

Consumer Fireworks Task Force

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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FLORIDA CONSUMER FIREWORKS TASK FORCE

FINAL REPORT

to the 2008 Florida Legislature

JANUARY 15, 2008

Project Website:

<http://consensus.fsu.edu/Fireworks-Task-Force/index.html>



Report By Jeff A. Blair and Robert Jones
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FLORIDA CONSUMER FIREWORKS TASK FORCE
FINAL REPORT
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FLORIDA CONSUMER FIREWORKS TASK FORCE FINAL REPORT

TO THE 2008 FLORIDA LEGISLATURE

Consumer Fireworks Task Force

JANUARY 15, 2008

<http://consensus.fsu.edu/Fireworks-Task-Force/index.html>

EXECUTIVE SUMMARY

The Florida Consumer Fireworks Task Force was created by the Florida Legislature in 2007 to review and provide recommendations on the state's policies and programs addressing consumer fireworks. It was comprised of 8 individuals representing a range of stakeholder interests who were appointed, respectively, by the President of the Senate, Speaker of the House, Commissioner of Agriculture, Chief Financial Officer, Florida League of Cities, and the Florida Association of Counties. The Florida Department of Agriculture and Consumer Services (DACCS) provided the staffing and support for the Task Force.

Using the services of the professional facilitators of the Florida Conflict Resolution Consortium at Florida State University, the Task Force adopted a consensus process that required support of 75% of its members for any substantive decisions on findings and recommendations. During the course of six public meetings between September 26, 2007 and January 9, 2008, the Task Force developed a series of recommendations addressing clear definitions of permitted and prohibited consumer fireworks including legitimate agricultural use, a clear definition of consumer fireworks, consistent local government regulation regarding legitimate agricultural uses, regulation and safety standards for temporary retail sales facilities, regulation of hours and location of the use of consumer fireworks, training and education on safety standards and safe use of consumer fireworks, and funding options for fire officials training and education, and clean up of public property of expended consumer fireworks. The Task Force took public comment at each meeting and provided a website for dissemination of meeting information, key documents, and online public comments and input.

Key recommendations adopted by the Task Force include:

1. *Clear Definitions and Conditions for the Use of Consumer Fireworks.* The Task Force recommends that the following definition of "Consumer Fireworks" be adopted into Chapter 791, as follows: "Consumer fireworks means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition,

and cautionary labeling regulations of the Consumer Product Safety Commission as provided for in title 16, Code of Federal Regulations, parts 1500 and 1507, American Pyrotechnics Association 87-1 Reference Document. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred (100) milligrams or less of explosive composition. This also includes those devices identified in the Code as novelty devices. The U.S. Dept of Transportation (DOT) at 49 CFR 172.01 classifies consumer fireworks as fireworks UN0336 and UN0337.”

The Task Force recommends that this definition of Consumer Fireworks shall include a listing of all permitted and prohibited “types” and “conditions for use” of Consumer Fireworks in the state of Florida be set forth in statute providing clarity and guidance for consumers and law enforcement officials.

2. Exemptions. The Task Force recommends that the Legislature amend Chapter 791, to remove the exemptions from 791.04 for railroads, or other transportation agencies, for use in quarrying or for blasting or other industrial use or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or organizations composed of the Armed Forces of the United States. Based on its briefings and public comment, the Task Force recommends that the Legislature amend Chapter 791, as follows: Amend Chapter 791.07 by striking the existing language in its entirety and replacing with the following recommended language: 791.07. Agricultural and aquaculture use.—Any person who is engaged in agricultural business on land classified as agricultural pursuant to s. 193.461 or certified as an aquaculture activity pursuant to s. 597.004 may use legal consumer fire works solely and exclusively in frightening birds from the agricultural or aquaculture business. Nothing in this chapter shall prohibit the purchase or use of legal consumer fireworks for this purpose as long as the individual holds an agricultural license,” Agricultural license should be obtained like general fire works license but will require proof of land classification as agricultural pursuant to s. 193.461 and of agricultural business or a valid aquaculture certificate in place of the required training associated with general fireworks use license. The Task Force recommends the Legislature should consider including under s. 870.045 F.S. discretionary emergency measures, a reference to consumer fireworks.

3. Consistent Local Government Regulations, Compliance and Penalties. The strategy recommended by the Task Force is to provide for a definition of consumer fireworks with minimum threshold requirements for their state-wide use, sales and possession, and with the ability for local jurisdictions to increase the regulations at the local level (except for issues where a minimum set of prescriptive requirements are recommended). In the area of compliance, enforcement and penalties for the misuse of consumer fireworks, the Task Force recommends that:

- DACS rescind the provisions of DACS Rule 5A-3.001 and 3.002 and new language be incorporated into Chapter 791.07 to ensure better enforcement by the various law enforcement entities.
- The Legislature authorize local governments to appoint agents, properly trained, to enforce the provisions of this law who are not necessarily law enforcement officers, including but not limited to fire officials, code enforcement officers, etc.
- The Legislature develop penalties within each of the appropriate provisions to ensure that all of the recommendations regarding the sale, possession, and use of consumer fireworks be sufficient to ensure compliance, and provide law enforcement and the Division of State Fire Marshal with clear and enforceable provisions. In general, non-criminal penalties should be

developed to ensure that all of the recommendations regarding the sale, possession, and use of consumer fireworks are sufficient to ensure compliance..

- The Legislature should create progressive penalties, sometimes criminal in nature, sufficient to ensure compliance for using or possessing aerial consumer fireworks without a permit, and/or firing the fireworks outside of the prescribed allowable locations and times for use, and sale and/or distribution to minors unless specifically allowed in the Task Force report.
- A portion of fines for penalties collected should be distributed back to local governments to support the enforcement of these provisions similar to the model used in traffic citations.

4. Regulation and safety standards for temporary retail sales facilities. The Task Force recommends that the Legislature adopt into law Chapter 7 (Retail Sales of Consumer Fireworks) of NFPA 1124 2006 Edition (Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles 2006 Edition) to serve as the baseline state requirement for the regulation and safety standards for temporary retail sales facilities. The Legislature should provide the DSFM with explicit rulemaking authority to adopt newer editions and to amend for Florida specific needs.

5. Regulation of Hours and Location of the Use of Consumer Fireworks. The Task Force addressed this legislative charge through the establishment of conditions for the use of each of the approved “types” of consumer fireworks (*See, Appendix 4*).

6. Training, Education and Funding. The Task Force recommends that the Florida Legislature ensure that fees be developed sufficient to ensure that all aspects of the Task Force’s recommendations are revenue neutral to state and local governments. The Task Force recommends that the Florida Legislature adopt a licensing program for the sales, use and possession of aerial devices. (*See Appendix # 6 for the Task Force’s Draft Licensing Program*).

Following a adoption of the consensus recommendations at the January 9, 2008 meeting, the Task Force authorized DACS to transmit this Final Report and adjourned. Information on the meetings, deliberations, public comments submitted, and support documents can be found at <http://consensus.fsu.edu/Fireworks-Task-Force/index.html>

FLORIDA CONSUMER FIREWORKS TASK FORCE FINAL REPORT

TO THE 2008 FLORIDA LEGISLATURE

Consumer Fireworks Task Force

JANUARY 15, 2008

<http://consensus.fsu.edu/Fireworks-Task-Force/index.html>

I. INTRODUCTION

A. LEGISLATIVE FINDINGS AND CHARGE

In 2007, the Florida Legislature passed changes to Chapter 791.07, Section 10, F.S. that created the Consumer Fireworks Task Force. The legislative findings included:

- 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 by s. 791.07, Florida Statutes, may be inconsistent with legitimate agricultural purposes;
- There is a need for consumer education relating to safety standards in the use of consumer fireworks;
- There is a 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.

The legislative charge to the Task Force provided that it should study “issues concerning the proper use of consumer fireworks, the regulation of sales and temporary sale facilities for consumer fireworks, the regulation of the hours and location of the use of consumer fireworks, the property zoning classifications for sale facilities for consumer fireworks, the funding options for fire official training and education, and funding options for cleanup of expended consumer fireworks products.”

After reviewing the results of a Task Force member pre-meeting online survey of issues, the Task Force adopted the following issue areas for their work plan consistent with the legislative charge:

1. A Clear definition of consumer fireworks
2. Consistent local government regulation regarding legitimate agricultural uses
3. Regulation and safety standards for temporary retail sales facilities
4. Regulation of hours and location of the use of consumer fireworks
5. Training and education on safety standards and safe use of consumer fireworks
6. Funding options for fire officials training and education, and clean up of public property of expended consumer fireworks

B. TASK FORCE GUIDING PRINCIPLES AND GOAL

At the first Task Force meeting, members elected Mike Long as Chair of the Task Force and Trey McCarley as Vice Chair.



