

SENATE BILL NO. 338—SENATORS OHRENSCHALL AND PARKS

MARCH 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the regulation of fireworks. (BDR 42-34)

FISCAL NOTE: Effect on Local Government: No.
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 fireworks; requiring the State Fire Marshal to adopt certain regulations regarding fireworks; requiring the regulations and ordinances adopted by certain governmental entities to be at least as restrictive as the regulations adopted by the State Fire Marshal; requiring a person to reimburse the State Fire Marshal under certain circumstances for the improper storage or use of fireworks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Fire Marshal to enforce all laws and adopt regulations relating to the storage and use of fireworks. (NRS 477.030) **Section 4** of this bill requires the State Fire Marshal to enforce all laws and adopt regulations relating to: (1) the storage and use of fireworks for the purposes of commercial display; (2) fireworks not used for the purposes of commercial display and not including certain devices; and (3) the types of fireworks that a local government may regulate.

Existing law requires the board of directors of a county fire protection district and the board of fire commissioners to adopt and enforce all rules and regulations necessary for the administration and government of the county fire protection district. (NRS 474.160, 474.470) Existing law authorizes a board of county commissioners and a city council to create a district for a fire department and to organize, regulate and maintain a fire department, respectively. (NRS 244.2961, 266.310) Existing law additionally authorizes a board of county commissioners to pass ordinances concerning the sale, use, storage and possession of fireworks. (NRS 244.367) Existing law authorizes the town board or board of county commissioners to regulate the storage of gunpowder and other explosive or combustive materials. (NRS 269.220) **Sections 1, 2 and 5-8** of this bill require or authorize these governmental entities to regulate or adopt ordinances concerning



20 the manufacture, sale, use, storage and possession of fireworks so long as such
21 regulations or ordinances are at least as stringent as the regulations concerning
22 fireworks that are adopted by the State Fire Marshal.

23 Existing law authorizes the State Fire Marshal or the State Board of Fire
24 Services to issue a written administrative citation to a person who the State Fire
25 Marshal or the State Board of Fire Services has reason to believe has committed a
26 violation of existing law or regulations administered by the State Fire Marshal.
27 (NRS 477.240) **Section 3** of this bill additionally requires a person who stores or
28 uses fireworks in violation of existing law or regulations that are administered by
29 the State Fire Marshal to reimburse the State Fire Marshal and certain agencies of
30 state or local government for certain costs resulting from such a violation. **Section**
31 **3** authorizes the State Fire Marshal or certain agencies of state or local government
32 to institute a legal proceeding to enforce **section 3**.

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 county
4 fire protection district.

5 2. Adopt and enforce all rules and regulations necessary for the
6 administration and government of the district and for the furnishing
7 of fire protection thereto, which may include regulations relating to
8 fire prevention. The regulations may include provisions that are
9 designed to protect life and property from:

10 (a) The hazards of fire and explosion resulting from the storage,
11 handling and use of hazardous substances, materials and devices;
12 and

13 (b) Hazardous conditions relating to the use or occupancy of any
14 premises.

15 ↪ Any regulation concerning hazardous substances, materials or
16 devices adopted pursuant to this section must be consistent with any
17 plan or ordinance concerning those substances, materials or devices
18 that is required by the Federal Government and has been adopted by
19 the board of county commissioners. *Any regulation prohibiting,
20 restricting, suppressing or otherwise regulating the manufacture,
21 sale, use, storage or possession of fireworks, and any penalties for
22 the violation thereof, must be at least as stringent as the
23 regulations that are adopted by the State Fire Marshal pursuant to
24 chapter 477 of NRS.*

25 3. Organize, regulate, establish and disband fire companies,
26 departments or volunteer fire departments for the district.

27 4. Make and execute in the name of the district all necessary
28 contracts.

29 5. Adopt a seal for the district to be used in the attestation of
30 proper documents.



1 6. Provide for the payment from the proper fund of the salaries
2 of employees of the district and all the debts and just claims against
3 the district.

4 7. Employ agents and employees for the district sufficient to
5 maintain and operate the property acquired for the purposes of the
6 district.

7 8. Acquire real or personal property necessary for the purposes
8 of the district and dispose of that property when no longer needed.

9 9. Construct any necessary structures.

10 10. Acquire, hold and possess, either by donation or purchase,
11 in the name and on behalf of the district any land or other property
12 necessary for the purpose of the district.

