

Title 13. Crimes and Criminal Procedure

Chapter 37. Explosives

1603. Definitions For the purposes of this chapter:

- (1) "Destructive device" means any:
- (A) explosive, incendiary or poison gas bomb; or
- (B) explosive, incendiary or poison gas grenade; or
- (C) explosive, incendiary or poison gas rocket having a propellant charge of more than four ounces; or
- (D) explosive, incendiary or poison gas missile having an explosive or incendiary charge of more than one-quarter ounce; or
- (E) explosive, incendiary or poison gas mine; or
- (F) device which consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound, and can be carried or thrown by one individual acting alone; or
- (G) device similar to those devices enumerated in paragraphs (1), (A)-(E) of this section.

A destructive device does not include a firearm or ammunition therefor.

(2) "Explosive" means dynamite, or any explosive compound of which nitroglycerin forms a part, or fulminate in bulk or dry condition, or blasting caps, or detonating fuses, or blasting powder or any other similar explosive. The term does not include a firearm or ammunition therefor or any components of ammunition for a firearm including primers, smokeless powder or black gunpowder.

(3) "Hoax device" means any device so designed, assembled, fabricated or manufactured as to convey the physical appearance of an explosive or incendiary bomb or the physical appearance of any of the devices enumerated in subdivisions (A)-(F) of division (1) of this section which is lacking an explosive or incendiary charge.

1604. Possession of destructive devices A person who manufactures, possesses, stores or transports a destructive device or a hoax device shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both.

1606. Possession and use of explosives A person who possesses, purchases, stores, uses or transports an explosive without a license as provided in chapter 177, subchapter 2, division 2 of Title 20 shall be imprisoned for not more than 5 years or fined not more than \$1,000.00 or both.

1607. Sale of explosives A person who gives, transfers or sells an explosive to another who does not hold a license issued under chapter 177, subchapter 2, division 2 of Title 20 shall be imprisoned for not more than 5 years or fined not more than \$1,000.00 or both.

1609. Record of sale

(a) A person may not give, transfer or sell an explosive to another unless the purchaser exhibits a valid license issued under chapter 177, subchapter 2, division 2 of Title 20.

(b) A person who gives, transfers or sells an explosive to another shall record the name and address of the purchaser, the license number of

the purchaser, the date of sale, the type and quantity of explosives sold, the serial or lot number of the explosives, if any, and the purpose for which the explosive is to be used on forms provided by the commissioner of public safety. The purchaser holding a license shall keep a record of each purchase made and the disposition of the explosives, giving a full report without delay but in no event later than twenty-four hours after discovery of the loss or theft of any of such explosives to the commissioner of public safety. The records shall be kept by the seller and the purchaser for a period of two years and shall be open to inspection by any law enforcement officer.

(c) A person who violates a provision of this section shall be imprisoned for not more than five years or fined not more than \$ 1,000.00 or both.

1610. Purchase in contiguous states

Any person holding a valid license under chapter 177, subchapter 2, division 2 of Title 20 may purchase explosives in any state contiguous to this state and transport them into this state, provided that he furnishes a record of each purchase to the commissioner of public safety within fifteen days of the transportation of the explosives into this state, and that he comply with both the laws applicable to the purchases in the contiguous state, and the pertinent statutes of the United States government.

1611. Exemptions

(a) Nothing contained in this chapter shall apply to the armed forces of the United States, the duly authorized militia of the state, the fire or police departments of this state, or to the state or any subdivision thereof.

(b) Nothing contained in this chapter shall apply to destructive devices or explosives while being transported upon vessels, motor vehicles or railroad cars in conformity with the regulations adopted by the interstate commerce commission.

(c) The provisions of section 1604 of this title do not apply to a person who holds a valid license issued under Title 18 of the United States Code, chapter 44, to manufacture, possess, use, store or transport a destructive device provided he is complying with the terms of the license.

1612. Placing a hoax device A person who willfully and maliciously puts, places or installs a hoax device in any building, house, facility of public transport, vehicular conveyance, ship, boat, aircraft, dam or reservoir for storing water shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both.

Chapter 76. Weapons of Mass Destruction

3501. Definitions

(a) As used in this chapter:

(1) "Chemical warfare agents" means:

(A) Any weaponized toxic or poisonous chemical, including the following agents or any analog of the following agents:

(i) Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX.

(ii) Choking agents, including Phosgene (CG) and Diphosgene (DP).

(iii) Blood agents, including HydrogenCyanide (AC), Cyanogen Chloride (CK), and Arsine (SA).

(iv) Blister agents, including mustards (H,HD (sulfur mustard), HN-1, HN-2, HN-3 (nitrogen

mustard)), arsenicals, such as Lewisite (L), urticants, such as CX, and incapacitating agents, such as BZ.

