

1999 DRAFTING REQUEST

Bill

Received: 12/30/1999

Received By: rmarchan

Wanted: As time permits

Identical to LRB:

For: Scott Jensen (608) 266-3387

By/Representing: r.j.

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Alt. Drafters:

Subject: Buildings/Safety - fireworks

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Fireworks

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Reaured</u> |
|--------------|------------------------|-----------------------|------------------------|----------------|-----------------------------|-----------------------------|----------------|
| /? | rmarchan 01/03/2000 | gilfokm 01/03/2000 | | _____ | | | |
| /1 | | | haugeca 0 1/03/2000 | _____ | lrb-docadmin 0 1/03/2000 | lrb-docadmin 0 1/05/2000 | |

FE Sent For:

<END>

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|--------------|----------------|-------------------|----------------|----------------------|------------------|-----------------|-----------------|
| 1/? | rmarchan | 1-1-3-2000 KMG | CH 1-3-2000 | CH HH 1-3-2000 | | | |

FE Sent For:

<END>

12/29/99

Voice mail from R.J. in Rep. Jensen's office
Wants companion bill to LRB-3960.

12/30/99

Rep Sen. Chvala's staff (requestor for 3960)
Doug says o.k. to fwd draft to Jensen ~~and~~

Marchant, Robert

From: Burnett, Douglas
Sent: Thursday, December 30, 1999 12:12 PM
To: Marchant, Robert
cc: Pirlot, R.J.; Smith, Beth
Subject: FW: Question

Rob-Go ahead and forward the draft to R.J. You can jacket it for the Assembly too if that's what R.J. wants. Thanks.

Doug Burnett
Office of Senate Majority Leader Chuck Chvala
608-266-9170

-----Original Message-----

From: McGuire, Paula
Sent: Thursday, December 30, 1999 11:39 AM
To: Burnett, Douglas
Subject: Question

Rob Machut called from the LRB can he forward the latest fireworks draft to RJ in the Jenson's office?

TODAY

1999 BILL

4124/1
LRB-3802

RJM:wlj:km

stays
RMNR

1 AN ACT ^{to Jan. Conf.} ~~to~~ **renumber and amend** 167.10 (2); **to amend** 167.10 (3) (bm), 167.10

2 (4), 167.10 (8) (a) and 167.10 (9) (b); and **to create** 167.10 (2) (bm) and 167.10

3 (3) (b) 8. of ~~the~~ **titles; relating to:** the sale of fireworks to nonresidents and

4 shipping of fireworks.

Analysis by the Legislative Reference Bureau

Current law regulates the sale, use and possession of certain fireworks, With limited exceptions, current law prohibits the sale of regulated fireworks to any person who does not hold a fireworks user's permit. One exception in current law authorizes a resident wholesaler to sell regulated fireworks "to a person outside of this state". In *State v. Victory Fireworks, Inc.*, Nos. 99-0243 to 99-0251, slip op. (Wis. Ct. App. Sept. 30, 1999), the court of appeals held that this exception only permits a sale to a person who is physically located outside of this state. Under current law, if a resident wholesaler sells fireworks under this exception, the resident wholesaler must package and ship the fireworks in accordance with applicable state and federal laws and must ship the fireworks by common, contract or private motor carrier.

This bill reverses *State v. victory Fireworks, Inc.* Under this bill, a resident wholesaler may sell regulated fireworks to any nonresident person if the fireworks are for use outside of this state. Under the bill, a nonresident person may still purchase fireworks for use within this state if the nonresident person meets the requirements for use and possession in current law.

