



House of Representatives

File No. 774

General Assembly

January Session, 2003

(Reprint of File No. 154)

Substitute House Bill No. 6582
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 23, 2003

AN ACT CONCERNING PYROTECHNIC AND OTHER FIRE HAZARDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-306 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 When the local fire marshal ascertains that there exists in any
4 building, or upon any premises, combustible or explosive matter,
5 dangerous accumulation of rubbish or any flammable material
6 especially liable to fire, which is so situated as to endanger life or
7 property, or finds obstructions or conditions that present a fire hazard
8 to the occupants or interfere with their egress in case of fire, or a
9 condition in violation of the statutes relating to fire prevention or
10 safety, or any regulation made pursuant thereto, the remedy of which
11 requires construction or a change in structure, he shall order such
12 materials to be forthwith removed or the conditions remedied by the
13 owner or occupant of such building or premises, and all such
14 construction and changes shall be in conformance with all building
15 codes, ordinances, rules and regulations of the municipality involved

16 and such owner or occupant shall be subject to the penalties prescribed
17 by section 29-295 and, in addition thereto, may suffer a penalty of fifty
18 dollars a day for each day of neglect for each violation, to be recovered
19 in a proper action in the name of the state. Upon failure of an owner or
20 occupant to abate such hazard or remedy such condition within a
21 reasonable period of time as specified by the local fire marshal, such
22 local fire marshal shall promptly notify in writing the prosecuting
23 attorney having jurisdiction in the municipality in which such hazard
24 exists of all the facts pertaining thereto, and such official shall
25 promptly take such action as the facts may require, and a copy of such
26 notification shall be forwarded promptly to the State Fire Marshal. The
27 local fire marshal may request the chief executive officer or any official
28 of the municipality authorized to institute actions on behalf of the
29 municipality in which the hazard exists, or the State Fire Marshal, for
30 the purpose of closing or restricting from public service or use such
31 place or premises until such hazard has been remedied, to apply to any
32 court of equitable jurisdiction for an injunction against such owner or
33 occupant; or the State Fire Marshal, on his own initiative, may apply to
34 such court for such injunction. When such hazard is found to exist
35 upon premises supervised or licensed by a state department or agency,
36 the State Fire Marshal shall promptly notify the administrator of such
37 department or agency of his findings and shall issue orders for the
38 elimination of such hazard. The provisions of this section shall not
39 apply to any building, structure or premises used in the carrying on of
40 manufacturing. If the local fire marshal or local police determines that
41 there exists in a building a risk of death or injury from overcrowding,
42 blockage of required exiting or from the indoor use of pyrotechnics,
43 such fire marshal or police officer may issue a verbal or written order
44 to immediately vacate the building. A violation of such order shall be
45 subject to the penalties under section 29-295.

46 Sec. 2. Section 29-381 of the general statutes is repealed and the
47 following is substituted in lieu thereof (*Effective from passage*):

48 (a) No owner, proprietor, manager or agent of any theater, concert
49 or music hall or assembly hall or of any building, auditorium or rooms

50 used for public gatherings shall permit any person to occupy any aisle
51 in any such theater, concert or music hall, assembly hall or other
52 building used for such purpose, or permit any person to occupy the
53 back or sides of any such building or room used as aforesaid, to such
54 an extent as to prevent the free and unobstructed passage to and from
55 the entrance to any aisle or any of the exits in such place; but the
56 provisions of this section shall not apply to town halls which are on the
57 ground floor.

58 (b) Before any performance or event at any theater, concert or music
59 hall or assembly hall or at any building, auditorium or room used for
60 public gatherings of more than one hundred persons, the owner,
61 proprietor, manager or agent of such theater, hall, building,
62 auditorium or room shall make a public announcement that describes
63 the location of emergency exits.

64 (c) Any person who violates any provision of this section shall be
65 fined not more than fifty dollars.

