

1                   A bill to be entitled  
 2           An act relating to fireworks; repealing s. 791.015,  
 3           F.S., relating to the registration of manufacturers,  
 4           distributors, wholesalers, and retailers of sparklers;  
 5           amending s. 791.02, F.S.; deleting provisions relating  
 6           to the regulation of the sale or use of fireworks;  
 7           deleting a requirement that only registered  
 8           distributors, manufacturers, retailers, seasonal  
 9           retailers, and wholesalers may sell fireworks or  
 10          sparklers; amending ss. 791.01, 791.012, and 791.04,  
 11          F.S.; conforming provisions to changes made by the  
 12          act; providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

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 16          Section 1.   Section 791.015, Florida Statutes, is repealed.

17          Section 2.   Section 791.02, Florida Statutes, is amended to  
 18   read:

19          791.02   Sale of fireworks regulated; rules and  
 20   regulations.—

21          ~~(1) Except as hereinafter provided it is unlawful for any~~  
 22   ~~person, firm, copartnership, or corporation to offer for sale,~~  
 23   ~~expose for sale, sell at retail, or use or explode any~~  
 24   ~~fireworks; provided that~~ the board of county commissioners shall  
 25   have power to adopt reasonable rules and regulations for the

26 | granting of permits for supervised public display of fireworks  
27 | by fair associations, amusement parks, and other organizations  
28 | or groups of individuals when such public display is to take  
29 | place outside of any municipality; provided, further, that the  
30 | governing body of any municipality shall have power to adopt  
31 | reasonable rules and regulations for the granting of permits for  
32 | supervised public display of fireworks within the boundaries of  
33 | any municipality. Every such display shall be handled by a  
34 | competent operator to be approved by the chiefs of the police  
35 | and fire departments of the municipality in which the display is  
36 | to be held, and shall be of such a character, and so located,  
37 | discharged, or fired as in the opinion of the chief of the fire  
38 | department, after proper inspection, shall not be hazardous to  
39 | property or endanger any person. Application for permits shall  
40 | be made in writing at least 15 days in advance of the date of  
41 | the display. After such privilege shall have been granted,  
42 | sales, possession, use, and distribution of fireworks for such  
43 | display shall be lawful for that purpose only. No permit granted  
44 | hereunder shall be transferable.

45 | ~~(2) A sparkler or other product authorized for sale under~~  
46 | ~~this chapter may not be sold by a retailer or seasonal retailer~~  
47 | ~~unless the product was obtained from a manufacturer,~~  
48 | ~~distributor, or wholesaler registered with the division pursuant~~  
49 | ~~to s. 791.015. Each retailer and seasonal retailer shall keep,~~  
50 | ~~at every location where sparklers are sold, a copy of an invoice~~

51 ~~or other evidence of purchase from the manufacturer,~~  
52 ~~distributor, or wholesaler, which states the registration~~  
53 ~~certificate number for the particular manufacturer, distributor,~~  
54 ~~or wholesaler and the specific items covered by the invoice.~~  
55 ~~Each seasonal retailer shall, in addition, exhibit a copy of his~~  
56 ~~or her registration certificate at each seasonal retail~~  
57 ~~location.~~

58 Section 3. Section 791.01, Florida Statutes, is amended to  
59 read:

60 791.01 Definitions.—As used in this chapter, the term:

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

63 (1)~~(2)~~ "Division" means the Division of the State Fire  
64 Marshal of the Department of Financial Services.

65 (2)~~(3)~~ "Explosive compound" means any chemical compound,  
66 mixture, or device the primary or common purpose of which is to  
67 function by the substantially instantaneous release of gas and  
68 heat.

69 (3)~~(4)~~(a) "Fireworks" means and includes any combustible  
70 or explosive composition or substance or combination of  
71 substances or, except as hereinafter provided, any article  
72 prepared for the purpose of producing a visible or audible  
73 effect by combustion, explosion, deflagration, or detonation.  
74 The term includes blank cartridges and toy cannons in which  
75 explosives are used, the type of balloons which require fire

76 underneath to propel them, firecrackers, torpedoes, skyrockets,  
77 roman candles, dago bombs, and any fireworks containing any  
78 explosives or flammable compound or any tablets or other device  
79 containing any explosive substance.

80 (b) "Fireworks" does not include sparklers ~~approved by the~~  
81 ~~division pursuant to s. 791.013~~; toy pistols, toy canes, toy  
82 guns, or other devices in which paper caps containing twenty-  
83 five hundredths grains or less of explosive compound are used,  
84 providing they are so constructed that the hand cannot come in  
85 contact with the cap when in place for the explosion; and toy  
86 pistol paper caps which contain less than twenty hundredths  
87 grains of explosive mixture, the sale and use of which shall be  
88 permitted at all times.

89 (c) "Fireworks" also does not include the following  
90 novelties and trick noisemakers:

91 1. A snake or glow worm, which is a pressed pellet of not  
92 more than 10 grams of pyrotechnic composition that produces a  
93 large, snakelike ash which expands in length as the pellet burns  
94 and that does not contain mercuric thiocyanate.

95 2. A smoke device, which is a tube or sphere containing  
96 not more than 10 grams of pyrotechnic composition that, upon  
97 burning, produces white or colored smoke as the primary effect.

