalers for products authorized to be sold under ch. 791, F.S.
- Rulemaking authority granted to the State Fire Marshal for registration of sparkler distributors, manufacturers, wholesalers, and retailers and product testing; and
- A bond requirement for the payment of damages caused by a display and arising from certain acts.²

The bill does not alter:

- Current law prohibiting the retail sale, use, or exploding of fireworks by any person, firm, copartnership, or corporation, except under certain conditions.
- Current law authority of local governments to regulate public displays of fireworks.
- The minimum fireworks safety standards for the outdoor display of fireworks, governed by the National Fire Protection Association (NFPA) 1123, Code for Fireworks Display, 1995 Edition.
- The current law authorization for any state, county, or municipal law, rule, or ordinance to provide more stringent regulations than the minimum standards for the supervised, public outdoor display of fireworks.

The Department of Financial Services estimates the bill will reduce annual recurring revenue associated with regulation of fireworks and sparklers by \$300,000.³

The bill is effective upon becoming law.

II. Present Situation:

Introduction

Florida, in ch. 791, F.S., regulates the sale and use of fireworks. Generally, no person may offer for sale, sell at retail, or use or explode any fireworks, unless authorized pursuant to ch. 791, F.S.⁴

Sections 791.01(4)(b) and (c), F.S., describe items exempted from the prohibition on fireworks, including an exception for sparklers. The Division of the State Fire Marshal (division) of the Department of Financial Services must test and approve sparklers, one of many exempted products, to determine whether they meet statutory requirements.⁵ Distributors, manufacturers, wholesalers, and retailers of sparklers who seek to do business in Florida or to sell or ship products in Florida must register annually with the division.⁶

² See s. 791.03, F.S.

³ See *2017 Agency Legislative Bill Analysis by Department of Financial Services* for SB 198, dated Sep. 28, 2017 (on file with Senate Committee on Regulated Industries) at pages 1-2.

⁴ See s. 791.02, F.S.

⁵ See s. 791.013, F.S.

⁶ See s. 791.015, F.S.

Local law enforcement departments and officials charged with enforcement of state law are responsible for the enforcement of ch. 791, F.S.⁷ In addition, sheriffs, including their appointees, and other police officers, are authorized to seize or cause to be removed all fireworks or combustibles offered or exposed for sale, stored, or held in violation of ch. 791, F.S.⁸ Violations of ch. 791, F.S., by any firm, copartnership, or corporation are subject to a fine not to exceed \$1,000.⁹ Violations by any individual, a member of a partnership, or the responsible officer and agent of an association or corporation are punishable as misdemeanors of the first degree, subject to a term of imprisonment not to exceed one year or a fine not to exceed \$1,000.¹⁰

Other States' Regulation of Fireworks

Nationally, two states ban all consumer fireworks, three states allow only wire or wood stick sparklers and other novelty items, and 45 states and the District of Columbia allow some or all types of consumer fireworks permitted by federal regulations.¹¹

Federal Regulation of Fireworks

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has adopted federal regulations to distinguish explosives from fireworks which are sold in the United States as either “display fireworks” or “consumer fireworks.”¹² Display fireworks are large fireworks used in shows, generally under the supervision of a trained pyrotechnician.¹³ Any person in the business of importing, manufacturing, dealing in, or otherwise receiving display fireworks must first obtain an explosives license or permit from ATF.¹⁴

ATF does not regulate consumer fireworks, which it characterizes as the small fireworks usually sold at stands around the Fourth of July holiday.¹⁵ The manufacturing of consumer fireworks requires an explosives license from ATF because consumer fireworks contain pyrotechnic compositions classified as explosive materials.¹⁶

The production, distribution, and sale of consumer fireworks is regulated by the United States Consumer Product Safety Commission (CPSC) pursuant to the Federal Hazardous Substances Act (FHSA).¹⁷ According to the CPSC, in 2015 about 11,900 people were treated in emergency

⁷ See s. 791.001, F.S.

⁸ See s. 791.05, F.S. Such action is at the expense of the owner of such fireworks or combustibles.

⁹ See s. 791.06, F.S.

¹⁰ *Id.*

¹¹ See <http://www.americanpyro.com/assets/docs/FactsandFigures/2017updated%20state%20laws%20firework%20map.pdf> (last visited Oct. 2, 2017).

¹² See the ATF's Fireworks Safety and Security website at <https://www.atf.gov/explosives/fireworks-safety-and-security> (last visited Oct. 2, 2017).

¹³ *Id.*

¹⁴ See <https://www.gpo.gov/fdsys/granule/CFR-2012-title27-vol3/CFR-2012-title27-vol3-part555/content-detail.html> (last visited Oct. 2, 2017).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See 15 U.S.C. ss. 1261–1278 at <https://www.govinfo.gov/content/pkg/USCODE-2015-title15/pdf/USCODE-2015-title15-chap30.pdf>, and the CPSC's enforcement regulations, 16 C.F.R. ss. 1500 and 1507, at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title16-vol2/pdf/CFR-2017-title16-vol2-part1500.pdf> and <https://www.gpo.gov/fdsys/pkg/CFR-2017-title16-vol2/pdf/CFR-2017-title16-vol2-part1507.pdf>, respectively (all last visited Oct. 2, 2017).

rooms for injuries associated with fireworks; children under age 15 account for 38 percent of those injuries.¹⁸

The CPSC prohibits the sale to consumers of a number of fireworks, such as “large reloadable mortar shells, cherry bombs, M-80 salutes, aerial bombs, and larger firecrackers containing more than two grains¹⁹ of powder.”²⁰ Permitted consumer fireworks include: “shells and mortars, multiple tube devices, Roman candles, rockets, sparklers, firecrackers with no more than 50 milligrams²¹ of powder, and novelty items, such as snakes, airplanes, ground spinners, helicopters, fountains, and party poppers.”²² The CPSC has also issued labelling and performance requirements for permitted fireworks and firecrackers.²³

The FHSA governs the enforcement of the CPSC’s fireworks regulations.²⁴ Importing, distributing, or selling fireworks in violation of CPSC regulations violates the FHSA.²⁵ Penalties include fines and imprisonment as well as civil penalties.²⁶

In addition, for banned hazardous substances, after the required due process hearing, and if the CPSC determines notification to the public is required to protect the public, the CPSC may order the manufacturer, distributor, or dealer of the article or the substance to take one or more of the following actions:²⁷

- Give public notice in the form directed by the CPSC of the nature of the article or substance as a banned hazardous substance.
- Mail such notice to each manufacturer, distributor, or dealer of such article or substance.
- Mail such notice to every person to whom the person giving the notice knows such article or substance was delivered or sold.

¹⁸ See *Fireworks: Publication #12* (6/16) on the CPSC’s website at https://www.cpsc.gov/s3fs-public/2016%20Fireworks%20Fact%20Sheet_0.pdf (last visited Oct. 2, 2017).

¹⁹ The measurement of a “grain” derives from a single seed of a grain of barley or wheat; one grain is equal to .00228571 ounces. See <https://www.bing.com/search?q=grains%20to%20ounces&q=n&form=QBRE&sp=-1&pq=grains%20to%20ounces&sc=8-16&sk=&cvid=913C180CFDC3482CA6DD4B3CC4E2148A> (last visited Oct. 2, 2017).

²⁰ See *Fireworks: Publication #12* (6/16), *supra* note 17; see also 16 C.F.R. s. 1500.17(a)(3), (8), (11), and (12) at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title16-vol2/pdf/CFR-2017-title16-vol2-part1500.pdf> (last visited Oct. 2, 2017).

²¹ One milligram is 1/1,000th of a gram (equal to .00056438 ounces).

²² See *Fireworks: Publication #12* (6/16), *supra* note 17.

²³ See 16 C.F.R. s. 1500.14(b)(7) at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title16-vol2/pdf/CFR-2017-title16-vol2-part1500.pdf>, 16 C.F.R. s. 1507 at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title16-vol2/pdf/CFR-2017-title16-vol2-part1507.pdf>, and 16 C.F.R. s. 1500.85(a)(2) at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title16-vol2/pdf/CFR-2017-title16-vol2-sec1500-85.pdf> (all last visited Oct. 2, 2017).

²⁴ See 15 U.S.C. ss.1274 at <https://www.govinfo.gov/content/pkg/USCODE-2015-title15/pdf/USCODE-2015-title15-chap30.pdf> (last visited Oct. 2, 2017).

