

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER
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DESCRIPTION

1394

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1394

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2640

Committee Clerk Signature

*Morgan Kentel*

Minutes:

**Rep. Thoreson:** *I am here to give the committee a favorable recommendation to HB 1394.*

*This bill is relating to the sale of fireworks. The situation right now is that we have in our law the date of June 27 for the date that we can begin purchasing them. I introduced this bill because during the last time we were legally able to sell these to citizens in the state last summer, There was a situation where people in ND were going to the retailers and attempting to purchase items prior to that date because the stands were already opened to sell to out of state people. For example Minnesota residents can be sold to but not ND citizens. We thought that there should be an extra opportunity to be able to sell to people from the state. Before you is the bill. We put the date as June 1. I would have no problem if you would want to look at a later date. This does not deal with any of the issues of shooting off the fireworks before you can. It's just so that the citizens don't have to go during that week. ND can go over to Minnesota and buy their fireworks.*

**Rep. Dahl:** A good portion of the state experienced droughts last year. Will this increase the fires?

**Rep. Thoreson:** I guess that was not something that they dealt with. If there is a drought situation there is probably already fire bans and bans on burning things.

**Rep. Dahl:** When does Minnesota first start the sale of fireworks?

**Rep. Thoreson:** I don't know the specific date of that. I have seen them in their stores prior to the date in ND's law. Another thing for example in Minnesota when you walk into a store they have fireworks there. They are only for sale in tents here. They are in retail stores in MN.

**Robert Wetzler:** Testimony attached.

**Rep. Dahl:** You say we should keep the fireworks to a minimum. Would you be opposed to any extension of this period of sale no matter how small?

**Robert Wetzler:** I would not extend the fireworks.

**Rep. Kasper:** In your last paragraph on the first page you say although the period of time fireworks can be legally discharged is not changing, etc. If the period that they can be discharged is not changing how do you think we will have more fires?

**Robert Wetzler:** My understanding is that the fireworks season will change with the extension of the sales.

**Rep. Kasper:** So we would amend this bill to allow for the sale of the fireworks but not the discharge extension, would that solve your problem?

**Robert Wetzler:** Personally I think it is difficult to have fireworks in your possession and not use them. I think what would happen is that they would have illegal use of fireworks for those extra days.

**Rep. Kasper:** It's also illegal to speed too.

**Rep. Froseth:** I agree with you. I think there will be a lot of temptation there to have the fireworks in the possession from June 1 to the 27<sup>th</sup>. I wonder if there is another statement that says when they can be discharged. I don't know if that is going to change. I just want some clarification on that.

**Keith Ternes:** *Police Chief for the City of Fargo. I am here to speak in opposition of this bill. From a different angle I can tell you just from speaking for the community of Fargo that fireworks are illegal to use, possess, or sell within the city limits. What happens every 4<sup>th</sup> of July is that all of the fireworks vendors set up their stands immediately outside of the city limits. Over the course of the 7 or 8 days that the sales can be taking place, we are innovated with calls for service relative to fireworks. It is not uncommon for us to have to respond to upwards of 50 complaints in the evening hours relative to the use of fireworks. My primary concern is the fire issues and the public safety issues aside, it is that if you were to extend this to another 30 days, instead of having to deal with this issue for one week we would have to for over a month. I don't doubt that the use of fireworks, although illegal, will rise. For that reason I am in opposition of this bill.*

**Rep. Froseth:** Is it legal in MN to shoot off fireworks beginning on June 1?

**Keith Ternes:** I'm not specifically familiar with the ordinance of MN. However, I understand that they have some very specific restrictions as to the type of fireworks that can be used.

**Rep. Amerman:** I should have maybe asked Rep. Thoreson this, if I heard right the way it is now is that the retailer cannot sell to a ND resident before June 27<sup>th</sup>, but they can sell to some MN residents.

**Keith Ternes:** I know that there is some type of an issue between when residents of the state of ND can actually purchase. Exactly why, I'm not sure.

**Rep. Amerman:** If this mentions 12 years of age, it doesn't say if it is legal to sell to a MN resident versus a ND resident or not. I just don't understand where this comes in?

**Rep. Boehning:** I have bought fireworks in January, February, a lot of places you can buy the fireworks if you are an out of state resident. I don't know what the reason is for that. I don't have a problem with the bill. I know in Fargo we can't light them off in town.

**Keith Ternes:** I think that is correct. There are a number of people who purchase their fireworks. You still have to comply with the law. However, there is in the city of Fargo the power to enforce the ordinance is virtually impossible. We respond to 50 plus complaints of use starting when they go on sale. My primary concern is this. The resources that we have to deal with those calls for service in the public are taxed. My concern is to have those resources taxed for over a month, we simply do not have enough officers to deal with all of the firework complaints that come in. Even though it is illegal to use them in the city limit, it is impossible for us to enforce that.

**Rep. Wolf:** When you are enforcing the law, do you actually have to catch the people in the act of shooting the fireworks off?

**Keith Ternes:** Not necessarily because in the city it is illegal to possess them. If they have them in their possession, whether it is pre use or post use they will be confiscated.

**Rep. Meier:** What is the penalty for using them in town?

**Keith Ternes:** It's \$100.

**Rep. Haas:** How many fines have you actually levied and collected.

**Keith Ternes:** Relatively few. The officers are just looking for compliance. Quite a few simply don't know. Lack of compliance or confrontation usually leads to a citation.

**Rep. Haas:** Do you confiscate when you find?

**Keith Ternes:** We do. Everything that is seized is destroyed.

**Rep. Kasper:** You are assuming from your testimony that if someone has the fireworks in their possession more than 7 days that they would blow it off 7 days earlier. That is an assumption.

You don't know because you haven't experienced it.

**Keith Ternes:** I am basing my assumption on those 7 days that they are legal, is such a problem.

**Rep. Kasper:** You are also assuming that the citizens of Fargo, some 90,000 people, everyone knows that the ordinance says that you can't light fireworks in the city of Fargo. I for one did not know that. Maybe the ones that are blowing the fireworks aren't aware of the ordinance.

**Keith Ternes:** I believe that the majority of the people don't know about it and aren't familiar with it. What has been somewhat frustrating for me is that we have actually gone to the fireworks vendors outside of the city and asked for their cooperation by leaving the copy of the city ordinance right at the till so that as people buy them they are aware they are illegal. You can imagine the reluctance we get.

**Rep. Froseth:** I went through this quickly but I can't find anywhere in here where it says that fireworks can't be shot off before June 27. I think if we change this that they will be legal to be fired off at June 1.

**Craig Sjoberg:** Testimony attached.

**Dean Ross:** *Chief of Valley City Police Department. I can't say a lot of different things that were said. He deals with the border issues, we don't. They can fire off and purchase them on the 27<sup>th</sup>. My citizens are very happy with this, not all of them though. We are riding a line that the one week period is a very good period of time to do it. I can assure you that they are going to fire off the fireworks. There is no doubt about it. I am 100% sure. If this is effective June 1, they are going to shoot them June 1. Whether that will create more problems, I don't know. Our calls go up during the fireworks season. I just think this is unnecessary.*

**Arlan Peterson:** Chief of Police of West Fargo. What they are talking about is exactly right. We will have a problem with that. I would appreciate a do not pass.

**Audrey Clare:** I am just testifying as a citizen. I don't think that this is a good bill. I think that we should put a tax on fireworks and then they can use that tax to go to the fire departments for the fires that these fireworks cause.

**Rep. Haas:** Ray I don't want to put you on the spot but do you have any answers to Rep. Froseth's question about whether there is a difference between the length of time that fireworks can be used compared to when they can be purchased?

**Ray Lambert:** State Fire Marshall. As I understand, my interpretation is that there is a direct link to the sale of fireworks and the use of fireworks. As the law states right now, it doesn't separate them. You can start the sale of them but the use of them will go along with that. It appears that the law would have to change too.

**Rep. Haas:** Is there any more testimony on HB 1394? If not we will close the hearing on HB 1394.



## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: 2689

Committee Clerk Signature *Morgan Rennie*

Minutes:

**Rep. Haas:** I am ready for a motion on HB 1394

**Rep. Froseth:** I would move a Do Not Pass

**Rep. Wolf:** I second that

**Rep. Haas:** Is there any other discussion?

**Rep. Kasper:** The one thing that didn't come up in testimony is about the people who drive from out of town. Maybe they don't have a fireworks stand in their own town and they have to go to the big city or wherever they are being sold. They go there two weeks early and want to buy their fireworks and then hear that they can't. That means they may have to drive another 200 miles at a different time to buy them. This is impeding business. The law says you can and can't do certain things and people are going to violate the law. This just gives people more choices and businesses more opportunities to sell their goods. I would resist a Do Not Pass.

**Rep. Froseth:** The way I interpret the Century Code is that the reason sales don't start until the 27<sup>th</sup> of June is because that is when you can start firing them off too. Unless you change the code so you can start selling them June 1, but cannot fire them off until June 27, and that would call for lots of violations.

**Rep. Weiler:** I would like a little clarification as to the inability to sell to ND residents but they can sell to out of state residents. I'm not ready to act on this bill. I would like some clarification on this bill as well. I know some people in Bismarck that have these fireworks stands. One of them happens to be a Dr. who makes a lot of money as a Dr. He makes more money in that seven day period than he does all year long being a doctor. These guys make a killing on this stuff.

**Rep. Froseth:** I would withdraw my motion.

**Rep. Wolf:** I will also withdraw my motion.

**Rep. Haas:** We will wait to act on this bill until we get clarification.

## 2007 HOUSE STANDING COMMITTEE MINUTES

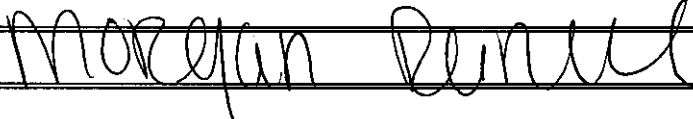
Bill/Resolution No. HB 1394

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3139

Committee Clerk Signature 

Minutes:

**Rep. Thoreson:** Amendment Handout.

I believe there has been a question on how the fireworks distributors can sell to out of state residents year round. How this happens is if you look at 2315.01 of the Century Code, there is language that says June 27-July 5. Before that it talks about anyone who was a retail license and their laws above that. Line B of the exception says that this chapter does not prohibit the sale of any kind of fireworks for shipment directly out of the state. So we can sell to other people that are out of state if they provide ID that they are an out of state resident. There is an amendment that was prepared and what it does is provide an additional week.

**Rep. Amerman:** I still do not see why you can't sell to ND residents as long as they are going to ship it out of state. If I have a business in ND I should be able to buy them and ship the out of the state.

**Rep. Thoreson:** I'm not certainly sure. If you own a business perhaps you can do that.

**Rep. Schneider:** Are there any retailers in ND that sell year round?

**Rep. Thoreson:** Yes, there are a couple that do sell all year round. I know of one in Fargo that manufactures and sells them all year long.

**Rep. Weiler:** I did speak with a guy from Star Fireworks this weekend. We talked about the penalty if they sell to residents. What would happen to them is that they could come and confiscate all of your property. That is probably the reason that they wouldn't choose to sell them. I agree with Rep. Amerman when they say for direct shipment for out of state. If I'm a ND resident, I should be able to go buy it and drive out of state. I might come back the next day with it. The law is very vague in there, but these people that sell these products are pretty scared of doing something like that because of the drastic penalty.

**Rep. Haas:** We asked the fire Marshall came in we asked if the seven day window pertains to sale and use, or just sale? His statement was that it obtained to both. The only thing that would override that is some sort of local ordinance. Some say you can never do it in city limits.

**Rep. Wolf:** Can you light fireworks off in the city?

**Rep. Thoreson:** Minnesota changed their laws three or four years ago that prohibited all sale and use of fireworks. They do have different classes for it though.

**Rep. Wolf:** When can we light off fireworks, then?

**Rep. Thoreson:** I do not know if they have dates in their law restricting the actual use of them. I know before they sort of changed their law. It was a very strange situation because the retailers in ND could sell to the MN residents because it was to be shipped out of state. However, it was illegal for them to bring them back into the state of ND. So for awhile they could buy them, but not bring them back in.

**Rep. Froseth:** If we change this to the 20<sup>th</sup> and this bill passes, will it be legal to fire them off from the 20<sup>th</sup> to July 5<sup>th</sup>?

**Rep. Thoreson:** I was not here for the testimony of the fire Marshall. The way I read this is that this did not deal with the date when the fireworks can be used. It was my understanding that speaking to other persons that you are limited to this one period of time to sell them. It does

not address anything involving the use. From what I understand that is a local ordinance situation.