13 11. Eliminate and remove fire hazards within the district if
14 practicable and possible, whether on private or public premises, and
15 to that end the board may clear the public highways and private
16 lands of dry grass, stubble, brush, rubbish or other inflammable
17 material in its judgment constituting a fire hazard.

18 12. Perform all other acts necessary, proper and convenient to
19 accomplish the purposes of NRS 474.010 to 474.450, inclusive.

20 **Sec. 2.** NRS 474.470 is hereby amended to read as follows:

21 474.470 The board of fire commissioners shall:

22 1. Manage and conduct the business and affairs of districts
23 organized pursuant to the provisions of NRS 474.460 or 474.533.

24 2. Adopt and enforce all rules and regulations necessary for the
25 administration and government of the districts and for the furnishing
26 of fire protection thereto, which may include regulations relating to
27 emergency medical services and fire prevention. The regulations
28 may include provisions that are designed to protect life and property
29 from:

30 (a) The hazards of fire and explosion resulting from the storage,
31 handling and use of hazardous substances, materials and devices;
32 and

33 (b) Hazardous conditions relating to the use or occupancy of any
34 premises.

35 ↪ Any regulation concerning hazardous substances, materials or
36 devices adopted pursuant to this section must be consistent with any
37 plan or ordinance concerning those substances, materials or devices
38 that is required by the Federal Government and has been adopted by
39 the board of county commissioners. *Any regulation prohibiting,
40 restricting, suppressing or otherwise regulating the manufacture,
41 sale, use, storage or possession of fireworks, and any penalties for
42 the violation thereof, must be at least as stringent as regulations
43 that are adopted by the State Fire Marshal pursuant to chapter
44 477 of NRS.*



1 3. Organize, regulate, establish and disband fire companies,
2 departments or volunteer fire departments for the districts.

3 4. Provide for the payment of salaries to the personnel of those
4 fire companies or fire departments.

5 5. Provide for payment from the proper fund of all the debts
6 and just claims against the districts.

7 6. Employ agents and employees for the districts sufficient to
8 maintain and operate the property acquired for the purposes of the
9 districts.

10 7. Acquire real or personal property necessary for the purposes
11 of the districts and dispose of the property if no longer needed.

12 8. Construct any necessary structures.

13 9. Acquire, hold and possess, by donation or purchase, any
14 land or other property necessary for the purpose of the districts.

15 10. Eliminate and remove fire hazards from the districts if
16 practicable and possible, whether on private or public premises, and
17 to that end the board of fire commissioners may clear the public
18 highways and private lands of dry grass, stubble, brush, rubbish or
19 other inflammable material in its judgment constituting a fire
20 hazard.

21 11. Perform all other acts necessary, proper and convenient to
22 accomplish the purposes of NRS 474.460 to 474.540, inclusive.

23 **Sec. 3.** Chapter 477 of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 *1. A person who stores or uses fireworks, including fireworks*
26 *for the purposes of commercial display, in violation of the*
27 *provisions of this chapter or the regulations adopted pursuant*
28 *thereto shall reimburse the State Fire Marshal and any agency of*
29 *the state or local government for the costs incurred by the State*
30 *Fire Marshal or agency to:*

31 *(a) Investigate any such violation;*

32 *(b) Suppress a fire resulting from the storage or use of such*
33 *fireworks; and*

34 *(c) Confiscate and dispose of such fireworks stored or*
35 *possessed in violation of the provisions of this chapter or the*
36 *regulations adopted pursuant thereto.*

37 *2. The State Fire Marshal or any agency of the state or local*
38 *government that incurred costs from a violation described in*
39 *subsection 1 may institute a legal proceeding to enforce the*
40 *provisions of subsection 1.*

41 **Sec. 4.** NRS 477.030 is hereby amended to read as follows:

42 477.030 1. Except as otherwise provided in this section, the
43 State Fire Marshal shall enforce all laws and adopt regulations
44 relating to:



1 (a) The prevention of fire.

2 (b) The storage and use of:

3 (1) ~~Combustibles;~~ *Fireworks for the purposes of*
4 *commercial display, combustibles and flammables ;* ~~and~~
5 ~~fireworks;~~ and

6 (2) Explosives in any commercial construction, but not in
7 mining or the control of avalanches,

8 ↪ under those circumstances that are not otherwise regulated by the
9 Division of Industrial Relations of the Department of Business and
10 Industry pursuant to NRS 618.890.

