

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 6037 Fireworks

**SPONSOR(S):** Grant

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 198

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	9 Y, 5 N	Brackett	Anstead
2) Commerce Committee			

### SUMMARY ANALYSIS

In Florida, the sale and use of fireworks is prohibited unless:

- The seller has registered as a distributor, manufacturer, retailer, seasonal retailer, or wholesaler with the State Fire Marshal;
- The seller is selling the fireworks to:
  - Another registered distributor, manufacturer, retailer, seasonal retailer, or wholesaler;
  - A buyer who is allowed to buy fireworks under ch. 791, F.S.
- A buyer has obtained a permit from a municipality for a public display of fireworks and has been determined to be a competent supervisor;
- A buyer has obtained a permit from a board of county commissioners for a public display of fireworks and has obtained a bond; or
- A buyer is using the fireworks to scare birds away from agricultural works or fish hatcheries.

Federal laws regulate the manufacture, sale and use of fireworks. Federal laws provide penalties, including fines, imprisonment, and civil penalties, for anyone who imports, distributes, or sells illegal fireworks.

The bill repeals prohibitions and regulations related to fireworks and sparklers.

The bill specifically repeals the:

- Provisions prohibiting the sale and use of fireworks in Florida;
- Requirement that sparklers must be tested and approved by the State Fire Marshal;
- Criminal penalty for altering a sparkler and selling it or fraudulently selling a product as a sparkler;
- Provision that only registered distributors, manufacturers, retailers, seasonal retailers, and wholesalers may sell fireworks or sparklers;
- Provision that a person performing a public display of fireworks in a municipality must be a competent supervisor;
- Provision that a person performing a public display of fireworks in a county must obtain a bond; and
- Provision allowing counties and municipalities to adopt reasonable rules and regulations for adopting permits for the public display of fireworks.

The bill is expected to have a negative fiscal impact on state government annually in the amount of \$275,000, but may have a positive impact on state government from an indeterminate increase in sales taxes. The bill has an indeterminate impact on local government.

The bill takes effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Florida regulates the sale and use of fireworks pursuant to Chapter 791, F.S. No person may offer for sale, sell at retail, or use or explode any fireworks, unless authorized pursuant to ch. 791, F.S.<sup>1</sup>

Fireworks are defined to mean and include, “any combustible or explosive composition or substance or combination of substances or, except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.” Fireworks include:

- Blank cartridges and toy cannons in which explosives are used;
- Balloons which require fire underneath to propel them;
- Firecrackers;
- Torpedoes;
- Skyrockets;
- Roman candles;
- Dago bombs; and
- Any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.<sup>2</sup>

Fireworks do not include the following, which the sale and use of is permitted at all times:

- Sparklers approved by the State Fire Marshal;
- Toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing that a person’s hand cannot come into contact with the cap when in place for the explosion;
- Toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture; and
- A trick noisemaker, which is a device that produces a small report intended to surprise a user, including a:
  - Party popper;
  - Booby trap;
  - Snapper;
  - Trick match;
  - Cigarette load; and
  - Auto burglar alarm.
- The following novelties;
  - A snake or glow worm, which is a pressed pellet of not more than 10 grams of pyrotechnic composition that produces a large, snakelike ash which expands in length as the pellet burns and that does not contain mercuric thiocyanate; and
  - A smoke device, which is a tube or sphere containing not more than 10 grams of pyrotechnic composition that, upon burning, produces white or colored smoke as the primary effect.<sup>3</sup>

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<sup>1</sup> See ch. 791, F.S.

<sup>2</sup> s. 791.01(4)(a), F.S.

<sup>3</sup> s. 791.01(4)(b) & (c), F.S.