The bill also changes the shipping and transport requirements for fireworks. Under the bill, fireworks that are purchased by a nonresident person for use outside

BILL

of this state must be transported by the nonresident person or shipped by the resident wholesaler to a location outside of this state. If the fireworks are transported by the nonresident person, the bill authorizes the nonresident person to stop in any city, town or village for up to 12 hours while en route to the out-of-state destination. This authorization is similar to an authorization in current law that applies to a person who is transporting fireworks to a permitted location within this state. In addition, the bill repeals the requirement that a resident wholesaler must use a common, contract or private motor carrier to ship fireworks. Under the bill, if fireworks are shipped by a resident wholesaler, the resident wholesaler must follow all applicable state and federal laws.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 167.10 (2) of the statutes is renumbered 167.10 (2) (am) and
2 amended to read:

3 167.10 (2) (am) ~~General~~&v. No person may sell or possess with intent to sell
4 fireworks, except to any of the following:

- 5 1. To a A person holding a permit under sub. (3) (c);
- 6 2. ~~To a~~ A city, village or town; ~~or,~~
- 7 3. ~~For~~ A person for a purpose specified under sub. (3) (b) 2. to 6.

8 **SECTION 2.** 167.10 (2) (bm) of the statutes is created to read:

9 167.10 (2) (bm) ***Exception; sale by resident wholesaler or jobber.*** Paragraph
10 (am) does not prohibit a resident wholesaler or resident jobber from selling fireworks
11 to a nonresident person for use outside of this state.

12 **SECTION 3.** 167.10 (3) (b) 8. of the statutes is created to read:

13 167.10 (3) (b) 8. Except as provided in par. (bm), the possession of fireworks by
14 a nonresident person in any city, town or village if the nonresident person intends
15 to use the fireworks outside of this state and is transporting the fireworks to a
16 location outside of this state.

17 **SECTION 4.** 167.10 (3) (bm) of the statutes is amended to read:

BILL

1 167.10 (3) (bm) Paragraph (a) applies to a person transporting fireworks under
2 par. (b) 7. or 8. if, in the course of transporting the fireworks through a city, town or
3 village, the person remains in that city, town or village for a period of at least 12
4 hours.

5 **SECTION 5.** 167.10 (4) of the statutes is amended to read:

6 167.10 (4) ~~OUT OF STATE AND IN STATE SHIPPING.~~ SHIPPING AND TRANSPORTING.
7 ~~This section does not prohibit a resident wholesaler or jobber from selling fireworks~~
8 ~~to a person outside of this state or to a person or group granted a permit under sub.~~
9 ~~(3) (c) 1. to 7.~~ Fireworks that are purchased by a nonresident person from a resident
10 wholesaler or jobber for use outside of this state shall be transported by the
11 nonresident person or shipped by the wholesaler or jobber to a location outside of this
12 state resident wholesaler or resident jobber that ships ~~the~~ fireworks sold under
13 ~~this subsection~~ by the wholesaler or jobber shall package and ship the fireworks in
14 accordance with applicable state and federal law ~~by, as defined in s. 194.01 (1), (2)~~
15 ~~and (11),~~ common motor carrier, contract motor carrier or private motor carrier.

16 **SECTION 6.** 167.10 (8) (a) of the statutes is amended to read:

17 167.10 (8) (a) A city, village or town may petition the circuit court for an order
18 enjoining violations of sub. (2) (am). (3) or (6) or an ordinance adopted under sub. (5).

19 **SECTION 7.** 167.10 (9) (b) of the statutes is amended to read:

20 167.10 (9) (b) A person who violates sub. (2) (am). (3) or (6) or an ordinance
21 adopted under sub. (5) shall forfeit not more than \$1,000.

22 **SECTION 8. Initial applicability.**

23 (1) This act first applies to actions for violations of section 167.10 of the statutes
24 that are pending on the effective date of this subsection.

25 **(END)**

Prop w/ state

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 01/03/2000

To: Representative Jensen

Relating to LRB drafting number: LRB-4124

Topic

Fireworks

Subject(s)

Buildings/Safety - fireworks

1. **JACKET** the draft for introduction _____

in the Senate or **the Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert J. Marchant, Legislative Attorney
Telephone: (608) 261-4454