

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 101 w/CS Fire Prevention & Control
SPONSOR(S): Quinones & others
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice (Sub)</u>	<u>6 Y, 0 N</u>	<u>Cole</u>	<u>De La Paz</u>
2) <u>Public Safety & Crime Prevention</u>	<u>15 Y, 0 N w/CS</u>	<u>Cole</u>	<u>De La Paz</u>
3) <u>Insurance</u>	<u>19 Y, 0 N w/CS</u>	<u>Cheek</u>	<u>Cooper</u>
4) <u>Public Safety Appropriations</u>	<u></u>	<u>Davis</u>	<u>DeBeaugrine</u>
5) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The State Fire Marshal does not have the authority to promulgate a rule to force all local fire marshals to create a permitting process. They do have the authority to regulate fire extinguisher and equipment dealers and firefighters, but not local fire marshals. Each individual city and county fire department is governed by statute, but is not responsible to the State Fire Marshal.

Current state law does not require vendors, owners, or operators of facilities to obtain permits from the local or State Fire Marshal prior to fireworks or pyrotechnics being used indoors. The bill amends current law to make it a third-degree felony for any person to initiate an indoor pyrotechnic display in a facility that does not have a fire suppression system installed.

The bill also makes it a third-degree felony for a person who does not have written permission from the owner or operator of the facility, as well as a permit from the local fire marshal having jurisdiction over the facility, to initiate a pyrotechnic display in an indoor facility.

Seasonal fireworks covered by section 791, F.S., are exempt from the bill, as long as they are not used or are not meant to be used indoors.

The bill also provides the Division of the State Fire Marshal the authority to protect fire fighters by implementing certain safety standards as recommended by the National Fire Protection Association Publication 1403. The bill also requires the State Fire Marshal to adopt rules and a curriculum for live-fire training instructors and for live-fire training. If the Division of the State Fire Marshal in the Department of Financial Services (DFS) seizes property, the proceeds accrued under the Contraband Forfeiture Act will be deposited into the Insurance Regulatory Trust Fund, rather than the General Revenue Fund. The proceeds may be used for arson suppression, arson investigation, and funding of anti-arson rewards.

The bill codifies the Fire and Emergency Incident Information Reporting Program (s. 633.115, F.S.) within the Division of State Fire Marshal. The program maintains an electronic communication system capable of transmitting fire and emergency incident information to and between fire protection agencies. The bill also creates a technical advisory panel utilizing existing members from the Firefighters Employment, Standards, and Training Council.

The bill does not appear to have any additional fiscal impact other than the cost of the permit and complying with safety protocols.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0101f.ap.doc
DATE: March 30, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill does not reduce government because local and State Fire Marshals will have increased permitting and inspecting duties.

The bill does not expand individual freedom because it creates a layer of regulation in an attempt to protect the public as a whole.

B. EFFECT OF PROPOSED CHANGES:

Background

On February 20, 2003, approximately 100 people were killed and over 200 others injured in a nightclub fire in West Warwick, Rhode Island. The fire was caused by pyrotechnics being set off indoors without the proper fire protection and prevention equipment. The bill is an attempt to reduce the possibility of that type of incident occurring in this state.

In July of 2002, Lt. John Mickel and Firefighter Dallas Begg of the Osceola County Fire Department died of thermal burns and smoke inhalation while participating in a training exercise at the old Florida Bible College in Kissimmee. Lt. Mickel was an 11-year veteran, while Firefighter Begg had only been with the department for 6 months. The firefighters were the lead crew in the training exercise when a flashover occurred and the roof collapsed on them.

Major Changes to Current Law

The bill codifies (s. 633.115, F.S.) the Fire and Emergency Incident Information Reporting Program within the Division of State Fire Marshal, Department of Financial Services (DFS). The program maintains an electronic communication system capable of transmitting fire and emergency incident information to and between fire protection agencies. The bill also creates a technical advisory panel utilizing existing members from the Firefighters Employment, Standards, and Training Council.

