

By Senator Alexander

17-1705-04

1                                   A bill to be entitled  
 2           An act relating to fireworks; amending s.  
 3           791.01, F.S.; redefining the term "fireworks";  
 4           creating s. 791.081, F.S.; providing  
 5           legislative intent; creating s. 791.082, F.S.;  
 6           authorizing the purchase of fireworks by adult  
 7           noncommercial users; requiring purchasers to  
 8           submit a form to the sellers; prescribing  
 9           standards to be followed by sellers of  
 10          fireworks; providing for rules; creating s.  
 11          791.083, F.S.; prescribing topics the  
 12          regulation of which by units of local  
 13          government is permissible; providing an  
 14          effective date.

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 16           WHEREAS, consumer fireworks are increasingly present  
 17 throughout the state and their use is on the rise, and

18           WHEREAS, sales of consumer fireworks in other states,  
 19 as well as in this state, are contributing to fireworks use  
 20 and misuse that can cause injuries or property damage when the  
 21 fireworks are not properly and responsibly used, and

22           WHEREAS, no current regulation governs the use of  
 23 fireworks and there are no programs that provide a guide to  
 24 the public on the responsible use of fireworks, NOW,

25 THEREFORE,

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 27 Be It Enacted by the Legislature of the State of Florida:

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 29           Section 1. Paragraph (a) of subsection (4) of section  
 30 791.01, Florida Statutes, is amended to read:

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1           791.01 Definitions.--As used in this chapter, the  
2 term:

3           (4)(a) "Fireworks" means all 1.4G products as  
4 described and defined in the American Pyrotechnics Association  
5 Standard 87-1, as referred to in 49 C.F.R. s. 173.56(j)(1) New  
6 Explosives--Definition and Procedures for Classification and  
7 Approval.~~and includes any combustible or explosive~~  
8 ~~composition or substance or combination of substances or,~~  
9 ~~except as hereinafter provided, any article prepared for the~~  
10 ~~purpose of producing a visible or audible effect by~~  
11 ~~combustion, explosion, deflagration, or detonation. The term~~  
12 ~~includes blank cartridges and toy cannons in which explosives~~  
13 ~~are used, the type of balloons which require fire underneath~~  
14 ~~to propel them, firecrackers, torpedoes, skyrockets, roman~~  
15 ~~candles, dago bombs, and any fireworks containing any~~  
16 ~~explosives or flammable compound or any tablets or other~~  
17 ~~device containing any explosive substance.~~

18           Section 2. Section 791.081, Florida Statutes, is  
19 created to read:

20           791.081 Consumer Fireworks Safety Act;  
21 intent.--Sections 791.081-791.083 may be cited as the  
22 "Consumer Fireworks Safety Act." The Legislature intends to  
23 provide the basis for state and local government regulation of  
24 the sales and use of fireworks by consumers.

25           Section 3. Section 791.082, Florida Statutes, is  
26 created to read:

27           791.082 Exemption for personal, noncommercial use of  
28 fireworks.--

29           (1) The sales and use of fireworks, as defined in s.  
30 791.01, by consumers are regulated by this act. This chapter  
31 does not prohibit the purchase or sale of fireworks for

1 noncommercial use by individuals 18 years of age or older, if  
2 the purchaser certifies in writing on a form prescribed by the  
3 Department of Agriculture and Consumer Services that he or  
4 she:

5 (a) Is 18 years of age or older;

6 (b) Intends to use the fireworks exclusively for a  
7 noncommercial use;

8 (c) Acknowledges, accepts, and will abide by the  
9 safety warnings on the fireworks packaging and labeling on the  
10 devices purchased as well as any local ordinance restricting  
11 their use; and

12 (d) Understands that, if misused, a fireworks device  
13 could cause injury, death, or serious property damage.

14 (2) A form completed by a purchaser of fireworks  
15 intended for noncommercial use must be maintained by the  
16 seller of the fireworks for 12 months, and the seller shall  
17 permit department personnel to inspect or copy these forms  
18 during normal business hours.

19 (3) Each seller of fireworks shall abide by the  
20 requirements specified in National Fire Protection Association  
21 NFPA 1124, Code for the Manufacture, Transportation, Storage,  
22 and Retail Sales of Fireworks and Pyrotechnic Articles, 2003  
23 Edition, Chapter 7 for both permanent stores and temporary  
24 sales locations.

25 (4) Temporary tent facilities may be operated only by  
26 companies that maintain and operate permanent consumer  
27 fireworks facilities as defined in NFPA 1124, Code for the  
28 Manufacture, Transportation, Storage, and Retail Sales of  
29 Fireworks and Pyrotechnic Articles, Chapter 3.3.29 since the  
30 year 2000 and are currently licensed and operating in this  
31 state. A licensee may not be issued more licenses in any given

1 year for the operation of temporary sales locations than the  
2 number of such licenses issued to such licensee for the 2003  
3 calendar year.

4 (5) Temporary tent facilities where fireworks may be  
5 sold must be registered with the department to sell fireworks  
6 and have completed that registration before April 30 of the  
7 current year.

8 (6) Each fireworks sales facility must carry a public  
9 and product liability insurance policy in an amount not less  
10 than \$2 million.

11 (7) Each fireworks sales facility must be dedicated  
12 exclusively to the sale of fireworks and related items.  
13 Fireworks sales areas in bulk merchandising retail buildings  
14 as defined by NFPA 1124, Chapter 7, must be in accordance with  
15 the regulations set forth in that chapter.

16 (8) A temporary tent facility may not be located  
17 within 2,000 feet of an existing permanent consumer fireworks  
18 sales facility or within 1,000 feet of a temporary consumer  
19 fireworks sales facility as defined by NFPA 1124, Chapter 7.  
20 There must be a distance of at least 5,000 feet between an  
21 existing fireworks sales facility and any new permanent  
22 consumer fireworks sales facility. A county or municipality  
23 may impose additional regulations of temporary tent  
24 facilities.

25 (9) The department may adopt rules to administer this  
26 section.

27 Section 4. Section 791.083, Florida Statutes, is  
28 created to read:

29 791.083 Local government regulation.--This act does  
30 not impair the ability of a unit of local government to impose

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1 additional regulations upon the sales and reasonable use of  
2 fireworks by consumers in the following areas:

3 (1) The use of fireworks by consumers between the  
4 hours of midnight and 8 a.m.

5 (2) The dates upon which fireworks may be used by  
6 consumers, except that the use of fireworks on weekends and  
7 federal holidays may not be restricted.

8 (3) The use of fireworks by consumers on public lands.

9 (4) The permissible proximity of use to buildings,  
10 forest land, or other areas susceptible to fire hazard.

11 (5) Zoning and land use regulations related to  
12 construction of facilities and temporary tent facilities for  
13 sales of fireworks to consumers.

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

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18 SENATE SUMMARY

19 Provides for the noncommercial use of "fireworks," as  
20 redefined, by adult consumers. Prescribes topics over  
21 which local governments may exercise regulatory powers.  
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