**Rep. Grande:** I believe that Rep. Thoreson is correct on this. It has to do with the city or the local ordinance. My neighbor can set off their fireworks and they live across the street. They are in the city of Prairie Rose, and I'm in Fargo. They have a different ordinance than us.

**Rep. Wolf:** Look at page 2 under 2315.02 it says that the sale of fireworks is prohibited, and can't use or explode into fireworks.

**Rep. Thoreson:** The first part of that is provided. I'm not certain to the language. I guess it talks about sale and use but I'm not sure if its prohibited or not.

**Rep. Haas:** It's an interesting question but I don't believe that it pertains to whether or not we adopt your amendment and what we do with this bill.

**Rep. Schneider:** Does this address the issue of retailers selling to in state or out of state people?

**Rep. Thoreson:** It only provides an additional amount of time for the persons in ND to purchase fireworks. There was a situation where a local TV station that did a story on new retailers who opened up and started to sell to ND residents before June 27. They had to start asking for ID.

**Rep. Kasper:** The 2<sup>nd</sup> paragraph from the top that says any person operating a retail business has a retail license, etc. may offer for sale and sell to any individual who is at least 12 years of age or older. It appears to me that if they have been selling to out of state residents.

**Rep. Thoreson:** There are exceptions on the next page.

**Rep. Haas:** Thank you, you have cleared up a lot of questions.

**Rep. Grande:** I move the amendment

**Rep. Boehning:** I second that.

**Rep. Haas:** Is there any further discussion on the amendment?

**Rep. Froseth:** The amendment makes the bill a little bit better but I don't know if I would like to have another seven days of explosions in the backyard.

**Rep. Haas:** Is there any other discussion? If not all in favor say 'aye' all opposed say 'no'. The amendment is carried.

**Rep. Grande:** I move a do pass as amended.

**Rep. Kasper:** I second that

**Rep. Haas:** Is there any further discussion? If not I'll take a roll call vote on HB 1394. The do pass as amended motion passes with a vote of 7-6-0. Is there a volunteer to carry this bill?

**Rep. Kasper:** I will.

Date: 2-2-07  
Roll Call Vote #: 1

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB ~~0000~~ 1394

Action Taken DO NOT PASS

Motion Made By Rep Froseth Seconded By Rep Wolf

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

70566.0101  
Title.0200

Prepared by the Legislative Council staff for  
Representative Thoreson  
February 5, 2007

**House Amendments to HB 1394 (70566.0101) - Government and Veterans Affairs  
Committee 02/08/2007**

Page 1, line 20, replace "first" with "twentieth"

Renumber accordingly



Date: 2-8-07  
Roll Call Vote #: |

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."**

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1394

Action Taken move amendment

Motion Made By Rep Grande Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2-8-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1394

Action Taken DO PASS AS amended

Motion Made By Rep Grande Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman		X
Rep. Bette Grande VC	X		Rep. Louise Potter		X
Rep. Randy Boehning	X		Rep. Jasper Schneider		X
Rep. Stacey Dahl		X	Rep. Lisa Wolf		X
Rep. Glen Froseth		X			
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 7 No 6

Absent 0

Floor Assignment Rep. Kasper

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1394: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1394 was placed  
on the Sixth order on the calendar.

Page 1, line 20, replace "first" with "twentieth"

Renumber accordingly

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1394

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1394

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/09/07

Recorder Job Number: 4793, 4799

Committee Clerk Signature

*Monica Spaulding*

Minutes:

All members of the committee were present.

Senator Dever, Chairman, opened the hearing on HB 1394.

Representative Blair Thoreson from District 44 spoke in support of HB 1394. See attachment

#1. As the law stands now people from out-of-state can purchase fireworks all year but North Dakotans can only purchase them for a one week period June 27<sup>th</sup> – July 5<sup>th</sup>. This is due to exception 1.b. in the Century Code 23-15-04. He feels this would solve that inequity. The original language of the bill was to change it to June 1<sup>st</sup>, but the House amended it to just give the citizens of North Dakota one additional week to purchase fireworks. It would have no impact on other laws. If a municipality says fireworks are illegal, they would still be illegal. It only deals with the sale of fireworks.

Senator Lee asked how someone can buy fireworks in person when the statute in the Century Code 23-15-04 says "for shipment directly out of the state."

Representative Thoreson said the assumption is that the out-of-state person is purchasing the items to take them out of state with them.

Senator Lee said the original intent of the bill was probably to allow fireworks manufacturers to be able to sell and ship their product. It seems the wording would indicate it is to go directly

from the supplier to the end user out of state. It seems to come into a shop and buy it and carry it out is outside this law. Have there been any legal cases? Do retail sales count?

Representative Thoreson said the fireworks suppliers he has spoken to say that their attorney has told them that retail sales are permissible. He said the exclusion in the law was probably first written with Star Fireworks in mind because they produce commercial fireworks and distribute all over the world. Star Fireworks also has a retail showroom in Fargo. North Dakotans can go to Minnesota and to South Dakota to buy fireworks but they can only buy them in North Dakota for one week of the year. It is a quirk of the law.

Senator Dever said the only change he sees in the bill is the change from the 27<sup>th</sup> of June to the 20<sup>th</sup> of June.

Representative Thoreson said that is correct. Retailers wanted it to be all year but they settled on trying to at least get it to June 1<sup>st</sup>. The House changed it to just be one additional week.

Senator Dever mentioned that the fireworks retailers work 20 hour days. He asked if they wanted to extend it another week.

Representative Thoreson spoke to retailers and they said it is tough because they have to ID every single customer before June 27<sup>th</sup>. They said because they are open anyway they would like to (I couldn't understand the tape.) anyone who wishes to come in.

Senator Dever asked if there might be another way to address this.

There was some discussion about the original intent of the law and the possibilities of how it could be changed to fix the inequities. Some of what we sell in North Dakota is not even legal to shoot off in Minnesota.

Support: -

● Opposition: - Gary Retterath, Fire Chief of Valley City, spoke in opposition to HB 1394. See attachment B. He does not want the fireworks selling extended by a week because of the increase of fires. In the 9 days of fireworks sales they have had an average of 3 ½ fires. In the last 10 years they have had 12 structure fires directly related to fireworks. He is also concerned about the injuries to children and to firefighters. Last year there were 10 reported burns and injuries at the local hospital. All of these were teenagers. June 9<sup>th</sup> a teenager lost his right hand due to fireworks. There is a lot of time the firefighters spend taking care of the calls caused by fireworks. In an informal survey of 32 firefighters, only one was in favor of extending the season and Gary thinks that one was joking. He feels 9 days is enough and when more freedom is given it won't even be appreciated.

● Opposition: - Steve Nardello, Fire Chief of the City of Mandan, spoke in opposition to HB 1394. He stated that the fires and complaints start as soon as the fireworks stands open on June 27<sup>th</sup> even though the City of Mandan has an ordinance that states they can only be used July 1<sup>st</sup> to July 5<sup>th</sup>. Mandan averages 125 law enforcement and fire incidents between June 27<sup>th</sup> and July 5<sup>th</sup>. He has no doubt that extending the season will just increase the call volume putting a greater demand on emergency services. He feels it is a detriment to public safety. He doesn't see any merit to the bill. He also mentioned that when it is a very dry year they have had to issue fireworks bans. When the ban is issued after people have already purchased their fireworks they tend to store the fireworks in their homes which is dangerous or else they find another time to shoot them off (illegally).

● Opposition: - Lois Hartman, Executive Director of the ND Firefighters Association, spoke in opposition to the bill. She cited the increased call volume and the danger for the firefighters.

● One firefighter's life was lost due to a fireworks fire.

● Senator Dever asked if Lois represented all the fire departments in the state.

Lois said she does.

Opposition: -

Neutral: - Dr. Bruce Levi from the ND Medical Association and the ND Society of Eye Physicians and Surgeons presented an amendment to the bill. See attachment # 2 and attachment #3. This amendment would prohibit the sale of bottle rockets. He mentioned that HB 1389 would have accomplished what this amendment is trying to accomplish. HB 1389 came out of committee with a 12 -2 do pass vote. It received an affirmative vote of 47-43 on the House floor but it was one vote short of the 48 needed for a constitutional majority. The next day there were a number of absent members and the motion for reconsideration wasn't successful. There was substantial support on the House side for a prohibition on the sale of bottle rockets in North Dakota. The medical community is very concerned about bottle rockets. Most of the fire related injuries and eye injuries that occur are due to bottle rockets. Even bystanders are at risk because of the unpredictability of where they will go. Most of the injuries are to the eye, the face and the hands. He expounded on the definition of a bottle rocket found in the note at the bottom of the page of attachment #2. The medical community would like to see bottle rockets outlawed.

Senator Horne asked if there was significance to the states of Minnesota and Montana being highlighted on page 2 of attachment # 3.

Dr Levi said there is no significance to the highlighting. All of the states listed on that page have prohibited bottle rockets.

Senator Dever asked where the fireworks are manufactured.

Dr Levi didn't know but thinks most of the fireworks are manufactured in China.

Neutral: - Dr. Mark Sczepanski, a Grand Forks ophthalmologist and the President of the ND Society of Eye Physicians and Surgeons, spoke in support of the amendment to HB 1394. See



attachment # 4. He is in favor of freedom in our country and in favor of industry but he would like to get rid of bottle rockets.

Senator Horne asked how many injuries there are due to bottle rockets in our state in a year.

Dr. Szczepanski said there unfortunately is not a trauma data registry for our state. Mac Johnson, a retina specialist in Fargo who is sort of a funnel for the significant trauma said he had a letter that stated in the last five years he himself had 12 cases.

Senator Dever asked if there are any injuries from other kinds of fireworks.

Dr Szczepanski said there is not as much problem with the other types of fireworks. Sparklers can be a problem because people see them as so safe and give them to their little children.

The sparks they throw can be 1800 degrees.

Senator Oehlke asked about the age 12 cut off and the fact that children don't care ID's.

Dr Paul Dunderland of Bottineau spoke in favor of the amendment to HB 1394. He has practiced optometry for over 23 years. He has seen a wide variety of ocular injuries and trauma but by far the most serious are from bottle rockets. He spoke of the details of some of the injuries he and his colleagues have treated. He wishes we had statistics for our state. In the state of Arkansas they do have an annual eye registry of eye injuries. Out of the eye injuries that occurred in Arkansas in 2006, 92% were from fireworks, 80% of those were from bottle rockets. The number of incidents that involved innocent bystanders was 43%. The eyes the ended up blind was 36%. He feels the bottle rockets have been overlooked because they look so innocuous but they are very deadly. He feels it would be good to ban the fireworks that pose the most threat to the ocular health of our state.

Nancy Kopp representing the ND Optometric Association spoke in support of the amendment to HB 1394.

Senator Dever asked if any fireworks stands operators testified in favor of this bill when it was in the House.

Nancy said to her recollection there were not any that testified.

Dennis Bullinger with the Mandan Police Department spoke in support of the amendment. He stated that retailers are giving away bottle rockets with the purchase of fireworks. They do this even though Mandan has an ordinance against shooting off bottle rockets. He would like to go on record as opposing the change from June 27<sup>th</sup> to June 20<sup>th</sup> but in support of the amendment.

Chairman Dever closed the hearing on HB 1394.

**JOB # 4799**

Senator Nelson said she doesn't like the bill the way it is and she likes the amendment and wonders if they can just hoghouse it back to HB 1389 and forget about the dates of sale.

Senator Dever was wondering if there was a way to actually have the fireworks shipped directly out of the state.

Senator Lee agreed.

Senator Dever said if they are wholesaling across the country they don't want to interfere with that.

There was some discussion about the intent of the law being for retail or most likely for wholesale. Over the counter is probably a small part of the business for the year round businesses.

There was discussion about the other times or events during the year where fireworks are being used and the fact that there are some exceptions allowed in the bill such as sporting events.

Senator Lee suggested asking Legislative Council to see what they would come up with.

There was some discussion about how to craft an amendment to accomplish what they want it to. Shipping directly..... Ban bottle rockets..... Age 12 to age 16..... Change the dates. Liability of the vendor if he sells to someone too young... No vendors spoke up..... Bill as it stands now doesn't even accomplish what the prime sponsor intended..... Deleting 1.b. under 23-15-04....

Senator Nelson suggested making it a request for a study.

Senator Oehlke mentioned that the proposed amendment referred to the exterior dimensions of the fireworks but didn't mention the size of the charge of gunpowder that is allowed and that is what makes it more or less dangerous. He suggested killing the bill and introducing a different bill at a later date.

They decided to consult with legislative council.

