

ASSEMBLY BILL NO. 160—ASSEMBLYMEN CHOWNING, CEGAVSKE, GUSTAVSON, SEGERBLOM, OHRENSCHALL, VON TOBEL, PARKS, NEIGHBORS, DE BRAGA, KOIVISTO, MCCLAIN, LEE, HUMKE, BROWER, GIUNCHIGLIANI, MANENDO, NOLAN, HETTRICK, MORTENSON, CLABORN, ANGLE, TIFFANY, DINI, ARBERRY, WILLIAMS, GIBBONS, LESLIE, BERMAN, BEERS, EVANS, PERKINS, ANDERSON, BACHE, PARNELL, FREEMAN, GOLDWATER, THOMAS, PRICE, COLLINS AND BUCKLEY

FEBRUARY 9, 1999

---

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to regulation of fireworks. (BDR 42-1202)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

---

AN ACT relating to fireworks; authorizing the state fire marshal to adopt regulations regarding the types of fireworks that a local government may authorize for public use; requiring regulations and ordinances adopted by certain governmental entities to be as restrictive as the regulations adopted by the state fire marshal; imposing civil liability under certain circumstances for the storage or use of fireworks; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE  
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 474.160 is hereby amended to read as follows:
- 2 474.160 The board of directors shall:
- 3 1. Manage and conduct the business and affairs of the district.
- 4 2. Make and enforce all rules and regulations necessary for the
- 5 administration and government of the district and for the furnishing of fire
- 6 protection thereto, which may include regulations relating to fire
- 7 prevention. The regulations may include provisions that are designed to
- 8 protect life and property from:
- 9 (a) The hazards of fire and explosion resulting from the storage,
- 10 handling and use of hazardous substances, materials and devices; and

1 (b) Hazardous conditions relating to the use or occupancy of any  
2 premises.

3 Any regulation concerning hazardous substances, materials or devices  
4 adopted pursuant to this section must be consistent with any plan or  
5 ordinance concerning such substances, materials or devices that is required  
6 by the Federal Government and has been adopted by a board of county  
7 commissioners. *Any regulation prohibiting, restricting, suppressing or*  
8 *otherwise regulating the manufacture, sale, use, storage or possession of*  
9 *fireworks must be at least as restrictive as the regulations adopted by the*  
10 *state fire marshal pursuant to chapter 477 of NRS.*

11 3. Organize, regulate, establish and disband fire companies,  
12 departments or volunteer fire departments for the district.

13 4. Make and execute in the name of the district all necessary contracts.

14 5. Adopt a seal for the district to be used in the attestation of proper  
15 documents.

16 6. Provide for the payment from the proper fund of all the debts and  
17 just claims against the district.

18 7. Employ agents and employees for the district sufficient to maintain  
19 and operate the property acquired for the purposes of the district.

20 8. Acquire real or personal property necessary for the purposes of the  
21 district and dispose of that property when no longer needed.

22 9. Construct any necessary structures.

23 10. Acquire, hold and possess, either by donation or purchase, in the  
24 name and on behalf of the district any land or other property necessary for  
25 the purpose of the district.

26 11. Eliminate and remove fire hazards within the district wherever  
27 practicable and possible, whether on private or public premises, and to that  
28 end the board may clear the public highways and private lands of dry  
29 grass, stubble, brush, rubbish or other inflammable material in its judgment  
30 constituting a fire hazard.

31 12. Perform all other acts necessary, proper and convenient to  
32 accomplish the purposes of NRS 474.010 to 474.450, inclusive.

33 **Sec. 2.** Chapter 477 of NRS is hereby amended by adding thereto the  
34 provisions set forth as sections 3 and 4 of this act.

35 **Sec. 3. 1.** *In addition to the duties prescribed by NRS 477.030, the*  
36 *state fire marshal shall, except as otherwise provided in this section,*  
37 *enforce all laws and adopt regulations relating to the types of fireworks*  
38 *that a local government may authorize for public use. The state fire*  
39 *marshal shall not adopt regulations that entirely prohibit a local*  
40 *government from authorizing fireworks for public use.*

1     2. The state fire marshal shall not adopt any regulations pursuant to  
2 this section which regulate a device that contains no magnesium and  
3 fewer than 100 grams of pyrotechnic composition, including, without  
4 limitation:

- 5     (a) A match;
- 6     (b) An emergency signal flare;
- 7     (c) A cap or other noisemaker;
- 8     (d) A model rocket; or
- 9     (e) A smoke-emitting device for the protection of vehicles from  
10 thieves.