(From Left to Right) Task Force Chair Mike Long, members Les Hallman & Ken Welch and Vice Chair Trey McCarley.

The Task Force members unanimously adopted the following set of Guiding Principles and Goal”

- Principle 1:** The overall purpose of the Florida Consumer Fireworks Task Force is to develop recommendations for submittal to the Florida Legislature regarding definition, the use, sale and regulation of consumer Fireworks.
- Principle 2:** The Florida Consumer Fireworks Task Force shall operate under clear, concise, consistent, and fair procedural protocols.
- Principle 3:** The Florida Consumer Fireworks Task Force shall strive to achieve consensus on substantive recommendations made to the Florida Legislature.

Principle 4: The Florida Consumer Fireworks Task Force shall serve as an accessible liaison between the Task Force and their representative constituency groups to meet their mission.

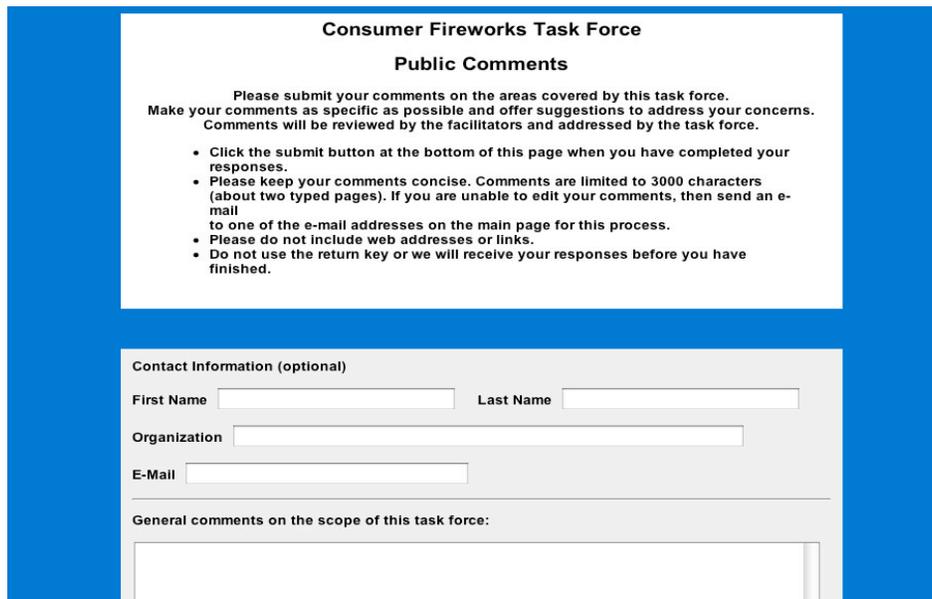
Task Force Goal

The goal of the Florida Consumer Fireworks Task Force is to develop and deliver a package of recommendations to the Florida Legislature designed to ensure that the definition, regulation, use and sale of consumer fireworks is clearly established, consistently regulated and enforced, consumers are educated on the proper and safe use, there is funding for the education, training or other established and agreed upon allocations and funding for the clean up of public property.

C. TASK FORCE MEETINGS AND CONSENSUS BUILDING AND PUBLIC INPUT PROCESS

The Task Force met six times between September, 2006 and January, 2007 (*see meeting schedule in Appendix 8*). The Task Force consensus building procedures are set forth in Appendix # 9. meeting summaries can be found at: <http://consensus.fsu.edu/Fireworks-Task-Force/meetings.html>

The Task Force process included multiple opportunities for public input and comments. Each meeting of the Task Force featured opportunities for public comments. (*See Appendix #10 for the public input process*). The Task Force website included an on-line public comment page and periodically forwarded these comments to the Task Force members and posted the public comments received. For a review of these public comments, see: <http://consensus.fsu.edu/Fireworks-Task-Force/survey.html>



The image shows a screenshot of a web form titled "Consumer Fireworks Task Force Public Comments". The form is set against a blue background. The title is centered at the top. Below the title, there is a paragraph of instructions: "Please submit your comments on the areas covered by this task force. Make your comments as specific as possible and offer suggestions to address your concerns. Comments will be reviewed by the facilitators and addressed by the task force." This is followed by a bulleted list of instructions: "Click the submit button at the bottom of this page when you have completed your responses.", "Please keep your comments concise. Comments are limited to 3000 characters (about two typed pages). If you are unable to edit your comments, then send an e-mail to one of the e-mail addresses on the main page for this process.", "Please do not include web addresses or links.", and "Do not use the return key or we will receive your responses before you have finished." Below the instructions is a section for "Contact Information (optional)" with input fields for "First Name", "Last Name", "Organization", and "E-Mail". At the bottom, there is a section for "General comments on the scope of this task force:" followed by a large text area for input.

The Task Force summaries, presentations and briefings, resource documents and studies, and public comments were posted regularly on the Task Force's website.

D. ENVISIONING A SUCCESSFUL FLORIDA CONSUMER FIREWORKS SYSTEM AND A SUCCESSFUL OUTCOME FOR THE TASK FORCE

The Task Force described a potential but undesirable future if the state fails to address the challenges presented by the use, sale and regulation of consumer fireworks. The common themes that emerged included leaving things as they are today in which everyone loses, an industry in confusion, a lack of consistent and effective regulation threatening public safety, and an increase in the underground market and illegal use of fireworks and injuries.

The Task Force affirmatively described and collectively agreed on what success would look like if a new and effective approach the Task Force helped to set in motion with its report is implemented. The common themes that emerged included: a comprehensive statute providing clear definitions and guidelines that industry, law enforcement and consumers can read, easily understand and comply with. The result is that the unsafe use of consumer fireworks in Florida is no longer a problem.

E. MEASURING SAFETY AND THE SUCCESS OF FLORIDA’S CONSUMER FIREWORKS PROGRAM

In order to more accurately measure the safety of consumer fireworks, the Consumer Fireworks Task Force recommends that the Legislature direct the Florida Department of Health, assisted by the Consumer Fireworks Industry, to take steps to standardize and gather statistical data on both the type and severity of fireworks injuries. Once in place, this should be an ongoing effort that would include analysis and reports annually. As a first step, the Legislature should direct the Florida Department of Health, the State Fire Marshall Office and the Consumer Fireworks Industry to jointly develop a standard questionnaire for use in emergency rooms around the state.

Task Force Website

Florida Department of Agriculture and Consumer Services

Consumer Fireworks Task Force

Main Page	Meetings	Resources	Workplan	Legislation	News Articles	Surveys & Comments
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Meeting VI
January 9, 2008
Apopka, Florida

Mid-Florida Research and Education Center, Room 185
2725 Binion Road
Apopka, FL
407-884-2034

[Directions to Meeting Location \(PDF\)](#)
[Full Schedule of Meetings](#)

II. CONSUMER FIREWORKS TASK FORCE RECOMMENDATIONS

A. CLEAR DEFINITION OF CONSUMER FIREWORKS INCLUDING LEGITIMATE AGRICULTURAL USES

1. RECOMMENDED DEFINITION OF CONSUMER FIREWORKS

The Task Force recommends that the following definition of “Consumer Fireworks” be adopted into Chapter 791, as follows:

Consumer fireworks means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and cautionary labeling regulations of the Consumer Product Safety Commission as provided for in title 16, Code of Federal Regulations, parts 1500 and 1507, American Pyrotechnics Association 87-1 Reference Document. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred (100) milligrams or less of explosive composition. This also includes those devices identified in the Code as novelty devices. The U.S. Dept of Transportation (DOT) at 49 CFR 172.01 classifies consumer fireworks as fireworks UN0336 and UN0337.

The Task Force recommends that this definition of Consumer Fireworks shall include a listing of all permitted and prohibited “Types” of Consumer Fireworks in the state of Florida. The Task Force has used the Federal CFR definitions of consumer fireworks and recommends that the definitions of permitted firework types and conditions for their use and prohibited consumer fireworks be set forth in statute providing clarity and guidance for consumers and law enforcement officials.

2. PERMITTED CONSUMER FIREWORKS TYPES AND CONDITIONS

The Task Force recommends the following types and related conditions for Consumer Fireworks for legislative approval.

