

February 4, 1969
Law Enforcement, *Pass 2-24*
Sen. " " 4-7, Pass or amended 5-9

HOUSE FILE 159

By BENNETT

Passed House, Date *4-1-69* Passed Senate, Date *5-20-69*

Vote: Ayes *110* Nays *11* Vote: Ayes *42* Nays *1*

*Deferred
5-16*

Approved

*Passed House per Senate
Amendment 5-21;
104-4.*

A BILL FOR

- 1 An Act to prohibit the use, sale, or possession of explosive or
- 2 incendiary devices, including "molotov cocktails", and to
- 3 provide penalties therefor.
- 4 *Be It Enacted by the General Assembly of the State of Iowa:*
- 5 Section 1. As used in this Act, unless the context other-
- 6 wise indicates:
- 7 1. "Explosive device" means any material or container con-
- 8 taining a chemical compound or mixture that is commonly used
- 9 or intended for the purpose of producing an explosion, that
- 10 contains any oxidizing and combustible materials or other
- 11 ingredients, in such proportions, quantities or packing that
- 12 an ignition by fire, by friction, by concussion or by detona-
- 13 tion of any part of the compound or mixture may cause such a
- 14 sudden generation of highly heated gases that the resultant
- 15 gaseous pressures are capable of producing destructive effects
- 16 on contiguous objects.
- 17 2. "Incendiary device" means any inflammable material or
- 18 container containing an inflammable liquid or material whose
- 19 ignition, by fire, friction, concussion, detonation, or other
- 20 method produces destructive effects primarily through combus-
- 21 tion rather than explosion.
- 22 3. "Molotov cocktail" means a breakable container contain-
- 23 ing an explosive or inflammable liquid or other substance,
- 24 having a wick or similar device capable of being ignited, and
- 25 may be described as either an explosive or incendiary device.

1 A "molotov cocktail" is not intended to mean a device commer-
2 cially manufactured primarily for the purpose of illumination
3 or other such uses.

4 Sec. 2. If any person willfully deposits or throws any
5 explosive or incendiary device in, under, or about any dwell-
6 ling house, building, boat, vessel, raft, or other inhabited
7 place, where its combustion or explosion is likely to destroy
8 or injure the same, and by reason of such combustion or ex-
9 plosion any person is killed, he shall be guilty of murder;
10 or if any person is injured by such combustion or explosion
11 he shall be guilty of an assault to commit murder; or if
12 such place is inhabited but no person is killed or injured
13 by such combustion or explosion, he shall be imprisoned in the
14 penitentiary not more than twenty-five years; or if such place
15 or any other structure not heretofore described is uninhabited
16 when the combustion or explosion occurs, he shall be imprisoned
17 in the penitentiary not more than fifteen years.

18 Sec. 3. If any person carries on the business of manufac-
19 turing gunpowder, or of mixing or grinding the composition
20 therefor, in any building within eighty rods of any valuable
21 building erected at the time when such business may be com-
22 menced, the building in which such business is thus carried
23 on is a public nuisance, and such person shall be fined not
24 exceeding one thousand dollars, or be imprisoned in the county
25 jail not exceeding one year, and the court, with or without
26 such fine, may order such nuisance abated, and issue a warrant
27 as provided in chapter six hundred fifty-seven (657) of the
28 Code.

29 Sec. 4. It shall be unlawful for any person to receive, pos-
30 sess, sell, purchase, or manufacture a bomb, bombshell, grenade,
31 bottle, or other such breakable or nonbreakable container con-
32 taining any incendiary or explosive substance, including but
33 not limited to black powder bombs and molotov cocktails; pro-
34 vided, however, that this section shall not apply to military
35 and law-enforcement agencies and their personnel, and persons,

1 firms, or corporations engaged in businesses or occupations in-
2 volving commercial explosives, fireworks, fire arms, or ammu-
3 nition when possession and use is otherwise authorized or
4 permitted by law.

5 Any person violating any of the provisions of this section
6 shall be guilty of a felony and shall, upon conviction thereof,
7 be punished by a fine of not more than two thousand dollars
8 or by imprisonment in the penitentiary or men's or women's
9 reformatory for not more than five years, or by both such
10 fine and imprisonment, or by imprisonment in the county jail
11 for not more than six months.

12 Sec. 5. The possession, sale, or control by a person or
13 persons of any container or device enumerated in section four
14 (4) of this Act is prima facie evidence of an intent to use
15 the same or to cause the same to be used for an unlawful pur-
16 pose.