²⁵ See 15 U.S.C. s. 1263 at <https://www.govinfo.gov/content/pkg/USCODE-2015-title15/pdf/USCODE-2015-title15-chap30.pdf> (last visited Oct. 2, 2017).

²⁶ See 15 U.S.C. s. 1264(a), (b) and (c) at <https://www.govinfo.gov/content/pkg/USCODE-2015-title15/pdf/USCODE-2015-title15-chap30.pdf> (last visited Oct. 2, 2017). Violators may be found guilty of a misdemeanor, and be subject to a fine of not more than \$500 or to imprisonment for not more than ninety days, or both, unless the violator acted in good faith; for offenses committed with intent to defraud or mislead, or for second and subsequent offenses, the penalty is imprisonment for not more than 5 years, a fine based upon the circumstances, or both. Under certain circumstances and when the violator knowingly violates 15 U.S.C. s. 1263, a civil penalty not exceeding \$100,000 for each violation may be imposed.

²⁷ See 15 U.S.C. s. 1274 at <https://www.govinfo.gov/content/pkg/USCODE-2015-title15/pdf/USCODE-2015-title15-chap30.pdf> (last visited Oct. 2, 2017).

The CPSC may similarly order actions concerning repairs, replacements, or refunds, and may order a manufacturer, distributor, or dealer to take whichever of the following actions it may elect:²⁸

- To make repairs or changes to the article or substance, if such repairs or changes may be made so the article or substance will not be a banned hazardous substance.
- To replace such article or substance with a like or equivalent article or substance which is not a banned hazardous substance.
- To refund the purchase price of the article or substance (less a reasonable allowance for use, if the article or substance has been in the possession of the consumer for one year or more (1) at the time of public notice, or (b) at the time the consumer receives actual notice of the nature of the article or substance as a banned hazardous substance, whichever first occurs).

Products Classified as Fireworks under Florida Law

Section 791.014(a), F.S., defines the term “fireworks” as certain combustible or explosive substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration,²⁹ or detonation.³⁰ The term includes “blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, dago bombs,³¹ and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.”³²

The term “fireworks” does not include:

- Sparklers approved by the division pursuant to s. 791.013, F.S., (*see* the section of this analysis below on sparklers);
- Toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains³³ or less of explosive compound are used, if constructed to prevent a hand from contacting the cap to be exploded; and
- Toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture.³⁴

²⁸ *Id.*

²⁹ The term “deflagration” includes combustion occurring through the transfer of heat. *See* <https://www.bing.com/search?q=deflagration+definition&src=IE-SearchBox&FORM=IESR02> (last visited Oct. 2, 2017).

³⁰ The term “detonation” includes rapid combustion resulting in a shock wave. *See* <https://www.bing.com/search?q=detonation%20definition&qsn&form=QBRE&sp=-1&pq=detonation%20definition&sc=7-21&sk=&cvid=D6F818A2A39F45A8A71452D2469D9DA0> (last visited Oct. 2, 2017).

³¹ Such a bomb is similar to a large firecracker which explodes in the sky; it usually has a bright tail when ascending, and explodes with a bright white flash and an impressive sound. *See* <http://www.urbandictionary.com/define.php?term=Dago%20Bomb> (last visited Oct. 2, 2017).

³² Section 791.01(4)(a), F.S.

³³ The measurement of a “grain” derives from a single seed of a grain of barley or wheat; one grain is equal to .00228571 ounces. *See* <https://www.bing.com/search?q=grains%20to%20ounces&qsn&form=QBRE&sp=-1&pq=grains%20to%20ounces&sc=8-16&sk=&cvid=913C180CFDC3482CA6DD4B3CC4E2148A> (last visited Oct. 2, 2017).

³⁴ *See* s. 791.01(4)(b), F.S.; the sale and use of toy pistol paper caps is permitted at all times.

Certain novelties and trick noisemakers are also not included in the term “fireworks,” and their sale and use are permitted at all times:³⁵

- Snakes or glow worms (pressed pellets limited in size and composition which produce a large, snakelike ash which expands in length upon burning);
- Smoke devices (tubes or spheres with limited explosives producing white or colored smoke upon burning); and
- Trick noisemakers (devices producing a small noise (report) intended to surprise the user), including the following:
 - Party poppers (small plastic or paper devices with friction-sensitive limited explosives,³⁶ ignited by pulling a string protruding from the device, which expel a paper streamer and produce a small report).
 - Booby traps (small tubes with limited explosives³⁷ ignited by pulling the ends of the string protruding from the tubes at either end, which produce a small report).
 - Snappers (small, paper-wrapped devices with limited explosives,³⁸ which explode when dropped and produce a small report).
 - Trick matches (kitchen or book matches coated with limited explosives,³⁹ which produce a small report or shower of sparks when ignited).
 - Cigarette loads (small wooden pegs coated with limited explosives⁴⁰ producing a small report when a cigarette containing a peg is ignited).
 - Auto burglar alarms (tubes containing limited explosives⁴¹ which produce a loud whistle or smoke when ignited by using a squib.⁴²

Sparklers

Sparklers eligible to be sold or shipped in Florida are hand-held or ground-based devices which emit showers of sparks when they are burned, do not contain explosive compounds,⁴³ do not detonate or explode, are not self-propelled, and have a limited amount of combustible chemicals.⁴⁴

³⁵ See s. 791.01(4)(c), F.S.

³⁶ Party poppers are limited to not more than 16 milligrams of explosive composition; one milligram is 1/1,000th of a gram (equal to .00056438 ounces). See s. 791.01(4)(c)3.a., F.S. The term “explosive composition” is not defined in ch. 791, F.S.

³⁷ Booby traps are limited to not more than 16 milligrams of explosive compound. See s. 791.01(4)(c)3.b, F.S. The term “explosive compound” includes “any chemical compound, mixture, or device the primary or common purpose of which is to function by the substantially instantaneous release of gas and heat.” See s. 791.01(3), F.S.

³⁸ Snappers are limited to not more than four milligrams of explosive composition coated on small bits of sand, and may not contain more than 250 milligrams (equal to .00881849 ounces) of total sand and explosive composition. See s. 791.01(4)(c)3.c., F.S.

³⁹ Trick matches are limited to not more than 16 milligrams of explosive or pyrotechnic composition; one milligram is 1/1,000th of a gram (equal to .00056438 ounces). See s. 791.01(4)(c)3.d., F.S.

⁴⁰ Cigarette loads are limited to not more than 16 milligrams of explosive composition. See s. 791.01(4)(c)3.e., F.S.

⁴¹ Auto burglar alarms are limited to not more than 10 grams of pyrotechnic composition; a small quantity of explosive, not exceeding 50 milligrams, may also be used to produce a small report. See s. 791.01(4)(c)3.f., F.S.

⁴² A “squib,” a miniature explosive device used in a wide range of industries including special effects and military applications, resembles a tiny stick of dynamite, but with much less explosive power. See [https://en.wikipedia.org/wiki/Squib_\(explosive\)](https://en.wikipedia.org/wiki/Squib_(explosive)) (last visited Oct. 2, 2017).

⁴³ Section 791.01(3), F.S.

⁴⁴ Section 791.01(8), F.S.; the chemical compound in a sparkler which produces sparks upon burning may not exceed 100 grams (equivalent to 0.00000353 ounces). See also Fla. Admin. Code R. 69A-50.013 (2017), which defines the terms

All sparklers must be approved by the Division of the State Fire Marshal (division), which must publish the list of approved sparklers, make the list available to the public, and provide copies of the list to all sheriffs and police chiefs in Florida.⁴⁵ Sparklers not approved by the division are classified as fireworks.⁴⁶

In order to sell or ship sparklers in Florida, distributors, manufacturers, wholesalers, and retailers of sparklers must register annually with the division.⁴⁷ The term “manufacturer” includes any person engaged in the manufacture or construction of sparklers in Florida.⁴⁸ The term “distributor” includes any person engaged in selling sparklers to a wholesaler, and the term “wholesaler” includes any person engaged in selling sparklers to a retailer.⁴⁹ A retailer may have a fixed place of business throughout the year to engage in retail sales of sparklers to consumers, or may be a “seasonal retailer” selling sparklers to consumers annually during the periods of June 20 to July 5 and December 10 to January 2.⁵⁰

Registration forms must include the business name, address, telephone number, corporate officers (if a corporation), and a contact person.⁵¹ Annual registration fees are \$1,000 for each manufacturer, distributor, or wholesaler, \$200 for each seasonal retailer, and \$15 for each location registered by a non-seasonal retailer.⁵²

Section 791.02(2), F.S., provides a sparkler or other product authorized for sale under ch. 791, F.S., may not be sold by a retailer or seasonal retailer unless the product was obtained from a manufacturer, distributor, or wholesaler registered with the division. Each retailer and seasonal retailer must keep a copy of an invoice or other evidence of purchase from the manufacturer, distributor, or wholesaler at every location where sparklers are sold.⁵³ In addition, each seasonal retailer must exhibit a copy of its registration certificate at each seasonal retail location.⁵⁴

“emits,” “sparks,” “detonate,” “explode,” “hand-led,” “ground-based,” “propel itself through the air,” and “chemical compound which produces sparks upon burning.”

