

ASSEMBLY BILL NO. 91—ASSEMBLYMEN GERHARDT, PARKS,
KIRKPATRICK, ATKINSON, BOBZIEN, DENIS, GOICOECHEA,
HOGAN, HORNE, KIHUEN, KOIVISTO, MANENDO,
OHRENSCHALL, SEGERBLOM AND WOMACK

FEBRUARY 12, 2007

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions governing
explosives. (BDR 42-691)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.

Effect on the State: Yes.

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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 explosives; establishing a definition of the term
“explosive”; enacting provisions relating to the labeling
of containers used for storing explosives; establishing
requirements concerning the making of mandatory reports
regarding the distribution of explosives under certain
circumstances; revising the provisions relating to records
regarding transactions and inventories of explosives;
revising provisions relating to the storage of explosives;
providing that certain activities, substances and items that
are exempt from certain federal laws are also exempt
from certain state laws; providing penalties; and
providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 2** of this bill establishes a definition of the term “explosive” for the
2 purposes of certain provisions relating to explosives. **Section 3** of this bill provides
3 that any container used to store an explosive must be properly labeled in
4 accordance with all applicable state and federal laws and regulations. **Section 4** of
5 this bill makes it a gross misdemeanor for a person to fail to make a report to a
6 local law enforcement agency and fire department if he has knowledge of any
7 unusual circumstances involving explosives. **Section 4** of this bill excludes from its
8 application persons working in their official capacities in the mining industry.
9 **Section 4.5** of this bill provides that certain activities, substances and items that are
10 exempt from certain federal laws are also exempt from certain state laws. **Section 5**



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of this bill requires persons who conduct certain transactions involving explosives to create and maintain certain written records and inventories concerning those transactions and prohibits such persons from falsifying such records or failing to create or maintain such records. **Section 5** of this bill also requires persons to store explosives in conformity with federal law and requires persons who store explosives to notify a local law enforcement agency and fire department of certain information relating to that storage. **Section 5** of this bill excludes from its application persons working in their official capacities in the mining industry.

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

Section 1. Chapter 476 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4.5, inclusive, of this act.

Sec. 2. *As used in this chapter, "explosive" means any explosive material included in the list of explosive materials published in the Federal Register and revised annually by the Attorney General of the United States pursuant to 18 U.S.C. §§ 841 et seq.*

Sec. 3. *Any container used to store an explosive must be marked in accordance with all applicable state and federal laws and regulations.*

Sec. 4. 1. *Except as otherwise provided in subsection 3, any person who has knowledge of an unusual sale, purchase, theft or loss of any explosive shall, within 24 hours after the discovery, report the sale, purchase, theft or loss to the local law enforcement agency and local fire department in whose jurisdiction the sale, purchase, theft or loss occurred. The report must contain, when possible:*

(a) The name, birth date and address of the persons involved.

(b) The amount and type of explosive involved.

(c) Any other information the person making the report believes to be useful.

2. *Any person who violates the provisions of this section is guilty of a gross misdemeanor.*

3. *The provisions of this section do not apply with respect to a person who is acting in his official capacity as an owner, officer or employee of a company, corporation or partnership engaged in the business of mining.*

4. *For the purposes of this section, there is a rebuttable presumption that a sale, purchase, theft or loss of any explosive is "unusual" if that type of sale, purchase, theft or loss does not regularly occur in the ordinary course of business.*

Sec. 4.5. *If the provisions of chapter 40 of Title 18 of the United States Code do not apply to an activity, substance or item*



pursuant to 18 U.S.C. § 845(a), this chapter does not apply to the activity, substance or item.

Sec. 5. NRS 476.010 is hereby amended to read as follows:

476.010 1. Except in the due course of trade ~~[H]~~ *or as otherwise provided in subsection 9*, it is unlawful for any dealer in dynamite, nitroglycerine, gunpowder or *any* other ~~[high]~~ explosive to ~~[dispose of, transfer or sell]~~ *distribute* to any person, in any unusual manner, an excessive amount of such commodities.

2. ~~[A record shall be kept by all dealers in such commodities of all such sales of the same made by them, showing the purpose for which the same is to be used and to whom sold.]~~

~~—3.— No such sale of such commodities shall be made to any person except upon a signed order delivered to the merchant dealing in the same, stating the purpose and use to which the same is to be put.~~

~~—4.]~~ *It is unlawful for any person to manufacture, import, purchase or distribute any explosive without creating and maintaining a written record that includes the information required pursuant to this section.*

3. *If a person involved in a transaction is not a business or governmental entity or an agent of a business or governmental entity, the written record required pursuant to subsection 2 must include all the following information:*

- (a) The name of the person.*
- (b) The signature of the person.*
- (c) The driver's license number of the person.*
- (d) The residential address of the person.*
- (e) The date of the transaction.*
- (f) A statement of intended use.*

4. *If a person involved in a transaction is a business or governmental entity or an agent of a business or governmental entity, the written record required pursuant to subsection 2 must include all the following information with respect to the business or governmental entity and the agent of the business or governmental entity, if appropriate:*

- (a) The name of the business or governmental entity.*
- (b) The taxpayer identification number of the business or governmental entity.*
- (c) The principal and local addresses of the business or governmental entity.*
- (d) The name and any other appropriate personal identifying information that is sufficient to identify the agent authorized to act for the business or governmental entity.*
- (e) The date of the transaction.*
- (f) A statement of intended use.*



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5. It is unlawful for any person to knowingly and intentionally:

(a) Make any false or misleading entry in a written record required pursuant to subsection 2; or

(b) Fail to make an entry in a written record required pursuant to subsection 2.

6. Any person who keeps any explosive for any purpose shall do so in conformity with the regulations governing the storage of explosives promulgated by the Attorney General of the United States pursuant to 18 U.S.C. § 842 and set forth in 27 C.F.R. §§ 555.201 et seq.

7. Any person who stores any explosive shall, within 24 hours after beginning to store the explosive, notify the local law enforcement agency and local fire department in whose jurisdiction the explosive is stored of:

(a) The type of explosive that is being stored; and

(b) The location of the site where the explosive is stored.

8. Any person ~~violating~~ who violates the provisions of this section ~~shall be~~ is guilty of a gross misdemeanor.

9. The provisions of this section do not apply with respect to a person who is acting in his official capacity as an owner, officer or employee of a company, corporation or partnership engaged in the business of mining.

10. As used in this section:

(a) "Distribute" means to sell, issue, give, transfer or otherwise dispose of an explosive.

(b) "Person" means any of the following:

(1) A natural person.

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.

(3) A government, a political subdivision of a government or an agency or instrumentality of a government or a political subdivision of a government.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

