

SENATE BILL REPORT

SHB 1118

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 23, 1993

Brief Description: Classifying the criminal use of explosives.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Orr, Scott, Shin, Dunshee, Silver, Mielke, Schoesler, Sheahan, Riley, Tate, Vance, Chappell, Ludwig, Forner, H. Myers, Johanson and Springer)

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, and Spanel.

Staff: Jon Carlson (786-7459)

Hearing Dates: March 22, 1993; March 23, 1993

BACKGROUND:

Explosives experts find that the unauthorized possession and use of explosives is becoming an increasingly dangerous problem throughout the state. Bomb squads contend that they are dealing with more illegal explosives than ever before as explosives become the new weapon of choice among gangs. Law enforcement officers find that the current explosives provisions limit what action they can take against people who possess or use unauthorized explosives. For example, possessing a pipe bomb is not specifically defined as a crime. It is recommended that the explosives statute be revised to address the concerns that have been raised by the law enforcement community.

SUMMARY:

The Washington State Explosives Act is amended in several ways.

A new offense is created. Unless otherwise allowed by the Washington State Explosives Act, a person who exhibits a device designed or assembled to convey the appearance of an explosive or improvised device, and who intends to and does frighten, intimidate, or harass a person, is guilty of a class C felony.

In addition to current restrictions on manufacture, purchase, sale, use, or storage of explosives, a person may not offer for sale, possess or transport an explosive, improvised

device, or components that are intended to be assembled into an explosive or improvised device, without a license. Violation of the provision is changed from a gross misdemeanor to a class C felony. Otherwise lawful historical displays or demonstrations are exempt from the licensing requirement.

Unlawful abandonment of explosives or improvised devices is a gross misdemeanor. The term "explosive substances" is stricken. Illegal entry into a building, magazine, or vehicle containing explosives is a gross misdemeanor. No person, except the director of the Department of Labor and Industries or the director's agent, the owner, the owner's agent, any person the owner or the owner's agent permits to enter, or a law enforcement officer acting within his or her official capacity may enter any building, magazine, or vehicle that contains explosives.

Explosives, improvised devices, and components possessed, manufactured, stored, sold, purchased, transported, abandoned, detonated, or used in violation of the Washington State Explosives Act are subject to seizure and forfeiture by a law enforcement agency.

A law enforcement agency must destroy seized explosives if necessary for the public safety and welfare. Otherwise, and if the explosives are not being held for evidence, the seizure commences forfeiture proceedings. The seizing law enforcement agency must follow specified procedures in forfeiture proceedings, including procedures for notice to any person with a known interest in the explosives.

A law enforcement agency must destroy forfeited explosives. When explosives are destroyed either to protect public safety or because the explosives were forfeited, the person from whom the explosives were seized has no claim against any governmental entity, agency, or employee acting within the scope of his or her employment, involved in the seizure or destruction.

A person who is responsible for explosives must report theft or loss of the explosives within 24 hours of discovery to a local law enforcement agency. The law enforcement agency must immediately report the theft or loss to the Washington State Patrol and the Department of Labor and Industries.

The definitions section of the Explosives Act is amended to include the term "improvised device." The definition of class A explosives is broadened. In addition, small arms ammunition and primers, smokeless powder less than 50 pounds, and black powder less than five pounds are explosives if possessed or used for a purpose inconsistent with small arms use or other lawful purpose. Smokeless powder exceeding 50 pounds and black powder exceeding five pounds are not explosives if possessed by a licensed dealer for the sole purpose of resale.

The provisions of the chapter do not apply to the importation, sale, possession or use of fireworks, signalling devices, flares, fuses, or torpedoes.

SUMMARY OF PROPOSED SENATE AMENDMENTS:

Language is removed which states that smokeless powder exceeding 50 pounds and black powder exceeding five pounds are not classified as explosives if possessed by a licensed dealer solely for resale.

A provision is deleted which exempts lawful historical displays or demonstrations from the prohibition against the manufacture, sale, possession or storage of explosives without a validly issued license.

The requirement that a local law enforcement agency report theft or loss of explosives to the Washington State Patrol and the Department of Labor and Industries is modified to require that the report only be made to Labor and Industries.

The definition of class A explosives is restored to its original language.

The word "frighten" is deleted from the section which pertains to the criminal use of devices that convey the appearance of an explosive.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR:

The current law does not allow law enforcement the means to deal with persons who possess components that can be assembled into explosive devices.

TESTIMONY AGAINST: None

TESTIFIED: Representative George Orr, prime sponsor; Tim Schellberg, WA Assn. of Sheriffs & Police Chiefs (pro); Otto Jensen, WA State Assn. of Fire Chiefs (pro, with amendments); Pete Schmidt, Dept. of Labor & Industries (pro); Al Woodbridge, WA State Rifle & Pistol Assn. (pro, without amendments)