Pursuant to Section 791.012, F.S, the outdoor display of fireworks is governed by the National Fire Protection Association (NFPA) 1121, Code for Fireworks Display, 1995 Edition, approved by the American National Standards Institute.<sup>4</sup> Any state, county, or municipal law, rule, or ordinance may provide for more stringent regulations, but in no event may any such law, rule, or ordinance provide for less stringent regulations for the outdoor display of fireworks. However, the Code for Fireworks Display does not govern the display of any fireworks on private residential property.<sup>5</sup>

### *Federal Regulation of Fireworks*

Fireworks are defined under the Federal Explosives Laws, which is enforced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The law defines fireworks into display fireworks, consumer fireworks, and articles pyrotechnic.<sup>6</sup>

“Display fireworks” are defined as “large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation.” Display fireworks include but are not limited to:

- Aerial shells containing more than 2 grains of explosive materials;
- Aerial shells containing more than 40 grams of pyrotechnic compositions;
- Other display pieces that exceed the limits of explosive materials for consumer fireworks; and
- Fused set pieces containing components which together exceed 50 milligrams of salute powder.<sup>7</sup>

The ATF regulates display fireworks by requiring anyone engaging in the business of manufacturing, importing, or dealing in display fireworks to have an ATF explosive license, and requiring anyone importing for their own use or receiving or transporting display fireworks to have an ATF permit.<sup>8</sup>

“Consumer fireworks” are defined as “any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission.” The definition also includes “some small devices designed to produce audible effects...such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials.”<sup>9</sup>

“Articles pyrotechnic” are defined as “pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use.”<sup>10</sup>

The ATF generally does not regulate the importation, distribution, and storage of consumer fireworks. However, a manufacturer of consumer fireworks or articles pyrotechnics must have an ATF manufacturer’s license because consumer fireworks contain pyrotechnic compositions, which are classified as explosive materials.<sup>11</sup>

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<sup>4</sup> The National Fire Protection Association was founded in 1896 and delivers information and knowledge through more than 300 consensus codes and standards, research, training, education, outreach and advocacy; and by partnering with others who share an interest in furthering the mission. The American National Standards Institute is a non-profit organization that aims to strengthen the U.S. market place, protect the environment, and assure the safety and health of consumers by creating and promulgating thousands of standards and guidelines.

<sup>5</sup> s. 791.012, F.S.

<sup>6</sup> 27 U.S.C. § 555 (2017) & 27 U.S.C. § 555.11 (2017).

<sup>7</sup> 27 U.S.C. § 555.11 (2017).

<sup>8</sup> 27 U.S.C. § 555.26 (2017) & 27 U.S.C. § 555.41 (2017).

<sup>9</sup> 27 U.S.C. § 555.11 (2017).

<sup>10</sup> *Id.*

<sup>11</sup> 27 U.S.C. § 555.11 (2017); 27 U.S.C. § 555.141 (2017); ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Are ‘consumer fireworks’ subject to regulation under the Federal explosive laws?*, <https://www.atf.gov/explosives/qa/are-%E2%80%9Cconsumer-fireworks%E2%80%9Dsubject-regulation-under-federal-explosives-laws> (last visited on Jan. 10, 2018); ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Are “Articles Pyrotechnic” subject to the requirements of the Federal*

The U.S. Consumer Product Safety Commission (CPSC) also regulates the use of consumer fireworks under the Federal Hazardous Substances Act (FHSA).<sup>12</sup> The FHSA prohibits the sale to consumers of the most dangerous types of fireworks including:

- Large reloadable mortar shells;
- Cherry bombs;
- Aerial bombs;
- M-80 aeriars; and
- Larger firecrackers containing more than 2 grains of explosive materials.<sup>13</sup>

Any person who imports, distributes, or sells a prohibited firework under the FHSA to a consumer is guilty of a misdemeanor and subject to a fine of not more than \$500 and/or imprisonment for not more than 90 days. For second or subsequent offenses, or if the person intended to defraud or mislead, the person is subject to a fine of up to \$250,000 and/or imprisonment for not more than 5 years. Any person who imports, distributes, or sells a prohibited firework under the FHSA to a consumer may also be subject to a civil penalty up to \$100,000 for each violation and up to \$15,000,000 for any series of violations.<sup>14</sup>