The committee will wait until a later date to act on this bill.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1394

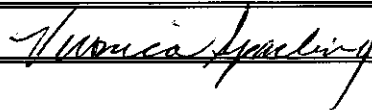
Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/15/07

Recorder Job Number: 5152

Committee Clerk Signature



Minutes:

All members of the committee were present.

Chairman Dever opened discussion on HB 1394.

Senator Dever mentioned he had spoken to John Bjornson in Legislative Council. He said it would be appropriate to simply delete the sentence about shipping out of the state. One of the concerns John expressed was the fact that North Dakota residents cannot buy when residents of other states can.

Senator Lee asked if the Legislative Council staff had any recommendations of how to approach that.

Senator Dever said John mentioned with the time frame in mind they could just delete that sentence. They could hoghouse the bill to include that subsection 23-15-04. If they want to do the bottle rockets then they would amend it to add that subsection to the bill as it exists and then add that section (*...I couldn't hear the audio*).

Senator Oehlke said he had spoken to a couple of optometrists over the weekend. He said they were not as adamant about outlawing bottle rockets as the doctors who had testified.

They said the responsibility is with the parents and the injuries aren't frequent. They feel personal responsibility is the way to handle it and they prefer to have less legislation.

Senator Marcellais said he had spoken to fireworks vendors and they said their best sellers were bottle rockets. The vendors acknowledged that bottle rockets are dangerous and the vendors didn't commit one way or the other.

Senator Dever mentioned that one vendor had contacted the clerk and his concern was the length of the selling season. He liked the bill as it was introduced which would have allowed selling starting on June 1<sup>st</sup>. He didn't hear from the sponsors of the bill when it was being heard in committee so he felt that the sponsors of the bill were not on his side.

Senator Horne raised the question of the age cut off being changed from 12 to 16. It was part of a previous discussion. Are the vendors going to know the age of the purchaser? Does the committee want to address that issue?

There was discussion about what parts of this bill are priority to amend and what parts to leave as they stand. The liability issue of selling to someone too young was discussed.

Senator Lee expressed her preference would be to shorten the days of sales and to shorten the days of personal use.

Senator Dever said it would probably cause trouble with the House if they would change the age limit.

Senator Horne suggested that each issue have a separate amendment drafted so it can be considered individually.

The committee will act on this bill at a later date.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1394

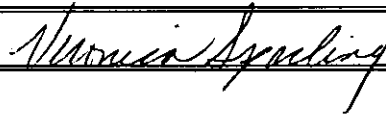
Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/16/07

Recorder Job Number: 5212

Committee Clerk Signature



Minutes:

Roll was taken and all members were present.

Senator Dever, Chairman, opened the discussion on HB 1394.

Senator Dever said there were three possible amendments. One has to do with bottle rockets and was brought by the eye surgeons. One has to do with the deletion of the exception 1.b. Legislative Council did that one as a hoghouse bill. The third one considered was the age change to 16 on line 20 of the bill.

Senator Horne suggested doing the most important amendment first. If the age part might cause problems, leave it until last.

Senator Lee asked if the people from the fireworks industry had been heard from. She especially wanted to know if they had said anything about the possible deletion of 1.b. and how that would affect them.

Jerry Bryer from Generous Jerry's Fireworks had called but no one from Star Fireworks.

There was discussion about the disparity of the right to buy fireworks between North Dakota residents and residents of other states and the ramifications of that law. There was discussion about what would happen if 1.b. were deleted.

Senator Lee does not want to harm the business of fireworks manufacturers that ship out of state.

There was discussion about how to accommodate the out-of-state sales and yet not have disparity between the rights of residents of the different states. There was also discussion about the acceptable dimensions of bottle rockets.

Bruce Levi with the North Dakota Medical Association said they defined a bottle rocket in their proposed amendment. He also mentioned that they had the same issue with HB 1389. There was concern raised in the House so when the bill came to the Senate the ND Medical Association brought an amendment. The amendment specifies the size of the casing of the bottle rocket because it is the small bottle rockets that are the most erratic and thus the most dangerous. Bruce mentioned that there is a US Eye Injury Registry. The prevent blindness organization quotes from that publication indicating that bottle rockets are the #1 type of fireworks that cause injuries that result in hospitalization.

Senator Marcellais mentioned that a vendor he spoke to said the bottle rockets are his best seller. The vendor was not opposed to it because of some of the injuries that have happened.

Senator Dever asked if someone from the fireworks industry had testified on HB 1389.

Bruce said they did not testify.

There was discussion about what to include in the proposed amendment. The age of allowing children to buy fireworks was discussed. There was discussion about how to word the section 1.b. to allow manufacturers to sell fireworks.

Senator Nelson made a motion to amend the bill to change the age to 16 on page 1, line 20, change the date back to June 27<sup>th</sup>, and insert the bottle rocket language.

Senator Oehlke seconded the motion.

Roll Call Vote: Yes 4 No 2 Absent 0

Senator Horne made a motion to pass the bill as amended.

Senator Oehlke seconded the motion.

Roll Call Vote: Yes 4 No 2 Absent 0

Carrier: Horne



*attach#1*

Proposed Amendments to HB 1394

Page 1, line 23, after the period insert "A skyrocket, customarily known as a bottle rocket, is not permissible if the outside diameter of the casing is less than five-eighths inch [15.875 millimeters] and the length of the casing is less than three and one-half inches [88.9 millimeters]."

Renumber accordingly

March 15, 2007

*attach #2*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1394

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 23-15-04 of the North Dakota Century Code, relating to the sale of fireworks.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 23-15-04 of the North Dakota Century Code is amended and reenacted as follows:

1. This chapter does not prohibit:
  - a. A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks that are not prohibited.
  - b. ~~The sale of any kind of fireworks for shipment directly out of the state.~~
  - e. The use of fireworks by transportation agencies for signal purposes or illumination.
  - d. c. The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations."

Renumber accordingly

Date: 3-16-07  
Roll Call Vote #: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1394**

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken amend as below

Motion Made By Nelson Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman		✓	Senator Robert Horne	✓	
Senator Dave Oehlke - VC	✓		Senator Richard Marcellais		✓
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 4 No 2

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
line 20 page 1 age 12 to 16  
go to ~~June 27~~ June 27 th  
insert bottle rockets language

Date : 3-16-07  
Roll Call Vote # : 2

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1394**

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do pass as amended

Motion Made By Horne Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman		✓	Senator Robert Horne	✓	
Senator Dave Oehlke - VC	✓		Senator Richard Marcellais		✓
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 4 No 2

Absent 0

Floor Assignment Horne

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1394, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1394 was placed on the Sixth order on the calendar.**

Page 1, line 20, overstrike "twelve" and insert immediately thereafter "sixteen" and remove the overstrike over "~~twenty seventh~~"

Page 1, line 21, remove "twentieth"

Page 1, line 23, after the period insert "A skyrocket, customarily known as a bottle rocket, is not permissible if the outside diameter of the casing is less than five-eighths inch [15.875 millimeters] and the length of the casing is less than three and one-half inches [88.9 millimeters]."

Renumber accordingly

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

CONFERENCE COMMITTEE

HB 1394

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

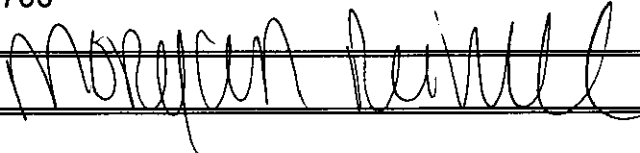
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: April 3, 2007

Recorder Job Number: 5700

Committee Clerk Signature



Minutes:

All Present:

**Rep. Grande:** At this time if we could ask the Senate to explain their amendments.

**Sen. Horne:** As the final result of action, it included a ban on the sale of bottle rockets. I think you have a copy of that which would be 70566.0202. I think the only other thing we changed on HB 1394 is removes the legal date of sale of fireworks from June 27<sup>th</sup> to June 20<sup>th</sup>. We added the amendments of banning bottle rockets. So we ban the bottle rockets and move the sale date to June 20<sup>th</sup>.

**Rep. Grande:** Thank you. So if I understand this if we don't do the floor amendments, there was no committee hearing on the Senate side dealing with bottle rockets.

**Sen. Horne:** I should clarify that. There were three amendments adopted in the committee that were rejected on the floor. Then we brought them back in. The amendments we adopted in the House Government and Veterans Affairs committee would have increased the age of legal purchase by minors. It would have turned the date of sale from June 20<sup>th</sup> to June 27<sup>th</sup> and it would have also banned bottle rockets. Those amendments were brought to the floor

distinguishing that. At that point the Senate accepted the bill as amended which included the ban of bottle rockets but also the legal sale date of fireworks.

**Sen. Oehlke:** The amendments adopted in the committee were not unanimous. I would like to pass out the testimony that we heard in the Senate. There was a bill in the house that banned bottle rockets. I think it was a really close vote.

**Rep. Grande:** Yes it was between one or two votes.

**Sen. Oehlke:** That bill was heard in the house judiciary. I brought information that you would not have heard. There was significant testimony from optometrists and optometrists that stated the number of injuries that were caused by bottle rockets. People were having bottle rocket fights and losing eyes and getting hurt. What do we legislate and what do we consider parental supervision? I didn't have bottle rockets growing up but I still had a great time on the fourth of July.

**Sen. Horne:** We had a picture that was printed out that showed the damage to an eye. I don't know the history of it but it was caused from a bottle rocket.

**Rep. Amerman:** If they were banned is there a date that would be in agreement?

**Sen. Oehlke:** The bill would go into effect August 1. It would effect the 2008 4<sup>th</sup> of July.

**Rep. Boehning:** Looking at the bill I'm looking on the 4<sup>th</sup> line. It talks about bottle rockets, roman candles, and all these things causing injuries. I can see us coming back in next session and having us ban sparklers. Once you start on the slippery slope you are going to be banning everything. I don't think it's the states responsibility to do this. I shot off a lot of fireworks when I was younger but I was watched heavily. I think this is a parent's responsibility. They need to make sure the kids are safe.

**Sen. Oehlke:** I did support the bottle rocket ban but not the other parts of the amendments.

Part because I was told that we lose 15-20 eyes a year. It's not the person lighting them that loses their eye, it's a bystander.



**Rep. Grande:** Well a couple of things in my point of view. For one when you hog house this particular bill you took away the entire intent of the bill. Now some legislators aren't happy because their name is on a ban. It is very difficult, especially for our house members to have to deal with that. Its one thing to hog house but it's another to completely turn the intent opposite of what it should be. You now have house members who were supporting the industry and now it's like asking them to go against the industry. The vehicle that you chose might not be suitable and acceptable by the house. I can't agree or disagree with the number of injuries you are speaking of. I do know that nationally, eye injuries, fireworks are the 5<sup>th</sup> leading cause. That is all fireworks, not just bottle rockets. Currently in ND, we have local control on those things. Bismarck bans them. Fargo bans them. It's a local control issue all around the state. It's already in place and utilized. If the area is rural, it's going to be a rural issue. With that point made, is there any other discussion?

**Sen. Oehlke:** I have had a bill hog housed and it was totally turned. I know one of the people who testified on that. In our committee, one of the sponsors indicated that he went out searching for sales information and location of fireworks. It wasn't like they came to him, he went to them. In my opinion it was a commendable idea. You mentioned that bottle rockets are not allowed in the city of Fargo but is the sale of the bottle rockets allowed in the city of Fargo?

**Rep. Grande:** No. Outside the city limits is where you can buy them.

**Sen. Horne:** We heard a lot of testimony from the fire departments and police departments. There is a lot of worry with the law enforcement issues. My perfect bill would be banning bottle rockets and returning the date to June 27<sup>th</sup>.

**Rep. Grande:** You have that opportunity next session.

**Rep. Boehning:** If someone is hurt with a bottle rocket, are there charges filed to settle the problem? If I hit someone in the eye am I liable for lawsuits or legal action?

**Sen. Oehlke:** Usually what happens is the lawsuit is not necessary because it is in violation of the homeowner's insurance policy. The homeowner's insurance policy is in response to that. They take out a liability claim. Now in some cases there may not be a homeowners policy involved because maybe the family didn't have one. Sometimes the claims don't get settled for many years because they don't know if the eye will be okay eventually. They don't know what this child will grow up and not be able to be. Some things hang on for 5-20 years before it is finally settled. You never see that in the court because the insurance industry takes care of those. There are liability issues.