(B) A dangerous chemical or hazardous material generally utilized in an industrial or commercial process when a person knowingly and intentionally utilizes the material with the intent to cause harm, and the use places persons at risk of serious bodily injury or death, or endangers the environment.

(2) "Health care provider" means a person, partnership, corporation, facility or institution, licensed, certified or authorized, by law, to provide professional health care service in this state to an individual during that individual's medical care, treatment or confinement.

(3) "Hoax weapon" means any substance, compound, or other item intended to convey the physical appearance or chemical properties of a weapon of mass destruction or asserted to contain a weapon of mass destruction, which is not a weapon of mass destruction or does not contain a weapon of mass destruction.

(4) "Law enforcement agency" means:

(A) A federal law enforcement agency, including the Bureau of Alcohol, Tobacco and Firearms, the Federal Bureau of Investigation, Military Police or Military Criminal Investigative Division, United States Marshals Service, Secret Service, Federal Emergency Management Agency, or the Department of Defense Threat Reduction Agency.

(B) One of the following Vermont law enforcement agencies:

(i) The department of public safety.

(ii) A municipal police department.

(iii) A sheriff's department.

(iv) The attorney general's office.

(v) A state's attorney's office.

(vi) The capital police department.

(5) "Nuclear or radiological agents" means any improvised nuclear device (IND) which is any explosive device designed to cause a nuclear yield, any radiological dispersal device (RDD) which is any explosive device utilized to spread radioactive material, or a simple radiological dispersal device (SRDD) which is any container designed to release radiological material as a weapon without an explosion.

(6) "Vector" means a living organism or a molecule, including a recombinant molecule, or a biological product that may be engineered as a result of biotechnology, that is capable of carrying a biological agent or toxin to a host.

(7) "Weapon of mass destruction" means a chemical warfare agent, weaponized biological or biologic warfare agent, nuclear agent, or radiological agent.

(8) "Weaponization" means the deliberate processing, preparation, packaging, or synthesis of any substance or agent for use as a weapon or munition. "Weaponized agents" means those agents or substances that have been prepared for dissemination through any explosive, thermal, pneumatic, mechanical or other means.

(9) "Weaponized biological or biologic warfare agents" means:

(A) weaponized pathogens, including bacteria, viruses, rickettsia, yeasts, or fungi;

(B) genetically-engineered pathogens;

(C) weaponized toxins;

(D) weaponized vectors; and

(E) weaponized endogenous biological regulators (EBRs).

(b) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, or commercial purposes is not proscribed by this chapter.

3502. Possession and use of weapons of mass destruction

(a) A person who knowingly and without lawful authority possesses, develops, manufactures, produces, transfers, acquires, or stockpiles any weapon of mass destruction shall be imprisoned not more than 20 years or fined not more than \$ 100,000.00, or both.

(b) A person who uses or directly employs against other persons a weapon of mass destruction in a form that may cause disabling illness or injury in human beings shall be imprisoned not less than 20 years nor more than life and fined not more than \$ 250,000.00.

(c) A person who uses a weapon of mass destruction in a form that may cause widespread damage to or disruption of water or food supplies shall be imprisoned not less than five years nor more than 30 years and fined not more than \$ 250,000.00.

(d) A person who uses a weapon of mass destruction against livestock or crops with the intent to cause widespread and substantial damage to livestock or crops shall be imprisoned not more than 30 years and fined not more than \$ 250,000.00.

(e) A person who uses a weapon of mass destruction in a form that may cause widespread and significant damage to public or private property shall be imprisoned not more than 30 years and fined not more than \$ 250,000.00.

(f) A person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for the purpose of creating a weapon of mass destruction shall be imprisoned not more than 20 years or fined not more than \$ 250,000.00, or both.

(g) A person who knowingly and intentionally places a hoax weapon in any public place, building, house, residence, facility of public transport, vehicular conveyance, train, ship, boat, aircraft, dam or reservoir for storing water, shall be imprisoned not more than five years or fined not more than \$ 10,000.00, or both.

(h) No university, research institution, private company, individual, or hospital engaged in scientific or public health research and, as required, registered with the Centers for Disease Control and Prevention (CDC) pursuant to part 113 (commencing with Section 113.1) of subchapter E of chapter 1 of Title 9 or pursuant to Part 72 (commencing with Section 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal Regulations, or any successor provisions, shall be subject to this section.

(i) Nothing in this section shall be construed to limit or restrict prosecution under any other applicable laws.

Chapter 85. Weapons

4004. Possession of dangerous or deadly weapon in a school bus or school building or on school property

(a) No person shall knowingly possess a firearm or a dangerous or deadly weapon while within a school building or on a school bus. A person who violates this section shall, for the first offense, be imprisoned not more than one year or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be

imprisoned not more than three years or fined not more than \$5,000.00, or both.