The CPSC provides an annual report on the number of non-occupational, fireworks-related deaths and injuries in the U.S. during the previous year. The CPSC reported that in 2016 there were an estimated 11,100 injuries involving fireworks in the U.S. The CPSC also reported that there were at least 4 deaths including a 42 year old male in Florida who died from a malfunctioning firework.<sup>15</sup>

### *Public Displays of Fireworks*

Chapter 791, F.S., allows the public display of fireworks in municipalities if the display is done by a competent supervisor, and the display does not endanger any person or is hazardous to property. The chiefs of police and firefighters determine whether a supervisor is competent, and the chief of firefighters determines whether a display is hazardous to property or may endanger any person.<sup>16</sup>

Chapter 791, F.S., also allows the supervised public display of fireworks outside municipalities by fair associations, amusement parks, and other organizations or groups of individuals if the person doing the display obtains a bond of not less than \$500. The bond will be for the payment of damages that may be caused to a person or property by the fireworks display, any acts of the person doing the display, his or her agents, employees, or subcontractors.<sup>17</sup>

Municipalities and the boards of county commissioners have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks. Application for a permit must be made in writing at least 15 days in advance of the display. Upon obtaining a permit a person may engage in the lawful sale, possession, and use, and distribution of fireworks for the display. Permits may not be transferred.<sup>18</sup>

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explosive regulations?, <https://www.atf.gov/explosives/qa/are-%E2%80%9CArticles-pyrotechnic%E2%80%9Dsubject-requirements-federal-explosives-regulations>.

<sup>12</sup> 15 U.S.C. § 1261 (2017).

<sup>13</sup> 16 U.S.C. § 1500 (2017).

<sup>14</sup> See 15 U.S.C. § 1263 (2017); 15 U.S.C. § 1264 (2017); 18 U.S.C. § 3571 (2017).

<sup>15</sup> Tu, Yongling, *2016 Fireworks Annual Report: Fireworks-Related Deaths and Emergency Department-Treated Injuries During 2016*, 1 & 8 (June 2017).

<sup>16</sup> s. 791.02(1), F.S.

<sup>17</sup> *Id.* & s. 791.03, F.S.

<sup>18</sup> s. 791.02(1), F.S.

## *State Fire Marshal*

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety and has the responsibility to minimize the loss of life and property in this state due to fire. Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.<sup>19</sup>

In addition to these duties, the State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all fire safety rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules, at ch. 69A-60, F.A.C. The State Fire Marshal adopts a new edition of the FFPC every three years. The FFPC includes national fire safety and life safety standards set forth by the NFPA, including the NFPA's Fire Code (1), Life Safety Code (101) and Guide on Alternative Approaches to Life Safety (101A).<sup>20</sup>

## *Sparklers*

Sparklers are hand-held or ground-based devices that emit showers of sparks when they are burned. Sparklers do not explode, detonate, contain explosive compounds, are not self-propelled, and have a limited number of combustible chemicals.<sup>21</sup>

All sparklers must be approved by the State Fire Marshal. Sparklers not approved by the State Fire Marshal are considered fireworks. Any person wishing to sell a product as a sparkler in Florida must first submit the product to the State Fire Marshal for testing to determine if the product meets the definition of a sparkler. On February 1 of each year, the State Fire Marshal must publish a list of the approved sparklers. All approved sparklers may be sold until January 31<sup>st</sup> of the following year.<sup>22</sup>

Any person who alters an approved sparkler, so that it is no longer a sparkler, and subsequently sells the altered sparkler as an approved sparkler commits a first-degree misdemeanor. Any person who fraudulently represents a product that is not an approved sparkler as an approved sparkler commits a first-degree misdemeanor.<sup>23</sup>

## *Distributors, Manufacturers, Wholesalers, and Retailers*

A distributor is defined as any person who sells sparklers to a wholesaler. A manufacturer is defined as any person engaged in the manufacture or construction of sparklers in Florida. A wholesaler is defined as any person engaged in the business of selling sparklers to a retailer.<sup>24</sup>

There are two types of retailers in Florida:

- A retailer, who is any person at a fixed place of business who sells sparklers to consumers at retail; and
- A seasonal retailer, who is any person engaged in the business of selling sparklers to consumers at retail from June 20<sup>th</sup> through July 5<sup>th</sup> and December 10<sup>th</sup> through January 2<sup>nd</sup>.<sup>25</sup>

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<sup>19</sup> s. 633.104, F.S.

