
SENATE BILL 6153

State of Washington

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By Senators Amondson, Rasmussen, A. Smith, Thorsness, Hayner, Nelson, Gaspard, Erwin, M. Kreidler and Jesernig

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1 AN ACT Relating to the unlawful use of explosives; amending RCW
2 70.74.010, 70.74.160, 70.74.180, 70.74.191, 70.74.270, and 70.74.295;
3 adding new sections to chapter 70.74 RCW; creating a new section; and
4 prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the use of
7 explosives and explosive devices with the intention of causing harm by
8 exploding or appearing capable of exploding is a substantial threat to
9 the safety, health, and welfare of the citizens of Washington.
10 However, the legislature recognizes that explosives substantially
11 benefit the industry and economy of the state of Washington when in the
12 possession and use of persons properly licensed under this chapter.
13 Therefore, the legislature intends sections 2 through 11 of this act to

1 apply to persons unlawfully possessing and using explosives, and not to
2 persons who possess and use explosives in compliance with this chapter.

3 **Sec. 2.** RCW 70.74.010 and 1972 ex.s. c 88 s 5 are each amended to
4 read as follows:

5 As used in this chapter, unless a different meaning is plainly
6 required by the context:

7 (1) The terms "authorized", "approved" or "approval" shall be held
8 to mean authorized, approved, or approval by the department of labor
9 and industries.

10 (2) The term "blasting agent" shall be held to mean and include any
11 material or mixture consisting of a fuel and oxidizer, intended for
12 blasting, not otherwise classified as an explosive, and in which none
13 of the ingredients are classified as an explosive, provided that the
14 finished product, as mixed and packaged for use or shipment, cannot be
15 detonated when unconfined by means of a No. 8 test blasting cap.

16 (3) The term "explosive" or "explosives" whenever used in this
17 chapter, shall be held to mean and include any chemical compound or
18 mechanical mixture that is commonly used or intended for the purpose of
19 producing an explosion, that contains any oxidizing and combustible
20 units, or other ingredients, in such proportions, quantities or
21 packing, that an ignition by fire, by friction, by concussion, by
22 percussion, or by detonation of any part of the compound or mixture may
23 cause such a sudden generation of highly heated gases that the
24 resultant gaseous pressures are capable of producing destructive
25 effects on contiguous objects or of destroying life or limb. In
26 addition, the term "explosives" shall include all material which is
27 classified as class A, class B, and class C explosives by the federal
28 department of transportation(~~(:—PROVIDED, That)~~). However, for the
29 purposes of this chapter small arms ammunition, small arms ammunition

1 primers, smokeless powder not exceeding fifty pounds, and black powder
2 not exceeding five pounds shall not be defined as explosives, unless
3 possessed or used for a purpose inconsistent with small arms use or
4 other lawful purpose. Explosives classified as illegal fireworks by
5 the department of community development under chapter 70.77 RCW and
6 that have an explosive value of what is commonly known as a "M-80" or
7 less, are not covered by this chapter.

8 (4) Classification of explosives shall include but not be limited
9 to the following:

10 (a) CLASS A EXPLOSIVES: (Possessing detonating hazard) dynamite,
11 nitroglycerin, (~~picric acid, lead azide, fulminate of mercury~~)
12 chemicals commonly used to create an explosion, black powder exceeding
13 five pounds, blasting caps in quantities of 1001 or more, and
14 detonating primers.

15 (b) CLASS B EXPLOSIVES: (Possessing flammable hazard) propellant
16 explosives, including smokeless propellants exceeding fifty pounds.

17 (c) CLASS C EXPLOSIVES: (Including certain types of manufactured
18 articles which contain class A or class B explosives, or both, as
19 components but in restricted quantities) blasting caps in quantities of
20 1000 or less.

21 (5) The term "explosive-actuated power devices" shall be held to
22 mean any tool or special mechanized device which is actuated by
23 explosives, but not to include propellant-actuated power devices.

24 (6) The term "magazine", shall be held to mean and include any
25 building or other structure, other than a factory building, used for
26 the storage of explosives.

27 (7) The term "improvised device" or "improvised explosive device"
28 means a device made with explosives or other chemicals that alone or in
29 combination may produce an explosive result intended to disfigure,
30 destroy, distract, or harass.