98 3. A trick noisemaker, which is a device that produces a  
99 small report intended to surprise the user and which includes:

100 a. A party popper, which is a small plastic or paper

101 device containing not more than 16 milligrams of explosive  
102 composition that is friction sensitive, which is ignited by  
103 pulling a string protruding from the device, and which expels a  
104 paper streamer and produces a small report.

105 b. A booby trap, which is a small tube with a string  
106 protruding from both ends containing not more than 16 milligrams  
107 of explosive compound, which is ignited by pulling the ends of  
108 the string, and which produces a small report.

109 c. A snapper, which is a small, paper-wrapped device  
110 containing not more than four milligrams of explosive  
111 composition coated on small bits of sand, and which, when  
112 dropped, explodes, producing a small report. A snapper may not  
113 contain more than 250 milligrams of total sand and explosive  
114 composition.

115 d. A trick match, which is a kitchen or book match which  
116 is coated with not more than 16 milligrams of explosive or  
117 pyrotechnic composition and which, upon ignition, produces a  
118 small report or shower of sparks.

119 e. A cigarette load, which is a small wooden peg that has  
120 been coated with not more than 16 milligrams of explosive  
121 composition and which produces, upon ignition of a cigarette  
122 containing one of the pegs, a small report.

123 f. An auto burglar alarm, which is a tube which contains  
124 not more than 10 grams of pyrotechnic composition that produces  
125 a loud whistle or smoke when ignited and which is ignited by use

126 of a squib. A small quantity of explosive, not exceeding 50  
127 milligrams, may also be used to produce a small report.

128  
129 The sale and use of items listed in this paragraph are permitted  
130 at all times.

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

133 ~~(6) "Retailer" means any person who, at a fixed place of~~  
134 ~~business, is engaged in selling sparklers to consumers at~~  
135 ~~retail.~~

136 ~~(7) "Seasonal retailer" means any person engaged in the~~  
137 ~~business of selling sparklers at retail in this state from June~~  
138 ~~20 through July 5 and from December 10 through January 2 of each~~  
139 ~~year.~~

140 (4)(8) "Sparkler" means a device which emits showers of  
141 sparks upon burning, does not contain any explosive compounds,  
142 does not detonate or explode, is handheld or ground based,  
143 cannot propel itself through the air, and contains not more than  
144 100 grams of the chemical compound which produces sparks upon  
145 burning. Any sparkler that is not approved by the division is  
146 classified as fireworks.

147 ~~(9) "Wholesaler" means any person engaged in the business~~  
148 ~~of selling sparklers to a retailer.~~

149 Section 4. Section 791.012, Florida Statutes, is amended  
150 to read:

151           791.012 Minimum fireworks safety standards.—The outdoor  
 152 display of fireworks in this state shall be governed by the  
 153 National Fire Protection Association (NFPA) 1123, Code for  
 154 Fireworks Display, 1995 Edition, approved by the American  
 155 National Standards Institute. Any state, county, or municipal  
 156 law, rule, or ordinance may provide for more stringent  
 157 regulations for the outdoor display of fireworks, but in no  
 158 event may any such law, rule, or ordinance provide for less  
 159 stringent regulations for the outdoor display of fireworks. The  
 160 division shall promulgate rules to carry out the provisions of  
 161 this section. The Code for Fireworks Display shall not govern  
 162 the display of any fireworks on private, residential property  
 163 and shall not govern the display of those items included under  
 164 s. 791.01(3)(b) and (c) ~~s. 791.01(4)(b) and (e)~~ and authorized  
 165 for sale thereunder.

166           Section 5. Section 791.04, Florida Statutes, is amended to  
 167 read:

168           791.04 Exemptions ~~Sale at wholesale, etc., exempted.—~~  
 169 Nothing in this chapter shall be construed to ~~prohibit any~~  
 170 ~~manufacturer, distributor, or wholesaler who has registered with~~  
 171 ~~the division pursuant to s. 791.015 to sell at wholesale such~~  
 172 ~~fireworks as are not herein prohibited; to prohibit the sale of~~  
 173 ~~any kind of fireworks at wholesale between manufacturers,~~  
 174 ~~distributors, and wholesalers who have registered with the~~  
 175 ~~division pursuant to s. 791.015; to prohibit the sale of any~~

176 ~~kind of fireworks provided the same are to be shipped directly~~  
177 ~~out of state by such manufacturer, distributor, or wholesaler;~~  
178 ~~to prohibit the sale of fireworks to be used by a person holding~~  
179 ~~a permit from any board of county commissioners at the display~~  
180 ~~covered by such permit; or to prohibit the use of fireworks by~~  
181 railroads or other transportation agencies for signal purposes  
182 or illumination or when used in quarrying or for blasting or  
183 other industrial use, or the sale or use of blank cartridges for  
184 a show or theater, or for signal or ceremonial purposes in  
185 athletics or sports, or for use by military organizations, or  
186 organizations composed of the Armed Forces of the United States;  
187 provided, nothing in this chapter shall be construed as barring  
188 the operations of manufacturers, duly licensed, from  
189 manufacturing, experimenting, exploding, and storing such  
190 fireworks in their compounds or proving grounds.

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