Section 633.171, F.S., currently outlines the penalties for failure to obey a State Fire Marshal's order, as well as the penalties for other violations in relation to fire extinguishers, pre-engineered systems, and licenses and/or permits. There is no current requirement in state law requiring owners or operators to obtain permits from the State Fire Marshal before using pyrotechnics indoors. The State Fire Marshal is currently in the process of promulgating a rule to require the office to issue a permit for indoor fireworks or pyrotechnics if they are to be used on state-owned property or in a state building.

The bill amends current law to make it a third-degree felony for any person to initiate an indoor pyrotechnic display in a facility that does not have a fire suppression system installed.

The bill also makes it a third-degree felony for a person who does not have written permission from the owner or operator of the facility, as well as a permit from the local fire marshal having jurisdiction over the facility, to initiate a pyrotechnic display in an indoor facility.

The bill specifically exempts seasonal fireworks regulated under chapter 791, F.S., from this law if they are not used, or intended to be used, within an indoor facility.

The bill provides the Division of the State Fire Marshal the authority to protect firefighters by implementing certain safety standards, as recommended by the National Fire Protection Association Publication 1403, regarding more training and education in safety procedures and establishing safe working conditions.

If the Division of the State Fire Marshal in DFS seizes property, the proceeds accrued under the Contraband Forfeiture Act will be deposited into the Insurance Regulatory Trust Fund, rather than the General Revenue Fund. The proceeds may be used for arson suppression, arson investigation, and funding of anti-arson rewards.

C. SECTION DIRECTORY:

Section 1: Creates s. 633.115, F.S., relating to the Florida Fire and Emergency Incident Information Reporting Program.

Section 2: Amends s. 633.171, F.S., relating to the obtaining of permits from local fire marshals by vendors or licensees when fireworks or pyrotechnics are to be used indoors.

Section 3: Amends s. 633.821, F.S., by adding the National Fire Protection Association, Inc., Publication 1403 to the approved list of publications to use to make firefighter working conditions safer.

Section 4: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There does not appear to be any fiscal impact to the private sector other than the cost of the permit and complying with safety protocols.

D. FISCAL COMMENTS:

Pursuant to discussions with Randall Napoli at the Department of Financial Services on 3/30/04, DFS currently has a reporting program in place, including positions and the required electronic communication system. This bill codifies an existing program in DFS and will not attribute any additional costs to the department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The term "fire suppression system" is not defined in the bill or in statute. However, "fire protection system" is defined in s. 633.021(8), F.S. Specifically, a "fire protection system" is a system individually designed to protect the interior or exterior of a specific building, structure, or other special hazard, from fire. Such systems include, but are not limited to, water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, CO2 systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems used for fire protection use. Such systems also include any overhead and underground fire mains, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, airlines, thermal systems used in connection with fire sprinkler systems, and tanks and pumps connected to fire sprinkler systems.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Public Safety & Crime Prevention Committee adopted a strike-all amendment that makes it a third-degree felony to initiate a pyrotechnic display in an indoor facility that has no fire suppression system and to initiate a pyrotechnic display indoors without written permission from the owner or operator and a permit from the local authority having jurisdiction over the venue. The amendment also requires the State Fire Marshal to promulgate rules and procedures for live-fire training exercises and develop a training and certification process for live-fire instructors that all fire departments must follow.

The Insurance Committee adopted a strike-all that incorporates everything in the committee substitute and, also:

- Creates the Fire and Emergency Incident Information Reporting Program within the Division of State Fire Marshal. The program establishes and maintains an electronic communication system capable of transmitting fire and emergency incident information to and between fire protection agencies. The amendment also creates a technical advisory panel utilizing existing members from the Firefighters Employment, Standards, and Training Council.
- Provides that when property is forfeited, if the Division of the State Fire Marshal in DFS is the seizing agency, the proceeds accrued under the Contraband Forfeiture Act will be deposited into the Insurance

Regulatory Trust Fund, rather than the General Revenue Fund, to be used for arson suppression, arson investigation, and funding of anti-arson rewards.

- Makes a technical correction when referencing the manual of the National Fire Prevention Association, Inc.