

LEGISLATIVE BILL 969

Approved by the Governor March 24, 1986

Introduced by Conway, 17; Remmers, 1

AN ACT relating to crimes and punishments; to amend sections 28-101, 28-1241, 28-1242, and 28-1245, Reissue Revised Statutes of Nebraska, 1943; to define a term; to require a display permit as prescribed; to provide a fee; to provide an exception; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-101. Sections 28-101 to 28-1348 and section 4 of this act shall be known as the Nebraska Criminal Code.

Sec. 2. That section 28-1241, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1241. As used in sections 28-1241 to 28-1252 and section 4 of this act, unless the context otherwise requires:

(1) Distributor shall mean any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or as a retailer or both;

(2) Jobber shall mean any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail;

(3) Retailer shall mean any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers;

(4) Sale shall include barter, exchange, or gift or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee; and

(5) Permissible fireworks shall mean only sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of

making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total pyrotechnic composition not to exceed one half grain each in weight, color wheels, and any other fireworks approved under the provisions of section 28-1247; and

(6) Display fireworks shall mean those materials manufactured exclusively for use in public exhibitions or displays of fireworks. Display fireworks shall be considered an explosive as defined in section 28-1213 and shall be subject to sections 28-1213 to 28-1239, except that display fireworks may be purchased and received by the holder of an approved display permit issued pursuant to section 4 of this act.

Sec. 3. That section 28-1242, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1242. (1) A person commits the offense of unlawful throwing of ~~firecrackers~~ fireworks if he or she throws any ~~firecracker~~ firework, or any object which explodes upon contact with another object; (a) ~~from~~ From or into a motor vehicle; (b) onto any street, highway, or sidewalk; (c) at or near any person; (d) into any building; or (e) into or at any group of persons.

(2) Unlawful throwing of ~~firecrackers~~ fireworks is a Class III misdemeanor.

Sec. 4. (1) No person shall conduct a public exhibition or display of fireworks without first procuring a display permit from the State Fire Marshal. Such permit shall be accompanied by a fee of ten dollars to be deposited in the State Fire Marshal Cash Fund.

(2) No display fireworks shall be sold or delivered by a licensed distributor or holder of a display license to any person who is not in possession of an approved display permit. Sales of display fireworks to persons without an approved display permit shall be subject to the provisions of sections 28-1213 to 28-1239.

Sec. 5. That section 28-1245, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1245. The provisions of section Section 28-1244 shall not apply to:

(1) Any display fireworks to be used for purposes of public exhibitions or displays and purchased from a licensed distributor or the holder of a display license to be issued by the State Fire Marshal upon payment of a fee of two hundred fifty dollars, which

display license shall be good only for the calendar year in which issued and shall not authorize the holder to sell or hold for sale any permissible fireworks as defined in section 28-1241 or any ~~firecrackers~~ other fireworks of any description, whether soft shell or hard shell; or

(2) Any display fireworks purchased by the holder of a display permit issued pursuant to section 4 of this act; or

(3) ~~(2)~~ Any public exhibition or display under the auspices of any governmental subdivision of this state, fair, or agricultural society; or

(4) ~~(3)~~ Any fireworks brought into this state for storage by a licensed distributor and held for sale outside of this state; or

(5) ~~(4)~~ Any fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal to any holder of a distributor's license; or

(6) ~~(5)~~ Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a grain of explosive material.

Sec. 6. That original sections 28-101, 28-1241, 28-1242, and 28-1245, Reissue Revised Statutes of Nebraska, 1943, are repealed.