**Sen. Dever:** I am in sympathy with the sponsors and that is another reason that I didn't support the amendments, particularly about the age. The problem that was laid out, which was the genesis of the bill doesn't really address what's in the bill. The problem was a fireworks manufacturer, who sells over the counter to residents of MN, using an exemption to the time frame. Someone drove into the parking lot with MN plates on their car; they had a MN license and said they were going home. They would get sold to. This misses the exploitation of the loop hole. I had offered an amendment that my committee did not adopt. If that is something the conference committee would like to consider we could do that.

**Rep. Grande:** I would like to look at that amendment.

**Sen. Horne:** I can't speak for every committee member but I thought our point was to correct that? There were so many other issues going along with this bill other than the dates. We were concerned about that.

**Sen. Oehlke:** I will take part of the blame for the hog house. When I started looking through the bill and realized there was an age limit. I pictured myself as a fireworks vendor and trying to distinguish the difference between an 11 and 12 year old. They don't have an id because they don't have a driver's license or anything until they are about 16. It seems to me that it is

unfair to put that person in a situation where they might have a liability suit against them. I really had a problem with the age limit. I wasn't excited about that at all. It is the parent's responsibility.

**Rep. Grande:** I have questioned that too. I know that it was current law and was something that was touched upon. Kids do get ID cards with their school ids. It's pretty easy in ND to have an id with your date of birth on it.

**Rep. Boehning:** When we are talking about 12 year olds, I'm not sure what the legal driving age is for kids that are on the farm. It is probably right around that same age. Kids who drive tractors and run equipment down the road is a lot more dangerous than shooting bottle rockets. If you start looking at age limits, you have to look at all of them. A \$200,000 piece of equipment driven by a 12 year old is a lot more dangerous than bottle rockets.

**Rep. Grande:** I think we have had a great discussion on this. I don't think today we are at a point of agreement. I would like to see Sen. Dever's amendments. We will adjourn for the day.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

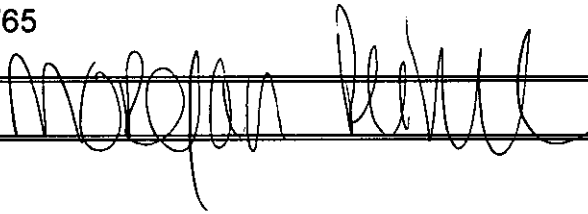
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: April 5, 2007

Recorder Job Number: 5765

Committee Clerk Signature



Minutes:

**Rep. Grande:** In speaking with a number of the bill sponsors here we are still looking at members of our house because there doesn't seem like there is any movement to accept the Senate's amendments at all.

**Rep. Boehning:** I move that the senate recedes from it's amendments on HB 1394.

**Sen. Dever:** I'm not sure that the house can move that the Senate act.

**Rep. Grande:** I think they can question but not necessarily move.

**Sen. Dever:** I'm not sure what the whole rule is on that.

**Rep. Grande:** There is nothing in the notes that states who can and can't make a motion. It says when a vote is made a certain number is required which is two yes's from each side.

**Sen. Dever:** I'm not sure about it, I've just heard some references to that.

**Rep. Grande:** Yes and I have heard that at times too, just as long as you have a final vote of a minimum of 2 and 2. We talked to legislative council and anybody can make any motion. Do I have a second?

**Rep. Amerman:** I second that.

**Sen. Oehlke:** I think there were some fairly strong feelings on some parts of the Senate on this and I would be happy to hear from a colleague.

Sen. Horne: I will give you my thoughts and then I have a question on the motion. I have two problems with the way the bill is now. I think I closed out our last hearing with that. The bottle rockets are one of them. They are a lot of fun but they are entirely unpredictable. They are very erratic. It makes them a health hazard. The eye doctor profession has testified strongly against this. They had a picture of an example of an eye injury that demonstrated that. Most of the eye injuries in the state are caused by bottle rockets. I'm not against young people having fun but it's just a problem. About 35 states have outlawed these fireworks and I think we should do the same. It isn't just for the people launching these missiles, it's the folks standing outside. They might be talking with each other and not paying attention. They can be injured. That is the premise of this whole thing. It's not to deny people having their fun. It's to try and keep them healthy with their eyesight. The second problem I have with it is the concern caused over the extension of the sales. The fire prevention folks and law enforcement people testified against this bill. They gave strong and compelling testimony to indicate this is just going to be more of a problem for them. Maybe they can buy them earlier because they aren't supposed to fire them until a certain day, but of course they can't resist and they do. Because the fire people have to pull their people away from what they should be doing to go out and put out fires in the country. This places a burden for people selling the fireworks when we force them to sell for another week. My impression was that they wanted to have this so I don't see that as an argument. I prefer to ban bottle rockets and keep the selling date at June 27<sup>th</sup> instead of the 20<sup>th</sup>.

**Rep. Grande:** I just want to point out one thing which was that it is great that it is your intention but that would have to come to me as a separate bill, not one that was meant for a complete, opposite purpose. That is where the house has a very difficult time with the fact that we would

be amending a bill that was a vehicle for something completely different. We will call the role on this motion.

**Rep. Grande:** The vote is 3-3 so we will adjourn until a later date.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

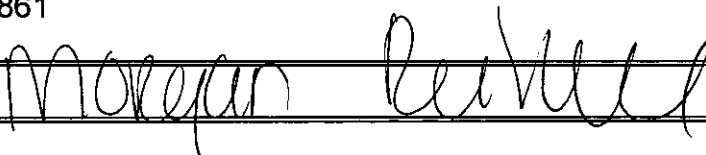
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: April 10, 2007

Recorder Job Number: 5861

Committee Clerk Signature



Minutes:

**Rep. Grande:** We will open the hearing on HB 1394.

**Sen. Horne:** I could offer an opinion. My thought was that the bill came over for an extension of one week. I wasn't in favor of that and I don't know if the other committee members were or not, I can't speak for that. We then amended it to ban bottle rockets. The Senate agreed. I think then the Senate said since we have banned bottle rockets and taken away one of the profitable items from those who sell fireworks, let's give them another week to make up the difference. I think we are trying to economize. We extended this sale time by one week but banned one of the items that we think is the most dangerous and problematic. We both yielded to what we might have done separately. To my mind that makes this bill acceptable and unacceptable to both. Some people like it and some people don't. Therefore maybe it is ok. My goal is to except the bill in it's present form.

**Rep. Grande:** I would just reiterate the fact that the integrity of the bill has been destroyed. That was not the intention of the sponsors. To have that type of wording on here is not fair to those legislators. Especially since the separate bill had been brought in for the banning of the bottle rockets. It was killed in the house then brought back, and failed to be brought back. It was then added on without a full hearing to the Senate.

**Sen. Dever:** It did have a hearing.

**Rep. Grande:** It did have a hearing but it didn't have a full hearing. It had an amendment brought in by the opposition. The opposition never had notice that there would be another hearing on that bill.

**Sen. Dever:** I think it probably had the same opposition that it did in the house.

**Rep. Grande:** But it never had public notification that the bottle rocket bill would be heard again.

**Sen. Dever:** The amendment wasn't added on in one hearing. It was contemplated over several days. There were contacts from suppliers and sales people. We did indicate to them when the hearing date's where. Most of them emailed back and forth. They weren't willing to come in.

**Rep. Grande:** Or able.

**Sen. Oehlke:** They aren't selling fireworks at this point

**Rep. Grande:** Most of them have different jobs. The fairness of the sponsors is being inappropriate on having their names on this bill.

**Rep. Boehning:** With your email conversations, did they say anything in dollars on how much it was going to cost to not sell bottle rockets and dealing with lost revenue?

**Sen. Dever:** I had conversations with one firework distributor who said that he has 1,500 cases of bottle rockets. His concern was that he'd be able to sell those this year. I assured him that the effective date of the legislation would be August 1 so it wouldn't prevent that. It is my understanding that he did not testify in the house because he didn't know it was coming up. He didn't testify in the Senate because he didn't know it was coming up. I told him I would let him know when the conference committee was coming together and I did. I had the conversations but he talked about coming and then decided not to. I said if he would like he could email me



and I would make sure everyone got it, but he didn't. I don't know if there was any opposition to either bill. The bottle rocket provision, that bill was heard in the house Judiciary so you didn't hear that.

**Rep. Boehning:** Yes I did.

**Sen. Dever:** Oh you're on that committee. It was my understanding that the bill came to address a situation over in the eastern part of the state where one fireworks dealer, who is also a manufacturer, could sell. The chapter says it doesn't prohibit the sale of any kinds of fireworks for shipment directly to of the state. My understanding is that they are using that as a loophole to sell fireworks to MN residents who show their drivers license and indicate that they are headed back to MN. It is being shipped directly out of the state. When we left the last conference committee we looked at the amendment that was striking that loophole. I think that would address the intent of the bill. I'm wondering if you have had any conversations since our last conference committee regarding that.

**Rep. Grande:** I did talk with one of the bill sponsors on that and by doing so I don't think it accomplishes what the sponsors wanted. I think striking that one word without also striking the language of that. We have to get rid of that date in there otherwise they can't sell fireworks.

**Rep. Thoreson:** The language which is a section in the century code dealing with out of state shipment does allow retailers to sell. By removing that language, yes you would restrict the sales only for the dates of June 27-July 5. However, it would put those retailers at a disadvantage because it does not allow them to sell during those times of the year. If that is the committee's intention you certainly can do so. However, right now the law does allow them to sell to persons outside of the state during any period of the year. By removing that language it would then restrict that under some time. That certainly wasn't the intention. It was just to open it up a bit more for the people.

**Rep. Grande:** So that was your intention?

**Sen. Dever:** In that circumstance we are talking about retail. The other exception is to continue to allow for wholesale sales for fireworks displays or for sales in other states on a wholesale basis. I guess what it comes down for me is that language was originally drafted it seems to me that the intent was not to allow retail sales except for those dates and for shipment directly out of state. This is just a loophole for what the intent was when that was originally drafted.

**Rep. Thoreson:** I guess I cannot answer since I was not here. This amendment was drafted with intention. However it was not in the section 1 or subsection B. It does not address the issue of whole sale versus retail. It just says for shipment directly out of state.

**Sen. Oehlke:** Read section A.

**Rep. Thoreson:** I understand that item A does address wholesaler doing their job or however you put that. If you read it, it does not prohibit. I think that you would have to take each section as a separate exemption and not adding it together as a whole. Item B directly deals with shipment. It does not differentiate between the wholesale versus the retail.

**Sen. Dever:** But the wholesale is otherwise covered?

**Rep. Thoreson:** You mean under section A?

**Sen. Dever:** Yes.

**Rep. Thoreson:** I believe that if you were to remove section B that it would also restrict the sale of out of state for those items. I guess that section does not address that either so maybe you are correct. It may allow them to do so out of state. The true sense stays separate. I'm not certain. I guess I would have to defer that to someone who would know exactly.

**Rep. Grande:** Legislative council did this draft.

**Rep. Thoreson:** Again reading section A it just says that these people can sell wholesale fireworks.

**Sen. Oehlke:** I think this is already in code now. They just crossed that line off.

**Rep. Grande:** Yes so we need to know that if we do cross this off, what are we accomplishing?

**Rep. Boehing:** The way I read it, they wouldn't be able to sell anything out of state. Once you take that out they can't sell out of state.

**Sen. Dever:** I think you need to read the language that would be left which does say that you can sell at wholesale.

**Rep. Grande:** It does say that but why would they put that other language in?

**Sen. Dever:** Yes it almost seems redundant if it's intent is wholesale sales.

**Rep. Grande:** But by extending the time period what it did was it took away from here. If you extend the time period, the seller isn't limited to out of state, it can sell in and out of state by extending the time period.

**Sen. Dever:** For that one week. The other 50 weeks of the year then they rely on out of state?

**Rep. Grande:** Yes and that is why many of them close down. Some of the border cities don't.

**Sen. Dever:** I wasn't aware of that.

**Rep. Boehning:** I know other states who have done that. There are quite a few states that allow you to buy fireworks and take them out of state. Some have stores set up like retail stores. You just can't shoot them off during the off season.

**Sen. Dever:** If the Senate was to recede from the amendments we would have to do something with the time frame.

**Rep. Grande:** Are you thinking of removing the time frame then?

**Sen. Dever:** I'm thinking this would be the possible way to do that. I wonder how much business that is for them?

**Rep. Grande:** The out of state sales?

**Sen. Dever:** Yes. Probably not as much as it was because I understand that MN has opened up fireworks sales.

**Rep. Grande:** I wonder what it is for Montana and South Dakota.

**Sen. Oehlke:** I was just reading some of our testimony in opposition relative to the original bill and we aren't talking about bottle rockets. It was mostly from fire departments and police departments talking about the frequency of fires and the time period of sales. Those days might add to their concerns in that regard. I think Valley City said that they had 10 structure fires in the last years directly related to fireworks.