Section numbers reference the American Pyrotechnics Association 87-1 Reference Document:

(A) Ground and Hand-Held Sparkling Devices —“Sparklers” (3.1.1)

1. Cylindrical Fountain (3.1.1.1)
2. Cone Fountain (3.1.1.2)
3. Illuminating Torch (3.1.1.3)
4. Ground Spinner (3.1.1.5)
5. Flitter Sparkler (3.1.1.6)
6. Toy Smoke Device ((3.1.1.7)
7. Wire Sparkler/Dipped Stick (3.1.1.8)



For Ground and Hand-Held Sparkling Devices — “Sparklers,” the Task Force recommends that the Legislature provide for the following conditions for their use:

- Using the Federal standard of 200 grams as the maximum amount of pyrotechnic composition for any of products in the “sparklers” category of consumer fireworks types; and
- One must be at least 18 years of age to purchase, possess, or use the “sparklers” (A) category of consumer fireworks types.



(B) Aerial Devices (3.1.2)

1. Sky Rockets (3.1.2.1)
2. Missile-Type Rocket (3.1.2.2)
3. Roman Candle (3.1.2.4)
4. Mine and shell devices (3.1.2.5)

For Aerial Devices the Task Force recommends that the Legislature provide for the following conditions and restrictions for their use:

- A specific immunity clause for local government liability issues be placed in statute regarding the use of approved consumer fireworks.
- At least 1 designated area in each county to be sited in the right place(s) and not close to residential areas.

- A county may decide to have an inter-local agreement for a location their citizens can use with another entity in lieu of providing a location within their county.
- Counties and cities must agree on a designated location through an inter local agreement if the location is contiguous with a municipal border or is within a municipality.
- The statewide minimum for hours for the use of aerial devices will be July 1-5 between noon and 11 p.m., and December 31 New Year's Eve., between 5 p.m.-1 a.m. January 1. Local governments can add to these dates for other holidays celebrated in their communities.
- A License is required for sale, use and possession along with training requirements.
- Consistent with Section 6 Funding Options recommendations below, all aspects of the Task Force recommendations are revenue neutral to state and local governments.
- A licensing program will be developed and revenue from licensing and/or permitting will be used to support maintenance, supervision, control, clean up, and training. Aerial fireworks may be used during designated times, if either: 1.) An individual has control of a property providing a minimum of 250' from property lines and a minimum of 1000' from any neighboring properties' structures (Structures that provide housing for people and/or livestock). 2.) An individual has control of 25 contiguous acres and does not use the consumer fireworks within 250 feet of the property's perimeter.
- The exception is for those possessing one of the agricultural use license, pursuant to the Task Force recommendations, as defined in Chapter 791.07 F.S. A person purchasing consumer fireworks with an agriculture license must present either an aquaculture certificate or proof of county property tax agricultural exemption (as defined in Chapter 193.461 F.S.).
- Local governments may also require, at their discretion, a limited use permit for the setback provision except for agricultural use.
- Age limit of 18 or greater for the sale, use and possession of any consumer fireworks. (Note: there is an exception for "Novelties", which may be used under the direct supervision of an adult.)

(C) Audible Ground Devices (3.1.3)

1. Firecracker (3.1.3.1)

For Audible Ground Devices the Task Force recommends the Legislature provide for the following conditions:

- Age limit of 18 or greater for the sale, use and possession of these devices.
- May only be used July 1-5 between noon and 11 p.m., and December 31 New Year's Eve. between 5 p.m.- 1 a.m. January 1 (these are the same hours as per Aerial Devices). Local governments can add to these dates for other holidays celebrated in their communities.

(D) Novelties (3.2)

1. Party Popper (3.2.1)
2. Snapper (3.2.2)
3. Toy Smoke Devices (3.2.3)
4. Snakes, Glow worms (3.2.4)
5. Wire sparklers, Dipped Sticks (3.2.5)

For Novelties the Task Force recommends the Legislature provide for the following:

- No changes regarding how “Novelties” are currently regulated in Florida.
- The Task Force recommends that “Novelties” may be used by individuals under the age of 18 provided they are used under the direct supervision of an adult.



3. PROHIBITED CONSUMER FIREWORKS TYPES

The Task Force recommends that the following Types of Consumer Fireworks *not* be approved for use in Florida.

Section numbers reference the American Pyrotechnics Association 87-1 Reference Document:

3.1.1.4 Wheel

3.1.2.1 Bottle Rockets

3.1.2.3 Helicopter, Aerial Spinner

3.1.2.6 Aerial Shell Kit, Reloadable Tube

3.1.3.2 Chaser

4. DEFINITION OF CONSUMER

The Task Force recommends the following definition of “Consumer” be added to Chapter 791, as follows:

“A consumer is a person purchasing or possessing a product for personal use.”

b. Agricultural Exemptions

Based on its briefings and public comment, the Task Force recommends that the Legislature amend Chapter 791, as follows: Amend Chapter 791.07 by striking the existing language in its entirety and replacing with the recommended language below:

Recommended Statutory Language

791.07. Agricultural and aquaculture use.—Any person who is engaged in agricultural business on land classified as agricultural pursuant to s. 193.461 or certified as an aquaculture activity pursuant to s. 597.004 may use legal consumer fire works solely and exclusively in frightening birds from the agricultural or aquaculture business. Nothing in this chapter shall prohibit the purchase or use of legal consumer fireworks for this purpose as long as the individual holds an agricultural license.

Agricultural licenses are obtained like general fire works licenses but will require proof of land classification as agricultural pursuant to s. 193.461 and of agricultural business or a valid aquaculture certificate in place of the required training associated with general fireworks use licenses.

Existing Statutory Language Recommended for Deletion:

~~791.07 Agricultural and fish hatchery use.—Nothing in this chapter shall prohibit the importation, purchase, sale, or use of fireworks used or to be used solely and exclusively in frightening birds from agricultural works and fish hatcheries; and such use shall be governed entirely by the rules prescribed by the Department of Agriculture and Consumer Services.~~

The Task Force also recommends that that DACS strike in its entirety all rule language within Rule 5A-3.001 and 5A-3.002, related to agricultural exemptions consistent with the new statutory requirements regarding agricultural and aquaculture in Chapter 791.07 F.S.

c. Emergency Measures

The Task Force recommends the Legislature should consider including under s. 870.045 F.S. discretionary emergency measures, a reference to consumer fireworks.

B. CONSISTENT LOCAL GOVERNMENT REGULATIONS

1. Task Force Strategy

The strategy agreed upon by the Task Force to address the legislative charge is to provide for a definition of consumer fireworks with minimum threshold requirements for their state-wide use, sales and possession, and with the ability for local jurisdictions to increase the regulations at the local level (except for issues where a minimum set of prescriptive requirements are recommended).

2. Regulation of the Sale and Use of Aerial Fireworks

The Task Force agreed to allowing the use of approved “Aerial Fireworks” based on the restrictions included in (A)(2)(B) on page 8-9 above .

3. Compliance, Enforcement and Penalties

In the area of compliance, enforcement and penalties for the misuse of consumer fireworks, the Task Force recommends that:

- a. DACS rescind the provisions of DACS Rule 5A-3.001 and 3.002 and new language be incorporated into Chapter 791.07 to ensure better enforcement by the various law enforcement entities.
- b. The Legislature amend Chapter 791 F.S. to ensure compliance with all provisions of the law.
- c. Approved and prohibited types of fireworks should be enhanced beyond the federal definitions to provide guidance and clarity to consumers and law enforcement.
- d. The Legislature authorize local governments to appoint agents, properly trained, to enforce the provisions of this law who are not necessarily law enforcement officers, including but not limited to fire officials, code enforcement officers, etc.
- e. The Legislature develop penalties within each of the appropriate provisions to ensure that all of the recommendations regarding the sale, possession, and use of consumer fireworks be sufficient to ensure compliance, and provide law enforcement and the Division of State Fire Marshal with clear and enforceable provisions.
- f. In general, non-criminal penalties of sufficient dollar value should be developed to ensure compliance with all of the recommendations regarding the sale, possession, and use of consumer fireworks.
- g. The degree of penalties should be progressive in nature and vary with the level or number of infraction.
- h. The Legislature should create penalties, sometimes criminal in nature, sufficient to ensure compliance for using or possessing aerial consumer fireworks without a permit, and/or firing the fireworks outside of the prescribed allowable locations and times for use, and sale and/or distribution to minors unless specifically allowed in the Task Force report.
- i. A portion of fines for penalties collected should be distributed back to local governments to support the enforcement of these provisions similar to the model used in traffic citations.

The Task Force drafted statutory language consistent with its recommendations can be found in Appendix # 5.



The Florida Senate

Interim Project Report 2005-108

November 2004

Committee on Banking and Insurance

Senator Rudy Garcia, Chairman

ENFORCING THE BAN ON THE RETAIL SALE OF FIREWORKS

SUMMARY

For purposes of public safety, Florida has banned the retail sale of fireworks to the general public since 1941, but allows sparklers and other novelty products to be sold. However, the fireworks code (chapter 791, F.S.) does allow exceptions to this ban which has resulted in illegal fireworks sales.

