

2005 DRAFTING REQUEST

Bill

Received: 02/09/2005

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Kimber**

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

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Buildings/Safety - fireworks**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pettis@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Fireworks permits to individuals; nonresident sales

Instructions:

Amend 167.10 (3) (c) 7. to include a single resident and nonresident; amend 167.10 (4) to not require that the person "outside the state" be actually outside the state, ie to nonresidents regardless of where they are

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>
/?				_____			S&L
/1	mglass 02/24/2005	wjackson 02/27/2005	rschluet 02/28/2005	_____	sbasford 02/28/2005	mbarman 02/28/2005	S&L
/2	mglass 03/15/2005	wjackson 03/15/2005	pgreensl 03/16/2005	_____	lemery 03/16/2005	lemery 03/16/2005	

FE Sent For: *at intro 11/17*

<END>

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FE Sent For:

1/2 NLj 3/15

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RS

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RS/m

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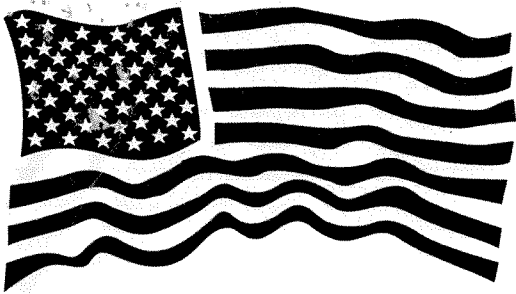
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/?	mglass	1 WJ 2/27					

FE Sent For:

<END>



Wisconsin Fireworks Association

February 8, 2005

Privileged & Confidential

TO: Wisconsin Fireworks Association Members
FR: Gunnar Bergersen *ok to contact*
RE: Governor's Budget

Tonight at 7:00 the Governor will deliver his budget message which precedes the release of the 1000 plus page budget tomorrow. Since our meeting with the Governor in early fall we have pushed to have our language on ***Sale to out of state person V.S. "Non-resident" and Permits to individuals as well as an "individual"*** be included in the budget. We have been assured that the language was included. Ever skeptical, for the past two months we have pressed for verification because including our language in the budget didn't seem to make political sense; why should the Governor stick his neck out?

This morning Pat Henderson on the Governor's policy group verified that he had **no knowledge of the language being included**. He finally said what we always suspected, and that was that the **Governor would support stand alone legislation** when it landed on his desk.

Two avenues to pursue: The first is to ask Representative Mark Pettis (R) Town of La Follette to introduce a **budget amendment**. I will meet with him this afternoon to see if he will do it. A problem that we will have to overcome is that the budget is not supposed to contain policy items like ours and is to be directly related to state revenue. We will argue that our language will directly affect state sales tax collections.

The other action (higher likelihood of success) is to introduce a **stand alone bill** that can be placed on the Governor's desk. Potential bill sponsors:

Senate Democrats	Breske, Hansen, Decker
Senate Republicans	Zein, Harsdorf, Reynolds, Step,
Assembly Democrats	Gronemus, Kreuser
Assembly Republicans	Jensen, Pettis, Krawczyk, Townsend, Albers, Kaufert, Rhoades, Suder, Freeze

As you all know, a stand alone bill requires hearings in both houses. This means more work for us, but we have done it before only to be vetoed by former Governor McCallum. With Governor Doyle, this should not be a problem.

1240 Sherman Avenue, Suite 201 ★ Madison, WI 53703
608-255-7211 ★ FAX 608-255-2203 ★ E-Mail oconnor@itis.com

Gibson-Glass, Mary

From: Kite, Robin
Sent: Wednesday, February 09, 2005 8:48 AM
To: Liedl, Kimberly
Cc: Gibson-Glass, Mary
Subject: fireworks drafting request

Kimber:

I received Rep. Pettis' drafting request relating to fireworks language changes. Mary Gibson-Glass, who also drafts in the area of buildings and safety, will be handling this draft for your office. Please feel free to contact her directly if you have any questions regarding this draft.

Thanks.

Robin

Robin N. Kite, Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
1 East Main St.
Suite 200
Madison, WI 53703
(608) 266-7291

*can't contact Gunnar Bergusen
he gave specific drafting instructions*



State of Wisconsin
2005 - 2006 LEGISLATURE

RMR
LRB-2051/1
MGG:.....
WJ

(in edit
2/24/08)

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SOON

Gen

- 1 AN ACT ...; relating to: the issuance of permits to individuals for the use of
- 2 fireworks and the sale of fireworks to nonresidents.

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.*, 230 Wis. 2d 721 (Ct. App. 1999) 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.

This bill reverses *State v. Victory Fireworks, Inc.* Under this bill, a resident wholesaler may sell regulated fireworks to any nonresident person regardless of the person's location for use outside this state without the nonresident person having a permit. 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.

