

CHAPTER 624

CRIMES, OTHER PROVISIONS

624.02 Repealed.
 624.701 Liquors in certain buildings or grounds.
 624.713 Certain persons not to have pistols; penalty.
 624.7132 Report of transfer.

624.717 Local regulation.
 624.718 Repealed.
 624.731 Tear gas and tear gas compounds; electronic incapacitation devices.

624.02 [Repealed, 1985 c 212 s 27]

624.701 LIQUORS IN CERTAIN BUILDINGS OR GROUNDS.

Subdivision 1. Any person who shall introduce upon, or have in his possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage as defined in section 340A.101, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell nonintoxicating malt liquor pursuant to section 340A.403, subdivision 2, and any person possessing nonintoxicating malt liquor as a result of a purchase from those organizations holding temporary licenses pursuant to section 340A.403, subdivision 2, shall be guilty of a misdemeanor.

Subd. 2. Any person who except by prescription of a licensed physician or permission of the hospital administrator shall introduce upon, or have in his possession upon, or in, any state hospital or grounds thereof under the responsibility of the commissioner of human services any alcoholic beverage as defined in section 340A.101, shall be guilty of a misdemeanor.

History: 1984 c 654 art 5 s 58; 1985 c 305 art 12 s 4

624.713 CERTAIN PERSONS NOT TO HAVE PISTOLS; PENALTY.

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess a pistol:

(a) a person under the age of 18 years except that a person under 18 may carry or possess a pistol (i) in the actual presence or under the direct supervision of his parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol and approved by the commissioner of natural resources;

(b) a person who has been convicted in this state or elsewhere of a crime of violence unless ten years have elapsed since the person has been restored his civil rights or the sentence has expired, whichever occurs first, and during that time he has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(c) a person who is or has ever been confined or committed in Minnesota or elsewhere as a "mentally ill," "mentally retarded," or "mentally ill and dangerous to

the public" person as defined in section 253B.02, to a treatment facility, unless he possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that he is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16, or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless he possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that he has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as "chemically dependent" as defined in section 253B.02, unless he or she has completed treatment. Property rights may not be abated but access may be restricted by the courts; or

(f) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless he possesses a certificate from the head of the treatment facility that he has been discharged or provisionally discharged from the treatment facility. Property rights may not be abated but access may be restricted by the courts.

A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

[For text of subd 2, see M.S.1984]

History: *1Sp1985 c 9 art 2 s 98*

624.7132 REPORT OF TRANSFER.

[For text of subds 1 to 15, see M.S.1984]

Subd. 16. **Local regulation.** This section shall be construed to supersede municipal or county regulation of the transfer of pistols.

History: *1985 c 144 s 2*

624.717 LOCAL REGULATION.

Sections 624.711 to 624.716 shall be construed to supersede municipal or county regulation of the carrying or possessing of pistols and the regulation of Saturday Night Special Pistols.

History: *1985 c 144 s 3*

624.718 [Repealed, 1985 c 144 s 4]

624.731 TEAR GAS AND TEAR GAS COMPOUNDS; ELECTRONIC INCAPACITATION DEVICES.

Subdivision 1. **Definitions.** For the purposes of this section:

(a) "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; and

(b) "electronic incapacitation device" means a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current. "Electronic incapacitation device" does not include cattle prods, electric fences, or other electric devices which are used in agricultural, animal husbandry, or food production activities.

Subd. 2. **Authorized possession; use.** (a) 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, labeled 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.

(b) A person may possess and use an electronic incapacitation device in the exercise of reasonable force in defense of the person or his property only if the electronic incapacitation device is labeled with or accompanied by clearly written instructions as to its use and the dangers involved in its use.

Subd. 3. **Prohibited possession; use.** (a) No person under the age of 16 may possess or use an authorized tear gas compound except by written permission of his parent or guardian, and no person under the age of 18 may possess or use an electronic incapacitation device.

(b) No person prohibited from possessing a pistol pursuant to section 624.713, subdivision 1, clause (b), may possess or use an authorized tear gas compound or an electronic incapacitation device.

(c) No person prohibited from possessing a pistol pursuant to section 624.713, subdivision 1, clauses (c) to (e), may possess or use an authorized tear gas compound or an electronic incapacitation device, 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, an authorized tear gas compound, or an electronic incapacitation device 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, an authorized tear gas compound, or an electronic incapacitation device except as authorized in subdivision 2 or 6.

(c) Tear gas, a tear gas compound, or an electronic incapacitation device 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 or an electronic incapacitation device to a person prohibited from possessing it by subdivision 3. No person shall knowingly furnish or sell an authorized tear gas compound or an electronic incapacitation device which fails to meet the requirements of subdivision 2. No tear gas, tear gas compound, authorized tear gas compound, or electronic incapacitation device shall be sold or furnished on premises where nonintoxicating 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, authorized tear gas compound, or electronic incapacitation device 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, an authorized tear gas compound, or electronic incapacitation device 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.

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, an authorized tear gas compound, or an electronic incapacitation device by a person specified in subdivision 3, clause (b).

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

(3) The use of an electronic incapacitation device as prohibited in subdivision 4, clause (a).

(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, an authorized tear gas compound, or an electronic incapacitation device 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 or an electronic incapacitation device by a person specified in subdivision 3, clause (a) or (c).

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

(4) Knowingly selling or furnishing an authorized tear gas compound or an electronic incapacitation device 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 or an electronic incapacitation device on premises where intoxicating liquor is sold on an on-sale or off-sale basis or where nonintoxicating malt liquor is sold on an on-sale basis.

(7) Selling an authorized tear gas compound or an electronic incapacitation device 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, tear gas compounds, authorized tear gas compounds, or electronic incapacitation devices 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, authorized tear gas compounds, or electronic incapacitation devices in violation of its licensing requirements.

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

History: 1985 c 160 s 3