



235266

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/08/2014	.	
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	.	
	.	

The Committee on Commerce and Tourism (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 791.01, Florida Statutes, is amended to
read:

791.01 Definitions.—As used in this chapter, the term:

~~(1) "Distributor" means any person engaged in the business
of selling sparklers to a wholesaler.~~

(1)~~(2)~~ "Division" means the Division of the State Fire



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11 Marshal of the Department of Financial Services.

12 ~~(2)-(3)~~ "Explosive compound" means any chemical compound,
13 mixture, or device the primary or common purpose of which is to
14 function by the substantially instantaneous release of gas and
15 heat.

16 ~~(3)-(4)-(a)~~ "Fireworks" means a ~~and includes any~~ combustible
17 or explosive composition or substance or combination of
18 substances or, except as otherwise hereinafter provided in this
19 subsection, an ~~any~~ article prepared for the purpose of producing
20 a visible or audible effect by combustion, explosion,
21 deflagration, or detonation. The term includes blank cartridges
22 and toy cannons in which explosives are used, the type of
23 balloons that ~~which~~ require fire underneath to propel them,
24 firecrackers, torpedoes, skyrockets, roman candles, daygo ~~daygo~~
25 bombs, and any fireworks containing any explosives or flammable
26 compound or any tablets or other device containing any explosive
27 substance. The term

28 ~~(b)~~ "Fireworks" does not include novelties, sparklers,
29 ~~approved by the division pursuant to s. 791.013~~, toy pistols,
30 toy canes, toy guns, or other devices in which paper caps
31 containing twenty-five hundredths grains or less of explosive
32 compound are used, providing they are so constructed that the
33 hand cannot come in contact with the cap when in place for the
34 explosion; or ~~and~~ toy pistol paper caps that ~~which~~ contain less
35 than twenty hundredths grains of explosive mixture, ~~the sale and~~
36 ~~use of which shall be permitted at all times.~~

37 ~~(4)-(c)~~ "Novelties" means the following devices or products
38 ~~"Fireworks" also does not include the following novelties and~~
39 ~~trick noisemakers:~~



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40 (a)1. A snake or glow worm, which is a pressed pellet of up
41 to not more than 10 grams of pyrotechnic composition which that
42 produces a large, snakelike ash that ~~which~~ expands in length as
43 the pellet burns and that does not contain mercuric thiocyanate.

44 (b)2. A smoke device, which is a tube or sphere containing
45 not more than 10 grams of pyrotechnic composition which, when
46 burned that, upon burning, produces white or colored smoke as
47 the primary effect.

48 (c)3. A trick noisemaker, which is a device that produces a
49 small report intended to surprise the user and which includes:

50 1.a. A party popper, which is a small plastic or paper
51 device containing not more than 16 milligrams of explosive
52 composition that is friction sensitive, which is ignited by
53 pulling a string protruding from the device, and which expels a
54 paper streamer and produces a small report.

55 2.b. A booby trap, which is a small tube with a string
56 protruding from both ends containing not more than 16 milligrams
57 of explosive compound, which is ignited by pulling the ends of
58 the string, and which produces a small report.

59 3.e. A snapper, which is a small, paper-wrapped device
60 containing not more than 4 ~~four~~ milligrams of explosive
61 composition coated on small bits of sand, and which, when
62 dropped, explodes, producing a small report. A snapper may not
63 contain more than 250 milligrams of total sand and explosive
64 composition.

65 4.d. A trick match, which is a kitchen or book match that
66 ~~which~~ is coated with not more than 16 milligrams of explosive or
67 pyrotechnic composition and which, upon ignition, produces a
68 small report or shower of sparks.



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69 ~~5.e.~~ A cigarette load, which is a small wooden peg that has
70 been coated with not more than 16 milligrams of explosive
71 composition and which produces, upon ignition of a cigarette
72 containing one of the pegs, a small report.

73 ~~6.f.~~ An auto burglar alarm, which is a tube which contains
74 not more than 10 grams of pyrotechnic composition that produces
75 a loud whistle or smoke when ignited and which is ignited by use
76 of a squib. A small quantity of explosive, not exceeding 50
77 milligrams, may also be used to produce a small report.

