

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 131**

Introduced by Tyson, 19; Hilgert, 7; Schmitt, 41

Read first time January 7, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section  
2 28-1213, Reissue Revised Statutes of Nebraska, and  
3 section 28-1229, Revised Statutes Supplement, 1998; to  
4 change provisions relating to explosives; and to repeal  
5 the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-1213, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           28-1213. For purposes of sections 28-1213 to 28-1239,  
4 unless the context otherwise requires:

5           (1) Person shall mean any individual, corporation,  
6 company, association, firm, partnership, limited liability company,  
7 society, or joint-stock company;

8           (2) Business enterprise shall mean any corporation,  
9 partnership, limited liability company, company, or joint-stock  
10 company;

11           (3) Explosive materials shall mean explosives, blasting  
12 agents, and detonators;

13           (4) Explosives shall mean any chemical compound, mixture,  
14 or device, the primary or common purpose of which is to function by  
15 explosion, including, but not limited to, dynamite and other high  
16 explosives, black powder, pellet powder, initiating explosives,  
17 detonators, safety fuses, squibs, detonating cord, ignited cord,  
18 igniters, display fireworks as defined in section 28-1241, and  
19 firecrackers or devices containing more than one hundred thirty  
20 milligrams of explosive composition, but shall not include common  
21 fireworks as defined in such section, gasoline, kerosene, naphtha,  
22 turpentine, benzine, acetone, ethyl ether, benzol, fixed ammunition  
23 and primers for small arms, safety fuses, or matches;

24           (5) Blasting agent shall mean any material or mixture,  
25 intended for blasting which meets the requirements of the federal  
26 Hazardous Material Regulations, 49 C.F.R. part 173, subpart C;

27           (6) Detonator shall mean any device containing an  
28 initiating or primary explosive that is used for initiating

1 detonation. Excluding ignition or delay charges, a detonator shall  
2 not contain more than ten grams of explosive material per unit.  
3 Detonator shall include an electric detonator of instantaneous or  
4 delay type, a detonator for use with safety fuses, a detonating  
5 cord delay connector, and a nonelectric detonator of instantaneous  
6 or delay type which consists of detonating cord, shock tube, or any  
7 other replacement for electric leg wires;

8 (7) Destructive devices shall mean:

9 (a) Any explosive, incendiary, or poison gas (i) bomb,  
10 (ii) grenade, (iii) rocket having a propellant charge of more than  
11 four ounces, (iv) missile having an explosive or incendiary charge  
12 of more than one-quarter ounce, (v) mine, (vi) booby trap, ~~or~~ (vii)  
13 Molotov cocktail, (viii) bottle bomb, or (ix) any vessel or  
14 container intentionally caused to rupture or mechanically explode  
15 by expanding pressure from any gas, acid, dry ice, or other  
16 chemical mixture, or any similar device, the primary or common  
17 purpose of which is to explode and to be used as a weapon against  
18 any person or property; or

19 (b) Any combination of parts either designed or intended  
20 for use in converting any device into a destructive device as  
21 defined in subdivision (7)(a) of this section from which a  
22 destructive device may be readily assembled. The term destructive  
23 device shall not include (i) any device which is neither designed  
24 nor redesigned for use as a weapon to be used against person or  
25 property, (ii) any device, although originally designed for use as  
26 a weapon, which is redesigned for use as a signaling, pyrotechnic,  
27 line-throwing, safety, or similar device, (iii) surplus ordnance  
28 sold, loaned, or given by the Secretary of the Army pursuant to 10

1 U.S.C. 4684(2), 4685, or 4686, (iv) any other device which the  
2 Nebraska State Patrol finds is not likely to be used as a weapon or  
3 is an antique, or (v) any other device possessed under  
4 circumstances negating an intent that the device be used as a  
5 weapon against any person or property;

6 (8) Federal permittee shall mean any lawful user of  
7 explosive materials who has obtained a federal user permit under 18  
8 U.S.C. chapter 40;

9 (9) Federal licensee shall mean any importer,  
10 manufacturer, or dealer in explosive materials who has obtained a  
11 federal importers', manufacturers', or dealers' license under 18  
12 U.S.C. chapter 40; and

13 (10) Smokeless propellants shall mean solid propellants  
14 commonly called smokeless powders in the trade and used in small  
15 arms ammunition.

16 Sec. 2. Section 28-1229, Revised Statutes Supplement,  
17 1998, is amended to read:

18 28-1229. (1) The Nebraska State Patrol shall have the  
19 authority to issue permits for:

20 (a) The storage of explosive materials;

21 (b) The use of explosive materials; and

22 (c) The purchase of explosive materials by business  
23 enterprises.

24 (2) The Nebraska State Patrol shall not issue a permit to  
25 store or use explosive materials to any person who:

26 (a) Is under twenty-one years of age;

27 (b) Has been convicted in any court of a felony;

28 (c) Is charged with a felony;

1 (d) Is a fugitive from justice;

2 (e) Is an unlawful user of any depressant, stimulant, or  
3 narcotic drug;

4 (f) Has been admitted as a patient or inmate in a public  
5 or private institution for the treatment of a mental or emotional  
6 disease or disorder within five years preceding the date of  
7 application; ~~or~~

8 (g) Has no reasonable educational, industrial,  
9 commercial, agricultural, recreational, or other legitimate need  
10 for a permit to store or use explosive materials;

11 (h) Has been convicted in any court of a misdemeanor  
12 crime of domestic violence. This includes any misdemeanor  
13 conviction involving the use or attempted use of physical force  
14 committed by a current or former spouse, parent, or guardian of the  
15 victim or by a person with a similar relationship with the victim;

16 (i) Is subject to a court order restraining him or her  
17 from harassing, stalking, or threatening an intimate partner or  
18 child of such partner; or

19 (j) Is an alien illegally in the United States.