66 Sec. 3. (NEW) (*Effective from passage*) Each place of public assembly,
67 as defined in the State Fire Safety Code, constructed after the effective
68 date of this section or renovated after the effective date of this section
69 to increase capacity or change its occupancy, as defined in the State
70 Building Code, shall have a main entrance sufficient to allow the
71 emergency exit of two-thirds of the capacity of such place of assembly.

72 Sec. 4. Section 19a-343 of the general statutes is repealed and the
73 following is substituted in lieu thereof (*Effective from passage*):

74 (a) For the purposes of sections 19a-343 to 19a-343h, inclusive, a
75 person creates or maintains a public nuisance if such person erects,
76 establishes, maintains, uses, owns or leases any real property or
77 portion thereof for any of the purposes enumerated in subdivisions (1)
78 to [(10)] (11), inclusive, of subsection (c) of this section.

79 (b) The state has the exclusive right to bring an action to abate a
80 public nuisance under this section and sections 19a-343a to 19a-343h,

81 inclusive, involving any real property or portion thereof, commercial
82 or residential, including single or multifamily dwellings, provided
83 there have been three or more arrests, or the issuance of three or more
84 arrest warrants indicating a pattern of criminal activity and not
85 isolated incidents, for conduct on the property documented by a law
86 enforcement officer for any of the offenses enumerated in subdivisions
87 (1) to [(10)] (11), inclusive, of subsection (c) of this section within the
88 three hundred sixty-five days preceding commencement of the action.

89 (c) Three or more arrests, or the issuance of three or more arrest
90 warrants indicating a pattern of criminal activity and not isolated
91 incidents, for the following offenses shall constitute the basis for
92 bringing an action to abate a public nuisance:

93 (1) Prostitution under section 53a-82, 53a-83, 53a-86, 53a-87, 53a-88
94 or 53a-89.

95 (2) Promoting an obscene performance or obscene material under
96 section 53a-196 or 53a-196b, employing a minor in an obscene
97 performance under section 53a-196a or importing or possessing child
98 pornography under section 53a-196c or 53a-196d.

99 (3) Transmission of gambling information under section 53-278b or
100 53-278d or maintaining of a gambling premises under section 53-278e.

101 (4) Offenses for the sale of controlled substances, possession of
102 controlled substances with intent to sell, or maintaining a drug factory
103 under section 21a-277, 21a-278 or 21a-278a or use of the property by
104 persons possessing controlled substances under section 21a-279.
105 Nothing in this section shall prevent the state from also proceeding
106 against property under section 21a-259 or 54-36h.

107 (5) Unauthorized sale of alcoholic liquor under section 30-74 or
108 disposing of liquor without a permit under section 30-77.

109 (6) Violations of the inciting injury to persons or property law under
110 section 53a-179a.

- 111 (7) Maintaining a motor vehicle chop shop under section 14-149a.
- 112 (8) Murder or manslaughter under section 53a-54a, 53a-54b, 53a-55,
113 53a-56 or 53a-56a.
- 114 (9) Assault under section 53a-59, 53a-59a, subdivision (1) of
115 subsection (a) of section 53a-60 or section 53a-60a.
- 116 (10) Sexual assault under section 53a-70 or 53a-70a.
- 117 (11) Fire safety violations under section 29-292, subsection (b) of
118 section 29-310, or section 29-315, 29-317, 29-320, 29-325, 29-329, 29-337,
119 29-349 or 29-357.

120 Sec. 5. Section 19a-510a of the general statutes is repealed and the
121 following is substituted in lieu thereof (*Effective from passage*):

122 (a) The attending physician, the director of a health care institution,
123 his designee, or any health care provider shall report the provision of
124 treatment for (1) a second or third degree burn to five per cent or more
125 of the body, (2) any burn to the upper respiratory tract, (3) laryngeal
126 edema due to the inhalation of superheated air, [and] (4) each case of a
127 burn injury which is likely to or may result in death, and (5) any injury
128 resulting from the use of fireworks, immediately, by telephone, to the
129 local fire marshal of the jurisdiction where the incident which caused
130 the burn occurred, and within forty-eight hours, in writing, to the State
131 Fire Marshal's Office on forms provided by that office. The report shall
132 be sent to the Bureau of State Fire Marshal and Safety Services which
133 shall compile the information and publish a statistical abstract to be
134 submitted annually to local fire marshals and the General Assembly.

