

ENROLLED

HB 69, Engrossed 1

2005 Legislature

1 A bill to be entitled

2 An act relating to fire prevention and control; providing
3 a popular name; creating s. 633.115, F.S.; creating the
4 Fire and Emergency Incident Information Reporting Program
5 within the Division of State Fire Marshal; providing
6 program requirements; providing duties of the division
7 relating to the program; creating the Fire and Emergency
8 Incident Information System Technical Advisory Panel
9 within the division; providing for membership and duties
10 of the panel; requiring the division to adopt certain
11 rules; amending s. 633.171, F.S.; providing definitions;
12 providing criminal penalties for initiating a pyrotechnic
13 display in certain structures under certain circumstances;
14 providing exceptions; providing construction; providing
15 application; amending s. 633.821, F.S.; providing
16 additional criteria for certain rules of the Division of
17 State Fire Marshal; requiring the division to adopt rules
18 relating to live fire training; providing requirements;
19 providing for such rules to take effect; requiring state
20 certification as an instructor for certain training after
21 a certain date; providing an exception from application to
22 certain wildland or prescribed live-fire training
23 exercises; amending s. 932.7055, F.S.; providing that
24 proceeds from the sale of certain forfeited property be
25 deposited into the Insurance Regulatory Trust Fund and
26 used for specified purposes; providing an effective date.

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Section 1. Popular name.--This act may be cited as the "Lieutenant John Mickel and Dallas Begg Act."

Section 2. Section 633.115, Florida Statutes, is created to read:

633.115 Fire and Emergency Incident Information Reporting Program; duties; fire reports.--

(1) (a) The Fire and Emergency Incident Information Reporting Program is created within the Division of State Fire Marshal. The program shall:

1. Establish and maintain an electronic communication system capable of transmitting fire and emergency incident information to and between fire protection agencies.

2. Initiate a Fire and Emergency Incident Information Reporting System that shall be responsible for:

a. Receiving fire and emergency incident information from fire protection agencies.

b. Preparing and disseminating annual reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, fire protection agencies, and, upon request, the public. Each report shall include, but not be limited to, the information listed in the National Fire Incident Reporting System.

c. Upon request, providing other states and federal agencies with fire and emergency incident data of this state.

3. Adopt rules to effectively and efficiently implement, administer, manage, maintain, and use the Fire and Emergency Incident Information Reporting Program. The rules shall be

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57 considered minimum requirements and shall not preclude a fire
58 protection agency from implementing its own requirements which
59 shall not conflict with the rules of the Division of State Fire
60 Marshal.

61 4. By rule, establish procedures and a format for each
62 fire protection agency to voluntarily monitor its records and
63 submit reports to the program.

64 5. Establish an electronic information database which is
65 accessible and searchable by fire protection agencies.

66 (b) The Division of State Fire Marshal shall consult with
67 the Division of Forestry of the Department of Agriculture and
68 Consumer Services and the Bureau of Emergency Medical Services
69 of the Department of Health to coordinate data, ensure accuracy
70 of the data, and limit duplication of efforts in data
71 collection, analysis, and reporting.

72 (2) The Fire and Emergency Incident Information System
73 Technical Advisory Panel is created within the Division of State
74 Fire Marshal. The panel shall advise, review, and recommend to
75 the State Fire Marshal with respect to the requirements of this
76 section. The membership of the panel shall consist of the
77 following 15 members:

78 (a) The current 13 members of the Firefighters Employment,
79 Standards, and Training Council as established in s. 633.31.

80 (b) One member from the Division of Forestry of the
81 Department of Agriculture and Consumer Services, appointed by
82 the division director.

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83 (c) One member from the Bureau of Emergency Medical
 84 Services of the Department of Health, appointed by the bureau
 85 chief.

86 (3) For the purpose of this section, the term "fire
 87 protection agency" shall be defined by rule by the Division of
 88 State Fire Marshal.

89 Section 3. Section 633.171, Florida Statutes, is amended
 90 to read:

91 633.171 Penalty for violation of law, rule, or order to
 92 cease and desist or for failure to comply with corrective
 93 order.--

94 (1) Any person who violates ~~The violation of~~ any provision
 95 of this law, ~~or~~ any order or rule of the State Fire Marshal, or
 96 any order to cease and desist or to correct conditions issued
 97 under this chapter commits hereunder, ~~shall constitute~~ a
 98 misdemeanor of the second degree, punishable as provided in s.
 99 775.082 or s. 775.083.

100 (2) It is ~~shall constitute~~ a misdemeanor of the first
 101 degree, punishable as provided in s. 775.082 or s. 775.083, to
 102 intentionally or willfully:

103 (a) Render a fire extinguisher or preengineered system
 104 required by statute or by rule inoperative except during such
 105 time as the extinguisher or preengineered system is being
 106 serviced, hydrotested, tested, repaired, or recharged, except
 107 pursuant to court order.

108 (b) Obliterate the serial number on a fire extinguisher
 109 for purposes of falsifying service records.

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110 (c) Improperly service, recharge, repair, hydrotest, test,
 111 or inspect a fire extinguisher or preengineered system.

112 (d) Use the license or permit number of another person.

113 (e) Hold a permit and allow another person to use said
 114 permit number.

115 (f) Use, or permit the use of, any license by any
 116 individual or organization other than the one to whom the
 117 license is issued.

118 (3)(a) As used in this subsection, the term:

119 1. "Pyrotechnic display" means a special effect created
 120 through the use of a pyrotechnic material or pyrotechnic device.