78
79 ~~The sale and use of items listed in this paragraph are permitted~~
80 ~~at all times.~~

81 ~~(5) "Manufacturer" means any person engaged in the~~
82 ~~manufacture or construction of sparklers in this state.~~

83 ~~(5)~~~~(6)~~ "Retailer" means any person who, at a fixed place of
84 business, is engaged in selling fireworks, sparklers, or
85 novelties to consumers at retail.

86 ~~(6)~~~~(7)~~ "Seasonal retailer" means any person engaged in the
87 business of selling sparklers at retail in this state from June
88 20 through July 5 and from December 10 through January 2 of each
89 year.

90 ~~(7)~~~~(8)~~ "Sparkler" means a device that ~~which~~ emits showers
91 of sparks upon burning, does not contain any explosive
92 compounds, does not detonate or explode, is handheld or ground
93 based, cannot propel itself through the air, and contains not
94 more than 100 grams of the chemical compound that ~~which~~ produces
95 sparks upon burning. ~~Any sparkler that is not approved by the~~
96 ~~division is classified as fireworks.~~

97 ~~(9) "Wholesaler" means any person engaged in the business~~



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98 ~~of selling sparklers to a retailer.~~

99 Section 2. Section 791.012, Florida Statutes, is amended to
100 read:

101 791.012 Minimum fireworks safety standards.—The outdoor
102 display of fireworks in this state is ~~shall be~~ governed by the
103 National Fire Protection Association (NFPA) 1123, Code for
104 Fireworks Display, 2014 ~~1995~~ Edition, approved by the American
105 National Standards Institute. Any state, county, or municipal
106 law, rule, or ordinance may provide for more stringent
107 regulations for the outdoor display of fireworks, but in no
108 event may any such law, rule, or ordinance provide for less
109 stringent regulations for the outdoor display of fireworks. The
110 division shall adopt ~~promulgate~~ rules to carry out ~~the~~
111 ~~provisions of~~ this section. The Code for Fireworks Display does
112 ~~shall~~ not govern the display of ~~any~~ fireworks on private,
113 residential property or ~~and shall not govern~~ the display of
114 those items excluded from the definition of fireworks included
115 under s. 791.01 s. 791.01(4)(b) and (c) and authorized for sale
116 thereunder.

117 Section 3. Section 791.013, Florida Statutes, is repealed.

118 Section 4. Section 791.015, Florida Statutes, is amended to
119 read:

120 (Substantial rewording of section. See s. 791.015, F.S.,
121 for present text.)

122 791.015 Registration, insurance, and disclaimer
123 requirements for retailers.—

124 (1) REGISTRATION.—A retailer or seasonal retailer who
125 wishes to do business in this state or to otherwise sell, ship,
126 or assign for sale its products in this state shall register



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127 annually with the division on a form prescribed by the division.
128 Each retailer must annually pay a registration fee of \$15 to the
129 division for each retail location registered. Each seasonal
130 retailer must pay an annual registration fee of \$200 to the
131 division.

132 (2) INSURANCE.—A retailer or seasonal retailer in this
133 state shall obtain an insurance policy providing general,
134 comprehensive, liability, and property damage insurance coverage
135 on an occurrence basis with minimum limits in the policy of at
136 least \$2 million combined single limit coverage for each loss
137 that may result from the activities of the seller. Proof of such
138 insurance coverage must be submitted with the registration form
139 required in subsection (1).

140 (3) DISCLAIMER.—A retailer or seasonal retailer shall
141 provide to the buyer of fireworks or sparklers, and the buyer
142 shall sign and date at the point of sale, a disclaimer that
143 provides, in bold, uppercase type, the following:

144
145 I ACKNOWLEDGE AND AGREE THAT:

146
147 I AM SIXTEEN (16) YEARS OF AGE OR OLDER;

148
149 I HAVE REVIEWED CHAPTER 791, FLORIDA STATUTES, AND MY
150 PURCHASE AND USE OF FIREWORKS ARE WITHIN THE
151 AGRICULTURAL AND FISHERIES EXCEPTION IN SECTION
152 791.07, FLORIDA STATUTES, OR MY PURCHASE OF FIREWORKS
153 IS FOR PERSONAL RECREATIONAL USE; AND

154
155 THE USE OF FIREWORKS, NOVELTIES, OR SPARKLERS, IS



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156 INHERENTLY DANGEROUS AND MAY RESULT IN FIRE, PROPERTY
157 DAMAGE, OR SERIOUS BODILY HARM TO MYSELF OR OTHERS FOR
158 WHICH I MAY BE LIABLE FOR DAMAGES.