11 (c) The safety, access, means and adequacy of exit in case of fire
12 from mental and penal institutions, facilities for the care of children,
13 foster homes, residential facilities for groups, facilities for
14 intermediate care, nursing homes, hospitals, schools, all buildings,
15 except private residences, which are occupied for sleeping purposes,
16 buildings used for public assembly and all other buildings where
17 large numbers of persons work, live or congregate for any purpose.
18 As used in this paragraph, "public assembly" means a building or a
19 portion of a building used for the gathering together of 50 or more
20 persons for purposes of deliberation, education, instruction, worship,
21 entertainment, amusement or awaiting transportation, or the
22 gathering together of 100 or more persons in establishments for
23 drinking or dining.

24 (d) The suppression and punishment of arson and fraudulent
25 claims or practices in connection with fire losses.

26 (e) *Fireworks not used for the purposes of commercial display.*
27 *The State Fire Marshal shall not adopt any regulations pursuant*
28 *to this paragraph that regulate:*

29 (1) *A device which contains:*

30 (I) *No magnesium; and*

31 (II) *Less than 100 grams of pyrotechnic composition;*

32 (2) *A match;*

33 (3) *An emergency signal flare;*

34 (4) *A cap or other noisemaker;*

35 (5) *A model rocket; or*

36 (6) *A smoke-emitting device that is used for the protection*
37 *of a vehicle.*

38 (f) *The types of fireworks that a local government may*
39 *regulate. The types of fireworks that the State Fire Marshal may*
40 *authorize a local government to regulate must:*

41 (1) *Comply with paragraph (e); and*

42 (2) *Be listed in section 3.1 of Standard 87-1, "Standard for*
43 *Construction and Approval for Transportation of Fireworks,*
44 *Novelties, and Theatrical Pyrotechnics," 2001 edition, adopted by*
45 *the American Pyrotechnics Association, except the State Fire*



1 *Marshal shall not authorize the types of fireworks listed in*
2 *sections 3.1.2 and 3.1.3 of Standard 87-1.*

3 ↪ Except as otherwise provided in subsection 12, the regulations of
4 the State Fire Marshal apply throughout the State, but except with
5 respect to state-owned or state-occupied buildings, the State Fire
6 Marshal's authority to enforce them or conduct investigations under
7 this chapter does not extend to a school district except as otherwise
8 provided in NRS 393.110, or a county whose population is 100,000
9 or more or which has been converted into a consolidated
10 municipality, except in those local jurisdictions in those counties
11 where the State Fire Marshal is requested to exercise that authority
12 by the chief officer of the organized fire department of that
13 jurisdiction or except as otherwise provided in a regulation adopted
14 pursuant to paragraph (b) of subsection 2.

15 2. The State Fire Marshal may:

16 (a) Set standards for equipment and appliances pertaining to fire
17 safety or to be used for fire protection within this State, including
18 the threads used on fire hose couplings and hydrant fittings; and

19 (b) Adopt regulations based on nationally recognized standards
20 setting forth the requirements for fire departments to provide
21 training to firefighters using techniques or exercises that involve the
22 use of fire or any device that produces or may be used to produce
23 fire.

24 3. The State Fire Marshal shall cooperate with the State
25 Forester Firewarden in the preparation of regulations relating to
26 standards for fire retardant roofing materials pursuant to paragraph
27 (e) of subsection 1 of NRS 472.040 and the mitigation of the risk of
28 a fire hazard from vegetation in counties within or partially within
29 the Lake Tahoe Basin and the Lake Mead Basin.

30 4. The State Fire Marshal shall cooperate with the Division of
31 Child and Family Services of the Department of Health and Human
32 Services in establishing reasonable minimum standards for
33 overseeing the safety of and directing the means and adequacy of
34 exit in case of fire from foster homes.

35 5. The State Fire Marshal shall coordinate all activities
36 conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and
37 distribute money allocated by the United States pursuant to that act.

38 6. Except as otherwise provided in subsection 10, the State Fire
39 Marshal shall:

40 (a) Investigate any fire which occurs in a county other than one
41 whose population is 100,000 or more or which has been converted
42 into a consolidated municipality, and from which a death results or
43 which is of a suspicious nature.

44 (b) Investigate any fire which occurs in a county whose
45 population is 100,000 or more or which has been converted into a



1 consolidated municipality, and from which a death results or which
2 is of a suspicious nature, if requested to do so by the chief officer of
3 the fire department in whose jurisdiction the fire occurs.

4 (c) Cooperate with the Commissioner of Insurance, the Attorney
5 General and the Fraud Control Unit established pursuant to NRS
6 228.412 in any investigation of a fraudulent claim under an
7 insurance policy for any fire of a suspicious nature.