121 2. "Pyrotechnic device" means any device containing
 122 pyrotechnic materials and capable of producing a special effect.

123 3. "Pyrotechnic material" means a chemical mixture used to
 124 produce visible or audible effects by combustion, deflagration,
 125 or detonation when such chemical mixture consists predominantly
 126 of solids capable of producing a controlled, self-sustaining,
 127 and self-contained exothermic chemical reaction that results in
 128 heat, gas, sound, light, or a combination of such effects,
 129 without requiring external oxygen.

130 (b) A person who initiates a pyrotechnic display within
 131 any structure commits a felony of the third degree, punishable
 132 as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

133 1. The structure has a fire protection system installed in
 134 compliance with s. 633.065.

135 2. The owner of the structure has authorized in writing
 136 the pyrotechnic display.

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137 3. If the local jurisdiction requires a permit for the use
 138 of a pyrotechnic display in an occupied structure, such permit
 139 has been obtained and all conditions of the permit complied with
 140 or, if the local jurisdiction does not require a permit for the
 141 use of a pyrotechnic display in an occupied structure, the
 142 person initiating the display has complied with National Fire
 143 Protection Association, Inc., Standard 1126, 2001 Edition,
 144 Standard for the Use of Pyrotechnics before a Proximate
 145 Audience.

146 (c) This subsection shall not be construed to preclude
 147 prosecution for a more general offense resulting from the same
 148 criminal transaction or episode. This subsection does not apply
 149 to the manufacture, distribution, sale at wholesale or retail,
 150 or seasonal sale of products regulated under chapter 791 if the
 151 products are not used in an occupied structure.

152 Section 4. Subsection (2) of section 633.821, Florida
 153 Statutes, is amended, and subsection (6) is added to said
 154 section, to read:

155 633.821 Workplace safety.--

156 (2) The division shall have the authority to adopt rules
 157 for the purpose of ensuring safe working conditions for all
 158 firefighter employees by authorizing the enforcement of
 159 effective standards, by assisting and encouraging firefighter
 160 employers to maintain safe working conditions, and by providing
 161 for education and training in the field of safety. Specifically,
 162 the division may by rule adopt all or any part of subparts C
 163 through T and subpart Z of 29 C.F.R. s. 1910, as revised April
 164 8, 1998; the National Fire Protection Association, Inc.,

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165 Standard 1500, paragraph 5-7 (Personal Alert Safety System)
 166 (1992 edition); the National Fire Protection Association, Inc.,
 167 Publication 1403, Standard on Live Fire Training Evolutions
 168 (latest edition), as limited by subsection (6); and ANSI A 10.4-
 169 1990.

170 (6)(a) The division shall adopt rules for live fire
 171 training that all firefighters subject to this chapter must
 172 complete. The division shall also adopt rules for a training and
 173 certification process for live fire training instructors.

174 (b) Such rules for training shall include:

175 1. Sections of the most current edition of the National
 176 Fire Protection Association, Inc., Publication 1402, Guide to
 177 Building Fire Service Training Centers, relating to establishing
 178 policies and procedures for effective use of such permanent
 179 facilities or structures.

180 2. Sections of the most current edition of the National
 181 Fire Protection Association, Inc., Publication 1403, Standard on
 182 Live Fire Training Evolutions, excluding, however:

183 a. Any chapter entitled "Referenced Publications."

184 b. References to the National Fire Protection Association,
 185 Inc., Publication 1975, Station Uniform.

186 c. The National Fire Protection Association, Inc.,
 187 Publication 1001, or any references to such publication in the
 188 National Fire Protection Association, Inc., Publication 1975.

189 d. Any reference to an authority having jurisdiction in
 190 the National Fire Protection Association, Inc., publication
 191 1403, defined as the organization, office, or individual

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192 responsible for approving equipment, materials, installations,
 193 and procedures.

194 3. A 40-hour training program for live fire training
 195 instructors, including:

196 a. Live fire instructional techniques.

197 b. Training safety in acquired or permanent facilities or
 198 props.

199 c. Personnel safety.

200 d. Exterior props, including, but not limited to, liquid
 201 petroleum gas, other liquid fuels, and similar props.

202 (c) The rules, excluding those pertaining to live fire
 203 training instructor certification, shall take effect no later
 204 than January 1, 2006.

205 (d) Each live fire training instructor is required to be
 206 state certified. All live fire training commenced on and after
 207 January 1, 2007, must be conducted by a certified live fire
 208 training instructor.

209 (e) This subsection does not apply to wildland or
 210 prescribed live-fire training exercises sanctioned by the
 211 Division of Forestry of the Department of Agriculture and
 212 Consumer Services or the National Wildfire Coordinating Group.

213 Section 5. Paragraph (m) is added to subsection (6) of
 214 section 932.7055, Florida Statutes, to read:

215 932.7055 Disposition of liens and forfeited property.--

216 (6) If the seizing agency is a state agency, all remaining
 217 proceeds shall be deposited into the General Revenue Fund.

218 However, if the seizing agency is:

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219 (m) The Division of State Fire Marshal in the Department
220 of Financial Services, the proceeds accrued under the Florida
221 Contraband Forfeiture Act shall be deposited into the Insurance
222 Regulatory Trust Fund to be used for the purposes of arson
223 suppression, arson investigation, and the funding of antiarson
224 rewards.

225 Section 6. This act shall take effect upon becoming a law.