⁴⁵ See Fla. Admin. Code R. 69A-50.017(2) and (3) (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=69A-50.017> (last visited Oct. 2, 2017), and the current list of approved sparklers at <https://www.myfloridacfo.com/Division/SFM/BFP/RegulatoryLicensing/documents/2017-2018SparklerListC2.pdf> (last visited Oct. 2, 2017), at pp. 1-71.

⁴⁶ See s. 791.01(8), F.S.

⁴⁷ See s. 791.015, F.S.

⁴⁸ See s. 791.01(5), F.S.

⁴⁹ See ss. 791.01(1) and (9), F.S.

⁵⁰ See ss. 791.01(6) and (7), F.S.

⁵¹ See s. 791.015(2), F.S.

⁵² See s. 791.015(3)(a), F.S. By rule, the division has set the applicable fee equal to the maximum fees established in s. 791.015, F.S. See Fla. Admin. Code R. 69A-50.005(3) (2017). Fee payments must be deposited in the Insurance Regulatory Trust Fund to implement registration and testing under ch. 791, F.S. See s. 791.015(3)(b), F.S.

⁵³ See s. 791.02(2), F.S. The specific items covered by the invoice and the registration certificate number for the particular manufacturer, distributor, or wholesaler must be stated on the invoice.

⁵⁴ *Id.*

Samples of sparkler products must be submitted to the division for testing to verify they qualify as legal sparklers in Florida.⁵⁵ Applications must be submitted by September 1 each year, and on February 1 of each year, the division must approve those products qualified for sale in Florida through the next January 31.⁵⁶

A person who alters an approved sparkler product, so it no longer qualifies for sale in Florida, and subsequently sells the product as if it were approved, is guilty of a misdemeanor of the first degree.⁵⁷ A person who fraudulently represents a device as approved for sale as a sparkler product when it is not approved is guilty of a misdemeanor of the first degree.⁵⁸

Sparklers may not be stored or kept for sale in any store in which:⁵⁹

- Paints, oils, or varnishes are manufactured or kept for use or sale in opened containers;
- Resin, turpentine, gasoline, or flammable substances or substances which may generate vapors are used, stored, or offered for sale in opened containers; or
- There is not at least one approved chemical fire extinguisher ready, available, and equipped for use in extinguishing fires.

When sparklers for retail sale are stored, there must be a sign conspicuously displayed over the entrance to the storage room which reads: “CAUTION SPARKLERS-NO SMOKING,” and no person in the storage room may possess a lighted cigar, cigarette, or pipe.⁶⁰

Public Displays of Fireworks

Boards of county commissioners pursuant to s. 791.02(1), F.S., may adopt reasonable rules and regulations for the granting of permits for supervised public display of fireworks outside the boundaries of a municipality by fair associations,⁶¹ amusement parks, and other organizations or group of individuals.⁶² In addition, for supervised public display of fireworks within the boundaries of a municipality, the governing body of the municipality may adopt reasonable rules and regulations for the granting of permits.

Section 791.02(1), F.S., requires every public display of fireworks in a municipality be handled by a competent operator approved by the chiefs of the municipality’s police and fire departments

⁵⁵ See s. 791.013, F.S. As set forth in s. 791.01(8), F.S., such sparklers must be hand-held or ground-based devices emitting showers of sparks when they are burned, do not contain explosive compounds, do not detonate or explode, are not self-propelled, and have a limited amount of combustible chemicals.

⁵⁶ *Id.*

⁵⁷ See s. 791.013(2), F.S. Section 775.082, F.S., provides a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S., provides a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

⁵⁸ *Id.* See *supra* note 56 regarding the penalties which may be imposed upon a person guilty of a misdemeanor of the first degree.

⁵⁹ See s. 791.055(1), F.S.

⁶⁰ See s. 791.055(2), F.S.

⁶¹ Under s. 616.001(11), F.S, the term “fair association” includes a nonprofit association incorporated under ch. 616, F.S., for the purpose of conducting and operating public fairs or expositions to benefit and develop the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of Florida, or any county, municipality, or other community in Florida. See s. 616.001(12), F.S.

⁶² See s. 791.02(1), F.S.

and the chief of the fire department issue an opinion stating the public display of fireworks is to be located, discharged, or fired in a manner so it will not cause people to be endangered or create a hazard to property.

Permit applications must be made in writing at least 15 days before the date of the proposed public display, and upon issuance of a permit, the sale, possession, use, and distribution of fireworks for such public display is lawful for such purpose only.⁶³

Section 791.012, F.S., establishes minimum fireworks safety standards for the outdoor display of fireworks based on the Code for Fireworks Display (the Code) promulgated by the National Fire Protection Association (NFPA) in 1995.⁶⁴ The Code addresses requirements for aerial shells and equipment, site selection, operations, ignition and setup of displays, fireworks transportation, operator qualifications and licensing, labeling, permitting, and display planning and preparation.

A state, county, or municipal law, rule, or ordinance may provide for more stringent regulations than required by the Code for outdoor fireworks displays, but they may not provide less stringent regulations.⁶⁵ However, pursuant to s. 791.012, F.S., the Code does not govern the display of fireworks on private, residential property, or the display of products not classified as fireworks, such as sparklers, novelties, and trick noisemakers.⁶⁶

Bond Requirement for Public Displays

For public displays of fireworks outside the boundaries of a municipality, a board of county commissioners must require a bond it deems adequate (but not less than \$500) from the licensee,⁶⁷ for the payment of all damages which may be caused either to a person or to property by reason of the licensee's display, and arising from any acts of the licensee, his or her agents, employees or subcontractors.⁶⁸ No bond requirement for the public display of fireworks within the boundaries of a municipality is imposed by statute, but the municipality's governing body has the power to adopt reasonable rules and regulations for the granting of permits for such displays located within its jurisdiction.⁶⁹

⁶³ *Id.*; such issued permits are nontransferable.

⁶⁴ See the 1995 version of the Code at <http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=1123> (last visited Oct. 2, 2017). While the Code is not a publicly available document, a copy may be purchased from the NFPA (current list price is \$47.50). The State Fire Marshal has adopted the 2010 edition of the Code as part of the uniform fire safety standards applicable pursuant to s. 633.206(1), F.S., to all new, existing, and proposed state-owned and state-leased buildings, hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public food service and lodging establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, and self-service gasoline stations. See Fla. Admin. Code R. 69A-3.012(1)(sssss) (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=69A-3.012> (last visited Oct. 2, 2017).

⁶⁵ See s. 791.012, F.S.

⁶⁶ *Id.*

⁶⁷ The term "licensee" is only used in s. 791.03, F.S., and refers to persons granted a permit for a supervised public display of fireworks located outside of a municipality pursuant to s. 791.02(1), F.S.

⁶⁸ See s. 791.03, F.S.

⁶⁹ See s. 791.02(1), F.S.

Fireworks Exemptions

Sales at Wholesale

Section 791.04, F.S., exempts the sale of most fireworks at wholesale by manufacturers, distributors, or wholesalers registered with the division, the shipping of all fireworks to be shipped directly out-of-state, and the sale of fireworks to be used by persons holding a permit from a county commission for a public display of fireworks.

Uses by Railroads, and of Blank Cartridges at Theatrical, Athletic and Military Events

Chapter 791, F.S., also exempts the use of:⁷⁰

- Fireworks by railroads or other transportation agencies for signal purposes or illumination or for quarrying or blasting or other industrial use; and
- Blank cartridges used at theatrical shows or for signal or ceremonial purposes in athletic or sports events or by military or United States Armed Forces organizations.