11     3. The provisions of this section do not apply to commercial displays  
12 of fireworks.

13     4. As used in this section:

14     (a) "Fireworks" means the following pyrotechnic devices:

15         (1) Fountains that:

- 16             (I) Consist of heavy paper or cardboard;
- 17             (II) Are shaped as a cylindrical tube or cone;
- 18             (III) Produce a shower of color and sparks that does not exceed a  
19 height of 15 feet;
- 20             (IV) May produce a whistle or pop; and
- 21             (V) Are designed so that they do not explode or leave the ground;

22         (2) Wheels that contain no more than six driver units, each of  
23 which:

24             (I) Has an inside diameter that does not exceed one-half of an  
25 inch; and

26             (II) Contains no more than 60 grams of pyrotechnic  
27 composition;

28         (3) Sparklers that contain no more than 100 grams of pyrotechnic  
29 composition;

30         (4) Ground sparklers that:

31             (I) Contain no more than 60 grams of pyrotechnic composition;  
32 and

33             (II) If discharged, do not travel laterally more than 10 feet on a  
34 smooth surface;

35         (5) Torches and similar devices that contain no more than 100  
36 grams of pyrotechnic composition;

37         (6) Smoke-producing devices that do not produce sparks or a  
38 sufficient amount of heat to ignite the surfaces upon which they are  
39 placed; and

40         (7) Devices that:

- 41             (I) Are designed to be placed on the ground;
- 42             (II) Spin, jump or emit popping sounds; and

1        *(III) If discharged, do not attain a height of more than 15 feet or*  
2 *travel laterally more than 10 feet on a smooth surface.*

3        *(b) “Pyrotechnic composition” means any combination of chemical*  
4 *elements or compounds capable of burning independently of the oxygen*  
5 *in the atmosphere.*

6        **Sec. 4. 1.** *A person who stores or uses fireworks in violation of the*  
7 *provisions of this chapter or a regulation regarding fireworks adopted by*  
8 *the state fire marshal pursuant to this chapter shall reimburse the state*  
9 *fire marshal and any agency of the state or local government for the*  
10 *costs incurred by the state fire marshal or agency to:*

11        *(a) Investigate any such violation.*

12        *(b) Suppress a fire resulting from the storage or use of fireworks.*

13        *(c) Confiscate and dispose of any fireworks stored or possessed in*  
14 *violation of the provisions of this chapter or a regulation regarding*  
15 *fireworks adopted by the state fire marshal.*

16        **2.** *The state fire marshal or any agency of this state or a local*  
17 *government may institute a legal proceeding to enforce the provisions of*  
18 *subsection 1.*

19        **Sec. 5.** NRS 477.030 is hereby amended to read as follows:

20        477.030 1. Except as otherwise provided in this section, the state fire  
21 marshal shall enforce all laws and adopt regulations relating to:

22        (a) The prevention of fire.

23        (b) The storage and use of *fireworks for commercial display,*  
24 combustibles ~~[, flammables and fireworks.]~~ *and flammables.*

25        (c) The storage and use of explosives in any commercial construction,  
26 but not in mining or the control of avalanches.

27        (d) The safety, access, means and adequacy of exit in case of fire from  
28 mental and penal institutions, facilities for the care of children, foster  
29 homes, residential facilities for groups, facilities for intermediate care,  
30 nursing homes, hospitals, schools, all buildings, except private residences,  
31 which are occupied for sleeping purposes, buildings used for public  
32 assembly and all other buildings where large numbers of persons work,  
33 live or congregate for any purpose. As used in this paragraph, “public  
34 assembly” means a building or a portion of a building used for the  
35 gathering together of 50 or more persons for purposes of deliberation,  
36 education, instruction, worship, entertainment, amusement or awaiting  
37 transportation, or the gathering together of 100 or more persons in  
38 establishments for drinking or dining.

39        (e) The suppression and punishment of arson and fraudulent claims or  
40 practices in connection with fire losses.

1 ***(f) Fireworks, in accordance with section 3 of this act.***

2 The regulations of the state fire marshal apply throughout the state, but,  
3 except with respect to state-owned or state-occupied buildings, his  
4 authority to enforce them or conduct investigations under this chapter is  
5 limited to those counties whose population is less than 35,000, except in  
6 those local jurisdictions in other counties where he is requested to exercise  
7 that authority by the chief officer of the organized fire department of that  
8 jurisdiction.

