

**2003 DRAFTING REQUEST**

**Bill**

Received: **02/26/2003**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Buildings/Safety - fireworks**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kedzie@legis.state.wi.us**

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

**Pre Topic:**

No specific pre topic given

**Topic:**

Indoor use of 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>Required</u>
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FE Sent For:

<END>

↳ At intro.

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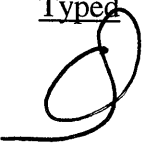
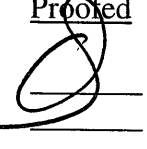
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1/?	rmarchan	1/3/4 JLD					
			3-7-3				

FE Sent For:

<END>

## **Marchant, Robert**

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**From:** Sen.Kedzie  
**Sent:** Wednesday, February 26, 2003 4:13 PM  
**To:** Marchant, Robert  
**Subject:** request for bill draft

Dear Robert,

Please accept this e-mail correspondence as my formal request for a bill draft proposal. I offer the following outline for your review and assistance in drafting this bill. Thank you and if you have any questions or comments, please contact Dan Johnson in my office.

Sincerely,

**Neal Kedzie**  
State Senator  
11th Senate District

**Legislative Proposal - February 26, 2003**  
**Senator Neal Kedzie, 11th Senate District**

### **A PROPOSAL RELATING TO A BAN ON THE USE OF PYROTECHNICS AND FIREWORKS AT INDOOR VENUES**

#### **Intent**

Statewide ban on the use of pyrotechnics or fireworks at indoor public establishments with a capacity of 500 or less

- **Fireworks (pyrotechnics) as defined by Section 167.10 Stats.**
- **Indoor public establishments to include taverns, inns, bars, restaurants, nightclubs, schools, conference centers, hotels, and other entertainment facilities in which the public may assemble and in which musical or entertainment works may be performed or otherwise transmitted for the enjoyment of the public**

#### **Penalty**

Violation of this section by any individual is a Class B misdemeanor - a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.

Any person violating this section under circumstances that cause bodily harm is guilty of a Class A misdemeanor - a fine not to exceed 10,000 or imprisonment not to exceed 9 months, or both.

Any person violating this section under circumstances that cause death is guilty of a Class H felony, a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

#### **Rationale**

The use of such devices in small, indoor venues is unnecessary, dangerous and costly. Lives have been lost and damage costs are in the millions of dollars - all that for a pyrotechnics display that serves no functional purpose.

Permitting for such devices is currently done by local units of government, meaning permits can change from municipality to municipality. In the Rhode Island nightclub fire, the local officials and the club owners claim they denied the use. The band, however, claims permission was granted. Either the system failed or someone is not telling the whole truth.

A group that tours from one city to the next may get varying requirements or conditions of such a permit. That may be a source of confusion. What may be permitted in Madison may be banned in LaCrosse; conditionally

permitted in Green Bay but restrictively permitted in Milwaukee.

A statewide ban on indoor pyrotechnics for venues capacities of 500 or less would be crystal clear and enforceable.

## Marchant, Robert

---

**From:** Johnson, Dan (Legislature)  
**Sent:** Thursday, February 27, 2003 10:26 AM  
**To:** Marchant, Robert  
**Subject:** RE: Fireworks draft

Rob,

Thank you for offering your suggested draft language. Here are my comments:

1. Delete, "to dance". I think the term "enjoy musical" encompasses dancing, listening and watching.
2. I think "possession" might go a bit too far. They can have them, they just can't use them in the facility. I welcome your comments on this point as I may be making too big of a deal over the word "possess". I don't want to ban the devices, just the use of them in certain circumstances.
3. I agree with your assessment about UW educational seminars. I know exactly what you're referring to. I think such an exemption is fine but it would have to be very tight and specific to those types of seminars.
4. I'll have to give a little bit of thought to allowing stricter standards on the local level. What I am trying to achieve is clarity and uniformity. But, if locals adopt stricter standards (lower capacity limits, example) we lose that uniformity. Let me think about that and get back to you.

Thanks again and I'll be in touch soon.

Dan Johnson  
**Office of State Senator Neal Kedzie**  
11th Senate District  
266-2635

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

**From:** Marchant, Robert  
**Sent:** Thursday, February 27, 2003 10:03 AM  
**To:** Johnson, Dan (Legislature)  
**Subject:** Fireworks draft

Dan--

I have been working on Sen. Kedzie's fireworks draft and I had a couple of questions for you.

1. I think the simplified language below accomplishes your intent. Would you review the language and let me know if you agree?

"No person may possess or use fireworks in an indoor area in any building where individuals may assemble to dance or enjoy musical or other entertainment, unless the indoor area has a capacity of more than 500 individuals."

2. I wonder if the science departments at the U.W. or other universities put on "edutainment" seminars open to the public where chemicals and other things that may qualify as "fireworks" are burned up. If so, you might want to think about exempting educational seminars that are sponsored by postsecondary educational institutions (i.e. "This paragraph does not apply to . . .").

3. Do you want to allow municipalities to adopt more strict regulations concerning the indoor use of fireworks? Current law allows municipal ordinances regulating fireworks to be more strict than state law. If you want a



uniform statewide standard, the draft will need to specify that municipalities may not adopt any regulations that are inconsistent with the draft.