Licensed manufacturers may also manufacture, experiment with, explode, and store fireworks at their locations or testing areas.⁷¹

Agricultural Works and Fish Hatcheries

The importation, purchase, sale, or use of fireworks to be used solely and exclusively to frighten birds from agricultural works and fish hatcheries is authorized pursuant to s. 791.07, F.S. (agricultural uses) and is expressly not prohibited by ch. 791, F.S.⁷² Such agricultural uses are governed entirely by rules prescribed by the Department of Agriculture and Consumer Services, which has adopted by rule an Aquaculture Best Management Practices Manual,⁷³ which incorporates documents regarding the use of explosives as part of bird dispersal techniques and the prevention of bird damage at aquaculture facilities.⁷⁴

Consumer Fireworks Task Force; Limits on Retail Sales Facilities

In 2007, the Legislature enacted ch. 2007-67, Laws of Florida, and established a Consumer Fireworks Task Force (task force) within the Department of Agriculture and Consumer Services for the purpose of studying issues concerning consumer fireworks, including the:

- Proper use of consumer fireworks;
- The regulation of sales and temporary sale facilities;
- Regulation of the hours and location of use;
- Property zoning classifications for sale facilities;
- Funding options for fire official training and education; and
- Funding options for cleanup of expended consumer fireworks products.⁷⁵

⁷⁰ See s. 791.04, F.S.

⁷¹ *Id.*

⁷² See s. 791.07, F.S.

⁷³ See Fla. Admin. Code R. 5L-3.004(1) (2017), referencing FDACS-02034 (rev. Nov. 2016), at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07694> (last visited Oct. 2, 2017).

⁷⁴ *Id.* and see Fla. Admin. Code R. 5L-3.004(2)(h) and (i) (2017), at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05849> and <https://www.flrules.org/Gateway/reference.asp?No=Ref-05850>, respectively (last visited Oct. 2, 2017).

⁷⁵ See ch. 2007-67, s. 10, Laws of Fla.; as set forth in s. 10(4), transmittal of the Task Force report to the President of the Senate and the Speaker of the House of Representatives abolished the Task Force.

Pending completion of the Legislature's review of the task force's report and to ensure uniformity of fire prevention and safety standards, the Legislature enacted limits on retail sales facilities for consumer fireworks, which provide:

- A new permanent retail sales facility engaged in sales permitted under s. 791.07, F.S., (i.e., for agricultural and fish hatchery uses) may not be opened in Florida after March 8, 2007, unless construction for the permanent retail sales facility received site plan approval and construction begun on or before March 8, 2007; and
- The number of permits for temporary retail sales facilities, such as tents, engaged in sales otherwise permitted by s. 791.07, F.S., (i.e., for agricultural and fish hatchery uses) issued after March 8, 2007, by a county, municipality, or other unit of local government, may not exceed the number of permits the governmental entity issued for such facilities during the 2006 calendar year.⁷⁶

Under ch. 2007-67, s. 10(5), Laws of Florida, a municipality, county, or other unit of local government may not adopt an ordinance, rule, regulation, or other law after March 8, 2007, which directly prohibits or directly interferes with the safety standards established by state law or the right to purchase, sell, use, or possess consumer fireworks in Florida.⁷⁷

Manufacture, Distribution, and Use of Explosives

Manufacturer-distributors, dealer, users, and blasters of explosives must possess a license or permit issued by the division pursuant to ch. 552, F.S.⁷⁸ However, the term "explosives" expressly does not include fireworks as defined in ch. 791, F.S.⁷⁹

III. Effect of Proposed Changes:

CS/SB 198 prohibits the sale of fireworks to any person under 18 years of age and authorizes the State Fire Marshal to adopt rules governing fireworks under ch. 791, F.S.

The bill retains current law prohibiting the retail sale, use, or exploding of fireworks by any person, firm, copartnership, or corporation, except under certain conditions, and retains the authority granted in s. 791.02, F.S., for local governments to adopt reasonable rules and regulations for the issuance of permits for public displays of fireworks. Minimum fireworks safety standards for the outdoor display of fireworks, governed by the National Fire Protection Association (NFPA) 1123, Code for Fireworks Display, 1995 Edition, (the Code) are retained, and s. 791.012, F.S., will continue to provide that any state, county, or municipal law, rule, or ordinance may provide for more stringent regulations than the minimum standards for the

⁷⁶ See ch. 2007-67, s. 10(5), Laws of Fla. and s. 791.07, F.S., and note thereto. According to information provided to the Senate Committee on Regulated Industries at its public meeting on October 11, 2017, retail sellers generally require that consumers certify in writing that the consumer's planned use of fireworks to be purchased is permitted under s. 791.07, F.S.

⁷⁷ *Id.* Further, if the Legislature enacts legislation to provide for the comprehensive regulation of fire prevention and safety standards for the use of consumer fireworks to replace s. 791.07, F.S., **on or before July 1, 2008**, s. 791.07, F.S., does not prohibit opening any such facility, permitting any such temporary facility, or adopting any such ordinance or other law after such legislation is enacted. However, no such legislation was enacted on or before July 1, 2008.

⁷⁸ See s. 552.091, F.S.

⁷⁹ See s. 552.081(2), F.S.

outdoor display of fireworks; the Code does not apply to the display of fireworks on private, residential property.⁸⁰

As to sparklers⁸¹, CS/SB 198 repeals:

- The required testing and approval of sparklers by the Division of the State Fire Marshal of the Department of Financial Services;
- All associated registration of sparkler distributors, manufacturers, wholesalers, and retailers;
- A requirement that sparklers for retail sale must be obtained from a registered manufacturer, distributor, or wholesaler;
- All annual registration fees for the sale or shipping of sparklers in Florida (currently estimated by the Department of Financial Services to be \$275,000 annually)⁸²; and
- Terms used in ch. 791, F.S., to describe persons engaged in distributing, manufacturing, or selling sparklers in Florida.

The bill also repeals:

- A requirement for retailers to keep a copy of every invoice or proof of purchase from registered manufacturers, distributors, or wholesalers for products authorized to be sold under ch. 791, F.S.⁸³
- Rulemaking authority granted to the State Fire Marshal to adopt rules for registration forms and product testing⁸⁴, as well as a bond requirement for the payment of damages caused by a display and arising from certain acts.⁸⁵

CS/SB 198 includes technical changes to conform to bill drafting conventions, to delete references to sections repealed in the bill, and to re-enact s. 791.06, F.S., dealing with penalties for violation of ch. 791, F.S., to incorporate by reference the amendment to s. 791.02, F.S., prohibiting the sale of fireworks to persons under 18 years of age.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁸⁰ See s. 791.012, F.S.

⁸¹ Sparklers, either hand-held or ground-based devices, emit showers of sparks when they are burned, do not contain explosive compounds, are not self-propelled, and have a limited amount of combustible chemicals. See s. 791.01(8), F.S.

⁸² See *2017 Agency Legislative Bill Analysis by Department of Financial Services* for SB 198, dated Sep. 28, 2017 (on file with Senate Committee on Regulated Industries) at pages 1-2.

⁸³ See s. 791.02(2), F.S.

⁸⁴ See s. 791.015(4), F.S.

⁸⁵ See s. 791.03, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 198 repeals required testing and approval of sparklers by the Division of the State Fire Marshal of the Department of Financial Services (department), which will eliminate fees for such testing and approval. The bill also repeals all associated registration of sparkler distributors, manufacturers, wholesalers, and retailers and eliminates the associated registration fees. The department estimates a reduction of \$300,000 in annual recurring revenues associated with the repeal of the regulation of fireworks and sparklers.⁸⁶

C. Government Sector Impact:

The department estimates the bill will reduce annual recurring revenue associated with regulation of fireworks and sparklers by \$300,000, a thirty percent reduction in the revenues of the Regulatory Licensing Section of the Bureau of Fire Prevention of the State Fire Marshal (Licensing Section).⁸⁷ Registration fees associated with sparkler registration and testing are deposited in the Insurance Regulatory Trust Fund.⁸⁸

While the elimination of the sparkler registration program is estimated to reduce annual revenue, the department maintains that staffing for the Licensing Section will be unaffected by the revenue reduction.⁸⁹

VI. Technical Deficiencies:

None.

⁸⁶ See *2017 Agency Legislative Bill Analysis by Department of Financial Services* for SB 198, dated Sep. 28, 2017 (on file with Senate Committee on Regulated Industries) at pages 1-2.