17 Sec. 6. The presence in a vehicle, other than a public
18 vehicle, of any container or device enumerated in section four
19 (4) of this Act shall be prima facie evidence that it is in
20 the possession of, and is being carried by, all persons occupy-
21 ing such vehicle at the time such container or device is found,
22 except:

23 1. If such container or device is found upon the person of
24 one of the occupants therein, then the presumption shall not
25 apply to the other occupants.

26 2. If such container or device is found in a vehicle oper-
27 ated for hire by a duly licensed driver in the due, lawful,
28 and proper pursuit of his trade, then such presumption shall
29 not apply to the driver.

30 Sec. 7. If the ingredients used in making or assembling
31 an explosive or incendiary device enumerated in section four
32 (4) of this Act be found by a peace officer in the possession
33 of any person whom such officer has reasonable suspicion to
34 believe is committing or is about to commit a felony enumerated
35 in section two (2) of this Act, such possession shall be prima

- 1 facie evidence of an intent to assemble the ingredients for
- 2 use in the commission of such felony, and under such circum-
- 3 stances possession of the unassembled ingredients shall for
- 4 the purposes of section four (4) of this Act be the same as
- 5 possession of the assembled device.

EXPLANATION OF HOUSE FILE 159

This bill deals with "Injuries by Explosives". The use of "molotov cocktails" has become an increasingly difficult law-enforcement problem. These devices and other explosive or incendiary devices are defined in this bill, and their use, possession, sale, manufacture, receipt, or purchase have been declared to be felonies, as has possession of their ingredients and the ingredients of other explosive or incendiary devices in certain circumstances.

1 House File 159 is hereby amended by striking all after
2 the enacting clause and substituting in lieu thereof the follow-
3 ing:

4 Section 1. Chapter 697, 1966 Code, is hereby amended
5 as follows:

6 1. By adding the following section:

7 "As used in this Act, unless the context otherwise
8 indicates:

9 "1. 'Explosive device' means any material, container
10 containing a chemical compound or mixture that is
11 commonly used or intended for the purpose of producing
12 an explosion, that contains any oxidizing and combus-
13 tible materials or other ingredients, in such propor-
14 tions, quantities or packing that an ignition by fire,
15 by friction, by concussion or by detonation of any part
16 of the compound or mixture may cause such a sudden gener-
17 ation of highly heated gases that the resultant gaseous
18 pressures are capable of producing destructive effects
19 on contiguous objects.

20 "2. 'Incendiary device' means any inflammable
21 material or container containing an inflammable liquid
22 or material whose ignition, by fire, friction, con-
23 cussion, detonation, or other method is intended to
24 produce destructive effects primarily through com-
25 bustion rather than explosion.

26 3. 'Molotov cocktail' means a breakable container
27 containing an explosive or inflammable liquid or other
28 substance, having a wick or similar device capable of
29 being ignited, and may be described as either an explosive
30 or incendiary device. A 'molotov cocktail' is not intended
31 to mean a device commercially manufactured primarily for
32 the purpose of illumination or other such uses."

33 2. By adding the following section:

34 "It shall be unlawful for any person to receive,
35 possess, sell, purchase, or manufacture a bomb, bomb-
36 shell, grenade, or incendiary or explosive device in-
37 cluding but not limited to black powder bombs and
38 molotov cocktails, or materials which may be assembled
39 into any such device; provided, however, that this
40 section shall not apply to military and law-enforcement
41 agencies and their personnel, and persons, firms, or
42 corporations engaged in business, occupational or
43 recreational use of commercial explosives, fireworks,
44 fire arms, or ammunition when possession and use is
45 otherwise authorized or permitted by law. This Act
46 shall have no application to the possession or sale
47 of rifle, pistol, or shotgun ammunition; nor shall it
48 prohibit the use, sale, or possession of primers, per-
49 cussion caps, brass, powder, and other components and
50 supplies for hand loading or reloading rifle, pistol,

