

## CHAPTER 624

## CRIMES, OTHER PROVISIONS

624.73 Repealed.

624.731 Tear gas and tear gas compounds.

624.73 [Repealed, 1981 c 283 s 2]

**624.731 TEAR GAS AND TEAR GAS COMPOUNDS.**

Subdivision 1. **Definitions.** For the purposes of this section, "authorized tear gas compound" means a lachrymator or any substance composed of a mixture of a lachrymator including chloroacetophenone, alpha-chloroacetophenone, phenylchloromethylketone, orthochlorobenzalmalononitrile or oleoresin capsicum, commonly known as tear gas.

Subd. 2. **Authorized possession; use.** A person may possess and use an authorized tear gas compound in the exercise of reasonable force in defense of the person or his property only if it is propelled from an aerosol container, labelled with or accompanied by clearly written instructions as to its use and the dangers involved in its use, and dated to indicate its anticipated useful life.

Subd. 3. **Prohibited possession; use.** (a) No person under the age of 16 shall possess or use an authorized tear gas compound except by written permission of his parent or guardian. (b) No person prohibited from possessing a pistol pursuant to section 624.713, subdivision 1, clause (b), shall possess or use an authorized tear gas compound. (c) No person prohibited from possessing a pistol pursuant to section 624.713, subdivision 1, clauses (c) to (e), shall possess or use an authorized tear gas compound, except that the certificate or other proof required for possession of a handgun shall not apply. (d) No person shall possess or use tear gas or a tear gas compound other than an authorized tear gas compound.

Subd. 4. **Prohibited use.** (a) No person shall knowingly, or with reason to know, use tear gas, a tear gas compound, or an authorized tear gas compound on or against a peace officer who is in the performance of his duties. (b) No person shall use tear gas, a tear gas compound, or an authorized tear gas compound except as authorized in subdivision 2 or 6. (c) Tear gas or a tear gas compound shall legally constitute a weapon when it is used in the commission of a crime.

Subd. 5. **Prohibited sale.** Except as permitted by subdivision 6, no person shall knowingly furnish or sell tear gas or a tear gas compound to another person. No person shall knowingly furnish or sell an authorized tear gas compound to a person prohibited from possessing it by subdivision 3. No person shall knowingly furnish or sell an authorized tear gas compound which fails to meet the requirements of subdivision 2. No tear gas, tear gas compound or authorized tear gas compound shall be sold or furnished on premises where non-intoxicating malt liquor as defined in section 340.001, subdivision 2, is sold on an on-sale basis or where intoxicating liquor as defined in section 340.07, subdivision 2, is sold on an on-sale or off-sale basis. No person shall sell tear gas, a tear gas compound or authorized tear gas compound in violation of local licensing requirements.

Subd. 6. **Exceptions.** Nothing in this section shall prohibit the possession or use of by, or the sale or furnishing of, tear gas, a tear gas compound, or an authorized tear gas compound to, a law enforcement agency, peace officer, the national guard or reserves, or a member of the national guard or reserves for use in their official duties, except that counties and municipalities may impose licensing requirements on sellers pursuant to subdivision 9.

# MINNESOTA STATUTES 1981 SUPPLEMENT

1633

CRIMES, OTHER PROVISIONS 624.731

Subd. 7. **Exemption.** Tear gas, tear gas compounds, and authorized tear gas compounds shall not be classified as an obnoxious or harmful gas, fluid, or substance under section 609.60, clause (5).

Subd. 8. **Penalties.** (a) The following violations of this section shall be considered a felony:

(1) The possession or use of tear gas, a tear gas compound, or an authorized tear gas compound by a person specified in subdivision 3, clause (b).

(2) Knowingly selling or furnishing of tear gas, a tear gas compound, or an authorized tear gas compound to a person specified in subdivision 3, clause (b).

(b) The following violation of this section shall be considered a gross misdemeanor and shall be punished by not less than 90 days in jail: The prohibited use of tear gas, a tear gas compound, or an authorized tear gas compound as specified in subdivision 4, clause (a).

(c) The following violations of this section shall be considered a misdemeanor:

(1) The possession or use of tear gas, a tear gas compound, or an authorized tear gas compound which fails to meet the requirements of subdivision 2 by any person except as allowed by subdivision 6.

(2) The possession or use of an authorized tear gas compound by a person specified in subdivision 3, clause (a) or (c).

(3) The use of tear gas, a tear gas compound, or an authorized tear gas compound except as allowed by subdivision 2 or 6.

(4) Knowingly selling or furnishing an authorized tear gas compound to a person specified in subdivision 3, clause (a) or (c).

(5) Selling or furnishing of tear gas or a tear gas compound other than an authorized tear gas compound to any person except as allowed by subdivision 6.

(6) Selling or furnishing of an authorized tear gas compound on premises where intoxicating liquor is sold on an on-sale or off-sale basis or where non-intoxicating malt liquor is sold on an on-sale basis.

(7) Selling an authorized tear gas compound in violation of local licensing requirements.

Subd. 9. **Local licensing.** (a) For purposes of this section, "municipality" means statutory or home rule charter city or town.

(b) There is hereby conferred upon the governing body of each county, statutory or home rule charter city and town in the state the authority to license the business of vendors of tear gas compounds within their respective jurisdictions, to impose a license fee therefor, to impose qualifications for obtaining a license, the duration of licenses and to restrict the number of licenses the governing body will issue.

(c) Every person desiring a license from a local governing body shall file with the clerk of the municipality or the county board in the case of application to a county, a verified written application in the form to be prescribed by the local governing body.

(d) The local governing body may establish the grounds, notice and hearing procedures for revocation of licenses issued pursuant to this section. The local governing body may also establish penalties for sale of tear gas, tear gas compounds or authorized tear gas compounds in violation of its licensing requirements.

# MINNESOTA STATUTES 1981 SUPPLEMENT

624.731 CRIMES, OTHER PROVISIONS

1634

Subd. 10. **Local regulation.** This section shall be the exclusive regulation of the possession, use, and furnishing of tear gas, tear gas compounds, and authorized tear gas compounds in Minnesota. This section shall supersede and preempt all regulation of the possession, use, and furnishing of tear gas and tear gas compounds by political subdivisions.

**History:** 1981 c 283 s 1