⁸⁷ *Id.* The Regulatory Licensing Section, which approves sparklers, collects \$1,075,000 annually.

⁸⁸ See s. 791.015(3)(b), F.S.

⁸⁹ See *2017 Agency Legislative Bill Analysis by Department of Financial Services* for SB 198, dated Sep. 28, 2017 (on file with Senate Committee on Regulated Industries) at page 2. According to the department, while sparklers are tested at the arson lab campus of the Bureau of Forensic Fire and Explosives Analysis, such testing is performed by staff of the Bureau of Fire Prevention. See E-mail from B.G. Murphy, Deputy Legislative Director, Office of Chief Financial Officer to M. Sanders, Legislative Analyst, Senate Appropriations Subcommittee on General Government (Oct. 2, 2017) (on file with the Senate Regulated Industries Committee).

VII. Related Issues:

CS/SB 198 amends s. 791.02(2), F.S. to prohibit the sale of fireworks to any person under the age of 18. However, s. 791.07, F.S., dealing with the sale of fireworks for agricultural and fish hatchery purposes, provides that “[n]othing in this chapter shall prohibit the sale or use of fireworks” for those purposes. For clarification, consideration should be given to revising the text of the amendment to s. 791.02(2), F.S., to read: “A person, firm, copartnership, or corporation may not sell any fireworks, *including those to be used for the purposes authorized pursuant to s. 791.07*, to any person under 18 years of age.”

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 791.01, 791.012, 791.02, and 791.04.

This bill repeals the following sections of the Florida Statutes: 791.013, 791.015, and 791.03.

This bill re-enacts section 791.06 of the Florida Statutes.

IX. Additional Information:

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

CS by Regulated Industries on October 11, 2017:

The committee substitute:

- Prohibits the sale of fireworks to any person under 18 years of age;
- Authorizes the State Fire Marshal to adopt rules governing fireworks under ch. 791, F.S.
- Re-enacts s. 791.06, F.S., dealing with penalties for violation of ch. 791, F.S., to incorporate the amendment to s. 791.02, F.S., in the bill which prohibits the sale of fireworks by any person, firm, copartnership, or corporation to persons under 18 years of age.
- Retains requirements for the supervised public display of fireworks and the current law authority of counties and municipalities relating to such displays.

- B. **Amendments:**

None.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 198
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, October 11, 2017
TIME: 2:00—4:30 p.m.
PLACE: 110 Senate Office Building

Table with columns for FINAL VOTE (Yea, Nay), SENATORS, and multiple voting columns for amendments 1 and 2 (Steube, Benacquisto). Includes a TOTALS row at the bottom.

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting



701806

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/13/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete lines 15 - 16

and insert:

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

Section 2. Section 791.02, Florida Statutes, is amended to read:

791.02 Sale of fireworks regulated; rules and regulations.—

(1) ~~Except as hereinafter provided~~ It—it is unlawful for



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11 any person, firm, copartnership, or corporation to offer for
12 sale, expose for sale, sell at retail, or use or explode any
13 fireworks; provided that the board of county commissioners shall
14 have power to adopt reasonable rules and regulations for the
15 granting of permits for supervised public display of fireworks
16 by fair associations, amusement parks, and other organizations
17 or groups of individuals when such public display is to take
18 place outside of any municipality; provided, further, that the
19 governing body of any municipality shall have power to adopt
20 reasonable rules and regulations for the granting of permits for
21 supervised public display of fireworks within the boundaries of
22 any municipality. Every such display shall be handled by a
23 competent operator to be approved by the chiefs of the police
24 and fire departments of the municipality in which the display is
25 to be held, and shall be of such a character, and so located,
26 discharged, or fired as in the opinion of the chief of the fire
27 department, after proper inspection, shall not be hazardous to
28 property or endanger any person. Application for permits shall
29 be made in writing at least 15 days in advance of the date of
30 the display. After such privilege shall have been granted,
31 sales, possession, use, and distribution of fireworks for such
32 display shall be lawful for that purpose only. No permit granted
33 hereunder shall be transferable.

34 (2) No person, firm, copartnership, or corporation may sell
35 any fireworks to any person under 18 years of age. A sparkler or
36 other product authorized for sale under this chapter may not be
37 sold by a retailer or seasonal retailer unless the product was
38 obtained from a manufacturer, distributor, or wholesaler
39 registered with the division pursuant to s. 791.015. Each



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40 ~~retailer and seasonal retailer shall keep, at every location~~
41 ~~where sparklers are sold, a copy of an invoice or other evidence~~
42 ~~of purchase from the manufacturer, distributor, or wholesaler,~~
43 ~~which states the registration certificate number for the~~
44 ~~particular manufacturer, distributor, or wholesaler and the~~
45 ~~specific items covered by the invoice. Each seasonal retailer~~
46 ~~shall, in addition, exhibit a copy of his or her registration~~
47 ~~certificate at each seasonal retail location.~~

48 (3) The State Fire Marshal may adopt rules governing
49 fireworks under this chapter.

50

51

52 ===== T I T L E A M E N D M E N T =====

53 And the title is amended as follows:

54 Delete line 6

55 and insert:

56 retailers of sparklers, respectively; amending s.

By Senator Steube

23-00009-18

2018198__

1 A bill to be entitled
2 An act relating to fireworks; repealing ss. 791.013
3 and 791.015, F.S., relating to the testing and
4 approval of sparklers and the registration of
5 manufacturers, distributors, wholesalers, and
6 retailers of sparklers, respectively; repealing s.
7 791.02, F.S., relating to the sale and use of
8 fireworks; repealing s. 791.03, F.S., relating to the
9 bond of licensees; amending ss. 791.01, 791.012, and
10 791.04, F.S.; conforming provisions to changes made by
11 the act; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Sections 791.013, 791.015, 791.02, and 791.03,
16 Florida Statutes, are repealed.

17 Section 2. Section 791.01, Florida Statutes, is amended to
18 read:

19 791.01 Definitions.—As used in this chapter, the term:
20 ~~(1) "Distributor" means any person engaged in the business~~
21 ~~of selling sparklers to a wholesaler.~~

22 (1)(2) "Division" means the Division of the State Fire
23 Marshal of the Department of Financial Services.

24 (2)(3) "Explosive compound" means any chemical compound,
25 mixture, or device whose ~~the~~ primary or common purpose ~~of which~~
26 is to function by the substantially instantaneous release of gas
27 and heat.

28 (3)(4)(a) "Fireworks" means and includes any combustible or
29 explosive composition or substance or combination of substances

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30 or, except as hereinafter provided, any article prepared for the
31 purpose of producing a visible or audible effect by combustion,
32 explosion, deflagration, or detonation. The term includes blank
33 cartridges and toy cannons in which explosives are used, the
34 type of balloons that ~~which~~ require fire underneath to propel
35 them, firecrackers, torpedoes, skyrockets, roman candles, dago
36 bombs, and any fireworks containing any explosives or flammable
37 compound or any tablets or other device containing any explosive
38 substance.

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

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

50 1. A snake or glow worm, which is a pressed pellet of not
51 more than 10 grams of pyrotechnic composition that produces a
52 large, snakelike ash that ~~which~~ expands in length as the pellet
53 burns and that does not contain mercuric thiocyanate.

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

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

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59 a. A party popper, which is a small plastic or paper device
60 containing not more than 16 milligrams of explosive composition
61 that is friction sensitive, which is ignited by pulling a string
62 protruding from the device, and which expels a paper streamer
63 and produces a small report.

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

68 c. A snapper, which is a small, paper-wrapped device
69 containing not more than four milligrams of explosive
70 composition coated on small bits of sand, and which, when
71 dropped, explodes, producing a small report. A snapper may not
72 contain more than 250 milligrams of total sand and explosive
73 composition.

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

78 e. A cigarette load, which is a small wooden peg that has
79 been coated with not more than 16 milligrams of explosive
80 composition and which produces, upon ignition of a cigarette
81 containing one of the pegs, a small report.

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

87

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

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

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

95 ~~(7) "Seasonal retailer" means any person engaged in the~~
96 ~~business of selling sparklers at retail in this state from June~~
97 ~~20 through July 5 and from December 10 through January 2 of each~~
98 ~~year.~~

99 ~~(4)~~(8) "Sparkler" means a device that ~~which~~ emits showers
100 of sparks upon burning, does not contain any explosive
101 compounds, does not detonate or explode, is handheld or ground
102 based, cannot propel itself through the air, and contains not
103 more than 100 grams of the chemical compound that ~~which~~ produces
104 sparks upon burning. Any sparkler that is not approved by the
105 division is classified as fireworks.