135 (b) Nothing in this section shall be construed to remove the primary
136 responsibility for fire investigations from the appropriate local
137 jurisdiction.

138 (c) For purposes of this section "health care provider" means any
139 person, corporation, facility or institution licensed by this state to
140 provide health care or professional services, or an officer, employee or

141 agent thereof acting in the course and scope of his employment.

142 Sec. 6. (NEW) (*Effective from passage*) (a) Whenever the State Fire
143 Marshal or a local fire marshal determines that there is reason to
144 believe any fireworks are being sold, used or possessed in violation of
145 any of the provisions of section 29-357 of the general statutes, as
146 amended by this act, the State Fire Marshal or such local fire marshal
147 may issue a written or printed stop sale, use or removal order to any
148 person who owns, controls or has custody of such fireworks, and after
149 receipt of such order no person shall sell, use or remove the fireworks
150 described in the order except in accordance with the provisions of the
151 order.

152 (b) Any fireworks distributed, sold, offered for sale or delivered for
153 transportation or transported into or within the state for the purpose of
154 sale shall be subject to seizure and condemnation upon application of
155 the State Fire Marshal or a local fire marshal to the superior court for
156 the judicial district of Hartford if they are being sold, used or
157 possessed in violation of section 29-357 of the general statutes, as
158 amended by this act.

159 (c) If the fireworks are condemned, the court shall order the
160 forfeiture and destruction of such fireworks. When any article is
161 ordered condemned, court costs, legal fees and storage and other
162 proper expenses shall be awarded against the person, if any, who
163 intervenes as claimant of the article or who is responsible for the
164 condition which leads to its condemnation.

165 Sec. 7. Section 29-357 of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective from passage*):

167 (a) Except as provided in subsection (b) of this section, no person,
168 firm or corporation shall offer for sale, expose for sale, sell at retail or
169 use or explode or possess with intent to sell, use or explode any
170 fireworks, except, notwithstanding the provisions of section 29-356,
171 any person who is sixteen years of age or older may offer for sale,
172 expose for sale, sell at retail, purchase, use or possess with intent to sell

173 or use sparklers of not more than one hundred grams of pyrotechnic
174 mixture per item, which are nonexplosive and nonaerial.

175 (b) The State Fire Marshal shall adopt reasonable regulations, in
176 accordance with chapter 54, for the granting of permits for supervised
177 displays of fireworks or for the indoor use of pyrotechnics for special
178 effects by municipalities, fair associations, amusement parks, other
179 organizations or groups of individuals or artisans in pursuit of their
180 trade. Such permit may be issued upon application to said State Fire
181 Marshal and after (1) inspection of the site of such display or use by
182 the local fire marshal to determine compliance with the requirements
183 of such regulations, (2) approval of the chiefs of the police and fire
184 departments, or, if there is no police or fire department, of the first
185 selectman, of the municipality wherein the display is to be held as is
186 provided in this section, and (3) the filing of a bond by the applicant as
187 provided in section 29-358. No such display shall be handled or fired
188 by any person until such person has been granted a certificate of
189 competency by the State Fire Marshal, in respect to which a fee of fifty
190 dollars shall be payable to the State Treasurer when issued and which
191 may be renewed every three years upon payment of a fee of thirty
192 dollars to the State Treasurer, provided such certificate may be
193 suspended or revoked by said marshal at any time for cause. Such
194 certificate of competency shall attest to the fact that such operator is
195 competent to fire a display. Such display shall be of such a character
196 and so located, discharged or fired as in the opinion of the chiefs of the
197 police and fire departments or such selectman, after proper inspection,
198 will not be hazardous to property or endanger any person or persons.
199 In an aerial bomb, no salute, report or maroon may be used that is
200 composed of a formula of chlorate of potash, sulphur, black needle
201 antimony and dark aluminum. Formulas that may be used in a salute,
202 report or maroon are as follows: (A) Perchlorate of potash, black
203 needle antimony and dark aluminum, and (B) perchlorate of potash,
204 dark aluminum and sulphur. No high explosive such as dynamite,
205 fulminate of mercury or other stimulator for detonating shall be used
206 in any aerial bomb or other pyrotechnics. Application for permits shall

