

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 101 w/CS Fire Safety
SPONSOR(S): Quinones and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 494, SB 1190

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

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. HB 101 w/CS 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 CS also makes it a third degree felony for a person to initiate a pyrotechnic display in an indoor facility 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.

Seasonal fireworks covered by Section 791, F.S. are exempt from the bill as long as they are not used or 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 w/ CS also requires the state fire marshal to adopt rules and a curriculum for live fire training instructors and for live fire training.

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

STORAGE NAME: h0101c.ps.doc
DATE: February 4, 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:

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. HB 101w/CS 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 on 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.

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 their office issue a permit for indoor fireworks or pyrotechnics if they are to be used on state owned property or in a state building.

The CS 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 CS also makes it a third degree felony for a person to initiate a pyrotechnic display in an indoor facility 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.

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

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, regarding more training and education in safety procedures and establishing safe working conditions.

C. SECTION DIRECTORY:

Section 1: 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 2: 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 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

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:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

a. 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.

b. Other:

None

B. RULE-MAKING AUTHORITY:

N/A

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. (See footnote).¹

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A strike all amendment was adopted by the Criminal Justice Subcommittee 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 strike all amendment was also adopted by the Public Safety & Crime Prevention Committee and the bill reported out as a Committee Substitute.

¹ 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, air lines, thermal systems used in connection with fire sprinkler systems, and tanks and pumps connected to fire sprinkler systems.