51 or shotgun ammunition or loading muzzle-loading arms,
52 where the same is for lawful purposes.”
53 3. By striking lines five (5) through nine (9) of section
54 six hundred ninety-seven point one (697.1) and inserting in lieu
55 thereof the words, “where its combustion or explosion will or
56 is likely to destroy the same, any explosive or incendiary device
57 or molotov cocktail, and by reason of the combustion or explosion
58 thereof any person is killed, he shall be guilty of murder.”
59 4. By striking lines one (1) through three (3) and the
60 word “material” from line four (4) of section six hundred
61 ninety-seven point two (697.2), 1966 Code, and inserting in
62 lieu thereof: “If any person willfully deposits or throws any
63 explosive or incendiary device or molotov cocktail”.
64 5. By striking line eight (8) and the words “explosive
65 material, by the explosion” in section six hundred ninety-seven
66 point three (697.3), 1966 Code, and inserting in lieu thereof,
67 “explosive or incendiary device or molotov cocktail, by the
68 combustion or explosion”.
69 6. By adding in line six (6) of section six hundred ninety-
70 seven point four (697.4) after the word “explosion” the words
71 “or combustion”. Also amend section six hundred ninety-seven
72 point four (697.4) by striking from lines seven (7) and eight
73 (8) the words “dynamite, nitroglycerin, giant powder, or other
74 explosive material” and inserting in lieu thereof the words
75 “explosive or incendiary device or molotov cocktail”.

Filed

May 9, 1969

BY COMMITTEE ON LAW ENFORCEMENT

1 Amend the committee on Law Enforcement amendment
2 to House File 159, filed May 9, 1969, as follows:
3 1. By inserting in line 54 after the figure
4 “(697.1)” the following: “, Code 1966,”.
5 2. By inserting in line 70 after the figure
6 “(697.4)” the following: “, Code 1966,”.
7 3. By striking from lines 72 and 73 the words
8 and figures “and eight (8)” and inserting in lieu thereof
9 the following: “, eight (8), and nine (9)”.

Filed - *Adopted 5-20*

May 12, 1969

By KYHL

1 Amend committee on law enforcement amendment to House
2 File 159, dated May 9, 1969, line 38, after the word “or”
3 insert “, with intent to assemble them, the”.

Filed - *Adopted 5-20*

May 15, 1969

By DeKOSTER, GAUDINEER,
SCHABEN and FLATT

1 Amend the committee on law enforcement amendment to House
2 File 159, filed May 9, as follows:
3 Insert in line 39 after the word “device” the words
4 “and any person violating any of the provisions of this section
5 shall be guilty of a felony and shall, upon conviction thereof,
6 be punished by a fine of not more than two thousand dollars
7 or by imprisonment in the penitentiary or men’s or women’s
8 reformatory for not more than five years, or both such fine
9 and imprisonment, or by imprisonment in the county jail for not
10 more than six months”.

Filed - *Adopted 5-20*

May 16, 1969

By FLATT

SENATE AMENDMENT TO HOUSE FILE 159

1 Amend House File 159 by striking all after the enacting clause and
inserting

2 in lieu thereof the following:

3 Section 1. Chapter six hundred ninety-seven (697), Code 1966, is
4 hereby amended as follows:

5 1. By adding the following section:

6 "As used in this Act, unless the context otherwise indicates:

7 "1. 'Explosive device' means any material, container
8 containing a chemical compound or mixture that is commonly
9 used or intended for the purpose of producing an explosion,
10 that contains any oxidizing and combustible materials or other
11 ingredients, in such proportions, quantities or packing that an
12 ignition by fire, by friction, by concussion or by detonation of
13 any part of the compound or mixture may cause such a sudden
14 generation of highly heated gases that the resultant gaseous
15 pressures are capable of producing destructive effects on
16 contiguous objects.

17 "2. 'Incendiary device' means any inflammable material
18 or container containing an inflammable liquid or material
19 whose ignition, by fire, friction, concussion, detonation,
20 or other method is intended to produce destructive effects
21 primarily through combustion rather than explosion.

22 "3. 'Molotov cocktail' means a breakable container
23 containing an explosive or inflammable liquid or other substance,
24 having a wick or similar device capable of being ignited, and
25 may be described as either an explosive or incendiary device.
26 A 'molotov cocktail' is not intended to mean a device
27 commercially manufactured primarily for the purpose of
28 illumination or other such uses."