**Rep. Grande:** What is Valley City's city ordinance on fireworks?

**Sen. Oehlke:** I don't know. I know Mandan has it banned. One of their concerns in addition to the problems is that people store fireworks they have purchased and haven't shot off. They store them in the attic or somewhere. If there is any problems it just adds fuel to the fire so to speak or makes it even worse. We had some significant testimony on that.

**Rep. Grande:** The extension of the sale in general, are people still going to store fireworks? They are. I don't know if that argument makes sense.

**Sen. Oehlke:** It is the shooting them off.

**Rep. Grande:** Yes, the storage part won't change. I noticed that Mr. Dawson has joined us. If he would please step forward. Our discussion will be about the timeframe of sales of fireworks. In that portion we are in the section where it talks about the sale. We want to know what happens if you strike that language.

**Tim Dawson:** I think that from what I've been told that is being used to sell fireworks to people that are from out of state all the time. That has been interpreted to me and that is what people do under that statement. By crossing it off you couldn't have someone in ND selling fireworks

to people from MN. I think that is the way it has been interpreted, at least that is what I've heard.

**Rep. Grande:** So that would shut that down for all year long except during the prohibited week of sales.

**Tim Dawson:** That is my understanding.

**Sen. Dever:** But it wouldn't prevent the wholesale sale of fireworks?

**Rep. Grande:** Could we give you time to look at this and bring us back information? Would that be helpful?

**Tim Dawson:** Yes.

**Rep. Grande:** We are adjourned.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

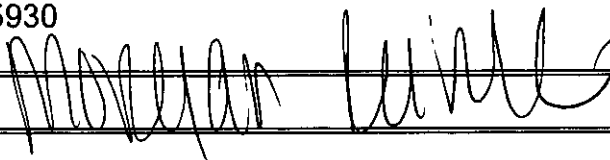
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: April 11, 2007

Recorder Job Number: 5930

Committee Clerk Signature



Minutes:

**Rep. Grande:** Does the Senate have anything they would like to offer us today?

**Rep. Dever:** It occurred to me that I was supposed to visit with Tim Dawson and I did not do that.

**Rep. Grande:** I did and I have that information here today?

**Rep. Dever:** You have amendments?

**Rep. Grande:** No, I don't have amendments but he gave me information on what he would do with the amendments. In the portion that we were dealing with when talking about the exemptions, the amendment that Sen. Dever had with talking about the striking of part B which talked about eliminating the sale of any kind of fireworks for shipment directly out of the state. What Mr. Dawson was going to find out for us is how does that affect us and what happens when we do that. That is almost worse than the bottle rocket amendment when it comes to the integrity of the current bill. Wholesalers would still be able to function as you had stated. What you were getting at would be exactly what you would accomplish. Retailers would not be allowed to sell any fireworks to anyone, anywhere except during the time alluded in the retail section. It would basically take away the retailers that are open other time periods. This would include the wholesalers so they couldn't sell unless it was directly shipped out of state. What

you would do is actually move B into A so it was strictly under the wholesaler aspect of it. This would help in accomplishing what you would want to do in making it a wholesaler instead of a retailer. That would definitely be one way to make the amendment. With that being said I don't think it really accomplishes anything the bill sponsors were trying to say and that did not want to hinder the retail sales.

**Sen. Dever:** So you are saying it would accomplish it but you do not like that.

**Rep. Grande:** Correct. It would accomplish what you were saying but it certainly does not accomplish what the bill sponsors would want to see accomplished. It would be doing the opposite of what the bill was with the extension of the days.

**Sen. Dever:** It seems to me that this is the dilemma that we have. The House passed the bill as I recall 63-30 to extend the time frame. The House defeated the bill involving bottle rockets 47-43. The Senate passed the bill including both the extension of the time frame and the bottle rockets 25-21. Either way it is close. Obviously the house wouldn't likely pass the bill with the bottle rocket provision in it. It's my feeling that the Senate would not likely pass the bill with the time extension. That is my speculation but I can say for a fact that the Senate committee would not have passed it only that way. That is our dilemma.

**Rep. Grande:** With that dilemma on the table, since the Senator's have not had the opportunity to vote on a bill that didn't have bottle rockets on in it, if you were to accede to you amendments and allow them the opportunity to just vote on the extension time.

**Sen. Dever:** The Senate did have that opportunity. They did in the sense that the amendment was offered as a floor amendment and they adopted it. The bill would have otherwise been in front of them without that amendment on it.

**Rep. Grande:** In direct vote but did they really have the opportunity to vote it up and down that one way?

**Sen. Dever:** Conversely then, I think part of what made it palpable to the Senate was that. I think some of the people that supported the bill with the time extension were because we added the bottle rocket.

**Rep. Grande:** I can see where some of them are one way or another but you never had an up and down on the one particular issue and I think it would be nice to know what the up and down issue would be. If you wish to take it back and the Senate rejects it all together, that would be Senate's prerogative to do so.

**Sen. Dever:** So you would like us to address it with only the ban on the bottle rockets?

**Rep. Grande:** No my suggestion is to take the ban off and move to the current bill as it was brought to you and deal with it as it was brought to you instead of changing the integrity of the bill from the floor amendment.

**Sen. Dever:** Is the House open to any kind of a movement to address the situation of sales to out of state?

**Rep. Grande:** Not in this vehicle.

**Sen. Dever:** In my mind we in ND have set dates of when we can sell fireworks and the kinds of fireworks that can be sold. Other states do the same thing. In MN I understand it was only recently that they allowed the sale of fireworks at all. It seems to me that in other circumstances we don't export problems to other states that they don't want. When someone gets out of the penitentiary we don't give them a one way bus ticket out of state. It just seems to me to not be in keeping proper relationships with other states.

**Rep. Grande:** I think one of the things that are important that ND has kind of done with the fireworks issue is allowed the city ordinances or county ordinances to really handle this situation as to what they see best fit in their particular area for that particular year. Through education of the doctors, state, and fire people, it's not safe to light off these fireworks or we



cannot do fireworks this year. That city has always taken the lead and done an excellent job of those being used. That is the direction we have to go. If this is an issue that the doctors in certain communities have decided they don't want or feel fit, they should be educating the public through the city commissions or county commissions and having them banned there. They have them brought in on a bill that it wasn't appropriately attached for. The House can't make that move. I think that is where we have to look back to our local levels and let them work through that process. Through the educational tools there, if they feel that bottle rockets shouldn't be in Mandan or Bismarck anymore, that is what those city commissioners can do.

**Sen. Dever:** You're comments seem to address the bottle rocket situation. The other situations seems to me to be an interstate situation that we have a responsibility to see to it.

**Rep. Boehning:** I do think Minnesota has sales of fireworks year round as well now. So we can go over there to pick them up and bring them here and shoot them. But we can't buy them here. I'm not sure but I heard something that we are able to sell year round now. I don't know about South Dakota and how they work because I haven't been down far enough to one of the larger cities if they are selling year round or not.

**Rep. Grande:** I think you have a very good point about the interstate commerce issues.

Whether that is the piece that needs to be addressed in this conference committee without a hearing, I think I really have a hard time bringing that up in the committee.

**Sen. Dever:** In my mind, the extension of a time frame doesn't address the problem that was brought forward to address it.

**Rep. Grande:** Other than they saw the problem in a different fashion than you did. The commercial sales people that were selling the fireworks had a problem with the fact that they were limited in their time frame to sell it locally and out of state, not looking at the directing you were. The approach was different.

**Sen. Dever:** Well the approach is allowing sales for one week we do it for two weeks while the out of state sales takes place year around. The initial approach was to go back to June 1. The house took 20 days off and we are talking about 7.

**Rep. Grande:** The initial plan was to eliminate the time frame all together. It came in as a month and came down to 5 days.

**Sen. Oehlke:** I mentioned this before that when we first talked about this bill we loaded up a couple other things on it that did not pass. One was the age limit for purchasing. I guess if I was going to be trying to come with a conclusion. I am only going to consider receding from our amendments if the date for sale was re-established for June 27<sup>th</sup>.

**Rep. Grande:** That means we have no bill.

**Sen. Oehlke:** There you are.

**Rep. Grande:** I would say to just go kill that. To take that word out, there is no bill. We at least have to have a bill to vote on. That was the only change. If you take away the date, you take away the bill.

**Sen. Oehlke:** That is the dilemma

**Rep. Grande:** Like I say, you want to kill it or should we? I just don't feel that we should have to vote on that issue a third time.

**Sen. Horne:** Are we drifting towards allowing each chamber to vote on the bill as it came out of the Senate to see if it survives? We aren't going to withdraw the bottle rocket side and you're not going to change the other.

**Rep. Grande:** In your opinion you're not going to withdraw the bottle rocket motion. Maybe we need to establish new members. I don't know that it is necessarily the issue at this point.

**Sen. Dever:** I don't think the conference committee can come out with a do not pass either.

**Rep. Grande:** I really feel that since we have already had our votes on this, it is time the Senate take the votes on the way the bill came in.

**Sen. Dever:** I believe we did that.

**Rep. Grande:** You never had a vote on just the bill.

**Sen. Dever:** We did in the sense that we adopted an amendment to the bill that was of some controversy. The bill was never on the Senate floor for an up or down vote. We've had changes with bottle rockets and such. I might be able to concede on the bottle rockets if they did something with shipment out of state. I think the bottle rocket ban is a worthy issue. 47 of the House members agreed with that. Your Judiciary committee heard that. We heard that 15-20 eyeballs are lost a year from bottle rockets. They are the 2<sup>nd</sup> leading cause of eye injury that lead to hospitalization. I think there is some serious reasons for considering that ban. 35 states have banned bottle rockets.

**Rep. Grande:** I agree with you. I think that it is a worthy cause for discussion and vote, but not on a bill that it didn't belong on.

**Sen. Dever:** My argument is probably in agreement with yours. Because it is a worthy issue, to ram it through might only lead to its demise and jeopardize the discussion. It might be better for us to concede on that. Having said that, the Senate still has a problem with the dates.

**Rep. Grande:** Do we need amendments?

**Sen. Dever:** Maybe we need to have a conversation.

**Rep. Boehning:** I guess we would have to take a look at the surrounding states of MN, SD, and MT and see what their laws are and how they would apply. If we are going to be able to go there and buy them in the off-season and bring them back, I think we will have to take a look at their laws because otherwise we could have some other problems with interstate commerce.

**Sen. Dever:** If you want to buy bottle rockets you have to do it in SD because you can't do it in MT or MN.

**Rep. Boehning:** We are talking about the total sale of all fireworks, not just bottle rockets to out of state residents.

**Sen. Dever:** You are correct. The language in there is the sale of any kind of fireworks. It's not just what is allowed here or there.

**Rep. Grande:** So do we solve the problem by saving a license wholesaler selling at wholesale fireworks that are not prohibited including the sale and shipment directly out of the state of any kind of fireworks.

**Sen. Dever:** As long as it is for wholesale and not resale. We are talking about fireworks shows and those kinds of things whether it is in or out of state. I think it is irrelevant. I guess in my mind A stand alone without B at all.

**Rep. Boehning:** I think someone was talking about the shipping side the other day.

**Rep. Grande:** And that is why council put that up there.

**Sen. Dever:** So do we even have to say anything about shipping out of state?

**Rep. Grande:** Yes it says sales or shipment. We can leave it so it says any kind of shipment of any kind of fireworks.

**Sen. Dever:** I think one of the reasons that the wholesale part of it is important is that fireworks distributors stock their inventory at all times of the year.

**Rep. Grande:** I think Sen. Oehlke made a very good point. I don't know if we should have directly out of state in that language. I think it should be for shipment because our retailers in our state may want to be buying from a wholesaler and be stocking up July 1. They need to be able to purchase and stock and be ready. Our retailer still needs to be able to purchase. That doesn't give the retailers the ability to sell but it does give them the ability to purchase so they

can be stocked and ready. If we make it that the wholesalers can go out of state, we have eliminated the purchase of our retailer people to stock and be ready.

**Sen. Dever:** Right.

**Rep. Grande:** So we need to eliminate directly out of state from that sentence.

**Sen. Oehlke:** That is where I don't see why shipment is necessary either.

**Rep. Grande:** We could leave that with the intent that they have it properly worded.

**Sen. Oehlke:** I think we got hung up on the shipment part of it because in B it talks about shipment. I think that A probably does stand on it's own but it wouldn't necessarily be a problem if it was added.

**Rep. Grande:** Mr. Dawson had brought up adding this language just for the clarification purpose that everybody is clear that this is only for this instead of leaving it in that vagueness. Let's be clear as to what A is really going to mean.

