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SENATE FILE

325

BY DOTZLER

(COMPANION TO HF 59

BY FALLON)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act legalizing the sale and use of fireworks, providing for
2 exceptions and limitations on sales and use, and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 325
STATE GOVERNMENT

1 Section 1. Section 232.2, subsection 12, paragraph c, Code
2 2003, is amended to read as follows:

3 c. The violation of section 123.47, 727.2F, 727.2G, or
4 727.2H which is committed by a child.

5 Sec. 2. Section 727.2, Code 2003, is amended to read as
6 follows:

7 727.2 FIREWORKS.

8 1. The term "fireworks" includes any explosive
9 composition, ~~or combination of explosive substances, or~~
10 ~~article prepared for the purpose of producing a visible or~~
11 ~~audible effect by combustion, explosion, deflagration, or~~
12 ~~detonation, and includes blank cartridges, firecrackers,~~
13 ~~torpedoes, skyrockets, roman candles, or other fireworks of~~
14 ~~like construction and fireworks containing any explosive or~~
15 ~~flammable compound, or other device containing any explosive~~
16 substance or other device containing an explosive substance.

17 The term "fireworks" does not include goldstar-producing
18 sparklers on wires which contain no magnesium or chlorate or
19 perchlorate, flitter sparklers in paper tubes that do not
20 exceed one-eighth of an inch in diameter, toy snakes which
21 contain no mercury, or caps used in cap pistols.

22 2. A person may use, or a licensed firm, copartnership, or
23 corporation who offers, or any other business entity
24 authorized by law may offer for sale, ~~exposes for sale, sells~~
25 ~~at retail, or uses or explodes~~ any fireworks, ~~commits a simple~~
26 ~~misdemeanor~~ permissible under sections 727.2A and 727.2B. In
27 addition to any other penalties, the punishment imposed for a
28 violation of this section shall include assessment of a fine
29 of not less than two hundred fifty dollars. ~~However, the~~

30 3. The council of a city or a county board of supervisors
31 may, upon application in writing, grant a permit for the
32 display of fireworks not permissible under section 727.2A by
33 municipalities, fair associations, amusement parks, and other
34 organizations or groups of individuals approved by the city or
35 the county board of supervisors when the fireworks display

1 will be handled by a competent operator, but no such permit
2 shall be required for the display of fireworks at the Iowa
3 state fairgrounds by the Iowa state fair board, at
4 incorporated county fairs, or at district fairs receiving
5 state aid. ~~Sales of fireworks for such display may be made
6 for that purpose only.~~

7 ~~This section does not prohibit the sale by a resident,
8 dealer, manufacturer, or jobber of such fireworks as are not
9 prohibited by this section, or the sale of any kind of
10 fireworks if they are to be shipped out of the state, or the
11 sale or use of blank cartridges for a show or the theater, or
12 for signal purposes in athletic sports or by railroads or
13 trucks, for signal purposes, or by a recognized military
14 organization.~~

15 ~~This section does not apply to any substance or composition
16 prepared and sold for medicinal or fumigation purposes.~~

17 Sec. 3. NEW SECTION. 727.2A PERMISSIBLE FIREWORKS.

18 Permissible fireworks are the consumer fireworks enumerated
19 in chapter 3 of the American pyrotechnics association inc.,
20 standard 87-1, 1993 edition, and that comply with the labeling
21 regulations promulgated by the United States consumer product
22 safety commission effective on January 1, 1998.

23 Sec. 4. NEW SECTION. 727.2B EXAMINATION OF FIREWORKS.

24 If consumer fireworks are not permissible under section
25 727.2A, the proposed seller must submit the fireworks to the
26 state fire marshal for examination and approval prior to the
27 sale of such fireworks. A person who violates this section
28 commits a serious misdemeanor.

29 Sec. 5. NEW SECTION. 727.2C RESTRICTIONS ON IMPORTATION
30 OF FIREWORKS.

31 A person who is not a licensed wholesaler or retailer shall
32 not bring fireworks into this state. A person who violates
33 this section commits a serious misdemeanor.

34 Sec. 6. NEW SECTION. 727.2D RETAIL SALES PERMITTED.

35 The retail sale of fireworks shall not take place before

1 June 27 and after July 5 of any year. A person who violates
2 this section commits a serious misdemeanor.

3 Sec. 7. NEW SECTION. 727.2E SALES PERMITS.

4 1. The state fire marshal shall issue permits for the sale
5 of fireworks. No permit shall be issued to a person under
6 eighteen years of age.

7 2. All permits shall be for the calendar year or any
8 fraction thereof and shall expire on the thirty-first day of
9 December of each year.