According to a national report in 2003, fireworks devices were involved in an estimated 9,300 injuries treated in U.S. hospital emergency departments, most occurring during the period surrounding the Fourth of July. Children under 15 accounted for almost half of these injuries. Nationwide, there were 24,200 fires associated with fireworks in 1999 and such fires caused \$17.2 million in direct property damage.

Currently, thirty-six states permit the sale of some or all kinds of consumer fireworks, including Florida. Seven states ban all consumer fireworks, while seven states allow only sparklers and other novelties to be sold to the public.

According to state and local fire officials, the current fireworks code is virtually unenforceable because it allows fireworks sellers to routinely use unverified forms for buyers to sign when purchasing fireworks under a claimed exemption. This has resulted in virtually no successful prosecutions under the fireworks code. As a result of the growing number of illegal fireworks sales, an estimated sixty-five cities and ten counties have enacted ordinances providing for stricter enforcement of fireworks and sparkler sales.

Recently, a statewide task force on fireworks found that injuries, deaths, and property damage were caused by illegal fireworks sales due to the exemption loopholes and recommended making the law more stringent. In July of 2004, a national consortium of leading health and safety groups called for a complete ban by the states as to all consumer fireworks.

According to industry representatives, the fireworks industry in Florida brings revenue and jobs to the state. Industry representatives insist that fireworks are safe due to state and federal testing programs and that the exemption verification form furnished by the seller and signed by the purchaser is a legitimate way to comply with state law.

Committee staff recommends the fireworks code be strengthened in the following manner:

- Establish a centralized fireworks injury-reporting program within the Office of the State Fire Marshal (SFM).
- Eliminate all of the wholesale fireworks exemptions except for certain specified provisions which must be verified at point of sale.
- Require fireworks sales facilities to carry a public and product liability insurance policy in an amount not less than \$2 million.
- Authorize the SFM to have cease and desist powers, suspension and revocation authority, and injunctive relief powers, including imposing administrative fines.
- Require manufacturers, distributors, and wholesalers of fireworks to register with and pay fees to the SFM.
- Establish a minimum age (18 years old) to purchase sparklers.
- Provide for forfeiture and disposal of fireworks or sparklers.
- Require the storage of sparklers or fireworks according to national standards.
- Increase the penalty provisions (to a third degree felony) for persons who violate specific fireworks code provisions a second or subsequent time; and,
- Clarify that the state does not preempt the regulation of fireworks and sparklers so long as local jurisdictions enact ordinances or rules which are more stringent, or provide a higher degree of safety, than provided under chapter. 791, F.S.

One of the Reports reviewed by the Task Force was the Florida Senate 2005 report, "Enforcing the Ban on the Retail Sale of Fireworks."

C. REGULATION AND SAFETY STANDARDS FOR TEMPORARY RETAIL SALES FACILITIES

1. Temporary Retail Sales Facilities

- a. The Task Force recommends that the Legislature adopt into law Chapter 7 (Retail Sales of Consumer Fireworks) of NFPA 1124 2006 Edition (Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles 2006 Edition) to serve as the baseline state requirement for the regulation and safety standards for temporary retail sales facilities.
- b. The Legislature should provide the DSFM with explicit rulemaking authority to adopt newer editions and to amend for Florida specific needs.

Recommended new statutory language:

791.XXX Fire Safety for Retail Sales of Consumer Fireworks –

In addition to all requirements of the Florida Fire Prevention Code, s 633.0215, retail sales of consumer fireworks in both new and existing buildings, structures, and facilities shall comply with the requirements of the National Fire Protection Association Code 1124, Chapter 7, “Retail Sales of Consumer Fireworks”, 2006 Edition. By rule, pursuant to ss. 120.536(1), the State Fire Marshal may adopt newer editions of the code, or portions thereof, as needed to accommodate the specific needs of the state.

- c. The statute creating the Task Force only references 791.07 which are the exemptions for agriculture use and should reference 791 in its entirety. The Task Force recommends the Legislature adopt the following language regarding the issuance of licenses to vendors:

Recommended new statutory language:

“Any new permanent and or temporary retail sales facility engaged in sales of approved aerial consumer fireworks and firecrackers may not be opened in this state after the adoption of the revisions of Chapter 791, for a period of three years from the date of adoption, except that any such facility currently registered with the state shall be allowed to engage in such permanent or temporary sales. This statutory provision shall not apply to permanent and temporary retail facilities selling state approved ground and hand held sparklers and/or novelties only.



Chairman Mike Long, member Rickey Farrell and Facilitator Jeff Blair (from right-to-left)

D. REGULATION OF HOURS AND LOCATION OF THE USE OF CONSUMER FIREWORKS—PROPER USE

The Task Force addressed this legislative charge through the establishment of conditions for the use of each of the approved “types” of consumer fireworks (*See, Section 1 and Appendix 4*).

E. TRAINING AND EDUCATION ON SAFETY STANDARDS AND SAFE USE OF CONSUMER FIREWORKS

1. Strategy

The Task Force supports the strategy of developing a licensing program to generate revenue from the sale of licenses to be used to support maintenance, supervision, control, clean up, and training. The Task Force supports requiring the licensing program to be self-supporting and enforceable.

2. Recommendations

- a. The Task Force recommends that the Florida Legislature ensure that fees be developed sufficient to ensure that all aspects of the Task Force’s recommendations are revenue neutral to state and local governments.
- b. The Task Force recommends that the Florida Legislature adopt a licensing program for the sales, use and possession of aerial devices. (*See Appendix # 6 for the Task Force’s Draft Licensing Program*).

F. FUNDING OPTIONS FOR FIRE OFFICIALS TRAINING AND EDUCATION, AND CLEAN UP OF PUBLIC PROPERTY OF EXPENDED CONSUMER FIREWORKS

1. Strategy

The Task Force supports the strategy of developing a licensing program to generate revenue from the sale of licenses to be used to support maintenance, supervision, control, clean up, and education and training. The Task Force recommends that the Legislature establish a licensing program as outlined in Appendix # 6, that is self-supporting and enforceable.

2. Recommendation

The Task Force recommends that the Florida Legislature ensure that fees be developed sufficient to ensure that all aspects of the Task Force's recommendations are revenue neutral to state and local governments.



Public Comment at December 20, 2007 Task Force Meeting in Tallahassee, Task members Tommy Glasgow, Michelle Berger and Ira Schwartz pictured.

APPENDIX # 1 TASK FORCE MEMBERSHIP

Member	Position	Representation
Michelle Berger	Councilwoman, City of Port St. Lucie	League of Cities
Rickey Lee Farrell	Attorney	Industry
Tommy Glasgow	TNT Fireworks	Industry
Les Hallman	Director, Division of State Fire Marshal	State Government
Michael Long (<i>Chair</i>)	Director, FL Division of Forestry	State Government
Trey McCarley (<i>Vice Chair</i>)	VP Business Dev. Southland Contracting, Inc.	General Public
Ira Schwartz	Phantom Fireworks	Industry
Ken Welch	Commissioner, Pinellas County Commission	Association of Co's.

Task Force Facilitators

Jeff Blair and Robert Jones, Florida Conflict Resolution Consortium

APPENDIX # 2
LEGISLATIVE CHARGE—CHAPTER 791.07 F.S.

Section 10. Consumer Fireworks Task Force.--

(1) The Legislature finds that:

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

(2)

- (a) The Consumer Fireworks Task Force is created within the Department of Agriculture and Consumer Services for the purpose of studying issues concerning the proper use of consumer fireworks, the regulation of sales and temporary sale facilities for consumer fireworks, the regulation of the hours and location of the use of consumer fireworks, the property zoning classifications for sale facilities for consumer fireworks, the funding options for fire official training and education, and funding options for cleanup of expended consumer fireworks products.

APPENDIX #3

RELATED CONSUMER FIREWORKS STATUTES AND RULES

Chapter 791—Sale of Fireworks Excepts

791.04 Sale at wholesale, etc., exempted.--Nothing in this chapter shall be construed to prohibit any manufacturer, distributor, or wholesaler who has registered with the division pursuant to s. 791.015 to sell at wholesale such fireworks as are not herein prohibited; to prohibit the sale of any kind of fireworks at wholesale between manufacturers, distributors, and wholesalers who have registered with the division pursuant to s. 791.015; to prohibit the sale of any kind of fireworks provided the same are to be shipped directly out of state by such manufacturer, distributor, or wholesaler; to prohibit the sale of fireworks to be used by a person holding a permit from any board of county commissioners at the display covered by such permit; or to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination or when used in quarrying or for blasting or other industrial use, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or organizations composed of the Armed Forces of the United States; provided, nothing in this chapter shall be construed as barring the operations of manufacturers, duly licensed, from manufacturing, experimenting, exploding, and storing such fireworks in their compounds or proving grounds.