207 be made in writing at least fifteen days prior to the date of display, on
208 such notice as the State Fire Marshal by regulation prescribes, on forms
209 furnished by him, and a fee of thirty-five dollars shall be payable to the
210 State Treasurer with each such application. After such permit has been
211 granted, sales, possession, use and distribution of fireworks for such
212 display shall be lawful for that purpose only. No permit granted
213 hereunder shall be transferable. Any permit issued under the
214 provisions of this section may be suspended or revoked by the State
215 Fire Marshal or the local fire marshal for violation by the permittee of
216 any provision of the general statutes, any regulation or any ordinance
217 relating to fireworks.

218 (c) The State Fire Marshal may grant variations or exemptions from,
219 or approve equivalent or alternate compliance with, particular
220 provisions of any regulation issued under the provisions of subsection
221 (b) of this section where strict compliance with such provisions would
222 entail practical difficulty or unnecessary hardship or is otherwise
223 adjudged unwarranted, provided any such variation, exemption,
224 approved equivalent or alternate compliance shall, in the opinion of
225 the State Fire Marshal, secure the public safety and shall be made in
226 writing.

227 (d) Any person, firm or corporation violating the provisions of this
228 section shall be fined not more than one hundred dollars or
229 imprisoned not more than ninety days or be both fined and
230 imprisoned, except that (1) any person, firm or corporation violating
231 the provisions of subsection (a) of this section by offering for sale,
232 exposing for sale or selling at retail or possessing with intent to sell any
233 fireworks with a value exceeding ten thousand dollars shall be guilty
234 of a class A misdemeanor, and (2) any person, firm or corporation
235 violating any provision of subsection (b) of this section or any
236 regulation adopted thereunder shall be guilty of a class A
237 misdemeanor, except if death or injury results from any such violation,
238 such person, firm or corporation shall be fined not more than ten
239 thousand dollars or imprisoned not more than ten years, or both.

240 Sec. 8. Subsection (i) of section 19a-343a of the general statutes is
241 repealed and the following is substituted in lieu thereof (*Effective from*
242 *passage*):

243 (i) At the evidentiary hearing upon the public nuisance complaint,
244 the state shall have the burden of proving by clear and convincing
245 evidence of the existence of a public nuisance upon the real property as
246 defined in section 19a-343, as amended by this act. If the state presents
247 clear and convincing evidence that there have been three or more
248 arrests, or the issuance of three or more arrest warrants indicating a
249 pattern of criminal activity and not isolated incidents, for conduct on
250 the real property or any portion thereof documented by a law
251 enforcement officer for any of the offenses enumerated in subdivisions
252 (1) to [(10)] (11), inclusive, of subsection (c) of section 19a-343, as
253 amended by this act, within the three hundred sixty-five days
254 preceding commencement of the action, this shall create a rebuttable
255 presumption of the existence of a public nuisance. Any defendant may
256 offer evidence by way of an affirmative defense that [he] such
257 defendant has taken reasonable steps to abate the public nuisance, but
258 has been unable to abate the nuisance.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.	GF - Revenue Gain	Less than \$1,000	Less than \$1,000
Public Safety, Dept.; Criminal Justice, Div.; Pub. Defender Serv. Com.	GF - None	None	None
Judicial Dept.; Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

House Amendment "A" eliminates the original bill and the associated fiscal impact and becomes the bill.

