

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 69
SPONSOR(S): Quinones
TIED BILLS:

Fire Prevention and Control

IDEN./SIM. BILLS: SB 108

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	19 Y, 0 N	Tinney	Cooper
2) Criminal Justice Committee			
3) State Administration Appropriations Committee			
4) Commerce Council			
5) _____			

SUMMARY ANALYSIS

This bill codifies the Division of State Fire Marshal's Florida Fire Incident Reporting System as the Fire and Emergency Incident Information Reporting Program in s. 633.115, F.S. This program is designed to collect fire and emergency incident information and allow this information to be electronically shared between fire protection agencies. This bill creates a technical advisory panel to advise, review, and make recommendations to the State Fire Marshal regarding the reporting program.

This bill amends s. 633.171, F.S. and clarifies the statute so that the penalties will relate to a person.

This bill amends s. 633.171, F.S. to strengthen the existing regulation of indoor pyrotechnics. Currently, there are no statutes that regulate the use of pyrotechnics indoors; however, they are regulated by rule. This bill requires that a facility have a statutorily compliant fire suppression system, written consent from the owner or operator of the indoor facility, and a permit issued by the local fire official with jurisdiction. It will be a third-degree felony to fail to comply with these provisions.

This bill amends s. 633.821, F.S. and requires the Division of State Fire Marshal to adopt standards regarding live-fire training. These standards will be based upon National Fire Protection Association, Publication 1403, Standard on Live Fire Training Evolutions. It requires a live-fire training certification to be instituted by a specified date.

This bill amends s. 932.7055, F.S. It directs proceeds confiscated by the Division of State Fire Marshal under the Contraband Forfeiture Act to be deposited into the Insurance Regulatory Trust Fund instead of the General Revenue Fund. These proceeds will be used for purposes of arson suppression, arson investigation, and funding of anti-arson rewards.

This bill is expected to have a minimal impact on the private sector, local governments, local fire departments, and state government.

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

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—This bill strengthens the Division of State Fire Marshal to regulate indoor displays of pyrotechnics. It requires a permit to be issued by the appropriate local fire official prior to any indoor display.

Ensure lower taxes—This bill requires a permit to be issued and this cost will be born substantially by the private sector.

Safeguard individual liberty—Indoor displays of pyrotechnics are currently regulated by the Division of State Fire Marshal, but no permits are required by rule or statute. Currently, local ordinances may require permits. This bill requires everyone to secure a permit for indoor pyrotechnic displays.

Maintain public security—This bill strengthens regulation intended to protect persons from potentially unsafe indoor pyrotechnic displays.

B. EFFECT OF PROPOSED CHANGES:

Background

The Division of State Fire Marshal is located within the Department of Financial Services (DFS). The Florida Fire Incident Reporting System (FFIRS) is located within the Division of State Fire Marshal. FIRR was created by rule. This program is designed to collect fire and emergency incident information and allow this information to be electronically shared between fire protection agencies. According to the Division of State Fire Marshal, participation in this program is voluntary and about 65% of Florida's fire protection agencies currently participate. This bill will codify this program in statute.

On February 20, 2003, 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 attempts to reduce the possibility of that type of incident occurring in Florida.

On July 30, 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 live-fire 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 killing both of them. This bill attempts to reduce the possibility of injury and death during live-fire training exercises.

Under s. 932.7055(6), F.S., if a state agency seizes property under the Florida Contraband Forfeiture Act, those proceeds are deposited into the General Revenue Fund of the State. However, this statute also provides exemptions from this requirement to twelve (12) different state agencies. It allows the proceeds they seize to be deposited into a specific trust fund for a specific purpose. This bill will provide the Division of State Fire Marshal such an exemption.

Changes to Current Law

In Section 1, this bill creates s. 633.115, F.S., the Fire and Emergency Incident Information Reporting Program (FEIIRP) within the Division of State Fire Marshal, Department of Financial Services. This

statute will codify the Florida Fire Incident Reporting System (FFIRS) into law as FEIRP. The Division of State Fire Marshal manages the current incident reporting program in conjunction with the National Fire Incident Reporting System. This program will maintain an electronic communication system capable of transmitting fire and emergency incident information to and between fire protection agencies. This program will furnish annual reports to the Governor, Legislature, and fire protection agencies, and upon request, to the public.

The bill also creates a technical advisory panel utilizing existing members from the Firefighters Employment, Standards, and Training Council.