159 Section 5. Sections 791.02 and 791.03, Florida Statutes,
160 are repealed.

161 Section 6. Section 791.04, Florida Statutes, is amended to
162 read:

163 791.04 Exemptions ~~Sale at wholesale, etc., exempted.-~~
164 ~~Nothing in This chapter does not: shall be construed to prohibit~~
165 ~~any manufacturer, distributor, or wholesaler who has registered~~
166 ~~with the division pursuant to s. 791.015 to sell at wholesale~~
167 ~~such fireworks as are not herein prohibited; to prohibit the~~
168 ~~sale of any kind of fireworks at wholesale between~~
169 ~~manufacturers, distributors, and wholesalers who have registered~~
170 ~~with the division pursuant to s. 791.015; to prohibit the sale~~
171 ~~of any kind of fireworks provided the same are to be shipped~~
172 ~~directly out of state by such manufacturer, distributor, or~~
173 ~~wholesaler; to prohibit the sale of fireworks to be used by a~~
174 ~~person holding a permit from any board of county commissioners~~
175 ~~at the display covered by such permit; or to~~

176 (1) Prohibit the use of fireworks by railroads or other
177 transportation agencies for signal purposes or illumination or
178 when used in quarrying or for blasting or other industrial use.

179 (2) Prohibit ~~or~~ the sale or use of blank cartridges for a
180 show or theater, or for signal or ceremonial purposes in
181 athletics or sports, or for use by military organizations, or
182 organizations composed of the Armed Forces of the United
183 States. ~~provided, nothing in this chapter shall be construed as~~
184 ~~barring~~



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185 (3) Prohibit the operations of manufacturers, duly
186 licensed, from manufacturing, experimenting, exploding, and
187 storing such fireworks in their compounds or proving grounds.

188 Section 7. Section 791.08, Florida Statutes, is created to
189 read:

190 791.08 Age restriction.—Fireworks, sparklers, and novelties
191 may not be sold to a person under 16 years of age.

192 Section 8. Section 791.09, Florida Statutes, is created to
193 read:

194 791.09 Local regulation.—Except for the sale and use
195 exemption provided under ss. 791.04 and 791.07, a county or
196 municipality may regulate the sale and use of fireworks,
197 sparklers, and novelties. However, a county or municipality may
198 require a retailer or seasonal retailer to take reasonable steps
199 to determine a buyer's eligibility to purchase such items under
200 an exemption provided under ss. 791.04 and 791.07.

201 Section 9. This act shall take effect upon becoming a law.

202
203 ===== T I T L E A M E N D M E N T =====

204 And the title is amended as follows:

205 Delete everything before the enacting clause
206 and insert:

207 A bill to be entitled
208 An act relating to fireworks; amending s. 791.01,
209 F.S.; removing and redefining terms; amending s.
210 791.012, F.S.; conforming a cross-reference to changes
211 made by the act; repealing s. 791.013, F.S., relating
212 to the testing and approval of sparklers and the
213 registration of manufacturers, distributors,



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214 wholesalers, and retailers of sparklers; amending s.
215 791.015, F.S.; requiring a retailer or seasonal
216 retailer to register annually with the Division of the
217 State Fire Marshal; requiring the payment of a
218 registration fee; requiring a retailer or seasonal
219 retailer to obtain insurance and to provide the buyer
220 with a disclaimer, which must be signed at the point
221 of sale; repealing s. 791.02, F.S., relating to the
222 sale and use of fireworks; repealing s. 791.03, F.S.,
223 relating to the bond of licensees; amending s. 791.04,
224 F.S.; removing certain exemptions relating to the
225 prohibition of the sale of fireworks at wholesale;
226 creating s. 791.08, F.S.; prohibiting the sale of
227 fireworks, sparklers, and novelties to a person under
228 a specified age; creating s. 791.09, F.S.; authorizing
229 a county or municipality to regulate the sale and use
230 of fireworks, sparklers, and novelties; providing an
231 effective date.