**Sen. Dever:** I think our interest is in addressing this instead of instead of extending the time frame.

**Rep. Grande:** So you are going to take out the time frame too?

**Sen. Dever:** Go back to the 27<sup>th</sup> and address the problem.

**Sen. Oehlke:** Then you still have a bill.

**Rep. Grande:** I think that taking this language out already takes away from a lot of that retail stuff. I realize you are trying to solve causes a great harm to the retailer. Then to take away that time frame too, I think is doing a real disservice.

**Sen. Oehlke:** It doesn't hurt the wholesaler a bit.

**Rep. Grande:** I'm talking about the retailer. It hurts them completely. Taking out B stops the retailer from doing any sales except during that time frame that we allow them to have.

**Sen. Oehlke:** Which is what they have been doing for quite a while.

**Rep. Grande:** No because the retailers now sell for out of state. Once you cross off B you take away the retailers ability to sell directly out of state and move the wholesalers to be the only ones who can sell directly out of state. Not only have you taken away the retailers ability to sell directly out of state, now you are saying that you want to take away that extra time that they can do sales.

**Sen. Horne:** I was aware that retailers can sell to folks from out of state. Outside of the time and dates that it is restricted, how much of this happens? I'm curious to know how many retailers set up shop before the 27<sup>th</sup> of June and sell out of state. I can't believe much of that happens.

**Rep. Grande:** I believe that Rep. Thoreson has those numbers.

**Rep. Thoreson:** In response to Sen. Horne's question, I do not have a specific number. However I do know that in the eastern part of the state there are many retailers who open several weeks in advance of the June 27<sup>th</sup> date. Perhaps it's June 1 or 10. My original bill put the date of June 1 in as a date. This was precipitated by some news coverage of retailers in the eastern part of the state having an issue where there were persons from out of state coming in and being able to purchase and instate people not being able to do the same. As I do not have specific numbers I know there are quite a few. Some of which are open year round, but some which open several weeks in advance. After the bill was amended in the house, the date of the 27<sup>th</sup> was changed to the 20<sup>th</sup> so it gave those retailers one additional week to be able to sell to people in the state. It's not a specific case of just one retailer doing this. There are quite a few although it varies with the dates.

**Sen. Horne:** That is incredible to me. If I had a retail store in Fargo I could open up in May. As long as I only sold to people in MN, I would be legal based on what we have here in law today.

**Rep. Thoreson:** You could do that in your city of Minot. If someone from MT wished to stop in you could sell. I only know what is going on in my part of the state after seeing the news coverage. There may be retailers in Bismarck, Williston, etc.

**Sen. Horne:** That is exactly what we are concerned about. That is why we were concerned about this inequity. This doesn't seem right.

**Rep. Grande:** I think if we were going to make it right, what you would do is strike the dates all together. That makes it equal that the retailers can sell in state and out of state any time they want. Otherwise why would we take a business and say we can restrict them.

**Rep. Boehning:** I know a lot of the businesses are located in my district. The city has annexed the property. They are forced to move to another location at an expense. That's what happens when you start clinking with these little line items. It put's people out of business. What we are doing here is trying to have the business create a little bit more revenue for the state. We can maybe spend some more on other funds. Maybe the surplus would go up to \$581 million instead of \$580,999,000. We are taking businesses, restricting them to what they can do, and every time we do that it costs the businesses more money. It also costs the consumer money. I have heard complaint that the fireworks are expensive. If we keep doing this they are going to have to raise the prices more. I'm not in favor of restricting businesses and I see it happening around the state. You can't sell them within the city limits. It costs consumers more to buy them if they want them.

**Sen. Dever:** You seem to be arguing against local control on that.

**Rep. Boehning:** Some of the cities have taken over and that is what they have dictated to the businesses. If they can do business within the city limits. Either business moves out of the city or they just dissolve it. Hopefully they have the mortgages paid or they have to pay them out of their pocket.

**Sen. Dever:** I know you weren't speaking against it, you were making a point.

**Sen. Oehlke:** I'm curious to what the firework situation is in MN. Do they add certain time frames or certain types they allow?

**Rep. Grande:** I'm not sure.

**Rep. Boehning:** They do have a restriction but I'm not sure what it is. I can tell you one thing that being at the lakes before the 4<sup>th</sup> of July you would have never known you were in a state that had banned fireworks. There were more fireworks blown up at the lake and campgrounds, around the lakes than I've seen in my hometown where it was legal. When you look at it whether you ban them or not, I think if you ban them we are heading down a slipper slope. The next thing is going to be Roman Candles. We can't protect everybody from everything.

**Sen. Oehlke:** Just looking at the existing language it looks like each of the items that is allowed to be sold in ND has restrictions so I don't know that the argument should exist. Each of the items that are allowed to be sold in ND have restrictions.

**Sen. Dever:** I think we have made some progress today. We should be in position to make a decision next meeting.

**Sen. Oehlke:** I did have a young junior in high school sitting with me today. I asked him what he thought of bottle rockets. He said they are pretty cool but he burnt his leg with one once. He had thrown it; it came back, and blew up on his leg. He agreed they are a lot of fun. It wasn't usually the guy who lit them that gets hit, but a bystander.

**Rep. Grande:** We will adjourn for the day.



# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

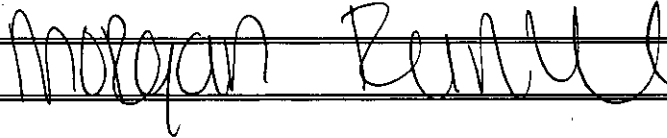
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: April 13, 2007

Recorder Job Number: 5936

Committee Clerk Signature



Minutes:

**Rep. Grande:** Let's call HB 1394 to order. I understand the Senate has something they want to say this morning.

**Sen. Oehlke:** We would like to recede from our amendments.

**Sen. Dever:** I will second that.

**Rep. Grande:** Is there discussion?

**Sen. Horne:** Help me understand that if we move to recede and the group accepts that motion, what happens then?

**Rep. Grande:** There are various options but what would go back to at that point is the way that HB 1394 arrives in the Senate.

**Sen. Horne:** So we have the original bill?

**Rep. Grande:** You will have the engrossed bill. You will have the house amendments on it.

**Sen. Horne:** Does each chamber act on the .0200 version of the bill?

**Rep. Grande:** Correct. The house is in possession of the bill because it is a house bill. The house will act on it. If it fails it's gone, if it passes it goes to the Senate.

**Sen. Horne:** So the Senate would have an up or down vote on the bill as it comes from the house?

**Rep. Grande:** Correct.

**Sen. Dever:** I think we have had some very interesting conversations. There were a lot of issues and different kinds of impact that the bill represents. I kind of thought it might be nice to have a study of it.

**Rep. Grande:** I think you brought up an interesting point. There is actually going to be a study on streamlined sales.

**Sen. Dever:** Well we are selling a product into MN that MN prohibits.

**Rep. Grande:** I think we have a lot of tax bills and such. There will be interesting discussion. Is there any more discussion? If not we will call the roll call vote on HB 1394. The motion passes 6-0-0.

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1394 (, as (re)engrossed):

Date: 4/5/07

Your Conference Committee GVA

**For the Senate:**

**For the House:**

	YES / NO			YES / NO	
Sen. Dennis		X	Rep. Grandle	X	
Sen. Deseer		X	Rep. Boehning	X	
Sen. Horne		X	Rep. Amerman	X	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT    \_\_\_ YES    \_\_\_ NO    \_\_\_ ABSENT

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number HB 1394 (, as (re)engrossed):

Date: 4/12/07

Your Conference Committee GVA

**For the Senate:**

**For the House:**

	YES / NO			YES / NO	
Sen. Denike	X		Rep. Grande	X	
Sen. Dever	X		Rep. Boehning	X	
Sen. Horne	X		Rep. Amernman	X	

recommends that the (SENATE/HOUSE) (ACCEDE to) (~~RECEDE~~ from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1125 -- \_\_\_\_\_

X, and place HB 1394 on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4/12/07

CARRIER: \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen. Denike

SECONDED BY: Sen. Dever

VOTE COUNT 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1394, as engrossed:** Your conference committee (Sens. Oehlke, Dever, Horne and Reps. Grande, Boehning, Amerman) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1125 and place HB 1394 on the Seventh order.

Engrossed HB 1394 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1394

HB #1394

Mr. Chairman and committee members.

My name is Craig Sjoberg, and as a volunteer firefighter with the Mandan Rural Fire Department, I appear before you in opposition to HB #1394.

The Morton County Commission invoked a burn ban on June 21, 2006. Six days later, on June 26, 2006 the Morton County Commission invoked a fireworks ban.

At approximately 10:00 pm on June 27 the Mandan Rural Fire Department was dispatched to a wildland fire on government land in the Little Heart River bottoms south of Mandan. While fighting the fire, we discovered spent Roman Candle fireworks tubes, bottle rocket fireworks and open bottle rocket packaging lying among open containers of beer near the fire.

North Dakota Game and Fish and the North Dakota Forest Service assumed control of firefighting efforts on June 28. On June 29 the Mandan Rural Fire Department returned to the Little Heart River bottoms fire as the wind speed had picked up and changed direction, igniting a fire which threatened private property. Firefighting efforts were left in the hands of ND Game and Fish and ND Forest Service as we were dispatched to a drought related wildland fire elsewhere in our jurisdiction which covers approximately 750 square miles.

The Little Heart River bottoms fire was the only fire directly attributed to fireworks during the drought stricken summer of 2006. We thank the Morton County Commissioners for invoking the fireworks ban on June 26<sup>th</sup> of 2006 and we sincerely appreciate the commitment to fire safety and the support of our fire department by the citizens we serve. Our volunteer fire department was extremely taxed by the dramatic increase in wildland fires resulting from the drought conditions of the summer of 2006. We believe the existing fireworks sales and use timeline is sufficient and does not need to be lengthened.

Thank you for the opportunity to share our thoughts on HB #1394, and we welcome any questions.

**HB 1394**  
**House Government and Veterans Affairs Committee**  
**Chairman: Representative C.B. Haas**

Chairman Haas, members of the House Government and Veterans Affairs Committee, my name is Robert Wetzler. I am the NW Region Trustee and Past President of the North Dakota Firefighter's Association, a member and past president of the ND Fire Chief's Association and a member of the Minot Rural Fire District for over 26 years, where I served as Fire Chief for 17 years

Thank you for the opportunity to appear in opposition to this bill. HB 1394 extends the time a vendor may sell fireworks.

Proponents of this bill would lead you to believe the impact of an extended sale period to local fire jurisdictions is minimal. I will tell you the potential could be significant, based on the dry conditions the state has been suffering the past few years. Many of you are tied to the agricultural and farming industry. You know how dry it has been. It does not look like there is much relief on the way.

Although the period of time fireworks can be legally discharged is not changing, HB 1394 will afford the buyer the opportunity to discharge fireworks for a longer period of time, therefore posing a longer "fireworks driven fire season".



The impact to local volunteer fire departments can include an increased workload to the volunteer firefighters, additional wear and tear of firefighting equipment and increased operating costs to fire protection districts. I have witnessed the damage fireworks cause each year on both wildland and structural fires.

Let's keep our fireworks fire season to a minimum. Let's not increase the impact to local volunteer firefighters. I would urge a do not pass on this bill. Thank You.

Mr. Chairman, I would be happy to answer any questions of the committee.

CHAPTER 23-15  
FIREWORKS

*Attachment #1*

**23-15-01. Fireworks defined - Sale of fireworks.** The term fireworks means any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation. The term includes any blank cartridge, toy pistol, toy cannon, toy cane, or toy gun in which an explosive other than a toy paper cap is used; balloon that requires fire underneath to propel the balloon; firecracker, torpedo, skyrocket, Roman candle, daygo bomb, sparkler, or other item of like construction; item containing any explosive or flammable compound; or any tablet or other device containing any explosive substance. This section does not apply to any toy paper cap containing not more than twenty-five hundredths of a grain [16.20 milligrams] of explosive composition per cap.