This bill will allow the Division of State Fire Marshal to define by rule "fire protection agency."

In Section 2, this bill makes a technical correction to s. 633.171, F.S., in order to clarify that the penalty provisions apply to a person.

Currently, there are no statutes regulating indoor pyrotechnic displays. However, the uses of indoor pyrotechnics are regulated by Chapter 69a-60, F.A.C. The National Fire Protection Association, Publication 1126, 2001 edition, *Standard for the Use of Pyrotechnics before a Proximate Audience* was adopted by rule. Those who wish to use indoor pyrotechnics must comply with those standards. Accordingly, a permit is not currently required for the use of pyrotechnics indoors. Local jurisdictions, by ordinance, may require a permit for the use of pyrotechnics indoors.

This bill will strengthen existing regulation of pyrotechnics. It amends s. 633.171, F.S., to make it a felony in the third degree to initiate a pyrotechnic display indoors without a statutorily compliant fire suppression system. It also makes it a felony in the third degree to initiate a pyrotechnic display indoors without the written permission from the owner or operator of the facility. It also makes it a felony in the third degree to initiate a pyrotechnic display indoors without a permit from the local authority having jurisdiction over that indoor facility. Section 633.121, F.S., designates the person who is authorized to enforce laws and rules of State Fire Marshal. This bill also specifically exempts products regulated under chapter 791, F.S., such as seasonal sparklers and fireworks, unless they will be used within an indoor facility.

In Section 3, this bill provides the Division of State Fire Marshal authority to adopt rules for the purposes of protecting firefighters during live-fire training exercises. It requires that these safety rules be modeled upon safety and training standards recommended in National Fire Protection Association, Publication 1403. It also requires a training program and instructor certification process to be instituted for live-fire training after a specified date. This bill does not apply to wildland training credentialed through the National Wildfire Coordinating Group by the Division of Forestry of the Department of Agriculture and Consumer Services.

In Section 4, if the Division of State Fire Marshal seizes property under the Contraband Forfeiture Act, the proceeds accrued will be deposited into the Insurance Regulatory Trust Fund instead of the General Revenue Fund. This trust fund will be used for purposes of 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 technical corrections of this statute; requires a permit when pyrotechnics are used in an indoor facility; and creates criminal penalties relating to use of indoor pyrotechnics.

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

Section 4: Amends s. 932.7055, F.S., relating to the disposition of proceeds seized by the Division of State Fire Marshal under the Florida Contraband Forfeiture Act.

Section 5: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. Proceeds seized by the Division of State Fire Marshal will be deposited into the Insurance Regulatory Trust Fund instead of the General Revenue Fund. The Division of State Fire Marshal did not have an estimate at this time, but expected it to be minimal.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Revenues received from issuing permits are intended to pay for the cost of inspection and issuing indoor pyrotechnic permits.

2. Expenditures:

Minimal. Local fire officials will be required to inspect and issue indoor pyrotechnic permits.

Local fire departments will need to have their live-fire training instructors properly certified and to ensure that their live-fire training complies with the new guidelines.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the private sector to secure a permit anytime there will be a pyrotechnic display in an indoor facility. There is no limiting language within this bill on the permit process, who must secure a permit, or how often a permit must be secured. Depending upon how this section is applied, the fiscal impact could be quite significant for frequent users of indoor pyrotechnics. Everyone will be required to secure a permit each time under the penalty of felony in the third degree.

D. FISCAL COMMENTS:

The bill codifies an existing Division of State Fire Marshal program. It should not require any additional expenditures by the department.

There will be some expenditures related to complying with the new live-fire training requirements and certification process, the extent of which should be minimal.

The Division of State Fire Marshal will have access to an unknown amount of additional money via the Insurance Regulatory Trust Fund to use for purposes of arson suppression, arson investigation, and funding of anti-arson rewards. That amount is anticipated to be minimal.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Division of State Fire Marshall to promulgate rules to implement the Fire and Emergency Incident Information Reporting Program. The bill provides rule-making authority to the Division of State Fire Marshal to define the term "fire protection agency." The bill authorizes the Division of State Fire Marshall to adopt rules for live-fire training throughout the state and for the certification process for live-fire training instructors.

C. DRAFTING ISSUES OR OTHER COMMENTS:

1. 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. This statute defines a "fire protection system" as 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, foamwater 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