9 2. The state fire marshal may set standards for equipment and  
10 appliances pertaining to fire safety or to be used for fire protection within  
11 this state, including the threads used on fire hose couplings and hydrant  
12 fittings.

13 3. The state fire marshal shall cooperate with the state forester  
14 firewarden in the preparation of regulations relating to standards for fire  
15 retardant roofing materials pursuant to paragraph (e) of subsection 1 of  
16 NRS 472.040.

17 4. The state fire marshal shall cooperate with the division of child and  
18 family services of the department of human resources in establishing  
19 reasonable minimum standards for overseeing the safety of and directing  
20 the means and adequacy of exit in case of fire from family foster homes  
21 and group foster homes.

22 5. The state fire marshal shall coordinate all activities conducted  
23 pursuant to the Fire Research and Safety Act of 1968, 15 U.S.C. ~~§§ 278f~~  
24 ~~and 278g,~~ § 278f, and receive and distribute money allocated by the  
25 United States pursuant to that act.

26 6. Except as otherwise provided in subsection 10, the state fire marshal  
27 shall:

28 (a) Investigate any fire which occurs in a county whose population is  
29 less than 35,000, and from which a death results or which is of a suspicious  
30 nature.

31 (b) Investigate any fire which occurs in a county whose population is  
32 35,000 or more, and from which a death results or which is of a suspicious  
33 nature, if requested to do so by the chief officer of the fire department in  
34 whose jurisdiction the fire occurs.

35 (c) Cooperate with the commissioner of insurance in any investigation  
36 of a fraudulent claim under an insurance policy for any fire of a suspicious  
37 nature.

38 (d) Cooperate with any local fire department in the investigation of any  
39 report received pursuant to NRS 629.045.

40 (e) Provide specialized training in investigating the causes of fires if  
41 requested to do so by the chief officer of an organized fire department.

1 7. The state fire marshal shall put the Uniform Fire Incident Reporting  
2 System into effect throughout the state and publish at least annually a  
3 summary of data collected under the system.

4 8. The state fire marshal shall provide assistance and materials to local  
5 authorities, upon request, for the establishment of programs for public  
6 education and other fire prevention activities.

7 9. The state fire marshal shall:

8 (a) Assist in checking plans and specifications for construction;

9 (b) Provide specialized training to local fire departments; and

10 (c) Assist local governments in drafting regulations and ordinances,  
11 on request or as he deems necessary.

12 10. In a county whose population is less than 35,000, the state fire  
13 marshal shall, upon request by a local government, delegate to the local  
14 government by interlocal agreement all or a portion of his authority or  
15 duties if the local government's personnel and programs are, as determined  
16 by the state fire marshal, equally qualified to perform those functions. If a  
17 local government fails to maintain the qualified personnel and programs in  
18 accordance with such an agreement, the state fire marshal shall revoke the  
19 agreement.

20 **Sec. 6.** NRS 244.367 is hereby amended to read as follows:

21 244.367 ~~{The}~~ **A** board of county commissioners ~~{shall have power~~  
22 ~~and jurisdiction in their respective counties to pass}~~ **may adopt** ordinances  
23 prohibiting, restricting, suppressing or otherwise regulating the  
24 **manufacture**, sale, use, storage and possession of fireworks, and providing  
25 penalties for the violation thereof ~~{, if the ordinances are at least as~~  
26 **restrictive as the regulations adopted by the state fire marshal pursuant to**  
27 **chapter 477 of NRS.**

28 **Sec. 7.** NRS 266.310 is hereby amended to read as follows:

29 266.310 The city council may:

30 1. Organize, regulate and maintain a fire department.

31 2. Prescribe the duties of the fire chief.

32 3. Designate arson investigators as peace officers.

33 4. Regulate or prohibit the storage of any explosive, combustible or  
34 inflammable material in or transported through the city, and prescribe the  
35 distance from any residential or commercial area where it may be kept.

36 5. **Adopt ordinances prohibiting, restricting, suppressing or**  
37 **otherwise regulating the manufacture, sale, use, storage and possession**  
38 **of fireworks, if the ordinances are at least as restrictive as the regulations**  
39 **adopted by the state fire marshal pursuant to chapter 477 of NRS.**

40 6. Establish, by ordinance, a fire code and other regulations necessary  
41 to carry out the purposes of this section.