Any person operating a retail business and who has a retail license as provided in section 23-15-04 may offer for sale and sell at retail that year, to any individual who is at least twelve years of age, only during the period June twenty-seventh through July fifth, the following items:

1. A star light, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams each in weight (10 ball).
2. A helicopter type flyer, total pyrotechnic composition not to exceed twenty grams each in weight.
3. A cylindrical fountain, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter may not exceed three-fourths inch [19.05 millimeters].
4. A cone fountain, total pyrotechnic composition not to exceed fifty grams each in weight.
5. A wheel, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of a driver tube may not be over one-half inch [12.7 millimeters].
6. An illuminating torch or a colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight.
7. A sparkler or a dipped stick, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate may not exceed five grams.
8. A comet or shell, of which the mortar is an integral part, except a comet or shell designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight.
9. A soft shell firecracker not to exceed one and one-half inches [38.1 millimeters] in length and one-fourth inch [6.35 millimeters] in diameter, total pyrotechnic composition not to exceed fifty milligrams each in weight.
10. A whistle without report, total pyrotechnic composition not to exceed forty grams each in weight.

**23-15-02. Sale of fireworks prohibited.** Except as otherwise provided in this chapter, no person may offer for sale, expose for sale, sell at retail, bring into this state or cause to be brought into this state, or use or explode any fireworks.

**23-15-03. Public display of fireworks permitted by municipality or fair association within its limits - Supervised display allowed - Permit required - Duty of fire marshal to establish regulations.** This chapter does not prohibit supervised public displays of fireworks by cities, fair associations, amusement parks, and other organizations. Except when such display is given by a municipality or fair association within its own limits, no display may be given unless a permit therefor has first been secured. Every application for such a permit must be made in writing to the city auditor at least fifteen days in advance of the date of the display. The application promptly must be referred to the governing body of the city which shall make an investigation to determine whether the operator of the display is competent and whether the display is of such character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. Such governing body shall report the results of this investigation to the city auditor and if it reports that in its opinion the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the state fire marshal hereinafter provided for, such auditor shall issue a permit for the display when the applicant pays a permit fee of two dollars. When the supervised public display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application must be made to the county auditor and the duties imposed by this chapter upon the city auditor must be performed in such case by the county auditor. The duties imposed on the governing body of the city by this chapter must be performed in such case by the board of county commissioners. After such permit has been granted, sales, possession, use, and distribution of fireworks for such display are lawful for that purpose only. No permit granted hereunder is transferable. The state fire marshal shall adopt reasonable rules and regulations not inconsistent with the provisions of this chapter to ensure that fireworks displays are given safely.

**23-15-04. Exceptions.**

1. This chapter does not prohibit:
  - a. A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks that are not prohibited.
  - b. The sale of any kind of fireworks for shipment directly out of the state.
  - c. The use of fireworks by transportation agencies for signal purposes or illumination.
  - d. The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
2. An application for a license as distributor must be made to the state fire marshal on forms prescribed by the state fire marshal. An application for a license as a retailer must be made to the county sheriff on forms prescribed by the state fire marshal. Each application must be accompanied by the required fee, which must be two hundred fifty dollars for a distributor's license and twenty dollars for a retailer's license. Fees for distributors' licenses must be deposited in the general fund in the state treasury and fees for retailers' licenses must be deposited in the county general fund. The license is valid only for the calendar year in which issued and must at all times be displayed at the place of business of the licensee. The licenses are in addition to any other license required by law or municipal ordinance. The licensing provisions of this section do not apply to a retailer who is required to become licensed by any municipality. Any license fee levied by a municipality must be deposited in the municipality's general fund.

A person not licensed as a wholesaler or retailer may not bring any fireworks into this state, and a retailer may not sell any fireworks that have not been purchased from a wholesaler licensed under this chapter. A person licensed under this chapter shall keep available for inspection by the state fire marshal or any sheriff, police officer, or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on the invoice are held in the licensee's

# Minnesota State Department of Public Safety



Alcohol &  
Gambling  
Enforcement

Bureau of  
Criminal  
Apprehension

Capitol Security

Crime Victim  
Services

Driver & Vehicle  
Services

Emergency  
Management /  
Emergency  
Response  
Commission

State Fire  
Marshal /  
Pipeline Safety

State Patrol

Traffic Safety



## State Fire Marshal Division

444 Cedar Street, Suite 145, St. Paul, Minnesota 55101-5145

Phone: 651/215-0500 FAX: 651/215-0525 TTY: 651/282/6555

Internet: <http://www.fire.state.mn.us>.

### FIREWORKS FACT SHEET

**This fact sheet now includes changes to the fireworks laws made by the Minnesota Legislature in both 2002 and 2003**

#### SECTION 1 - INTRODUCTION

This fire safety sheet is based upon Minnesota Statute 624.20, which allows for the public sale, possession and use of a limited number of, but not all, consumer fireworks. Its purpose is to provide uniform application of the 2003 Minnesota State Fire Code (MSFC) and Minnesota Statute provisions.

More information is available from the State Fire Marshal Division by calling 651-215-0500. E-mail questions to [firecode@state.mn.us](mailto:firecode@state.mn.us) or visit our web page at [www.fire.state.mn.us](http://www.fire.state.mn.us) for the latest information on fire in Minnesota.

#### SECTION 2 – SUMMARY OF CHANGES TO MINNESOTA FIREWORKS LAWS EFFECTIVE APRIL 30, 2002

##### 2.1 Legal and Illegal Fireworks within Minnesota

The sale, possession and use of some non-explosive and non-aerial consumer fireworks are **now permitted** in Minnesota effective April 30, 2002. Examples of items that are now permitted include sparklers, cones and tubes that emit sparks, novelty items like snakes, and party poppers. Please review the list of examples of legal and illegal fireworks.

These consumer fireworks may not be used on public property (i.e. parks, roads, alleys, schools, government property, etc.). Purchasers of these fireworks must be at least eighteen (18) years of age and retailers need to check photo identification. The sale, possession or use may occur throughout the year.

Explosive and aerial fireworks are still prohibited for public sale, possession and use in the State of Minnesota. Prohibited fireworks include, but are not limited to, firecrackers, bottle rockets, missiles, roman candles, mortars and shells.

## **2.2 Banned Fireworks by Federal Regulations (CFR; Part 1500.17)**

In addition, the United States Consumer Products Safety Commission (CPSC) has established a summary of banned fireworks within the United States. This list can be found within Code of Federal Regulations (CFR) Section 1500.17. 16 CFR 1500.17 (a)(8) limits firecrackers and other ground devices to 50 mg. of pyrotechnic composition (powder) designed to produce an audible effect. Firecrackers that exceed this limit, including but not limited to, illegal devices such as 'cherry bombs', 'M-80's', 'silver salutes', and other large firecrackers are banned. Kits and components intended to produce any banned device violates the federal regulations.

16 CFR 1500.17 (a)(3) limits aerial fireworks devices to 130 mg (2 grains) of pyrotechnic composition intended to produce an audible effect. Aerial devices, which are devices that are launched into the air then function, that have an audible effect larger than 130mg are banned fireworks devices. Once again, kits and components intended to produce any banned aerial device also violates federal regulations.

### Other federal guidelines under Title 16, Part 1507 of the CFR:

1. Fuses must resist side ignition and must burn for at least 3 but not more than 9 seconds;
2. The fuse must support twice the weight of the device to which it is attached or the weight plus eight (8) ounces, whichever is less;
3. The shortest dimension of the base of a fireworks device that stands upright must be at least 1/3 of the overall height of device or must pass a 12 degree tilt test;
4. Devices must be sealed to prevent leakage of pyrotechnic material at any time;
5. Devices must not exhibit burnout or blowout;
6. Handles and spikes must be securely attached. Handles must be at least four (4) inches long, and spikes must be at least two (2) inches long and have a blunt tip;
7. Wheels must have drivers securely attached;
8. Toy smoke devices must not burst or produce excessive external flame during operation;
9. Rockets must have sticks which are straight, rigid, and which remain securely attached;
10. Party poppers must not have more than 0.25 grains of pyrotechnic composition, nor have paper or plastic inserts which ignite during operation;
11. Fireworks must not contain the following chemicals: arsenic sulfide, arsenates, arsenites, boron, chlorates, gallates, gallic, acid, magnesium, mercury salts, phosphorous, picrates, picric acid, thiocyanates, titanium, or zirconium (See 16 CFR § 1507.2 for exceptions);
12. Large multiple-tube mine and shell devices with any tube measuring 1.5 inches or more in inside diameter must not have a minimum tip angle of less than 60 degrees.

Additionally, some fireworks are banned if they look like candy, food, or other banned fireworks devices. Dragon eggs which look like foil wrapped chocolate candy kisses, cracker balls which look like breakfast cereal, and smoke devices like cherry bombs or "M-80's" are banned fireworks devices.

### **2.3 Labeling Requirements for Consumer Fireworks**

Cautionary labeling warns consumers of the potential dangers associated with fireworks and tells them guidelines for use. Consumer Product Safety Commission (CPSC) Title 16 Code of Federal Regulations (CFR) Parts 1500.14 and 1500.83(a)(27) outline the federal guidelines that are required on consumer fireworks.

#### 1. Every fireworks device must have:

- A label with a signal word, either WARNING or CAUTION;
- A statement describing the hazard(s) associated with the device, such as 'SHOOTS FLAMING BALLS' or 'EMITS SHOWERS OF SPARKS';
- Information describing the actions to be followed or avoided in order to store, handle and use the device safely.

#### 2. 16 CFR §1500.14(b)(7) includes specific text for the labels of fountains, California Candles, spike and handle fountains, sparklers, party poppers, etc.

- The signal word and statement of hazard for every label must appear on the principal display panel, usually the front panel of the fireworks device.
- This information must be displayed in a prominent and obvious manner.

## **SECTION 3 – Public Display Fireworks**

### **3.1 Public Display Requirements**

The requirements outlined for "public" outdoor display fireworks remain unchanged. However, an amendment to Minnesota Statute 624.22 in the 2003 Legislative session now requires all indoor fireworks displays to receive a permit from the Minnesota State Fire Marshal Division, effective May 28, 2003. For further information please review our web site for the fireworks operator display certification requirements.

## **SECTION 4 – SUMMARY OF CHANGES MADE EFFECTIVE MAY 28, 2003 RELATING TO LOCAL LICENSE FEES AND RETAIL STANDS FOR CONSUMER FIREWORKS SALES**

### **4.1 NFPA 1124 (2003 Edition)**

Effective May 28, 2003, Minnesota Statute 624.20 (re-printed below) was amended to include wording that limits the license fees that local jurisdictions can charge for fireworks sales, and that local jurisdictions cannot prohibit a retail stand that complies with National Fire Protection Association (NFPA) Standard 1124 (2003 Edition). However, if a local jurisdiction has an ordinance prohibiting transient sales of ANY item (fruits, vegetables, apparel, fireworks, etc.), this must be complied with. Local

jurisdictions are not allowed to adopt ordinances that are more restrictive than NFPA 1124 (03) in accordance with Minnesota law.

## **SECTION 5 – FREQUENTLY ASKED QUESTIONS ON ENFORCEMENT OF THE MSFC AS IT RELATES TO FIREWORKS**

### **5.1 Frequently Asked Questions**

Although a new law changes the definition of fireworks in Minn. Stat 624.20(c), it does nothing to change enforcement of the Minnesota State Fire Code (MSFC) as it relates to these legal consumer fireworks. As a service to the Minnesota Fire Service and the general public, the State Fire Marshal Division has assembled this list of frequently asked questions relating to fireworks and the MSFC. This analysis was done in response to a request by the Minnesota State Fire Chief's Association.

#### **Question 1 – Are local jurisdictions allowed to adopt requirements that exceed the fire code as it relates to fireworks?**

**Answer to question 1** – No, due to the amendment to Minnesota Statute 624.20 in the 2003 legislative session, local jurisdictions must accept a retail stand that can prove they comply with National Fire Protection Association Standard 1124 (2003 Edition).

**Reference for question 1:** Minnesota Statute 624.20:

This is contained in SF905 (Regular Session Bills), beginning on line 374.1

Sec. 6. Minnesota Statutes 2002, section 624.20, subdivision 1, is amended to read: Subdivision 1. (a) As used in sections 624.20 to 624.25, the term "fireworks" means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in paragraph (c), or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks. (b) The term "fireworks" shall not include toy pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps which contain less than 20/100 grains of explosive mixture. (c) The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture. The use of

items listed in this paragraph is not permitted on public property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification. (d) A local unit of government may impose an annual license fee for the retail sale of items authorized under paragraph (c). The annual license fee of each retail seller that is in the business of selling only the items authorized under paragraph (c) may not exceed \$350 and the annual license of each other retail seller may not exceed \$100. A local unit of government may not: (1) impose any fee or charge, other than the fee authorized by this paragraph, on the retail sale of items authorized under paragraph (c); (2) prohibit or restrict the display of items for permanent or temporary retail sale authorized under paragraph (c) that comply with National Fire Protection Association Standard 1124 (2003 edition); or (3) impose on a retail seller any financial guarantee requirements, including bonding or insurance provisions, containing restrictions or conditions not imposed on the same basis on all other business licensees. [EFFECTIVE DATE.] This section is effective the day following final enactment.