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

108 Section 3. Section 791.012, Florida Statutes, is amended to
109 read:

110 791.012 Minimum fireworks safety standards.—The outdoor
111 display of fireworks in this state is ~~shall be~~ governed by the
112 National Fire Protection Association (NFPA) 1123, Code for
113 Fireworks Display, 1995 Edition, approved by the American
114 National Standards Institute. Any state, county, or municipal
115 law, rule, or ordinance may provide for more stringent
116 regulations for the outdoor display of fireworks, but in no

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117 event may any such law, rule, or ordinance provide for less
 118 stringent regulations for the outdoor display of fireworks. The
 119 division shall promulgate rules to carry out the provisions of
 120 this section. The Code for Fireworks Display does ~~shall~~ not
 121 govern the display of any fireworks on private, residential
 122 property and does ~~shall~~ not govern the display of those items
 123 included under s. 791.01(3)(b) and (c) ~~s. 791.01(4)(b) and (e)~~
 124 and authorized for sale thereunder.

125 Section 4. Section 791.04, Florida Statutes, is amended to
 126 read:

127 791.04 Exemptions ~~Sale at wholesale, etc., exempted.-~~
 128 ~~Nothing in~~ This chapter does not: ~~shall be construed to prohibit~~
 129 ~~any manufacturer, distributor, or wholesaler who has registered~~
 130 ~~with the division pursuant to s. 791.015 to sell at wholesale~~
 131 ~~such fireworks as are not herein prohibited; to prohibit the~~
 132 ~~sale of any kind of fireworks at wholesale between~~
 133 ~~manufacturers, distributors, and wholesalers who have registered~~
 134 ~~with the division pursuant to s. 791.015; to prohibit the sale~~
 135 ~~of any kind of fireworks provided the same are to be shipped~~
 136 ~~directly out of state by such manufacturer, distributor, or~~
 137 ~~wholesaler; to prohibit the sale of fireworks to be used by a~~
 138 ~~person holding a permit from any board of county commissioners~~
 139 ~~at the display covered by such permit; or to~~

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

143 (2) Prohibit ~~or~~ the sale or use of blank cartridges for a
 144 show or theater, ~~or~~ for signal or ceremonial purposes in
 145 athletics or sports, or for use by military organizations~~7~~ or

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146 organizations composed of the Armed Forces of the United
147 States.~~;~~ ~~provided, nothing in this chapter shall be construed as~~
148 ~~barring~~

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

152 Section 5. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/11/17

Meeting Date

SB 198

Bill Number (if applicable)

Topic Fireworks

Amendment Barcode (if applicable)

Name Ron Book

Job Title

Address 104 W. Jefferson St.

Phone 850-224-3427

Street

Tallahassee Florida 32301

Email ron@RCBookPA.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing TNT and Neptune Fireworks

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-11-2017

Meeting Date

198

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S.

Street

Phone 727/897-9291

St Petersburg

City

FL

State

33705

Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/10/17
Meeting Date

198
Bill Number (if applicable)

Topic Fireworks

Amendment Barcode (if applicable)

Name Michael Dobson

Job Title Attorney

Address 815 S. Monroe street

Phone (850) 545-0576

Tallahassee FL 32301
City State Zip

Email mdobson@seanmead.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing BJ Allen DBA: Phantom Fireworks

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



Senate Regulated Industries Committee

Secretary Jim Poppell



Since 1988, the Florida Lottery has contributed over \$31.8 billion and counting to our public education system and has sent over 775,000 students to college and beyond on Bright Futures Scholarships. Every time you play, you grant Florida's brightest the opportunity to achieve their dreams and ultimately boost the state's economy, all while funding the next generation of students. Your ticket is their ticket to a brighter future. Follow @floralottery on Facebook, Twitter, Instagram and Youtube.

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Just Imagine®

Building the Foundation for a Brighter Future



Joe O'Shea, Bright Futures Recipient

Dr. O'shea attended Florida State University on a Bright Futures Scholarship where he became a Rhodes Scholar. He went on to attend Oxford University where he earned his masters and Ph.D. He is now Assistant Provost and Assistant Vice President of Florida State University.





LEADERSHIP VALUES

- Develop the Team
- Use Resources Wisely
- Do the Right Thing Every Time
- Exceed Customers' Expectations

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Mike Purcell, Deputy Secretary of Sales

