

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.

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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 regulate; 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 grass,
29 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.** *Except as otherwise provided in this section, the state fire*
36 *marshal shall adopt regulations relating to the types of fireworks that a*
37 *local government may regulate. The types of fireworks that the state fire*
38 *marshal may authorize must be listed in section 3.1 of Standard 87-1,*
39 *“Standard for Construction and Approval for Transportation of*
40 *Fireworks, Novelties and Theatrical Pyrotechnics,” 1993 edition, adopted*
41 *by the American Pyrotechnics Association, except the state fire marshal*
42 *shall not authorize the types of fireworks listed in sections 3.1.2 and 3.1.3*
43 *of Standard 87-1.*

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, "pyrotechnic composition" means any*
14 *combination of chemical elements or compounds capable of burning*
15 *independently of the oxygen in the atmosphere.*

16 **Sec. 4.** 1. *The state fire marshal has primary authority to enforce*
17 *the provisions of this chapter regarding fireworks or a regulation adopted*
18 *thereto.*

19 2. *A person who stores or uses fireworks in violation of the*
20 *provisions of this chapter or a regulation regarding fireworks adopted by*
21 *the state fire marshal pursuant to this chapter shall reimburse the state*
22 *fire marshal and any agency of the state or local government for the*
23 *costs incurred by the state fire marshal or agency to:*

24 (a) *Investigate any such violation.*

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

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

29 3. *The state fire marshal or any agency of this state or a local*
30 *government may institute a legal proceeding to enforce the provisions of*
31 *subsection 2.*

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

33 477.030 1. Except as otherwise provided in this section, the state fire
34 marshal shall enforce all laws and adopt regulations relating to:

35 (a) The prevention of fire.

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

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

40 (d) The safety, access, means and adequacy of exit in case of fire from
41 mental and penal institutions, facilities for the care of children, foster
42 homes, residential facilities for groups, facilities for intermediate care,
43 nursing homes, hospitals, schools, all buildings, except private residences,

1 which are occupied for sleeping purposes, buildings used for public
2 assembly and all other buildings where large numbers of persons work, live
3 or congregate for any purpose. As used in this paragraph, "public
4 assembly" means a building or a portion of a building used for the
5 gathering together of 50 or more persons for purposes of deliberation,
6 education, instruction, worship, entertainment, amusement or awaiting
7 transportation, or the gathering together of 100 or more persons in
8 establishments for drinking or dining.

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

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

12 The regulations of the state fire marshal apply throughout the state, but,
13 except with respect to state-owned or state-occupied buildings, his
14 authority to enforce them or conduct investigations under this chapter is
15 limited to those counties whose population is less than 35,000, except in
16 those local jurisdictions in other counties where he is requested to exercise
17 that authority by the chief officer of the organized fire department of that
18 jurisdiction.

19 2. The state fire marshal may set standards for equipment and
20 appliances pertaining to fire safety or to be used for fire protection within
21 this state, including the threads used on fire hose couplings and hydrant
22 fittings.

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

27 4. The state fire marshal shall cooperate with the division of child and
28 family services of the department of human resources in establishing
29 reasonable minimum standards for overseeing the safety of and directing
30 the means and adequacy of exit in case of fire from family foster homes and
31 group foster homes.

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

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

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

41 (b) Investigate any fire which occurs in a county whose population is
42 35,000 or more, and from which a death results or which is of a suspicious

1 nature, if requested to do so by the chief officer of the fire department in
2 whose jurisdiction the fire occurs.

3 (c) Cooperate with the commissioner of insurance in any investigation of
4 a fraudulent claim under an insurance policy for any fire of a suspicious
5 nature.

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

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

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

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

16 9. The state fire marshal shall:

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

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

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

21 10. In a county whose population is less than 35,000, the state fire
22 marshal shall, upon request by a local government, delegate to the local
23 government by interlocal agreement all or a portion of his authority or
24 duties if the local government's personnel and programs are, as determined
25 by the state fire marshal, equally qualified to perform those functions. If a
26 local government fails to maintain the qualified personnel and programs in
27 accordance with such an agreement, the state fire marshal shall revoke the
28 agreement.

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

30 244.367 ~~{The} A board of county commissioners {shall have power and~~
31 ~~jurisdiction in their respective counties to pass}~~ **may adopt** ordinances
32 prohibiting, restricting, suppressing or otherwise regulating the
33 **manufacture**, sale, use, storage and possession of fireworks, and providing
34 penalties for the violation thereof ~~{.}~~, **if the ordinances are at least as**
35 **restrictive as the regulations adopted by the state fire marshal pursuant**
36 **to chapter 477 of NRS.**

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

38 266.310 The city council may:

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

40 2. Prescribe the duties of the fire chief.

41 3. Designate arson investigators as peace officers.

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

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

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

10 **Sec. 8.** NRS 269.220 is hereby amended to read as follows:

11 269.220 In addition to the powers and jurisdiction conferred by other
12 laws, the town board or board of county commissioners shall have the
13 power and duty to regulate ~~the~~ :

14 1. *The* storage of gunpowder and other explosive or combustible
15 materials ~~the~~ ; and

16 2. *The manufacture, sale, use, storage and possession of fireworks, if*
17 *such regulations are at least as restrictive as the regulations adopted by*
18 *the state fire marshal pursuant to chapter 477 of NRS.*