Under current law, a fireworks ^{user's permit} ~~use permits~~ may be issued only to an entity such as an amusement park, park board, or a ^{user's} ~~use~~ permit may also be issued to any a group of resident or nonresident individuals. The bill eliminates the requirement that individuals must be in a group and allows a permit to be issued to a single individual regardless of whether he or she is a resident.

of whether

SA 602 Nov 24 128

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 167.10 (3) (c) (intro.) of the statutes is amended to read:

2 167.10 (3) (c) (intro.) A permit under this subsection may be issued only to the
3 following persons:

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; 2003 a. 298.

4 SECTION 2. 167.10 (3) (c) 6. of the statutes is repealed and recreated to read:

5 167.10 (3) (c) 6. ^{Any} ~~An~~ individual.

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; 2003 a. 298.

6 SECTION 3. 167.10 (4) of the statutes is amended to read:

7 167.10 (4) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not prohibit
8 a resident wholesaler or jobber from selling fireworks to a person ~~outside of this state~~

9 a nonresident person or to a person ~~or group~~ granted a permit under sub. (3) (c) 1.

10 to 7. A resident wholesaler or jobber that ships the fireworks sold under this
11 subsection shall package and ship the fireworks in accordance with applicable state
12 and federal law by, as defined in s. 194.01 (1), (2) and (11), common motor carrier,
13 contract motor carrier or private motor carrier.

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; 2003 a. 298.

14 (END)

Barman, Mike

From: Pettis, Mark
Sent: Monday, February 28, 2005 9:34 AM
To: LRB.Legal
Subject: Draft review: LRB 05-2051/1 Topic: Fireworks permits to individuals; nonresident sales

It has been requested by <Pettis, Mark> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2051/1 Topic: Fireworks permits to individuals; nonresident sales

Gibson-Glass, Mary

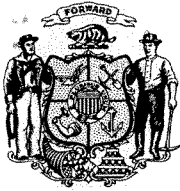
From: Liedl, Kimberly
Sent: Friday, March 04, 2005 3:37
To: Gibson-Glass, Mary
Subject: Change to LRB 2051/1

Hi, Mary, Mark would like to make the following changes below to his fireworks bill, LRB 2051/1 which will add the language referring to groups back in.

Thanks much,
Kimber
Office of Rep. Mark Pettis

167.10(3)(c)6. A ~~group of~~ resident or nonresident individuals ~~or group~~.

167.10(4) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not prohibit a resident wholesaler or jobber from selling fireworks to a ~~person outside of this state~~ nonresident person or to a person or group granted a permit under sub. (3) (c) 1. to 7. A resident wholesaler or jobber that ships ~~the~~ fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law by, as defined in s.194.01 (1), (2) and (11), common motor carrier, contract motor carrier or private motor carrier.



State of Wisconsin
2005 - 2006 LEGISLATURE

RUR
LRB-2051/M 2
MGG:wlj:rs

Wed

D-N

2005 BILL

Regen

1 AN ACT *to amend* 167.10 (3) (c) (intro.) and 167.10 (4); and *to repeal and*
2 *recreate* 167.10 (3) (c) 6. of the statutes; **relating to:** the issuance of permits
3 to individuals for the use of fireworks and the sale of fireworks to nonresidents.

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. An 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.*, 230 Wis. 2d 721, 602 N.W.2d 128 (Ct. App. 1999), the court of appeals held that this exception only permits a sale to a person who is physically located outside of this state.

This bill reverses *State v. Victory Fireworks, Inc.* Under this bill, a resident wholesaler may sell regulated fireworks to any nonresident person, regardless of the person's location, for use outside this state, without the nonresident person having a permit. 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.

Under current law, a fireworks user's permit may be issued only to an entity such as an amusement park, park board, or a civic organization. A user's permit may also be issued to any group of ~~resident or nonresident~~ individuals. The bill eliminates the requirement that individuals be in a group and allows a permit to be issued to a single individual ~~regardless of whether he or she is a resident~~

(Date)

[D-Note]

The use of ^{or} resident or nonresident ^{is} is redundant since an individual is either a resident or not also; current law could be interpreted to ~~not~~ require that a group of individuals consist only of residents or nonresidents but not both. Therefore, have eliminated any reference to residents and nonresidents in s@ 167.10 (3)(c) b@

MLB

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2051/2dn
MGG:wlj:pg

March 15, 2005

Use of "resident or nonresident" is redundant since an individual is either a resident or not. Also, current law could be interpreted to require that a group of individuals consist only of residents or nonresidents but not both. I, therefore, have eliminated any reference to residents and nonresidents in s. 167.10 (3) (c) 6.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215