20 (3) Upon filing of a proper application and payment of  
21 the prescribed fee, and subject to the provisions of sections  
22 28-1213 to 28-1239 and other applicable laws, the Nebraska State  
23 Patrol shall issue to such applicant a permit to store explosive  
24 materials if:

25 (a) The applicant, including, in the case of a  
26 corporation, partnership, limited liability company, or  
27 association, any individual possessing, directly or indirectly, the  
28 power to direct or cause the direction of the management and

1 policies of the corporation, partnership, limited liability  
2 company, or association, is not a person to whom the Nebraska State  
3 Patrol is prohibited to issue a permit under subsection (2) of this  
4 section;

5 (b) The applicant has not willfully violated any of the  
6 provisions of sections 28-1213 to 28-1239 or of 18 U.S.C. chapter  
7 40; and

8 (c) The applicant has a place of storage for explosive  
9 materials which meets such standards of public safety, based on the  
10 class, type, and quantity of explosive materials to be stored, and  
11 security against theft as prescribed in rules and regulations  
12 adopted and promulgated by the Nebraska State Patrol pursuant to  
13 sections 28-1213 to 28-1239 and by the Secretary of the Treasury of  
14 the United States pursuant to 18 U.S.C. chapter 40.

15 (4) A permit for the storage of explosive materials shall  
16 specify the class, type, and quantity of explosive materials which  
17 are authorized to be stored. It shall also specify the type of  
18 security required. A permit for the storage of explosive materials  
19 shall be valid for a period of two years unless a shorter period is  
20 specified in the permit.

21 (5) Upon filing of a proper application and payment of  
22 the prescribed fee, and subject to the provisions of sections  
23 28-1213 to 28-1239 and other applicable laws, the Nebraska State  
24 Patrol shall issue to such applicant a permit to use explosive  
25 materials if:

26 (a) The applicant is an individual to whom the Nebraska  
27 State Patrol is not prohibited to issue a permit under subsection  
28 (2) of this section;

1           (b) The applicant has not willfully violated any of the  
2 provisions of sections 28-1213 to 28-1239 or of 18 U.S.C. chapter  
3 40;

4           (c) The applicant has demonstrated and certified in  
5 writing that he or she is familiar with all published laws of this  
6 state and published local ordinances relating to the use of  
7 explosive materials applicable at the place or places he or she  
8 intends to use such explosive materials;

9           (d) The applicant has demonstrated that he or she has  
10 adequate knowledge, training, and experience in the use of  
11 explosive materials of the class and type for which he or she seeks  
12 a users permit and has passed a qualifying examination, as  
13 prescribed by the Nebraska State Patrol, concerning the use of such  
14 explosive materials; and

15           (e) The applicant has filed with his or her application  
16 verification that the applicant has filed for a check of his or her  
17 criminal history record information maintained by the  
18 Identification Division of the Federal Bureau of Investigation  
19 through the Nebraska State Patrol.

20           (6) A permit for the use of explosive materials shall  
21 specify the class and type of explosive materials the permitholder  
22 is qualified to use. It shall be applicable to the permitholder  
23 and to any individual acting under his or her direct personal  
24 supervision. A permit may be issued for a single use of explosive  
25 materials or, when the applicant is engaged or employed in a  
26 business requiring the frequent use of explosive materials, for a  
27 period of not more than two years.

28           (7) Upon filing of a proper application and payment of

1 the prescribed fees and subject to sections 28-1213 to 28-1239 and  
2 other applicable laws, the Nebraska State Patrol shall issue to a  
3 business enterprise a permit to purchase explosive materials if:

4 (a) The business enterprise has a place of business in  
5 this state;

6 (b) No individual possessing, directly or indirectly, the  
7 power to direct or cause the direction of the management and  
8 policies of the business enterprise is a person to whom the  
9 Nebraska State Patrol is prohibited to issue a permit under  
10 subsection (2) of this section;

11 (c) An authorized officer of the business enterprise  
12 certifies that all explosive materials will be used on the date of  
13 purchase of such materials unless such business enterprise is in  
14 possession of a valid storage permit; and

15 (d) The business enterprise employs at least one employee  
16 having a valid use permit issued under this section.

17 (8) A permit for a business enterprise to purchase  
18 explosive materials shall specify the class and type of explosive  
19 materials which are authorized to be purchased. The class and type  
20 of explosive materials covered by such permit shall be the same as  
21 those specified in the use permit or permits issued to an employee  
22 or employees of the business enterprise. The permit may be issued  
23 for a period of up to two years but shall become void if the  
24 business enterprise ceases to employ an individual having a valid  
25 use permit issued under this section for the class and type of  
26 explosive materials covered by the purchase permit of the business  
27 enterprise.

28 (9) If the applicant is an individual, an application for

1 a permit issued under this section shall include the applicant's  
2 social security number.

3           Sec. 3.    Original section 28-1213, Reissue Revised  
4 Statutes of Nebraska, and section 28-1229, Revised Statutes  
5 Supplement, 1998, are repealed.