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

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

13 7. The State Fire Marshal shall put the National Fire Incident
14 Reporting System into effect throughout the State and publish at
15 least annually a summary of data collected under the System.

16 8. The State Fire Marshal shall provide assistance and
17 materials to local authorities, upon request, for the establishment of
18 programs for public education and other fire prevention activities.

19 9. The State Fire Marshal shall:

20 (a) Except as otherwise provided in subsection 12 and NRS
21 393.110, assist in checking plans and specifications for construction;

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

23 (c) Assist local governments in drafting regulations and
24 ordinances,

25 ↪ on request or as the State Fire Marshal deems necessary.

26 10. Except as otherwise provided in this subsection, in a county
27 other than one whose population is 100,000 or more or which has
28 been converted into a consolidated municipality, the State Fire
29 Marshal shall, upon request by a local government, delegate to the
30 local government by interlocal agreement all or a portion of the
31 State Fire Marshal's authority or duties if the local government's
32 personnel and programs are, as determined by the State Fire
33 Marshal, equally qualified to perform those functions. If a local
34 government fails to maintain the qualified personnel and programs
35 in accordance with such an agreement, the State Fire Marshal shall
36 revoke the agreement. The provisions of this subsection do not
37 apply to the authority of the State Fire Marshal to adopt regulations
38 pursuant to paragraph (b) of subsection 2.

39 11. The State Fire Marshal may, as a public safety officer or as
40 a technical expert on issues relating to hazardous materials,
41 participate in any local, state or federal team or task force that is
42 established to conduct enforcement and interdiction activities
43 involving:

44 (a) Commercial trucking;

45 (b) Environmental crimes;



- 1 (c) Explosives and pyrotechnics;
- 2 (d) Drugs or other controlled substances; or
- 3 (e) Any similar activity specified by the State Fire Marshal.

4 12. Except as otherwise provided in this subsection, any
5 regulations of the State Fire Marshal concerning matters relating to
6 building codes, including, without limitation, matters relating to the
7 construction, maintenance or safety of buildings, structures and
8 property in this State:

9 (a) Do not apply in a county whose population is 700,000 or
10 more which has adopted a code at least as stringent as the
11 International Fire Code and the International Building Code,
12 published by the International Code Council. To maintain the
13 exemption from the applicability of the regulations of the State Fire
14 Marshal pursuant to this subsection, the code of the county must be
15 at least as stringent as the most recently published edition of the
16 International Fire Code and the International Building Code within 1
17 year after publication of such an edition.

18 (b) Apply in a county described in paragraph (a) with respect to
19 state-owned or state-occupied buildings or public schools in the
20 county and in those local jurisdictions in the county in which the
21 State Fire Marshal is requested to exercise that authority by the chief
22 executive officer of that jurisdiction. As used in this paragraph,
23 "public school" has the meaning ascribed to it in NRS 385.007.

24 **13. As used in this section, "pyrotechnic composition" means**
25 **a combination of chemical elements or chemical compounds**
26 **capable of burning independently of the oxygen in the**
27 **atmosphere.**

28 **Sec. 5.** NRS 244.2961 is hereby amended to read as follows:

29 244.2961 1. The board of county commissioners may by
30 ordinance create a district for a fire department. The board of county
31 commissioners is ex officio the governing body of any district
32 created pursuant to this section and may:

- 33 (a) Organize, regulate and maintain the fire department.
- 34 (b) Appoint and prescribe the duties of the fire chief.
- 35 (c) Designate arson investigators as peace officers.
- 36 (d) Regulate or prohibit the storage of any explosive,
37 combustible or inflammable material in or transported through the
38 county, and prescribe the distance from any residential or
39 commercial area where it may be kept. Any ordinance adopted
40 pursuant to this paragraph that regulates places of employment
41 where explosives are stored must be at least as stringent as the
42 standards and procedures adopted by the Division of Industrial
43 Relations of the Department of Business and Industry pursuant to
44 NRS 618.890.



1 (e) Establish, by ordinance, a fire code and other regulations
2 necessary to carry out the purposes of this section.

3 (f) Include the budget of the district in the budget of the county.

4 (g) Hold meetings of the governing body of the district in
5 conjunction with the meetings of the board of county commissioners
6 without posting additional notices of the meetings within the
7 district.