Anthony Garcia, Deputy Secretary of Administration

David Guerrieri, General Counsel



District Offices

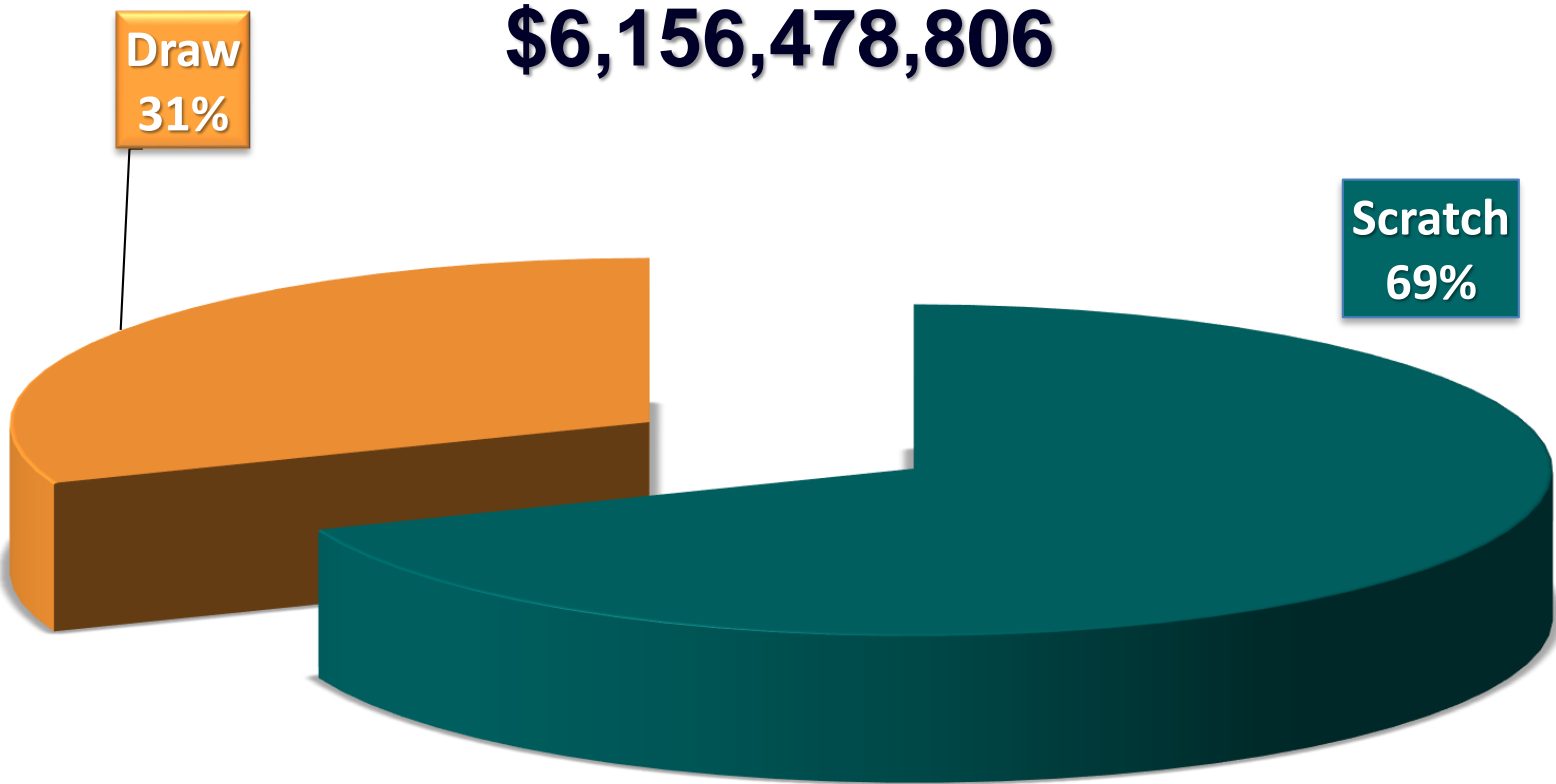


KEY

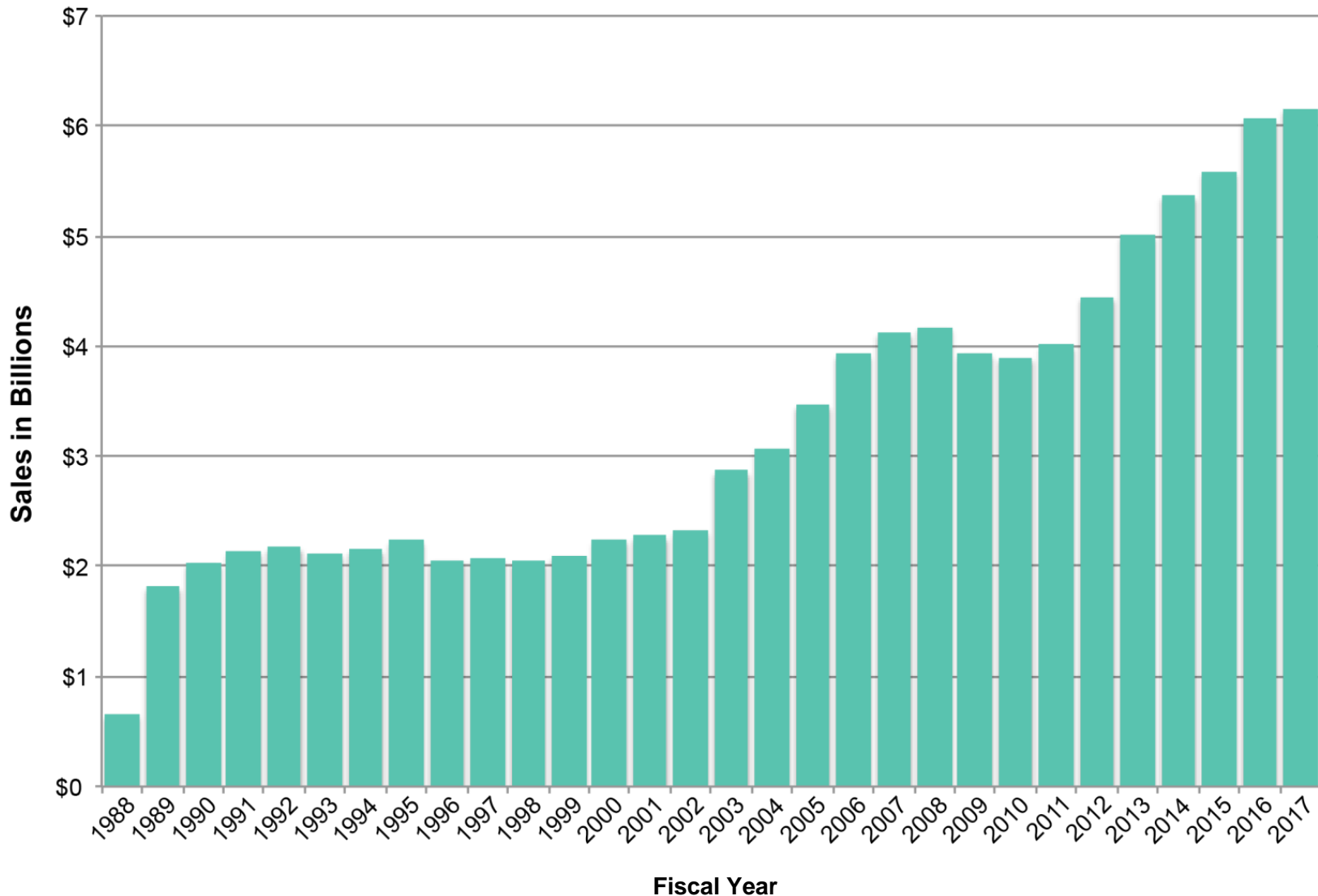
 \$1 Billion Dollar District



Record Sales Fiscal Year 2016-17



Florida Lottery Life-to-Date Sales

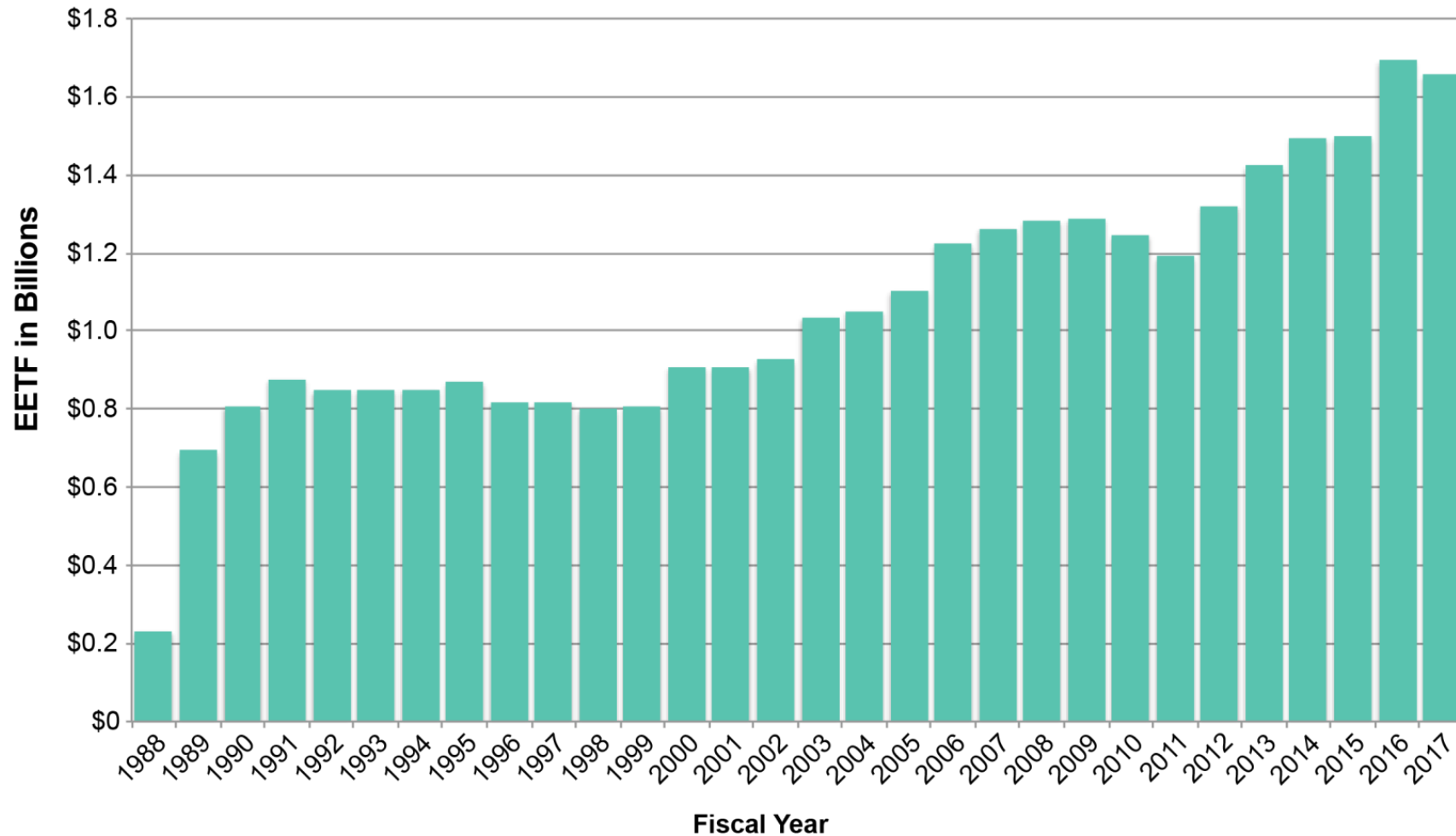


The Florida Lottery has seen steady sales increases since it's inception in 1988.

Source: Fiscal Year 2016-17 unaudited Financial Statements



Florida Lottery Life-to-Date EETF Transfers



The Florida Lottery has also seen steady EETF increases since it's inception in 1988.

Source: Fiscal Year 2016-17 unaudited Financial Statements



How is Each Lottery Dollar Spent?