1 (8) The term "inhabited building", shall be held to mean and
2 include only a building regularly occupied in whole or in part as a
3 habitation for human beings, or any church, schoolhouse, railroad
4 station, store, or other building where people are accustomed to
5 assemble, other than any building or structure occupied in connection
6 with the manufacture, transportation, storage, or use of explosives.

7 (9) The term "explosives manufacturing plant" shall be held to mean
8 and include all lands, with the buildings situated thereon, used in
9 connection with the manufacturing or processing of explosives or in
10 which any process involving explosives is carried on, or the storage of
11 explosives thereat, as well as any premises where explosives are used
12 as a component part or ingredient in the manufacture of any article or
13 device.

14 (10) The term "explosives manufacturing building", shall be held to
15 mean and include any building or other structure (excepting magazines)
16 containing explosives, in which the manufacture of explosives, or any
17 processing involving explosives, is carried on, and any building where
18 explosives are used as a component part or ingredient in the
19 manufacture of any article or device.

20 (11) The term "railroad" shall be held to mean and include any
21 steam, electric, or other railroad which carries passengers for hire.

22 (12) The term "highway" shall be held to mean and include any
23 public street, public alley, or public road.

24 (13) The term "efficient artificial barricade" shall be held to
25 mean an artificial mound or properly revetted wall of earth of a
26 minimum thickness of not less than three feet or such other artificial
27 barricade as approved by the department of labor and industries.

28 (14) The term "person" shall be held to mean and include any
29 individual, firm, copartnership, corporation, company, association,

1 joint stock association, and including any trustee, receiver, assignee,
2 or personal representative thereof.

3 (15) The term "dealer" shall be held to mean and include any person
4 who purchases explosives or blasting agents for the sole purpose of
5 resale, and not for use or consumption.

6 (16) The term "forbidden or not acceptable explosives" shall be
7 held to mean and include explosives which are forbidden or not
8 acceptable for transportation by common carriers by rail freight, rail
9 express, highway, or water in accordance with the regulations of the
10 federal department of transportation.

11 (17) The term "handloader" shall be held to mean and include any
12 person who engages in the noncommercial assembling of small arms
13 ammunition for his own use, specifically the operation of installing
14 new primers, powder, and projectiles into cartridge cases.

15 (18) The term "handloader components" means small arms ammunition,
16 small arms ammunition primers, smokeless powder not exceeding fifty
17 pounds, and black powder as used in muzzle loading firearms not
18 exceeding five pounds.

19 (19) The term "fuel" shall be held to mean and include a substance
20 which may react with the oxygen in the air or with the oxygen yielded
21 by an oxidizer to produce combustion.

22 (20) The term "motor vehicle" shall be held to mean and include any
23 self-propelled automobile, truck, tractor, semi-trailer or full
24 trailer, or other conveyance used for the transportation of freight.

25 (21) The term "natural barricade" shall be held to mean and include
26 any natural hill, mound, wall, or barrier composed of earth or rock or
27 other solid material of a minimum thickness of not less than three
28 feet.

1 (22) The term "oxidizer" shall be held to mean a substance that
2 yields oxygen readily to stimulate the combustion of organic matter or
3 other fuel.

4 (23) The term "propellant-actuated power device" shall be held to
5 mean and include any tool or special mechanized device or gas generator
6 system which is actuated by a propellant or which releases and directs
7 work through a propellant charge.

8 (24) The term "public conveyance" shall be held to mean and include
9 any railroad car, streetcar, ferry, cab, bus, airplane, or other
10 vehicle which is carrying passengers for hire.

11 (25) The term "public utility transmission system" shall mean power
12 transmission lines over 10 KV, telephone cables, or microwave
13 transmission systems, or buried or exposed pipelines carrying water,
14 natural gas, petroleum, or crude oil, or refined products and
15 chemicals, whose services are regulated by the utilities and
16 transportation commission, municipal, or other publicly owned systems.

17 (26) The term "purchaser" shall be held to mean any person who
18 buys, accepts, or receives any explosives or blasting agents.

19 (27) The term "pyrotechnics" shall be held to mean and include any
20 combustible or explosive compositions or manufactured articles designed
21 and prepared for the purpose of producing audible or visible effects
22 which are commonly referred to as fireworks.