29 2. By adding the following section:

30 "It shall be unlawful for any person to receive, possess,
31 sell, purchase, or manufacture a bomb, bombshell, grenade,
32 or incendiary or explosive device including but not limited to
33 black powder bombs and molotov cocktails, or, with intent to
34 assemble them, the materials which may be assembled into
35 any such device and any person violating any of the provisions
36 of this section shall be guilty of a felony and shall, upon
37 conviction thereof, be punished by a fine of not more than two
38 thousand dollars or by imprisonment in the penitentiary or
39 men's or women's reformatory for not more than five years,
40 or by both such fine and imprisonment, or by imprisonment
41 in the county jail for not more than six months; provided, however,
42 that this section shall not apply to military and law-enforcement
43 agencies and their personnel, and persons, firms, or
44 corporations engaged in business, occupational or recreational
45 use of commercial explosives, fireworks, firearms, or
46 ammunition when possession and use is otherwise authorized
47 or permitted by law. This Act shall have no application to the
48 possession or sale of rifle, pistol, or shotgun ammunition;
49 nor shall it prohibit the use, sale, or possession of primers,

*House
Concurred
5-21*

50 percussion caps, brass, powder, and other components and
51 supplies for hand loading or reloading rifle, pistol, or
52 shotgun ammunition or loading muzzle-loading arms, where
53 the same is for lawful purposes.”

54 3. By striking lines five (5) through nine (9) of section six hundred
55 ninety-seven point one (697.1), Code 1966, and inserting in lieu thereof
56 the words, “where its combustion or explosion will or is likely to destroy
57 the same, any explosive or incendiary device or molotov cocktail, and by
58 reason of the combustion or explosion thereof any person is killed, he
59 shall be guilty of murder.”

60 4. By striking lines one (1) through three (3) and the word
61 from line four (4) of section six hundred ninety-seven point two
62 Code 1966, and inserting in lieu thereof: “If any person willfully
63 or throws any explosive incendiary device or molotov cocktail”.

64 5. By striking line eight (8) and the words “explosive material,
65 by the explosion” in section six hundred ninety-seven point three
66 (697.3), Code 1966, and inserting in lieu thereof, “explosive or
67 incendiary device or molotov cocktail, by the combustion or explosion”.

68 6. By adding in line six (6) of section six hundred ninety-seven
69 point four (697.4), Code 1966, after the word “explosion” the words
70 “or combustion”. Also amend section six hundred ninety-seven point
71 four (697.4) by striking from lines seven (7), eight (8) and nine (9)
72 the words “dynamite, nitroglycerin, giant powder, or other explosive
73 material” and inserting in lieu thereof the words “explosive or
74 device or molotov cocktail”.

Received
May 20, 1969

1 Amend House File 159 as follows:

2 1. Page 1, line twenty (20), by striking the word
3 “produces” and inserting in lieu thereof the words “is
4 intended to produce”.

5 2. Page 2, by striking lines thirty-one (31) and thirty-
6 two (32) and inserting in lieu thereof the words “or incen-
7 diary or explosive device, including but”.

8 3. Page 3, by striking from lines one (1) and two (2)
9 the words “businesses or occupations involving commercial”
10 and inserting in lieu thereof the words “business, occupa-
11 tional or recreational use of commercial”.

12 4. Page 3, line four (4), by adding after the period
13 the following: “This Act shall have no application to the
14 possession or sale of rifle, pistol, or shotgun ammunition;
15 nor shall it prohibit the use, sale, or possession of primers,
16 percussion caps, brass, powder, and other components and
17 supplies for hand loading or reloading rifle, pistol, or
18 shotgun ammunition or loading muzzle-loading arms, where the
19 same is for lawful purposes.”

20 5. Page 3, by striking all of lines twelve (12) through
21 twenty-nine (29).

22 6. Page 3, line thirty-five (35), and page 4, line one
23 (1), by striking the words “prima facie”.

24 7. By renumbering all sections following section 4.

Filed - *Adopted 4-1*
March 19, 1969

VARLEY of Adair-Madison

- 1 Amend House File 159, page three (3), line thirty-four (34),
- 2 by striking the words "or is about to commit".

Filed and lost
April 1, 1969

BLOUIN of Dubuque

- 1 Amend House File 159, page two (2), line nine (9), by striking
- 2 the words "he shall be guilty of murder" and inserting in lieu
- 3 thereof the words "he shall be charged under chapter six hundred
- 4 ninety (690) of the Code.

Filed and adopted
April 1, 1969

RENDA of Polk
JOHNSTON of Johnson

- 1 Amend House File 159 as follows:
- 2 Pages 3 and 4 by striking all of section 7.

Filed and lost
April 1, 1969

JESSE of Polk

- 1 Amend House File 159, page two (2), line four (4),
- 2 by adding after the word "willfully" the following:
- 3 " , deliberately with premeditation and malice
- 4 aforethought,".
- 5 EXPLANATION OF HOUSE FILE 159
- 6 This amendment will make this section conform
- 7 with chapter 690, Code 1966, relating to homicide.

Filed - *Withdrawn 4-1*
March 11, 1969

JOHNSTON of Johnson