10 3. Permits shall be conspicuously displayed in the permit
11 holder's place of business along with a large sign that states
12 the law concerning the sale, use, and possession of fireworks
13 in this state.

14 4. A permit holder shall include a printed copy of the
15 law concerning the sale, use, and possession of fireworks in
16 this state with each purchase of fireworks.

17 5. The state fire marshal shall adopt rules in accordance
18 with chapter 17A to regulate the sale and use of fireworks.

19 Sec. 8. NEW SECTION. 727.2F SALE TO A MINOR.

20 1. A person shall not sell fireworks to any person under
21 twelve years of age.

22 2. A person shall not sell fireworks to any person under
23 eighteen years of age unless that person is in the presence of
24 a parent or guardian.

25 3. A person under eighteen years of age shall not
26 purchase, or attempt to purchase, fireworks in violation of
27 this section.

28 4. A person who violates this section commits a serious
29 misdemeanor.

30 Sec. 9. NEW SECTION. 727.2G USE BY A MINOR.

31 1. A person shall not permit any person under eight years
32 of age to possess or use fireworks.

33 2. A person shall not permit any person under twelve years
34 of age to possess or use fireworks except when that person is
35 in the presence of a parent or guardian.

1 3. A person who violates this section commits a serious
2 misdemeanor.

3 Sec. 10. NEW SECTION. 727.2H USE OF FIREWORKS --
4 RESTRICTIONS.

5 1. A person shall not ignite or discharge fireworks within
6 six hundred feet of any church, hospital, mental health
7 facility, school, or within one hundred feet of a structure
8 where fireworks are stored, sold, or offered for sale.

9 2. A person shall not ignite or discharge any permissible
10 articles of fireworks within or throw the same from a motor
11 vehicle, boat, or structure.

12 3. A person shall not throw or place any ignited article
13 of fireworks into or at a motor vehicle, boat, or structure,
14 or at or near any person or group of people or at or near any
15 animal.

16 4. A person shall not ignite or discharge fireworks within
17 three hundred feet of any gasoline pump, gasoline filling
18 station or any nonpermanent structure where fireworks are
19 stored, sold, or offered for sale.

20 5. A violation of this section is punishable under chapter
21 712.

22 EXPLANATION

23 This bill legalizes the sale and use of fireworks under
24 certain circumstances. Under current law, only sparklers, toy
25 snakes, and toy caps used in a cap gun may legally be sold to
26 be used by members of the general public. The bill legalizes
27 the sale to and use by the general public of those consumer
28 fireworks that are enumerated in a document produced by the
29 American pyrotechnic association and that comply with certain
30 federal labeling regulations. Other fireworks may be sold if
31 they are first submitted and approved by the state fire
32 marshal.

33 The bill prohibits the sale of fireworks to a minor under
34 the age of 12 and provides that a minor aged 12 to 17 must be
35 in the presence of a parent or guardian to purchase fireworks.

1 If a person sells fireworks to a minor in violation of these
2 provisions, or a minor purchases or attempts to purchase
3 fireworks in violation of these provisions, the person commits
4 a serious misdemeanor. The offense by a person under 18 years
5 of age is specifically included within the definition of
6 offenses which constitute a delinquent act under the juvenile
7 justice code.

8 The bill prohibits the use or possession of fireworks by a
9 minor under eight years of age. The bill also prohibits the
10 use or possession of fireworks by a minor 12 to 17 years of
11 age unless that minor is in the presence of a parent or
12 guardian. A person who violates these provisions commits a
13 serious misdemeanor and the offense is included as a
14 delinquent act under the juvenile justice code.

15 The bill also prohibits the use of fireworks near a church,
16 hospital, mental health facility, school, where fireworks are
17 stored or sold, or near a gasoline pump or gasoline filling
18 station. The bill also prohibits the discharge of fireworks
19 within or thrown from or thrown at a motor vehicle, boat, or
20 structure or at or near any person or animal. A violation of
21 these provisions is punishable pursuant to Code chapter 712,
22 which deals with arson.

23 The bill restricts the sale of fireworks to the period
24 between June 27 and July 5 of any year.

25 The bill provides that the state fire marshal shall issue
26 permits for the sale of fireworks and adopt rules to
27 administer the sale and use of fireworks. Also, the permits
28 must be conspicuously displayed in the permit holder's place
29 of business along with a sign that states the law concerning
30 the use, sale, and possession of fireworks in this state. A
31 copy of the law must also be included by the permit holder
32 with each fireworks purchase.

33 The bill does not restrict the sale of signals, flares, or
34 blank cartridges, or apply to the military, national guard, or
35 to law enforcement officers.