1791.07 Agricultural and fish hatchery use.--Nothing in this chapter shall prohibit the importation, purchase, sale, or use of fireworks used or to be used solely and exclusively in frightening birds from agricultural works and fish hatcheries; and such use shall be governed entirely by the rules prescribed by the Department of Agriculture and Consumer Services.

RULE 5A-3.001

5A-3.001 Application to Sheriff for Use of Firecrackers.

Any person who is engaged in agricultural works or who operates a fish hatchery may use firecrackers solely and exclusively for the purpose of frightening birds from doing harm to any such person's agricultural works or fish hatchery operation; provided that any such person shall first file with the sheriff of the county in which he is engaged in agricultural works or the operation of a fish hatchery a statement in writing that he is engaged in agricultural works, describing the nature of such, or that he operates a fish hatchery, describing the nature of such, and desires to use firecrackers to frighten birds from harming his agricultural works or his fish hatchery operation and that firecrackers will be used solely and exclusively for that purpose.

5A-3.002 Acquisition of Firecrackers.

Any person may acquire from any authorized person firecrackers for purposes stated in Section 5A-3.001, F.A.C., upon presenting a copy of his statement filed with the sheriff.

APPENDIX # 4

CONSUMER FIREWORKS TYPES AND CONDITIONS FOR USE

3.1.1 GROUND AND HAND-HELD SPARKLING DEVICES (“SPARKLERS”)

These devices are ground-based or hand-held devices that produce a shower of white, gold or colored sparks as their primary pyrotechnic effect. Additional effects may include a colored flame, an audible crackling effect, and audible whistle effect, and smoke. These devices do not explode or produce a report (a mild audible crackling-type effect is not considered a report.) Ground-based or hand-held devices that produce a cloud of smoke as their sole pyrotechnic effect are also included in this category. Types of devices in this category include:

Note: the age limit condition applies to the “purchase, use and possession” of the consumer firework type.

The Task Force recommends:

- Using the Federal standard of 200 grams as the maximum amount of pyrotechnic composition for any of products in the “sparklers” category of consumer fireworks types.
- One must be at least 18 years of age to purchase, possess, or use the “sparklers” category of consumer fireworks types.
- The Task Force recommends that “Novelties” may be used by individuals under the age of 18 provided they are used under the direct supervision of an adult.

The following products are recommended for approval as a “Consumer Fireworks”:

3.1.1.1 Cylindrical Fountain Cylindrical tube containing not more than 75 g of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (Spike Fountain), a wood or plastic base for placing on the ground (Base Fountain), or a wood or cardboard handle to be hand held (Handle Fountain). When more than 1 tube is mounted on a common base, total pyrotechnic composition may not exceed 200 g. (See section 3.5 for exceptions)

3.1.1.2 Cone Fountain Cardboard or heavy paper cone containing not more than 50 g of pyrotechnic composition. The effect is the same as that of the cylindrical fountain. When more than 1 cone is mounted on a common base, total pyrotechnic composition may not exceed 200 g. (See section 3.5 for exceptions.)

3.1.1.3 Illuminating Torch Cylindrical tube containing not more than 100 g of pyrotechnic composition that produces a colored flame upon ignition. May be spike base or hand-held. When more than 1 tube is mounted on a common base, total pyrotechnic composition may not exceed 200 g. (See section 3.5 for exceptions.)

3.1.1.5 Ground Spinner Small device containing not more than 20 g of pyrotechnic composition, venting out an orifice usually on the side of the tube. Similar in operation to a wheel but intended to

be placed flat on the ground and ignited. A shower of sparks and color is produced by rapidly spinning device.

3.1.1.6 Flitter Sparkler Narrow paper tube attached to a stick or wire and filled with not more than 5 g of pyrotechnic composition that produces color and sparks upon ignition. The paper at one end of the tube is ignited to make device function.

3.1.1.7 Toy Smoke Device Small plastic or paper item containing not more than 100 g of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect. (For devices containing less than 5 g of pyrotechnic composition, see Section 3.2, Novelties). Toy smoke devices, when complying with the provisions of the section are classed as Fireworks, 1.4G unless classed as 1.4S or not regulated as an explosive on the basis of examination and testing as specified in Title 49 CFR, § 173.56.

3.1.1.8 Wire Sparkler/Dipped Stick These devices consist of a metal wire or wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparkler may contain up to 100 g of pyrotechnic composition per item. Certain wire sparklers and dipped sticks are considered as Novelties under this Standard, see Section 3.2.

3.1.2 AERIAL DEVICES

3.1.2.1 Sky Rockets Cylindrical tube containing not more than 20 g of chemical composition with a wooden stick attached for guidance and stability. Rockets rise into the air upon ignition. A burst of color and/or sound may be produced at or near the height of flight.

3.1.2.2 Missile-Type Rocket A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability. Missiles shall contain not more than 20 g of total chemical composition.

3.1.2.4 Roman Candle Heavy paper or cardboard tube containing not more than 20 g of chemical composition. Upon ignition, stars (see section 2.14) are individually expelled.

3.1.2.5 Mine and Shell Devices Heavy cardboard or paper tube usually attached to a wooden or plastic base and **containing not more than 60 g of total chemical composition (lift charge, burst charge, and visible/audible effect composition.)** Upon ignition stars, components producing reports containing up to 130 mg of explosive composition per report or other devices are propelled into the air. The term mine refers to a device with no internal components containing a bursting charge, and the term shell refers to a device that propels a component that subsequently bursts to open in the air. A mine or shell device may contain more than 1 tube provided tubes fire in sequence upon ignition of 1 external fuse. The term cake refers to a dense-packed collection of mine/shell tubes. Total chemical composition including lift charges of any multiple tube devices may not exceed 200 g (See section 3.2.5). The maximum quantity of the lift charge in any one tube of a mine or shell device shall not exceed 20 g, and the maximum quantity of break or bursting charge in any component shall not exceed 25% of the total weight of the chemical composition in the component.

3.1.3 AUDIBLE GROUND DEVICES

3.1.3.1 Firecracker Small, paper-wrapped or cardboard tube containing not more than 50 mg of explosive composition, those used in aerial devices may contain not more than 130 mg of explosive composition per report. Upon ignition, noise and a flash of light are produced.

3.2 NOVELTIES

The Task Force recommends no changes regarding how “Novelties” are currently regulated.

The Task Force recommends that “Novelties” may be used by individuals under the age of 18 provided they are used under the direct supervision of an adult.

“The following devices do not require approval from DOT and are not regulated as explosives under the provisions of this Standard, provided that they are manufactured and packaged as described below... Devices described in this section which are not regulated as explosives are not considered to be consumer fireworks; however, these devices must comply with all labeling requirements of CPSC applicable to consumer fireworks devices...”

3.2.1 Party Popper Small devices with paper or plastic exteriors that are actuated by means of friction (a string or trigger is typically pulled to actuate the device). They frequently resemble champagne bottles or toy pistols in shape. Upon activation, the device expels flame-resistant paper streamers, confetti, or other novelties and produces a small report. Devices may contain not more than 16 mg (0.25 grains) of explosive composition, which is limited to potassium chlorate and red phosphorus. These devices must be packaged in an inner packaging which contains a maximum of 72 devices.

3.2.2 Snapper Small, paper-wrapped devices containing not more than 1.0 mg of silver fulminate coated on small bits of sand or gravel. When dropped, the device explodes, producing a small report. Snappers must be in inner packages not to exceed 50 devices each, and the inner packages must contain sawdust or a similar, impact-absorbing material.

3.2.3 Toy Smoke Devices Small devices consisting of cork-like spheres, or cardboard or plastic tubes, containing not more than 5 g of pyrotechnic composition that produces a small cloud of smoke after activation. The devices are typically ignited by means of safety fuse. The other configuration is usually a sphere (smoke ball), cylindrical tube, or paper cone. The chemical composition for white smoke consists of potassium nitrate and sulfur, while colored smokes are produced by mixtures consisting of potassium chlorate, sulfur or sugar, and a sublimable organic dye. Mixtures containing potassium chlorate must also contain a neutralizer/coolant such as sodium bicarbonate. To be eligible for not regulated status, these devices must produce smoke as their sole pyrotechnic effect following ignition, and must be packaged in inner units containing a maximum of 72 devices.