<sup>20</sup> s. 633.202(2), F.S.

<sup>21</sup> s. 791.01(8), F.S.

<sup>22</sup> s. 791.013(1), F.S.

<sup>23</sup> s. 791.013(2), F.S.

<sup>24</sup> s. 791.01(1), (5), & (9), F.S.

<sup>25</sup> s. 791.01(6) & (7), F.S.

In order to be a retailer, manufacturer, wholesaler, or distributor a person must register annually with the State Fire Marshal. A retailer who sells sparklers at multiple locations may submit one registration form as long as the retailer lists every location on the registration form.<sup>26</sup>

The registration form must include the business name, address, telephone number, corporate officers (if a corporation), and a contact person. Annual registration fees are:

- \$1,000 for registration as a manufacturer, distributor, or wholesaler;
- \$200 for registration as a seasonal retailer; and
- \$15 for each location registered by a non-seasonal retailer.<sup>27</sup>

In addition to being able to sell, manufacture, construct, or sell sparklers depending on the registration, wholesalers, distributors, manufacturers, and retailers may:

- Sell fireworks to other registered wholesalers, manufacturers, and distributors;
- Sell fireworks that are to be shipped out of Florida;
- Sell fireworks to anyone holding a public firework display permit from a board of county commissioners.<sup>28</sup>

Retailers and seasonal retailers may not sell sparklers, fireworks, or any other product authorized for sale by Chapter 791, F.S., unless the retailer or seasonal retailer obtained the product from a registered manufacturer, distributor, or wholesaler. Retailers and seasonal retailers are also required to keep, at every location where sparklers are sold, evidence of purchases from manufacturers, distributors, or wholesalers. The evidence must have the manufacturer, distributor, or wholesaler's registration number, and the specific items purchased by the retailer or seasonal retailer. Each seasonal retailer must also display a copy of his or her registration at each seasonal location.<sup>29</sup>

#### *Consumer Fireworks Task Force/Limits on Retail Sales Facilities*

In 2007, the Legislature found that:

- The state regulation of consumer fireworks in Florida provides an insufficient definition of consumer fireworks and related products used by consumers;
- There is a need for better training and education concerning the safe use of consumer fireworks;
- There should be a mechanism to help local governments fund the clean up following the use of consumer fireworks on public property;
- Local government regulation of the agricultural uses authorized s. 791.07, F.S., may be inconsistent with legitimate agricultural purposes;
- There is a need for consumer education relating to safety standards in the use of consumer fireworks; and
- There is need for standards concerning tents and other temporary retail facilities selling consumer fireworks; and
- The state would benefit from additional funding for the training and education of fire officials.<sup>30</sup>

As a result, the Legislature established the Consumer Fireworks Task Force (Task Force), housed within DACS, for the purpose of studying issues concerning consumer fireworks, including the:

- Proper use of consumer fireworks;
- The regulation of sales and temporary sale facilities;
- Regulation of the hours and location of use;

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<sup>26</sup> s. 791.015(1), F.S.

<sup>27</sup> s. 791.015(3), F.S. & Rule 69A-50.005, F.A.C.

<sup>28</sup> s. 791.04, F.S.

<sup>29</sup> s. 791.02(2), F.S.

<sup>30</sup> ch. 2007-67, Laws of Fla.