When you can make the time, please let me know your thoughts on the issues above. I will wait on finishing this draft until I hear from you. Also, please give me a call if you'd like to talk about any of this.

Robert J. Marchant  
Legislative Attorney  
State of Wisconsin Legislative Reference Bureau  
608-261-4454

## **Marchant, Robert**

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**From:** Marchant, Robert  
**Sent:** Monday, March 03, 2003 9:11 AM  
**To:** Johnson, Dan (Legislature)  
**Subject:** RE: Fireworks draft

Hi, Dan--

Just so there's no misunderstanding when you receive the draft . . .

The draft will not say anything about municipal authority because the default rule under current law (municipality may be more strict) will apply to the language created in the bill.

This draft should be to you soon. If you need it by a particular date, please feel free to call or email me.

Rob

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

**From:** Johnson, Dan (Legislature)  
**Sent:** Friday, February 28, 2003 1:03 PM  
**To:** Marchant, Robert  
**Subject:** RE: Fireworks draft

Rob,

As a follow up to your suggested changes, you may add a provision that allows local municipalities to be more strict than the state indoor use ban. I concur with you that it would be reflective of current state law.

Thank you for your assistance with our request.

Dan Johnson  
**Office of State Senator Neal Kedzie**  
11th Senate District  
266-2635

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

**From:** **Marchant, Robert**  
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**To:** Johnson, Dan (Legislature)  
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1. I think the simplified language below accomplishes your intent. Would you review the language and let me know if you agree?

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3. Do you want to allow municipalities to adopt more strict regulations concerning the indoor use of fireworks? Current law allows municipal ordinances regulating fireworks to be more strict than state law. If you want a uniform statewide standard, the draft will need to specify that municipalities may not adopt any regulations that are inconsistent with the draft.

When you can make the time, please let me know your thoughts on the issues above. I will wait on finishing this draft until I hear from you. Also, please give me a call if you'd like to talk about any of this.

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Legislative Attorney  
State of Wisconsin Legislative Reference Bureau  
608-261-4454



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2159/1

RJM:.....

*[Handwritten signature]*

*[Handwritten initials and signature]*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

WED

*Gen*

- 1 AN ACT ...; relating to: prohibiting the use of fireworks at certain indoor venues
- 2 and providing a penalty. ✓

***Analysis by the Legislative Reference Bureau***

Current law regulates the possession, use, sale, storage, handling, and manufacture of certain fireworks. With certain exceptions, current law requires any person who possesses or uses regulated fireworks to have a fireworks permit that was issued by the city, village, or town (municipality) in which the possession or use occurs.

This bill prohibits any person from using fireworks in an indoor area in any building where individuals may assemble to enjoy musical or other entertainment, unless the indoor area has a capacity of more than 500 individuals. This prohibition does not apply to the use of fireworks for purposes of science education at an educational seminar that is open to the public and sponsored by a postsecondary educational institution. The bill creates criminal penalties of increasing severity for a violation of this prohibition, depending upon whether the violation results in bodily harm to or the death of an individual.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1 SECTION 1. 167.10 (3) (i) of the statutes is created to read:

2 167.10 (3) (i) No person may intentionally use fireworks in an indoor area in  
3 any building where individuals may assemble to enjoy musical or other  
4 entertainment, unless the indoor area has a capacity of more than 500 individuals.  
5 This paragraph does not prohibit the use of fireworks for purposes of science  
6 education at an educational seminar that is open to the public and sponsored by a  
7 postsecondary educational institution. This paragraph does not exempt any person  
8 from the requirement to obtain a permit under par. (a).

9 SECTION 2. 167.10 (9) (b) of the statutes is amended to read:

10 167.10 (9) (b) A person who violates sub. (2), (3) (a) to (h), or (6) or an ordinance  
11 adopted under sub. (5) shall forfeit not more than \$1,000.

History: 1977 c. 260; 1983 a. 446, 538; 1985 a. 135; 1987 a. 377; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 258; 1993 a. 208, 446, 491; 1995 a. 27 ss. 4464 to 4469 and 9116 (5); 1995 a. 330; 1997 a. 3, 35, 283; 2001 a. 109.

12 SECTION 3. 167.10 (9) (bm) of the statutes is created to read:

13 167.10 (9) (bm) 1. A person who violates sub. (3) (i) may be fined not more than  
14 \$1,000 or imprisoned for not more than 90 days or both.

15 2. If a person violates sub. (3) (i) and the violation results in bodily harm to an  
16 individual, the person may be fined not more than \$10,000 or imprisoned for not more  
17 than 9 months or both.

18 3. If a person violates sub. (3) (i) and the violation results in the death of an  
19 individual, the person is guilty of a Class H felony.

20 (END)

**Mentkowski, Annie**

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**From:** Johnson, Dan (Legislature)  
**Sent:** Monday, March 17, 2003 2:21 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-2159/1 Topic: Indoor use of fireworks

It has been requested by <Johnson, Dan (Legislature)> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2159/1 Topic: Indoor use of fireworks