3.2.4 Snakes, Glow Worms Pressed pellets of pyrotechnic composition that contain 2 g or less of composition per article. Upon burning, they produce a snake-like ash that expands in length as the pellet burns. Chemical compositions vary, but typically contain ammonium perchlorate, nitrated pitch, asphaltum, and similar carbonaceous materials. These devices are limited to a maximum of 25 pellets per inner package in order to be transported as not regulated devices.

3.2.5 Wire Sparklers, Dipped Sticks These devices consist of metal wire or wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to 100 g of composition per item. Sparklers typically use barium nitrate as the oxidizer, with aluminum and dextrine as fuels. Iron filings produce the spark effect. Color-producing sparklers use potassium perchlorate as an oxidizer. Any sparkler containing a chlorate or perchlorate oxidizer is limited to a maximum of 5 g of composition per article. Sparklers must be packaged in inner packagings that contain 8 devices or less to be transported as not regulated devices.

THE FOLLOWING FIREWORKS WERE EVALUATED BY THE TASK FORCE, BUT ARE NOT RECOMMENDED FOR APPROVAL AS A FLORIDA “CONSUMER FIREWORK”:

3.1.1.4 Wheel Pyrotechnic device intended to be attached to a post or tree by means of a nail or string. May have one or more drivers, each of which may contain not more than 60 g of pyrotechnic composition. No wheel may contain more than 200 grams total pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

3.1.2.1 Bottle Rockets

3.1.2.3 Helicopter, Aerial Spinner A tube containing not more than 20 g of chemical composition, with a propeller or blade attached. Upon ignition the rapidly spinning device rises into the air. A visible or audible effect may be produced at or near the height of flight.

3.1.2.6 Aerial Shell Kit, Reloadable Tube A package (kit) containing a cardboard, high-density polyethylene (HDPE) or equivalent launching tube and not more than 12 small aerial shells (see 4.1.1). Each aerial shell is limited to a maximum of 60 g of total chemical composition (lift charge, burst charge, and visible/audible effect composition), and the maximum diameter of each shell shall not exceed 1.75 inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20g, and the maximum quantity of break or bursting charge in any shell shall not exceed 25% of the total weight of the chemical composition in the shell. The total chemical composition of all shells in a kit, including lift charge, shall not exceed 400 g for approval under provisions of this Standard. The user lowers a shell into the launching tube, at the time of firing, with the fuse extending out of the top of the tube. After firing, the tube is reloaded with another shell for the next firing. All launching tubes must be capable of firing twice the number of shells in the kit without failure of the tube. Each package of 12 shells must comply with all warning label requirements of CPSC.

3.1.2.6 Aerial Shell Kit, Reloadable Tube. A package (kit) containing a cardboard, high density polyethylene (HDPE) or equivalent launching tube and not more than 12 small aerial shells (see 4.1.1). Each aerial shell is limited to a maximum of 60 g of total chemical composition (lift charge, burst charge, and visible/audible effect composition), and the maximum diameter of each shell shall not exceed 1.75 inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20g, and the maximum quantity of break or bursting charge in any shell shall not exceed 25% of the total weight of the chemical composition in the shell. The total chemical composition of all shells in a kit, including lift charge, shall not exceed 400 g for approval under provisions of this Standard. The user lowers a shell into the launching tube, at the time of firing, with the fuse extending out of the top of the tube. After firing, the tube is reloaded with another shell for the next firing. All launching tubes must be capable of firing twice the number of shells in the kit without failure of the tube. Each package of 12 shells must comply with all warning label requirements of CPSC.

3.1.3.2 Chaser Paper or cardboard tube venting out the fuse end of the tube containing not more than 20 g of chemical composition. The device travels along the ground upon ignition. A whistling effect, or other noise, is often produced. Explosive composition may be included to produce a report but may not exceed 50 mg.

APPENDIX #5

PROHIBITION AND PENALTY PROPOSED STATUTORY LANGUAGE

The Task Force recommends new sections be added to Chapter 791 F.S., as follows:

791.XXX Possession of consumer fireworks by persons under age 18 prohibited.—

(1) It is unlawful for any person under the age of 18 years to have in her or his possession consumer fireworks. Any person under the age of 18 who is convicted of a violation of this subsection is guilty of a non-criminal violation (*with the penalty to be developed by the Florida Legislature sufficient to ensure compliance*).

791.XXX Selling or giving consumer fireworks to persons under age 18; penalties.--

(1)(a)1. It is unlawful for any person to sell or give consumer fireworks to a person under 18 years of age. A person who violates this subparagraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who violates paragraph (a) shall have a complete defense if, at the time the consumer firework was sold or given the person falsely evidenced that he or she was of legal age to purchase or possess the consumer firework and the appearance of the person was such that an ordinarily prudent person would believe him or her to be of legal age to purchase or possess the consumer firework and if the person carefully checked one of the following forms of identification with respect to the person: a driver's license, an identification card issued under the provisions of s. 322.051 or, if the person is physically handicapped as defined in ²s. 553.45(1), a comparable identification card issued by another state which indicates the person's age, a passport, or a United States Uniformed Services identification card, and acted in good faith and in reliance upon the representation and appearance of the person in the belief that he or she was of legal age to purchase the consumer firework.

(2) It is unlawful for any person to misrepresent or misstate his or her age or the age of any other person for the purpose of inducing a person to sell or give any consumer firework to a person under 18 years of age, or for any person under 18 years of age to purchase or attempt to purchase or possess consumer fireworks.

(a) Anyone convicted of violating the provisions of this subsection is guilty of a criminal violation punishable as provided in s. 775.082 or s. 775.083.

791.XXX Seizures; forfeiture proceedings.--

(1) The state, acting by and through the division, shall be authorized and empowered to seize, confiscate, and forfeit any consumer fireworks that are held in violation of the requirements of this chapter. Such seizure may be made by the division, its duly authorized representative, any sheriff or deputy sheriff, or any police officer.

(2) All consumer fireworks lawfully seized, confiscated, and forfeited to the state under this part shall be destroyed.

791.XXX – Possession or Retail Sales of Certain Consumer Fireworks Prohibited –

(1) It is unlawful for any person to have in her or his possession or offer for retail sale the following consumer fireworks:

(a) 3.1.1.4 Wheel - Pyrotechnic device intended to be attached to a post or tree by means of a nail or string. May have one or more drivers, each of which may contain not more than 60 g of

pyrotechnic composition. No wheel may contain more than 200 grams total pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(b) 3.1.2.1 Bottle Rockets.

(c) 3.1.2.3 Helicopter, Aerial Spinner - A tube containing not more than 20 g of chemical composition, with a propeller or blade attached. Upon ignition the rapidly spinning device rises into the air. A visible or audible effect may be produced at or near the height of flight.

(d) 3.1.2.6 Aerial Shell Kit, Reloadable Tube - A package (kit) containing a cardboard, high-density polyethylene (HDPE) or equivalent launching tube and not more than 12 small aerial shells (see 4.1.1). Each aerial shell is limited to a maximum of 60 g of total chemical composition (lift charge, burst charge, and visible/audible effect composition), and the maximum diameter of each shell shall not exceed 1.75 inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20g, and the maximum quantity of break or bursting charge in any shell shall not exceed 25% of the total weight of the chemical composition in the shell. The total chemical composition of all shells in a kit, including lift charge, shall not exceed 400 g for approval under provisions of this Standard. The user lowers a shell into the launching tube, at the time of firing, with the fuse extending out of the top of the tube. After firing, the tube is reloaded with another shell for the next firing. All launching tubes must be capable of firing twice the number of shells in the kit without failure of the tube. Each package of 12 shells must comply with all warning label requirements of CPSC.

(e) 3.1.3.2 Chaser - Paper or cardboard tube venting out the fuse end of the tube containing not more than 20 g of chemical composition. The device travels along the ground upon ignition. A whistling effect, or other noise, is often produced. Explosive composition may be included to produce a report but may not exceed 50 mg.

(f) Any item that is illegal for consumer use and sales under federal law and the provisions of this chapter:

1. Bottle rockets, helicopters, aerial spinners, chasers, and aerial shell kits and reloadables (as defined and prohibited in this chapter)
2. Display fireworks; class B; 1.3 G
3. Indoor pyrotechnics, special effects material
4. Any Federally banned devices such as, M-80's, cherry bombs, silver salutes, any homemade explosive device

(2) It is unlawful for any person to have in her or his possession any of the following aerial consumer fireworks without having in their immediate possession a legally obtained Aerial Consumer Fireworks Use License as provided in 791.XXX; or offer for retail sale any of the following aerial consumer fireworks to a person who does not have in their immediate possession a legally obtained Aerial Consumer Fireworks Use License as provided in 791.XXX:

(a) 3.1.2.1 Sky Rockets - Cylindrical tube containing not more than 20 g of chemical composition with a wooden stick attached for guidance and stability. Rockets rise into the air upon ignition. A burst of color and/or sound may be produced at or near the height of flight.