Prizes: 64 cents
\$56.3 billion in prize
payouts to date.

Education: 28 cents
\$31.8 billion to Florida students and
schools life to date.



*Operations include advertising, staff and
all office operations.

Operations: 1 cent

Ticket Vendor Fees: 1 cent

Retailer Commissions:

6 cents

\$5.4 billion to Florida
businesses life to date.

Source: Fiscal Year 2016-17 unaudited Financial Statements



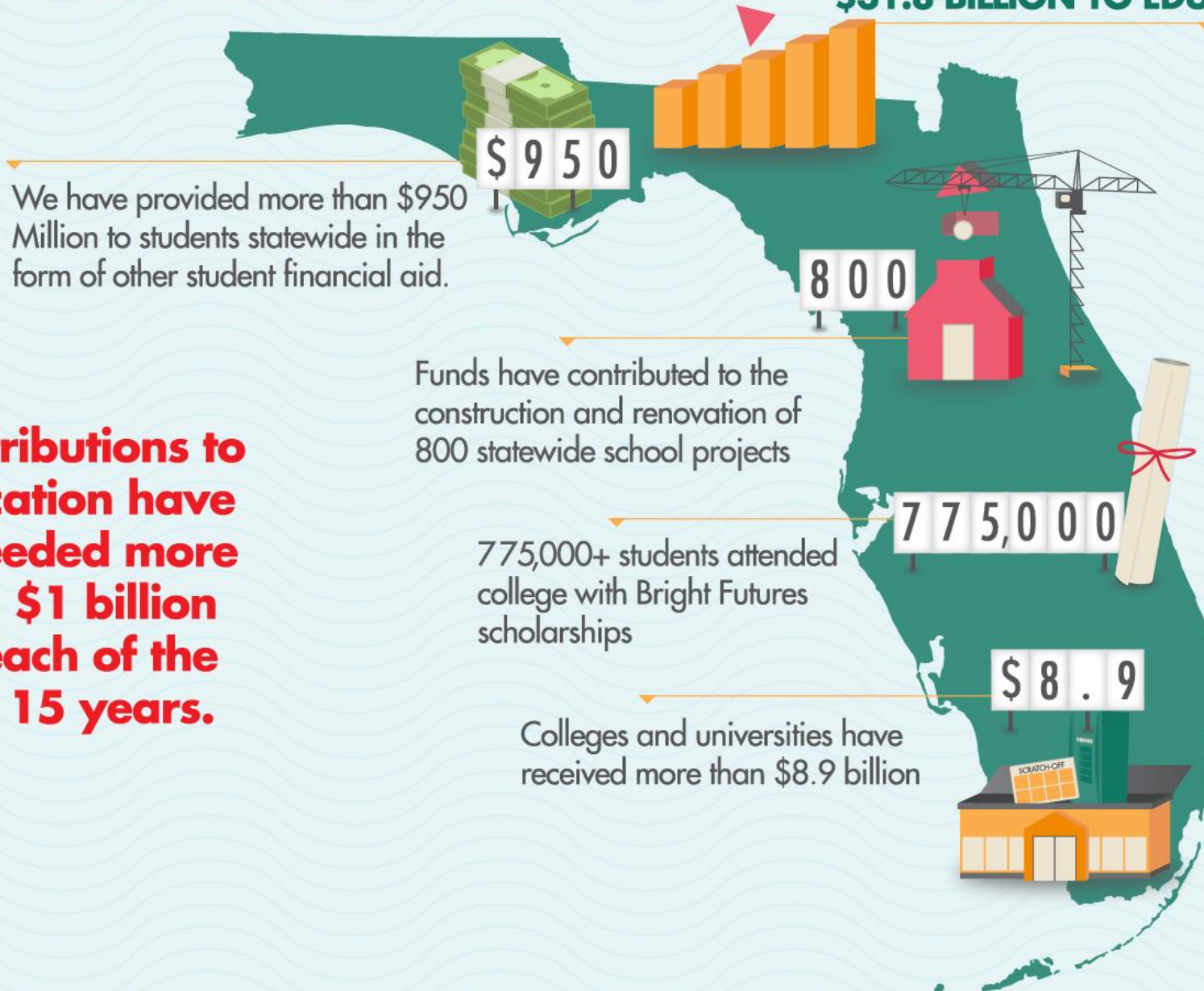
CELEBRATING 29 YEARS

Integrity, Efficiency and Economic Benefits for the State



OVER THE PAST 29 YEARS:

\$31.8 BILLION TO EDUCATION



We have provided more than \$950 Million to students statewide in the form of other student financial aid.

Funds have contributed to the construction and renovation of 800 statewide school projects

775,000+ students attended college with Bright Futures scholarships

Colleges and universities have received more than \$8.9 billion

Contributions to education have exceeded more than \$1 billion for each of the past 15 years.



Thank
You!



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/11/17

Meeting Date

Bill Number (if applicable)

Topic Lottery Presentation

Amendment Barcode (if applicable)

Name Jim Poppell

Job Title Secretary

Address 250 Marriott Drive

Phone

Street

Tallahassee

FL

32301

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Lottery

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: EL 110
Caption: Senate Regulated Industries

Case No.:
Judge:

Type:

Started: 10/11/2017 2:05:42 PM

Ends: 10/11/2017 3:40:22 PM

Length: 01:34:41

2:05:42 PM Call to Order
2:06:08 PM Roll call
2:06:13 PM quorum present
2:06:32 PM Chair comments
2:06:50 PM Tab 2 - Presentation by Department of Lottery
2:07:00 PM Secretary Jim Poppell is recognized
2:09:13 PM Update on what's happening at the Lottery
2:10:27 PM Introduction of Senior Leadership Team
2:16:01 PM Update on district offices
2:20:55 PM Questions?
2:21:11 PM Senator Thurston
2:24:03 PM Senator Gibson for a comment
2:25:41 PM Thank you Secretary
2:25:51 PM Chair calls a 5 to 10 minute recess
2:26:15 PM Recording Paused
2:42:38 PM Recording Resumed
2:42:43 PM Meeting reconvened
2:43:46 PM SB 198 on Fireworks by Senator Steube
2:44:02 PM Senator Steube is recognized to explain the bill
2:44:49 PM Take up late filed amendment by Senator Steube
2:44:59 PM Senator Steube for explanation
2:46:05 PM Chair Hutson for comments
2:46:46 PM Senator Hukill for questions
2:48:26 PM Senator Braynon for a question
2:48:54 PM Senator Thurston for a question
2:52:26 PM Senator Brandes for a question
2:53:25 PM Senator Steube for comments
2:54:35 PM Senator Bracey for a question
2:56:10 PM Chair Hutson for comments
2:56:41 PM Senator Brandes for a question
2:57:40 PM Ross McSwain for clarification on the filed amendment
2:58:39 PM w/o objection show that approved
2:59:18 PM Senator Bracey for question
3:01:02 PM Senator Steube for a response
3:01:18 PM Debate?
3:01:25 PM Without objection the amendment is adopted
3:01:42 PM Back on the bill as amended
3:01:51 PM Appearance Cards
3:02:12 PM Ron Book, TNT and Neptune Fireworks
3:10:01 PM Chair Hutson for a question of Mr. Book
3:10:17 PM Mr. Book for a response
3:11:59 PM Senator Thurston for a question
3:13:03 PM Follow up
3:13:41 PM Ron Book for a response
3:16:40 PM Senator Braynon for a series of questions
3:16:50 PM Ron Book for a response
3:19:10 PM Senator Gibson for a question
3:20:15 PM Senator Steube for comments
3:20:46 PM Ron Book for comments
3:21:36 PM Senator Hukill for questions
3:22:36 PM Brian Pitts, Justice 2 Jesus
3:29:29 PM Michael Dobson, Phantom Fireworks

3:29:51 PM Senator Thurston
3:30:06 PM Senator Gibson for question
3:30:57 PM Debate on the bill
3:31:00 PM Senator Hukill
3:32:24 PM Senator Brandes
3:34:24 PM Senator Thurston
3:35:56 PM Senator Gibson
3:37:29 PM Senator Braynon
3:38:17 PM Chair Hutson
3:38:57 PM Senator Steube to close
3:39:16 PM Senator Benaquisto moves to allow staff to make technical changes on CS
3:39:43 PM roll call
3:39:46 PM CS/SB 198 is reported favorably
3:40:03 PM Meeting adjourned