23 (28) The term "small arms ammunition" shall be held to mean and
24 include any shotgun, rifle, pistol, or revolver cartridge, and
25 cartridges for propellant-actuated power devices and industrial guns.
26 Military-type ammunition containing explosive bursting charges,
27 incendiary, tracer, spotting, or pyrotechnic projectiles is excluded
28 from this definition.

29 (29) The term "small arms ammunition primers" shall be held to mean
30 small percussion-sensitive explosive charges encased in a cup, used to

1 ignite propellant powder and shall include percussion caps as used in
2 muzzle loaders.

3 ~~(30)~~ The term "smokeless propellants" shall be held to mean and
4 include solid chemicals or solid chemical mixtures in excess of fifty
5 pounds which function by rapid combustion.

6 ~~(31)~~ The term "user" shall be held to mean and include any natural
7 person, manufacturer, or blaster who acquires, purchases, or uses
8 explosives as an ultimate consumer or who supervises such use.

9 ~~((Words used in the singular number shall include the plural, and
10 the plural the singular.))~~

11 **Sec. 3.** RCW 70.74.160 and 1969 ex.s. c 137 s 19 are each amended
12 to read as follows:

13 No person, except ~~((an official as authorized herein))~~ a
14 representative of the United States department of the treasury, the
15 director of labor and industries, the owner, the owner's agent, or a
16 person authorized to ~~((do so by the owner thereof, or his agent,~~
17 ~~shall))~~ enter by the owner, or a police officer acting within his or
18 her official capacity, may enter any explosives manufacturing building,
19 magazine or car, vehicle or other common carrier containing explosives
20 in this state. Violation of this section is a gross misdemeanor
21 punishable under chapter 9A.20 RCW.

22 **Sec. 4.** ~~RCW 70.74.180 and 1984 c 55 s 1 are each amended to read~~
23 ~~as follows:~~

24 ~~((Any person who has in his possession or control any shell, bomb,~~
25 ~~or similar device, charged or filled with one or more explosives,~~
26 ~~intending to use it or cause it to be used for an unlawful purpose, is~~
27 ~~guilty of a felony, and upon conviction shall be punished by~~

1 ~~imprisonment in a state prison for a term of not more than twenty~~
2 ~~years.)~~)

3 (1) A person may not knowingly possess, give away, loan, sell,
4 offer for sale, or transport:

5 (a) A substance or device they know to be an explosive or
6 improvised device; or

7 (b) Components that they know can be rapidly assembled into an
8 explosive or improvised device.

9 Violation of this subsection is a class C felony.

10 (2) A person who has in his or her possession or control an
11 explosive or improvised device, attempting to use it, or uses it for an
12 unlawful purpose, with the intent to injure, intimidate, or harass a
13 person, or damage or destroy another's property, is guilty of a class
14 B felony.

15 (3) A person who has in his or her possession or control an
16 explosive or improvised device, attempting to use it, or uses it for an
17 unlawful purpose not covered by subsection (2) of this section is
18 guilty of a class C felony.

19 (4) The use of a device so designed, assembled, fabricated, or
20 manufactured as to convey the physical appearance of an explosive or
21 improvised device and was intended to, and does, frighten, intimidate,
22 or harass a person, or causes a person apprehension of damage or
23 destruction to property, is guilty of a class C felony.

24 **Sec. 5.** RCW 70.74.191 and 1985 c 191 s 2 are each amended to read
25 as follows:

26 The laws contained in this chapter and the ensuing regulations
27 prescribed by the department of labor and industries shall not apply
28 to:

1 (1) A person licensed by the department of labor and industries or
2 by the United States department of the treasury, or the person's
3 delegate.