(b) 3.1.2.2 Missile-Type Rocket - A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability. Missiles shall contain not more than 20 g of total chemical composition.

(c) 3.1.2.4 Roman Candle - Heavy paper or cardboard tube containing not more than 20 g of chemical composition. Upon ignition, stars (see section 2.14) are individually expelled.

(d) 3.1.2.5 Mine and Shell Devices - Heavy cardboard or paper tube usually attached to a wooden or plastic base and containing not more than 60 g of total chemical composition (lift charge, burst charge, and visible/audible effect composition.) Upon ignition stars, components producing reports containing up to 130 mg of explosive composition per report or other devices are propelled into the air. The term mine refers to a device with no internal components containing a bursting charge, and the term shell refers to a device that propels a component that subsequently bursts to open in the air. A mine or shell device may contain more than 1 tube provided tubes fire in sequence upon ignition of 1 external fuse. The term cake refers to a dense-packed collection of mine/shell tubes. Total chemical composition including lift charges of any multiple tube devices may not exceed 200 g (See section 3.2). The maximum quantity of the lift charge in any one tube of a mine or shell device shall not exceed 20 g, and the maximum quantity of break or bursting charge in any component shall not exceed 25% of the total weight of the chemical composition in the component.

(3) Exemptions – Persons registered with the division as a manufacturer, distributor, or wholesaler of fireworks as provided in 791.015 and persons properly permitted for conducting public displays of fireworks as provided in 791.02 while engaged in the work for which they are registered or permitted are exempted from these provisions.

(4) Penalties (*see language introducing the section*)

APPENDIX #6

DRAFT PROPOSAL FOR A LICENSING PROGRAM FOR THE SALES, USE AND POSSESSION OF AERIAL DEVICES

Consumer fireworks means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and cautionary labeling regulations of the Consumer Product Safety Commission as provided for in title 16, Code of Federal Regulations, parts 1500 and 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred (100) milligrams or less of explosive composition. This also includes those devices identified in the Code as novelty devices. The U.S. Dept of Transportation (DOT) at 49 CFR 172.01 classifies consumer fireworks as fireworks UN0336 and UN0337.

The Task Force final recommendations include consumer fireworks with conditions specified for each type. The recommendations include includes three categories of consumer fireworks for sale, use and possession in the State of Florida: (1) handheld and ground based sparkling devices and (2) aerial products; and (3) audible ground devices.

Interstate Commerce

Nothing in this chapter shall prohibit a registered wholesaler, manufacturer, importer, or distributor from the sale, storage, use, transportation, and distribution of consumer fireworks as it relates to interstate commerce.

Novelties

Novelties are not defined as consumer fireworks and are available for sale, storage, use, possession and transportation in Florida at all times. These items include the following items defined in APA 87-1 in Sections 3.1.1 through 3.2.4 and are commonly referred to as: party poppers, snappers, toy smoke devices; snakes and glow worms.

Hours and Days of Authorized Use of Aerial Devices

Permitted aerial devices may only be ignited on July 1-5 between 12:00 p.m.-11 p.m., and December 31 New Year's Eve., between 5 p.m.- 1 a.m. January 1 at Authorized Consumer Fireworks Use locations.

Public Authorized Consumer Aerial Fireworks Use Locations

Those areas chosen by a unit of local government for Public use shall be referred to as Public Authorized Consumer Aerial Fireworks Use Locations and must be predetermined by the appropriate unit of local government 60 days prior to June 20th of each year and 60 days prior to December 20th of each year.

The Public Authorized Consumer Fireworks Use locations shall have law enforcement and/or fire safety officers at each location during approved ignition dates and hours.

Private Authorized Consumer Aerial Fireworks Use Locations

Consumer Fireworks Use Locations are those private property locations that consist of 25 contiguous acres with a set back of 250 feet from the property line with permission of the property owner or are on private property where there is a 1000 foot set back from adjacent structures used to house humans and/or livestock and 250 feet set back from the property line. Local governments may require a conditional use permit including notice to the adjacent owners for property owners of property that is less than 25 acres who can demonstrate they can ignite aerial fireworks from a distance of at least 1000 feet from adjacent property owner structures used to house humans or animals and at least 250 feet from their property line.

Licenses for the Sale, Possession, Purchase, Storage and Ignition of Aerial Devices

The State of Florida's Fire Marshal's office shall establish by rule a program for issuing licenses for the sale, possession, purchase, storage and for the ignition of Aerial Devices at Public Authorized Consumer Fireworks Use Locations and Private Authorized Consumer Fireworks Use Locations.

The license fee shall be established to ensure it is revenue neutral for state and local governments and shall be valid for a two year period. The fee shall be collected by the local government and utilized for the clean-up of Public Authorized Consumer Fireworks Use Locations and for the training and compensation of law enforcement and/or fire safety officers of such Public Authorized Consumer Fireworks Use Locations.

Safety Training

A person must successfully complete a safety training program established by the State of Florida's Fire Marshal's office to obtain an Authorized Consumer Fireworks Use license for the possession, purchase and ignition of Aerial Devices at both Public and Private Authorized Consumer Fireworks Use Locations. Those persons holding an agricultural license will not be required to take a safety training course.

Authorized Consumer Fireworks Use safety training and license issuance shall be made available via www.FloridaFireworksSafety.gov and the Florida State Fire Marshals Office. Authorized Consumer Fireworks Use safety training and license issuance may also be made available by Certified Aerial Safety Trainers.

Certified Aerial Safety Trainers must hold a current Aerial Device Retailer license issued by the State and undergo an extensive safety training program established by the Florida State Fire Marshal's office. A fee shall be established to ensure it is revenue neutral for state and local governments is required to undergo this training and qualification must be renewed every two years.

To ignite aerial fireworks, a person must complete a safety training program established by the State of Florida (FL Statute reference) Applicant must:

1. Be 18 years of age or older;
2. Must complete and successfully pass the Florida Aerial Training program;
3. Be the person who will ignite the fireworks at the location;

4. Have the license on their person when igniting the fireworks;
5. Not be intoxicated or otherwise impaired when igniting fireworks;
6. Not ignite consumer fireworks beyond the posted/local dates and times (2 week period from 6:00 pm – 11:00 pm);
7. Secure the fireworks items on a flat stable surface;
8. Have a bucket of water, fire extinguisher or water can when igniting fireworks;
9. Stay at least _____ feet from other consumer fireworks displays at the same location; and
10. Not aim or otherwise endanger any on-lookers or other licensed shooters

Penalties

Each violation of the above listed requirements is a separate penalty, established to ensure it is revenue neutral for state and local governments per violation.

Aerial Consumer Fireworks Retail Sales

Each Retail Sales Facility offering aerial consumer fireworks shall:

1. Post the most current listing of Public Authorized Consumer Fireworks Use Locations;
2. Purchase an Aerial Device Retailers permit from the Florida State Fire Marshal's office in the amount to ensure it is revenue neutral for state and local governments for all consumer fireworks offered for sale at such location;
3. Carry a minimum of \$10,000,000 in liability insurance from an A rated insurance company for all consumer fireworks offered for sale in the facility;
4. Adhere to the code requirements of NFPA 1124 Chapter 7, 2006 edition.

Handheld/Ground Based Consumer Fireworks Retail Sales

Each Retail Sales Facility offering only handheld/ground based consumer fireworks for sale shall:

1. Purchase a permit from the Florida State Fire Marshal's office in the amount to ensure it is revenue neutral for state and local governments
2. Carry a minimum of \$5,000,000 in liability insurance from an A rated insurance company;
3. Adhere to the code requirements of NFPA 1124 Chapter 7 2006 edition

Annual Wholesaler, Manufacturer, Importer Distributor Registration Fee

Each wholesaler, manufacturer, importer, or distributor of Consumer Fireworks must pay an annual registration fee to be set by the division be established to ensure it is revenue neutral for state and local governments

Sellers must verify that purchasers meet the requirements for the purchase of aerial devices.