8 *(h) Adopt ordinances prohibiting, restricting, suppressing or*
9 *otherwise regulating the manufacture, sale, use, storage or*
10 *possession of fireworks, and providing penalties for the violation*
11 *thereof, if the ordinances are at least as stringent as the*
12 *regulations that are adopted by the State Fire Marshal pursuant to*
13 *chapter 477 of NRS.*

14 2. Except as otherwise provided in subsection 6, if the fire
15 department transports sick or injured persons to a medical facility,
16 the board of county commissioners shall adopt an ordinance:

17 (a) Requiring the fire department to defray the expenses of
18 furnishing such transportation by imposing and collecting fees; and

19 (b) Establishing a schedule of such fees.

20 3. The board of county commissioners of a county whose
21 population is 700,000 or more shall, when adopting an ordinance
22 pursuant to subsection 2:

23 (a) Limit the number of transports of sick or injured persons to a
24 medical facility that may be made by the fire department to not
25 more than 1,000 such transports per year, except that the fire
26 department may, exclusive of the limit, make any such emergency
27 transport that is necessary for the health or life of a sick or injured
28 person when other ambulance services are not available; and

29 (b) Require the fire department and all other ambulance services
30 operating in the county to report to the board:

31 (1) The total number of transports of sick or injured persons
32 to a medical facility that are made each month; and

33 (2) For each transport reported pursuant to subparagraph (1):

34 (I) The fees charged to transport the person to a medical
35 facility;

36 (II) Whether the person had health insurance at the time
37 of the transport; and

38 (III) The name of the medical facility where the fire
39 department or ambulance service transported the person to or from.

40 4. The other officers and employees of the county shall
41 perform duties for the district that correspond to the duties they
42 perform for the county.

43 5. All persons employed to perform the functions of the fire
44 department are employees of the county for all purposes.



1 6. The provisions of subsection 2 do not apply to any county
2 for which a nonprofit corporation has been granted an exclusive
3 franchise for ambulance service in that county.

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

5 244.367 1. The board of county commissioners ~~[shall have~~
6 ~~power and jurisdiction]~~ *may adopt* in their respective counties ~~[to~~
7 ~~pass]~~ ordinances prohibiting, restricting, suppressing or otherwise
8 regulating the *manufacture*, sale, use, storage and possession of
9 fireworks, and providing penalties for the violation thereof ~~[]~~, *if*
10 *the ordinances are at least as stringent as the regulations that are*
11 *adopted by the State Fire Marshal pursuant to chapter 477 of*
12 *NRS.*

13 2. An ordinance passed pursuant to subsection 1 must provide
14 that any license or permit that may be required for the sale of
15 fireworks must be issued by the licensing authority for:

16 (a) The county, if the fireworks are sold within the
17 unincorporated areas of the county; or

18 (b) A city located within the county, if the fireworks are sold
19 within the jurisdiction of that city.

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

21 266.310 The city council may:

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

23 2. Prescribe the duties of the fire chief.

24 3. Designate arson investigators as peace officers.

25 4. Regulate or prohibit the storage of any explosive,
26 combustible or inflammable material in or transported through the
27 city, and prescribe the distance from any residential or commercial
28 area where it may be kept. Any ordinance adopted pursuant to this
29 subsection that regulates places of employment where explosives
30 are stored must be at least as stringent as the standards and
31 procedures adopted by the Division of Industrial Relations of the
32 Department of Business and Industry pursuant to NRS 618.890.

33 5. Establish, by ordinance, a fire code and other regulations
34 necessary to carry out the purposes of this section.

35 *6. Adopt ordinances prohibiting, restricting, suppressing or*
36 *otherwise regulating the manufacture, sale, use, storage or*
37 *possession of fireworks, and providing penalties for the violation*
38 *thereof, if the ordinances are at least as stringent as the*
39 *regulations that are adopted by the State Fire Marshal pursuant to*
40 *chapter 477 of NRS.*

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

42 269.220 *1.* In addition to the powers and jurisdiction
43 conferred by other laws, the town board or board of county
44 commissioners may regulate ~~[the]~~ :



1 (a) *The* storage of gunpowder and other explosive or
2 combustible materials ~~†~~; *and*

3 (b) *The manufacture, sale, use, storage and possession of*
4 *fireworks, and provide penalties for the violation thereof, if such*
5 *regulations are at least as stringent as the regulations that are*
6 *adopted by the State Fire Marshal pursuant to chapter 477 of*
7 *NRS.*

8 2. Any ordinance adopted pursuant to this section that regulates
9 places of employment where explosives are stored must be at least
10 as stringent as the standards and procedures adopted by the Division
11 of Industrial Relations of the Department of Business and Industry
12 pursuant to NRS 618.890.

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