(b) No person shall knowingly possess a firearm or a dangerous or deadly weapon on any school property with the intent to injure another person. A person who violates this section shall, for the first offense, be imprisoned not more than two years or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(c) This section shall not apply to:

(1) A law enforcement officer while engaged in law enforcement duties.

(2) Possession and use of firearms or dangerous or deadly weapons if the board of school directors, or the superintendent or principal if delegated authority to do so by the board, authorizes possession or use for specific occasions or for instructional or other specific purposes.

(d) As used in this section:

(1) "School property" means any property owned by a school, including motor vehicles.

(2) "Owned by the school" means owned, leased, controlled or subcontracted by the school.

(3) "Dangerous or deadly weapon" has the meaning defined in section 4016 of this title.

(4) "Firearm" has the meaning defined in section 4016 of this title.

(5) "Law enforcement officer" has the meaning defined in section 4016 of this title.

(e) The provisions of this section shall not limit or restrict any prosecution for any other offense, including simple assault or aggravated assault.

4006. Record of firearm sales All pawnbrokers and retail merchants dealing in firearms shall keep a record book in which they shall record the sale by them of all revolvers and pistols, and the purchase by them of all second-hand revolvers and pistols. Such record shall include the date of the transaction, the marks of identification of the firearm, including the manufacturer's name, the caliber, model and manufacturer's number of the firearm, the name, address, birthplace, occupation, age, height, weight and color of eyes and hair of the purchaser or seller. Such purchaser or seller shall sign his name to the record and the pawnbroker or merchant shall preserve such record book for six years after the date of last entry and shall permit all enforcement officers to inspect the same at all reasonable times. A person, partnership or corporation who violates a provision of this section shall be fined not more than \$100.00.

4007. Furnishing firearms to children A person, firm or corporation, other than a parent or guardian, who sells or furnishes to a minor under the age of sixteen years a firearm or other dangerous weapon or ammunition for firearms shall be fined not more than \$50.00 nor less than \$10.00. This section shall not apply to an instructor or teacher who furnishes firearms to pupils for instruction and drill.

4008. Possession of firearms by children

A child under the age of sixteen years shall not, without the consent of his parents or guardian, have in his possession or control a pistol or revolver constructed or designed for the use of gunpowder or other explosive substance with leaden ball or shot. A child who violates a provision of this section shall be deemed a delinquent child under the provisions of chapter 52 of Title 33.

4009. Negligent use of gun

A person who carelessly or negligently wounds another person by gunshot shall be

imprisoned not more than five years or fined not more than \$ 1,000.00, or both.

4010. Gun silencers A person who manufactures, sells or uses or possesses with intent to sell or use, an appliance known as or used for a gun silencer shall be fined \$25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers by:

(1) a certified, full-time law enforcement officer or department of fish and wildlife employee in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's or employee's agency or department; or

(2) the Vermont National Guard in connection with its duties and responsibilities.

4011. Aiming gun at another Any person who shall intentionally point or aim any gun, pistol or other firearm at or towards another, except in self-defense or in the lawful discharge of official duty, shall be punished by fine not exceeding \$50.00. Any person who shall discharge any such firearm so intentionally aimed or pointed shall be punished by imprisonment for not more than one year or fined not more than \$100.00, or both.

4013. Zip guns; switchblade knives A person who possesses, sells or offers for sale a weapon commonly known as a "zip" gun, or a weapon commonly known as a switchblade knife, the blade of which is three inches or more in length, shall be imprisoned not more than ninety days or fined not more than \$100.00, or both.

4014. Purchase of firearms in other states Residents of the state of Vermont may purchase rifles and shotguns in another state, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which the purchase is made.

4015. Purchase of firearms by nonresidents Residents of a state other than the state of Vermont may purchase rifles and shotguns in the state of Vermont, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which such persons reside.

Title 24. Municipal and County Governments

Part 2. Municipalities

Chapter 61. Regulatory Provisions; Police Power of Municipalities

Subchapter 11. Miscellaneous Regulatory Powers

2295. Authority of municipal and county governments to regulate firearms, ammunition, hunting, fishing and trapping Except as otherwise provided by law, no town, city or incorporated village, by ordinance, resolution or other enactment, shall directly regulate hunting, fishing and trapping or the possession, ownership,

transportation, transfer, sale, purchase, carrying, licensing or registration of traps, firearms, ammunition or components of firearms or ammunition. This section shall not limit the powers con-

ferred upon a town, city or incorporated village under section 2291(8) of this title. The provisions of this section shall supersede any inconsistent provisions of a municipal charter.

[Current through the 2009 Regular Session and the 2009 Special Session]