4 (2) Explosives or blasting agents in the course of transportation
5 by way of railroad, water, highway or air under the jurisdiction of,
6 and in conformity with, regulations adopted by the federal department
7 of transportation, the Washington state utilities and transportation
8 commission and the Washington state patrol;

9 (~~(2)~~) (3) The laboratories of schools, colleges and similar
10 institutions if confined to the purpose of instruction or research and
11 if not exceeding the quantity of one pound;

12 (~~(3)~~) (4) Explosives in the forms prescribed by the official
13 United States Pharmacopoeia;

14 (~~(4)~~) (5) The transportation, storage and use of explosives or
15 blasting agents in the normal and emergency operations of federal
16 agencies and departments including the regular United States military
17 departments on military reservations, or the duly authorized militia of
18 any state or territory, or to emergency operations of any state
19 department or agency, any police, or any municipality or county;

20 (~~(5)~~) (6) The sale and use of fireworks, signaling devices,
21 flares, fuses, and torpedoes;

22 (~~(6)~~) (7) The transportation, storage, and use of explosives or
23 blasting agents in the normal and emergency avalanche control
24 procedures as conducted by trained and licensed ski area operator
25 personnel. However, the storage, transportation, and use of explosives
26 and blasting agents for such use shall meet the requirements of
27 regulations adopted by the director of labor and industries; (~~and~~

28 ~~(7)~~) (8) A regularly employed member of a law enforcement agency
29 when acting within the scope and course of his or her duty;

1 (9) A regularly employed member of a fire fighting agency of the
2 United States, or a city, county, or municipal corporation while the
3 member is on duty and acting within the scope of employment; and

4 (10) Any violation under this chapter if any existing ordinance of
5 any city, municipality or county is more stringent than this chapter.

6 **Sec. 6.** RCW 70.74.270 and 1984 c 55 s 2 are each amended to read
7 as follows:

8 Every person who maliciously places any explosive substance or
9 material in, upon, under, against, or near any building, car, vessel,
10 railroad track, airplane, public utility transmission system, ~~((or))~~
11 structure, or at any location in such manner or under such
12 circumstances as to destroy or injure it if exploded, shall be
13 ~~((punished as follows))~~ guilty of the following:

14 (1) If the circumstances and surroundings are such that the safety
15 of any person might be endangered by the explosion, ~~((by imprisonment~~
16 ~~in the state penitentiary for not more than twenty years))~~ the person
17 is guilty of a class B felony;

18 (2) In every other case ~~((by imprisonment in the state penitentiary~~
19 ~~for not more than five years))~~ the person is guilty of a class C
20 felony.

21 **Sec. 7.** RCW 70.74.295 and 1972 ex.s. c 88 s 3 are each amended to
22 read as follows:

23 It shall be unlawful for any person to abandon explosives or
24 ~~((explosive substances))~~ improvised devices. Violation of this section
25 is a gross misdemeanor punishable under chapter 9A.20 RCW.

26 NEW SECTION. **Sec. 8.** A law enforcement officer who observes
27 an explosive or improvised device, or components that may be rapidly

1 assembled into an explosive or improvised device, may immediately take
2 custody of the explosive or improvised device or components and any
3 container or vehicle in which such a device or components are observed.

4 NEW SECTION. **Sec. 9.** (1) A law enforcement agency shall
5 destroy explosives seized under this chapter when it is necessary to
6 protect the public safety and welfare. When destruction is not
7 necessary to protect the public safety and welfare, the law enforcement
8 agency that seized explosives under this chapter shall:

9 (a) Issue a written notice that identifies the agency to the person
10 from whom the explosives were seized within fifteen days of the
11 seizure;

12 (b) Provide a form by which the person may request a hearing before
13 the agency to contest the seizure;

14 (c) Conduct a hearing if the form requesting a hearing is received
15 within thirty days of issuing the notice;

16 (d) Conduct the hearing requested according to chapter 34.05 RCW;

17 (e) Declare the explosives forfeited if the person fails to request
18 a hearing within thirty days of issuing the notice.

19 (2) If the law enforcement agency declares the explosives
20 forfeited, the agency shall destroy the explosives. When explosives
21 are destroyed either to protect public safety or because the explosives
22 were forfeited, the person from whom the explosives were seized loses
23 all rights of action against the law enforcement agency or its
24 employees acting within the scope of their employment, or other
25 governmental entity or employee involved with the seizure and
26 destruction of explosives.

27 NEW SECTION. **Sec. 10.** Any theft or loss of explosives shall
28 immediately be reported by the person having control of such explosives

1 to the local law enforcement agency which shall immediately report the
2 theft or loss to the chief of the Washington state patrol.

3 NEW SECTION. **Sec. 11.** Sections 8 through 10 of this act are
4 each added to chapter 70.74 RCW.

5 NEW SECTION. **Sec. 12.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.