The bill enhances both the regulation of indoor use of pyrotechnics and the legal obligation of proprietors who permit such use; adds injuries resulting from fireworks to those that must be reported to the local fire marshal; and provides for the seizure and destruction of illegally possessed fireworks. Passage of these provisions would not result in any fiscal impact to the state or municipalities. It is anticipated that additional workload would be handled within existing resources.

The bill also makes it a crime (violation of fire safety code) for any person to fail to immediately vacate a building once a fire marshal or police officer has instructed them to do so due to a determination that there is a risk of death or injury from overcrowding or indoor pyrotechnics use. In FY 02, there were 140 violations of fire safety codes and 51 convictions. Three offenders paid fines totaling \$400. Between October 2001 and March 2003, one person was incarcerated

for this crime for a period of one month. It is anticipated that the amendment would potentially generate a minimal amount of revenues from fines (less than \$1,000 annually). Criminal justice agencies could handle any caseload increase without the need for additional appropriations.

Finally, the bill increases the penalty for any person violating regulations adopted by the State Fire Marshal for the supervised display of fireworks or for the indoor use of pyrotechnics.¹ If death or physical injury results from such violation, the bill further increases the penalty under CGS Section 29-357 by providing for a fine of up to \$10,000 and/or imprisonment for up to 10 years. There is a potential cost to incarcerate or supervise on probation any person convicted under the bill's increased penalties. Any revenue gain from fines is anticipated to be minimal.

¹ Current law provides for a fine of up to \$100 and/or imprisonment for up to 90 days; the amendment provides for a fine of up to \$2,000 and/or imprisonment for up to 1 year.

OLR Bill Analysis

sHB 6582 (as amended by House "A")*

AN ACT CONCERNING PYROTECHNIC AND OTHER FIRE HAZARDS**SUMMARY:**

This bill allows local fire marshals or police officers to order people, verbally or in writing, to vacate a building immediately when they determine there is a risk of death or injury from overcrowding, blocked exits, or indoor pyrotechnics use. A violation of the order carries a fine of \$200 to \$1,000, imprisonment for up to six months, or both.

It requires that before any event or performance at any theater; concert, music, or assembly hall; or any building, auditorium, or room used for public gatherings of more than 100 people, the owner, proprietor, manager, or agent make a public announcement identifying the location of emergency exits.

The bill also requires places of public assembly as defined in the state fire safety code to have a main entrance through which two-thirds of the people the building is designed to accommodate may exit during an emergency. It applies to new construction and buildings renovated after the act's effective date to change their capacity or occupancy.

The bill adds certain fire safety violations to the nuisance abatement statutes. By law, courts may order abatement when they find by clear and convincing evidence that a nuisance exists.

The bill allows the state fire marshal and local fire marshal to issue stop and removal orders and apply to the court for condemnation orders regarding illegal fireworks use or possession. It subjects anyone who illegally causes a death or injury by operating without the appropriate fireworks permit or registration to imprisonment of up to 10 years, a fine of up to \$10,000 or both.

Finally, the bill requires attending physicians and health care institutions and providers to immediately local fire marshal whenever they treat any injury resulting from the use of fireworks. They must telephone the local fire marshal in the jurisdiction where the injury occurred and within 48 hours, file a written report with the state fire marshal's office on a form the office provides. This provision already applies to certain types of burns.

*House Amendment "A" (1) adds blocked exits to the grounds on which fire marshals may evacuate a building, (2) eliminates a prohibition in the original bill on fireworks displays in buildings that do not have automatic fire sprinklers (3) eliminates a requirement for places of public assembly to have floor level exit signs at emergency exits and applies the building exit requirements to new buildings or change in occupancy, (4) adds specific statutory fire safety violations to the nuisance statutes instead of violations of the fire safety code and any fire statute, (5) allows fire marshals to condemn fireworks and courts to order forfeiture, and (6) adds the enhanced penalty for violating the fireworks permit law.