- Property zoning classifications for sale facilities;
- Funding options for fire official training and education; and
- Funding options for cleanup of expended consumer fireworks products.<sup>31</sup>

The Legislature enacted limits on retail sales facilities for consumer fireworks pending the Legislature's review of the Task Force's report and to ensure uniformity of fire prevention and safety standards. The limits provided that:

- A new permanent retail sales facility engaged in sales permitted under s. 791.07, F.S., may not be opened in Florida after March 8, 2007, unless construction for the permanent retail sales facility received site plan approval and construction began on or before March 8, 2007; and
- The number of permits for temporary retail sales facilities, such as tents, engaged in sales otherwise permitted by s. 791.07, F.S., issued after March 8, 2007, by a county, municipality, or other unit of local government, may not exceed the number of permits the governmental entity issued for such facilities during the 2006 calendar year.<sup>32</sup>

The Task Force completed its report, but the Legislature never reviewed the report or removed the limitations. As a result, the Florida Office of the Attorney General determined in an advisory legal opinion that local governments are prohibited from allowing new facilities to be opened for the sale of fireworks, and local governments may only issue as many permits allowing temporary facilities for the sale of fireworks as they had issued in 2006.<sup>33</sup>

#### *Agricultural Works and Fish Hatcheries*

Pursuant to Section 791.07, F.S., the importation, purchase, sale, or use of fireworks to be used solely and exclusively to scare birds from agricultural works and fish hatcheries. Such use is governed by rules prescribed by the Department of Agriculture and Consumer Services (DACS).

DACS has adopted a rule that requires any person who wishes to use firecrackers to scare birds must first file a written statement, with the sheriff in the county where the agricultural work or fish hatchery is located, attesting that he or she intends to use the firecrackers solely for the purpose of scaring birds.<sup>34</sup> A person may purchase firecrackers from an authorized seller upon presenting the seller a copy of the written statement he or she has filed with the sheriff.<sup>35</sup>

On October 11, 2017, Senator Stuebe testified during the regular meeting of the Florida Senate's Regulated Industries Committee that many Floridians sign forms attesting that they are purchasing fireworks to scare birds from agricultural works and fish hatcheries in order to purchase fireworks to celebrate holidays such as July 4th and New Year's.<sup>36</sup> Local news stations have also reported on the "loophole" that a person must sign a form attesting he or she is purchasing fireworks to scare birds from agricultural works or fish hatcheries, in order to purchase fireworks in Florida.<sup>37</sup> According to the Senator Stuebe, he is not aware of anyone who has ever been penalized for fraudulently purchasing and using fireworks.<sup>38</sup> Additionally, the Third District Court of Appeals has held that it is not the responsibility of a seller to check the veracity of a buyer's form attesting he or she is purchasing fireworks to scare birds.<sup>39</sup>

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> 2016-05 Fla. Op. Att'y Gen. 37 (2016).

<sup>34</sup> Rule 5A-3.001, F.A.C.

<sup>35</sup> Rule 5A-3.002, F.A.C.

<sup>36</sup> See The Florida Channel, *10/11/2017 Regulated Industries Committee*, [http://www.flsenate.gov/media/videoplayer?EventID=2443575804\\_2017101106&Redirect=true](http://www.flsenate.gov/media/videoplayer?EventID=2443575804_2017101106&Redirect=true) (last visited on Jan. 18, 2018).

<sup>37</sup> Jenna Bourne, *Fireworks in Florida: What's legal, what's not*, Action News Jax (Jul. 3, 2017), <http://www.actionnewsjax.com/news/local/fireworks-in-florida-whats-legal-whats-not/548729275> & Kathryn Marsh, *Legal Loophole for Florida Fireworks*, Fox4 (Jun. 28, 2017), <https://www.fox4now.com/news/local-news/legal-loophole-for-florida-fireworks>.

<sup>38</sup> *Id.*

<sup>39</sup> See *State v. Miketa*, 824 So. 2d 970 (Fla. 3d DCA 2002).

## **Effect of the Bill**

The bill removes the regulations that require a person to register with the State Fire Marshal in order to manufacture, sell, or distribute fireworks in Florida. The bill also removes the provision prohibiting a person from buying and using fireworks unless the person is exempt under statute. Anyone who manufactures, sells, or uses fireworks must still comply with federal laws and regulations. Additionally, the NFPA 1121, Code for Fireworks Display, 1995 Edition still governs the outdoor display of fireworks that are not on private residential property, and counties and municipalities may provide more stringent regulations than the NFPA 1121, Code for Fireworks Display, 1995 Edition.