APPENDIX #7 COUNTY ORDINANCES, DECEMBER, 2007

County Ordinances

Alachua County		only prohibited in parks
Brevard County	yes	
Broward County		only prohibited in parks
Citrus County		can be prohibited during drought conditions
Clay County		can be prohibited during drought conditions, by declaring a state of emergency
Collier County		seasonal and subject to issuance of a permit
Columbia County	NONE	
DeSoto County		only prohibited in parks
Escambia County	yes	
Flagler County		only prohibited in parks
Glenn County		prohibited in unincorporated areas of the county
Gulf County	NONE	they have placed bans in effect based on wild fire levels
Hernando County	yes	
Highlands County		only prohibited in parks
Hillsborough County		only prohibited in parks
Indian River County	yes	
Lee County	yes	
Leon County		has a policy on fireworks displays not an ordinance
Manatee County	yes	
Martin County	yes	
Miami-Dade County	NONE	
Monroe County	yes	
Nassau County	yes	
Okaloosa County		only prohibited in county recreation areas
Okechobee County		only prohibited in county park and recreation facilities
Palm Beach County	yes	
Pasco County		drafted an ordinance, but were preempted by the Legislature
Pinalas County	yes	
Polk County	yes	
St. Johns County	yes	
St. Lucie County	yes	
Santa Rosa County		only prohibited in parks
Sarasota County	yes	
Seminole County		only prohibited in parks
Sumter County	yes	
Suwannee County	NONE	
Volusia County		only prohibited on the beach
Wakulla County	NONE	
Walton County		only prohibited in parks
Washington County		only prohibited in parks and recreation areas

APPENDIX #8 MEETING SCHEDULE AND MEETING SUMMARIES

The Task Force met six times between September, 2006 and January, 2007 (*see meeting schedule below*). The Task Force meeting summaries can be found at: <http://consensus.fsu.edu/Fireworks-Task-Force/meetings.html>



<u>DATES</u>	<u>ACTIVITIES</u>
July-August, 2007	Appointment of Florida Consumer Fireworks Task Force Members
September 26, 2007	Task Force Meeting #1—Organizational: mission, visioning, project scoping, and identification of issues <i>Tallahassee</i>
October 25, 2007	Task Force Meeting #2 <i>Clearwater</i>
November 13, 2007	Task Force Meeting #3 <i>Tallahassee</i>
December 6, 2007	Task Force Meeting #4—Draft Recommendations Approval Public Workshop—Round One (Following Task Force Meeting) <i>Fort Pierce</i>
December 20, 2007	Task Force Meeting #5—Review of Public Comments Public Workshop—Round Two (Following Task Force Meeting) <i>Tallahassee</i>
January 9, 2008	Task Force Meeting #6—Adoption of Final Package of Recommendations <i>Orlando</i>
January 15, 2008	Delivery of Final Recommendations to DACS and Florida Legislature

APPENDIX #9 TASK FORCE PROCEDURES

TASK FORCE CONSENSUS-BUILDING PROCESS

(Adopted Unanimously September 26, 2007)

Task Force Adopted Consensus-Building and Decision-Making Process

The Florida Consumer Fireworks Task Force (Task Force) will seek consensus decisions on its recommendations to the Legislature. General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on a recommendation, and the Task Force finds that 100% acceptance or support is not achievable, final decisions will require at least 75% favorable vote of all members present and voting. This super majority decision rule underscores the importance of actively developing consensus throughout the process on substantive issues with the participation of all members and which all can live with. In instances where the Task Force finds that even 75% acceptance or support is not achievable, publication of recommendations will include documentation of the differences and the options that were considered for which there is more than 50% support from the Task Force. In order to conduct formal business, the Task Force will require a quorum of its appointed members. Five (5) of Eight (8) members must be present to constitute a quorum.

The Task Force will develop its recommendations using consensus-building techniques with the assistance of the facilitators. Techniques such as brainstorming, ranking and prioritizing approaches will be utilized. Where differences exist that prevent the Task Force from reaching a final consensus decision (i.e. with support of at least 75% of the members) on a recommendation, the Task Force will outline the differences in its documentation.

The Task Force's consensus process will be conducted as an open process consistent with applicable law. Task Force members, staff, and facilitators will be the only participants seated at the table. Only Task Force members may participate in discussions and vote on proposals and recommendations. The facilitators, or a Task Force member through the facilitators, may request specific clarification from a member of the public in order to assist the Task Force in understanding an issue. Observers/members of the public are welcome to speak during the public comment period provided at each meeting, and all comments submitted on the public comment forms provided in the agenda packets will be included in the facilitators' summary reports. The time allocated for an individual to offer a public comment may be limited to no more than five-minutes (5), depending on the number of individuals wishing to address the Task Force.

Facilitators will work with DACS staff and Task Force members to design agendas that will be both efficient and effective. The DACS staff will help the Task Force with information and meeting logistics.

To enhance the possibility of constructive discussions as members educate themselves on the issues and engage in consensus-building, members agree to refrain from public statements that may prejudge the outcome of the Task Force's consensus process. In discussing the Task Force process with the media, members agree to be careful to present only their own views and not the views or

statements of other participants. In addition, in order to provide balance to the Task Force process, members agree to represent and consult with their stakeholder interest groups.

MEETING/PROCESS GROUND RULES

PARTICIPANTS' ROLE

- ✓ The meetings are an opportunity to explore possibilities. Offering or exploring an idea does not necessarily imply support for it.
- ✓ Listen to understand. Seek a shared understanding even if you don't agree.
- ✓ Be focused and concise—balance participation & minimize repetition. Share the airtime.
- ✓ Look to the facilitator(s) to be recognized. Please raise your hand to speak.
- ✓ Speak one person at a time. Please don't interrupt each other.
- ✓ Focus on issues, not personalities. Avoid stereotyping or personal attacks.
- ✓ To the extent possible, offer options to address other's concerns, as well as your own.
- ✓ Represent and communicate with member's constituent group(s).

FACILITATORS' ROLE

- ✓ Design and facilitate a participatory task force process.
- ✓ Assist participants to stay focused and on task.
- ✓ Assure that participants follow ground rules.
- ✓ Prepare agenda packets and provide meeting summary reports.

GUIDELINES FOR BRAINSTORMING

- ✓ Speak when recognized by the Facilitator(s).
- ✓ Offer one idea per person without explanation.
- ✓ No comments, criticism, or discussion of other's ideas.
- ✓ Listen respectfully to other's ideas and opinions.
- ✓ Seek understanding and not agreement at this point in the discussion.

THE NAME STACKING PROCESS

- ✓ Determines the speaking order.
- ✓ Participants raises hand to speak. Facilitator(s) will call on participants in turn.
- ✓ Facilitator(s) may interrupt the stack (change the speaking order) in order to promote discussion on a specific issue or, to balance participation and allow those who have not spoken on a issue an opportunity to do so before others on the list who have already spoken on the issue.

ACCEPTABILITY RANKING SCALE

During the meetings, members will be asked to develop and rank options, and following discussions and refinements, may be asked to do additional rankings of the options if requested by members and staff. Please be prepared to offer specific refinements or changes to address your reservations The following scale will be utilized for the ranking exercises:

Acceptability Ranking Scale	4 = <i>acceptable,</i> <i>I agree</i>	3 = <i>acceptable, I</i> <i>agree with minor</i> <i>reservations</i>	2 = <i>not acceptable, I</i> <i>don't agree unless major</i> <i>reservations addressed</i>	1 = <i>not</i> <i>acceptable</i>
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APPENDIX # 10 PUBLIC INPUT AND COMMENT

The Task Force process included multiple opportunities for public input and comments. Each meeting of the Task Force featured opportunities for public comments.



Public Comments at the Task Force's November 13 Meeting in Tallahassee

The Task Force website included an on-line public comment page and periodically forwarded these comments to the Task Force members and posted the public comments received. For a review of these public comments, see: <http://consensus.fsu.edu/Fireworks-Task-Force/survey.html>

Consumer Fireworks Task Force

Public Comments

Please submit your comments on the areas covered by this task force.
Make your comments as specific as possible and offer suggestions to address your concerns.
Comments will be reviewed by the facilitators and addressed by the task force.

- Click the submit button at the bottom of this page when you have completed your responses.
- Please keep your comments concise. Comments are limited to 3000 characters (about two typed pages). If you are unable to edit your comments, then send an e-mail to one of the e-mail addresses on the main page for this process.
- Please do not include web addresses or links.
- Do not use the return key or we will receive your responses before you have finished.

Contact Information (optional)

First Name Last Name

Organization

E-Mail

General comments on the scope of this task force:

The Task Force summaries, presentations and briefings, resource documents and studies, and public comments were posted regularly on the Task Force's website.

In both the 5th and 6th meetings time was set aside on the Task Force meeting agendas to review the many public comments received and determine if these contained new ideas, suggestions or concerns that the Task Force should consider as it refined its recommendations.

A picture of the front page of the Task Force's project website is displayed below