EFFECTIVE DATE: Upon passage

FIRE SAFETY VIOLATIONS

The bill adds the following fire safety violations to the nuisance abatement statutes thus allowing courts to order abatement when they find that a nuisance exists:

1. failure to install required smoke detection and warning equipment;
2. maintaining combustible material or conditions that are dangerous to a building or conditions that present a fire hazard to the building occupants;
3. failure to maintain fire sprinklers where required by law;
4. failure to comply with requirements for installing oil burners and equipment;
5. failure to comply with regulations governing the safe storage, use, transportation, of flammable or combustible liquids;

6. failure to comply with regulations providing safeguards for preventing and controlling fire and explosion hazards incident to dry cleaning;
7. failure to comply with the regulations prescribing requirements for installing and operating gas equipment and gas piping;
8. failure to comply with the regulations for storing or transporting hazardous chemicals;
9. failure to comply with the regulations concerning the storage, use, and transportation of explosives and blasting agents; and
10. failure to comply with the laws and regulations governing the use, sale, or possession of fireworks.

FIREWORKS

Seizure and Condemnation Authority of Fire Marshals

Whenever the state fire marshal or a local fire marshal determines that there is reason to believe fireworks are being sold, used, or possessed illegally, they may issue a written or printed order to the person who owns, controls or possess them to stop the activity or remove the fireworks. The bill allows these officials to apply to the Hartford Superior Court to seize and condemn fireworks illegally distributed, sold, offered for sale, transported, or delivered for transportation. The court must order the forfeiture and destruction of condemned fireworks. It must award court costs, legal fees, and storage and other proper expenses against the person, if any, who intervenes as claimant of the condemned fireworks or who is responsible for the condition that led to their condemnation.

Penalties for Violation

By law, anyone conducting, handling, or firing fireworks displays must obtain a certificate of competency or permit from the state fire marshal, depending on the specific role. Under current law, a person who operates without the required permit or registration is subject to a penalty of up to \$100 imprisonment for up to 90 days or both. The bill retains this penalty. But it also adds that a violation is a class A misdemeanor, which carries a prison term of up to one year, a fine of

up to \$2,000, or both. If a death or injury results from the violation, the penalty is a maximum fine of \$10,000, imprisonment for up to 10 years, or both. It is unclear if this supercedes the current violation.

BACKGROUND

Fire Marshal's Authority Under Law

By law, fire marshals may order building owners to remedy any situation that presents a fire hazard. But they do not appear to have the authority to close a building on the spot for such hazards or failure to obey the order.

Nuisance Crimes

By law, the state may bring a nuisance action if there have been at least three arrest warrants or arrests for certain crimes, including:

1. murder or capital murder;
2. 1st or 2nd degree manslaughter or 2nd degree manslaughter with a gun;
3. 1st degree assault, sexual assault, or aggravated sexual assault;
4. 2nd degree assault involving serious physical injury;
5. 1st degree assault of an aged, blind, or disabled person; and
6. 2nd degree assault with a firearm.

The law also allows the state to bring such actions when at least three warrants have been issued for crimes like prostitution; transmitting gambling information; selling, possessing with intent to sell, or producing illegal drugs; or selling or disposing of liquor without a permit that already constitute a nuisance, provided arrests have been made on at least three occasions.

Places of Public Assembly

Under the state fire safety code, assembly occupancies include buildings designed to accommodate 50 or more people for such

purposes as worship, entertainment, eating and drinking, and amusement. They include armories, assembly halls, auditoriums, bowling lanes, college and university classrooms that accommodate 50 or more students, conference rooms, courtrooms, dance halls, libraries, mortuary chapels, motion picture theaters, museums, passenger stations and air terminals, churches, skating rinks, and theaters (State Fire Safety Code § 4-1.2).

Legislative History

On April 22, the House reported the bill to the Judiciary Committee, which reported it favorably without change on May 2.

COMMITTEE ACTION

Public Safety Committee

Joint Favorable Substitute
Yea 22 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 37 Nay 0