### *Sparklers*

The bill repeals the definition of sparklers and the requirement that the State Fire Marshal must approve all sparklers sold in Florida.

The bill repeals the provision that any person who alters a sparkler, so that it is no longer a sparkler, and subsequently sells the altered sparkler as an approved sparkler commits a first-degree misdemeanor. The bill also repeals the provision that any person who fraudulently represents a device that is not an approved sparkler as an approved sparkler commits a first-degree misdemeanor.

### *Wholesalers, Distributors, Manufacturers, and Retailers*

The bill repeals the definition of distributors, manufacturers, retailers, and seasonal retailers. The bill repeals the provision that distributors, manufacturers, retailers, and seasonal retailers must register annually with the State Fire Marshal.

The bill repeals the provisions that allow manufacturers, distributors, and wholesalers to sell fireworks:

- To other registered manufacturers, distributors, and wholesalers;
- That are being shipped out of Florida; and
- To anyone holding a public firework display permit from a board of county commissioners.

The bill repeals the provision that requires:

- All retailers and seasonal retailers to buy sparklers, fireworks, or other products authorized for sale under Chapter 791, F.S. from a registered manufacturer, distributor, or wholesaler;
- All retailers and seasonal retailers to maintain evidence of every purchase of products from manufacturers, distributors, and wholesalers; and
- All seasonal retailers to display their registration at every seasonal retailer location.

### *Public Displays of Fireworks*

The bill repeals the provision that requires that public displays of fireworks in municipalities must not endanger any person or be hazardous to property, and must be done by a competent supervisor who is supervised by the chiefs of police and firefighters.

The bill repeals the provision that a person doing a public display of fireworks outside of a municipality must obtain a bond, in the amount of no less than \$500, for the payment of damages that may be caused either to a person or property by the display, any acts by the person doing the display, his or her agents, employees, or subcontractors.

The bill repeals the provision that provides that municipalities and boards of county commissioners may adopt reasonable rules and regulations for the granting of permits for supervised public display of fireworks.



**B. SECTION DIRECTORY:**

- Section 1.** Repeals ss. 791.013, 791.015, 791.02, & 791.03, F.S., related to the regulation of fireworks and sparklers.
- Section 2.** Amends s. 791.01, F.S., repeals the definitions of distributor, manufacturer, retailer, seasonal retailer, and wholesaler, and amends the definition of fireworks.
- Section 3.** Amends s. 791.012, F.S., conforming language.
- Section 4.** Amends s. 791.04, F.S., repealing the provision that allows distributors, manufacturers, and wholesalers to sell fireworks under certain conditions.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

*See Fiscal Comments.*

2. Expenditures:

*See Fiscal Comments.*

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Unknown.

2. Expenditures:

According to DFS, "Fiscal impacts on local governments may increase due to total regulation of the sparkler industry, as well as the need to respond to more injury calls. According to the National Fire Protection Association (NFPA), fireworks cause more than 18,500 fires each year and U.S. hospital emergency rooms saw an estimated 10,500 people for fireworks injuries in 2014."<sup>40</sup>

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Private entities wishing to sell sparklers and fireworks will no longer have to register with the State Fire Marshal or send sparklers to the State Fire Marshal for approval.<sup>41</sup>

**D. FISCAL COMMENTS:**

According to DFS, the State Fire Marshal issues approximately 4,500 annual registrations for the sale of sparklers, which amounts to an estimated \$275,000 in revenue from annual registration fees. The bill will cause a net annual reduction of \$275,000 in revenue collected by the State.<sup>42</sup>

With new products being offered to consumers, the state should expect an increase in sales taxes. The tax impact is indeterminable at this time.

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<sup>40</sup> Florida Department of Financial Services, Agency Analysis of 2018 House Bill 6037, p. 2 (Nov. 15, 2017).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**