**Question 2 – Can local jurisdictions require a permit for fireworks retail sale or storage, just as they do for hazardous materials or high piled storage?**

**Answer to question 2 –** Yes. The MSFC and Minnesota Statute currently allows for permits to be obtained for retail firework sales. Minnesota Statute 624.20 sets the maximum permit charge for retail stands selling only fireworks to be capped at \$350/year. For other retailers (i.e. Target, Wal-Mart, gas stations, etc.) that sell retail fireworks, the maximum permit fee is capped at \$100.

**Reference for question 2:** Minnesota Statute 624.20

**Question 3 – Can a code official require additional fire protection systems in addition to what is required by NFPA 1124 (03) in retail sales occupancies?**

**Answer to question 3:** No, the way Minnesota law currently reads in state statute, local jurisdictions must accept a retail stand that can prove they comply with the requirements outlined in NFPA 1124 (2003 Edition).

**Reference for question 3:** Minnesota Statute 624.20

**Question 4 – Can a code official limit smoking in retail sales buildings, warehouses or tents containing fireworks?**

**Answer to question 4:** Yes. No smoking shall be conducted within 50 feet of the consumer fireworks retail area.

**Reference for question 4:** NFPA 1124 (03) Section 7.6.5.1



**Questions 5 – Can a code official prevent fireworks from being sold in tents or road side stands?**

**Answer to question 5:** Yes. If a city has a local ordinance in place prohibiting transient sales, the local regulation can prohibit a road side stand or tent within their jurisdiction. Bear in mind, the local ordinance must ban ALL transient sales of any item, not just limit it to fireworks. However, NFPA 1124 does not prohibit tents or roadside stands. A code official cannot deny a permit to an applicant as long as they can prove they comply with NFPA 1124 (03). However, they must comply with **all** of the requirements within NFPA 1124 (03) for temporary stands.

**Reference for question 5:** NFPA 1124 (03) Section 7.7.2

**Question 6 – Does Chapter 33 (Explosives and Fireworks) of the MSFC apply to the manufacture, storage and transportation of fireworks?**

**Answer to question 6:** Yes, Chapter 33 (Explosives and Fireworks) of the MSFC applies to possession, manufacture, storage, handling, sale and use of explosives, explosive materials, display fireworks and small arms ammunition. There are some exceptions listed under MSFC (03) Section 3301.1, so please read carefully.

**Reference for question 6:** MSFC (03) 3301.1.

**Questions 7 – Does the MSFC consider fireworks to be flammable solids and subject them to the requirements for H occupancies when storing above the 125-pound limit in Chapter 27?**

**Answer to question 7:** No. Although this may appear to be a possible enforcement option, the definitions in the MSFC for flammable solid do not support such a determination. Also, the examples found in Appendix E, make no mention of fireworks being a flammable solid. In summary, the State Fire Marshal does not recommend using this reference in relation to consumer fireworks.

**Reference for question 7:**

**MSFC Definitions - FLAMMABLE SOLID-** A solid, other than a blasting agent or explosive, that is capable of causing fire through friction, absorption or moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which has an ignition temperature below 212°F (100°C) or which burns so vigorously and persistently when ignited as to create a serious hazard. A chemical shall be considered a flammable solid as determined in accordance with the test method of CPSC 16 CFR; Part 1500.44, if it ignites and burns with a self-sustained flame a greater than 0.1 inch (2.5mm) per second along its major axis.

**Appendix E**

**E102.1.4 Flammable solids. Examples Include:**

1. Organic solids. Examples: camphor, cellulose nitrate and naphthalene.
2. Inorganic solids. Examples: decaborane, lithium amide, phosphorous heptasulfide, phosphorous sesquisulfide, potassium sulfide, anhydrous sodium sulfide and sulfur.
3. Combustible metals (except dusts and powders). Examples: cesium, magnesium and zirconium.
4. Combustible dusts and powders (including metals). Examples: wood sawdust, plastics, coal, flour and powdered metals (few exceptions).
5. Combustible fibers.

**Question 8 – Is the chief allowed to prohibit the use of fireworks in hazardous fire areas?**

**Answer to question 8:** Yes. The code official is authorized to prohibit the discharge of fireworks within 300 feet from a consumer fireworks retail stand.

**Reference for question 8:** NFPA 1124 (03) Section 7.6.4

*Attachment B*

## **HB 1394**

Mr. Chairman, and members of the Senate Government and Veterans Affairs Committee, my name is Gary Retterath. I am the Fire Chief of Valley City. I appear before you today in opposition to HB 1394.

Fireworks have caused an average of 3.5 fires for the 9 days they are legal. Over the past 10 years, they have caused 12 structural fires and many grass fires.

They also cause numerous injuries. The hospital reports an average of 10 per year in the 9 days that fireworks are sold. Last year a 15 year old blew his hand off. He has only a stub now and is in rehabilitation.

The extra 7 days will only increase injuries and fires and some will be tragic.

We take our firefighter's time away when they are called to respond to the fire calls.

The increase in fires will only increase the injuries even to firefighters.

The guys at the department said they are against the bill.

Lets help keep our firefighters safe and our kids safe.

What we have now is OK. It seems when we give too much to ourselves and our kids, we have less appreciation for it.

Our police Chief says it already is a nuisance.

Our freedom to celebrate is OK the way the law reads now.

Attachment #2

**Proposed Amendment to HB 1394  
North Dakota Society of Eye Physicians and Surgeons  
Senate Government and Veterans Affairs Committee  
March 9, 2007**

Page 1, line 23, after the period insert "A skyrocket, customarily known as a bottle rocket, is not permissible for sale if the outside diameter of the casing is less than five-eighths inch [15.875 millimeters] and the length of the casing is less than three and one-half inches [88.9 millimeters]."

Renumber accordingly

**Note**

The definition of bottle rocket is derived from Texas law. While most states prohibit all skyrockets, at least two other states prohibit bottle rockets and define them differently, including Louisiana (less than 5/8" in diameter and less than 2-7/8" in length) and South Carolina (less than 1/2" in diameter and 3" in length). HB 1389 defined the bottle rocket as a casing less than 3/8" and 2-1/4" in length. The HB 1389 language is: "A skyrocket, customarily known as a bottle rocket, is not permissible if the outside diameter of the casing is less than three-eighths inch [9.53 millimeters] and the length of the casing is less than two and one-fourth inches [57.15 millimeters]."



*Paul*

*Attachment #3*

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**Testimony on Engrossed HB 1394**  
**Bruce Levi**  
**North Dakota Society of Eye Physicians and Surgeons**  
**North Dakota Medical Association**  
**March 9, 2007**

The North Dakota Society of Eye Physicians and Surgeons, and the North Dakota Medical Association, strongly encourage support for an amendment to HB 1394, which would reduce the burden of fireworks-related injuries among both children and adults by prohibiting the sale of small bottle rockets.

The North Dakota Society of Eye Physicians and Surgeons is the state professional membership for our state's Eye MDs, affiliated with the American Academy of Ophthalmology. The North Dakota Medical Association is the professional membership organization for all North Dakota physicians, residents, and medical students.

Seemingly innocuous bottle rockets exact a toll of pain and suffering on many North Dakotans each year. Unwitting children often make up a large segment of those victimized, and the physical and emotional scars often last a lifetime.

Bottle rockets are inherently dangerous to both adults and children for two very simple reasons. First, the rate of travel of a standard bottle rocket can reach very high rates of speed, and they are very susceptible to ricochet--often traveling in any direction but the one intended. Second, the bottle rocket presents a significant fire hazard. When a bottle rocket detonates, the casing can burn from a few seconds to a few minutes.

As previously stated, children are especially susceptible to injury. A study published in the July 2006 *Pediatrics* journal concluded that consumer fireworks such as bottle rockets cause serious preventable injuries among pediatric fireworks users and bystanders. The most common injuries occur to the eyeball, face and hands.

HB 1394 would extend the sale period for all legal fireworks, which may result in more eye injuries. We propose that the most dangerous of those fireworks -- the small bottle rockets -- no longer be offered for sale in our state.

According to the American Pyrotechnics Association, the following states prohibit bottle rockets (most on the list prohibit all skyrockets):

Arizona	Illinois	Minnesota	Pennsylvania
California	Iowa	Montana	Rhode Island
Colorado	Kansas	Nebraska	South Carolina
Connecticut	Kentucky	New Hampshire	Texas
Delaware	Louisiana	New Jersey	Virginia
Florida	Maine	New York	Washington
Georgia	Maryland	North Carolina	West Virginia
Hawaii	Massachusetts	Oklahoma	Wisconsin
Idaho	Michigan	Oregon	

The issue of bottle rockets was considered in the House. While the bill was recommended out of committee with a 12-2 "Do Pass" vote and received a 47-43 affirmative vote on the House floor, the bill failed because it was one vote short of the necessary 48 votes for a constitutional majority. There were a number of absent members the following day and the vote for reconsideration failed. There was also an emergency clause added to the bill which became problematic when it was reported that some fireworks sellers had already placed orders for the 2007 fireworks season.

North Dakota physicians are working to encourage the safe use of fireworks. Prior to the 2006 July 4<sup>th</sup> holiday, the Society of Eye Physicians and Surgeons provided public service announcements and participated in radio talk shows to encourage safe use of fireworks. A copy of the text we used for our public service announcement is attached.

On behalf of the North Dakota Eye Physicians and Surgeons and the North Dakota Medical Association, we urge the Committee to adopt our proposed amendment to HB 1394.

---

## **Fireworks Eye Safety Public Service Announcement**

(June is Fireworks Eye Safety Month)

(30 seconds)

There are precautions you can take with fireworks to enjoy a safe Fourth of July holiday.

Dr. Douglas Litchfield, an Eye Physician (M.D./ophthalmologist) practicing in Bismarck and President of the North Dakota Society of Eye Physicians and Surgeons, suggests you attend a public fireworks display as a safe, patriotic way to honor the Fourth of July and to ensure the health and safety of your family.

And if you use fireworks, use common sense in celebrating with vision safety in mind.

During 2004, fireworks sent over 9,600 people to emergency rooms during the Fourth of July holiday - most victims were children and young adults. Of these injuries, nearly 1,400 were eye-related.

Bystanders are more often injured by fireworks than the people who set them off, and almost half of the injuries were to children 15 and younger. Fireworks such as bottle rockets and Roman candles account for the majority of injuries each year, but even sparklers can cause injuries. For children under the age of five, sparklers account for more than half of all fireworks injuries.

North Dakota's Eye Physicians suggest you enjoy fireworks by attending a public display. If you use fireworks, always read and follow the label directions for your fireworks. Always use with adult supervision. Never point or throw fireworks at other people and never give to small children. Never shoot fireworks in metal or glass containers. And always wear eye protection. Have a safe Fourth of July holiday!

*Attach #4*

**Testimony on HB 1394  
Mark Szczepanski, MD  
Senate Government and Veterans Affairs Committee  
March 9, 2007**

Chairman Dever, Members of the Senate Government and Veterans Affairs Committee, I'm Mark Szczepanski. I'm an ophthalmologist and I practice in Grand Forks. I also currently serve as the President of the North Dakota Eye Physicians and Surgeons. The Society is the professional membership organization for medical doctors who specialize in eye and vision care. Eye MDs are specially trained to provide the full spectrum of eye care, from prescribing glasses and contact lenses to complex and delicate eye surgery.

Today, I'm here testifying on my own behalf to urge you to adopt the proposed amendment to HB 1394 that would prohibit the sale of small bottle rockets in our state, and to answer any questions you may have regarding eye injuries caused by fireworks in North Dakota.

By adopting the amendment, you can help eliminate the most preventable cause of traumatic blindness in North Dakota. Bottle rockets cause more eye injuries than all other fireworks combined. Even when used as directed they fly erratically and explode and cause blinding eye injuries to both children and adults. Even if the person lighting them wears safety glasses it is not adequate since most injuries are to bystanders up to several hundred feet away. Data from other states also demonstrates that bottle rockets cause a substantial majority of all fireworks eye injuries.

As eye physicians, we are not opposed to the sale of other legal fireworks. We are patriotic and believe that Americans should enjoy our tradition in celebrating our



personal freedoms, safely. We are not interested in reducing commerce in our state. Nevertheless, any financial gain to the state from bottle rockets is more than lost through medical expense, not to mention the personal cost of suffering and lost vision.

Please support the amendment and help to eliminate the most preventable cause of traumatic blindness in North Dakota.