

HOUSE BILL REPORT

HB 2387

As Reported by House Committee On:
Public Safety

Title: An act relating to flamethrowing devices.

Brief Description: Concerning flamethrowing devices.

Sponsors: Representative S. Hunt.

Brief History:

Committee Activity:

Public Safety: 1/19/16, 1/29/16 [DPS].

Brief Summary of Substitute Bill

- Makes it a gross misdemeanor for a person to use or possess a flamethrowing device without a valid flamethrowing device permit, with some exceptions.
- Requires the Director of Fire Protection to establish rules for issuing and renewing flamethrowing device permits.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Appleton, Moscoso and Pettigrew.

Minority Report: Do not pass. Signed by 3 members: Representatives Hayes, Assistant Ranking Minority Member; Griffey and Wilson.

Staff: Kelly Leonard (786-7147).

Background:

A flamethrower is generally understood to be a mechanical incendiary device designed to project a long, controllable stream of fire. Flamethrowers are not currently defined or regulated in state law.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Director of Fire Protection. Washington's Director of Fire Protection, a position also referred to as the Washington State Fire Marshal (Fire Marshal), is charged with providing training, certification, and coordination duties related to protecting life, property, and the environment from fire. The Fire Marshal is appointed by the Chief of the Washington State Patrol (WSP), and the Fire Marshal's office operates as a bureau within the WSP. Bureau staff is located in its Olympia headquarters office, at the WSP Fire Training Academy in North Bend, Washington, and in eight field offices around the state.

Unlawful Possession of a Firearm. A person is guilty of Unlawful Possession of a Firearm in the first degree if the person owns, possesses, or has in his or her control any firearm after having previously been convicted of a serious offense. A "serious offense" includes, among other things, any crime of violence, certain class B felonies, any felony with a deadly weapon, and certain vehicular related crimes when committed while under the influence of alcohol or drugs or while driving recklessly. Unlawful Possession of a Firearm in the first degree is a class B felony.

A person is guilty of Unlawful Possession of a Firearm in the second degree, a class C felony, if the person owns, possesses, or has in his or her control any firearm and the person:

- has previously been convicted of any felony (other than a serious offense);
- has previously been convicted of certain gross misdemeanors committed by one family or household member against another;
- has previously been involuntarily committed for mental health treatment;
- is subject to a qualifying protection, no-contact, or restraining order;
- is under the age of 18 years (with some exceptions); or
- is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

Federal law disqualifies certain categories of persons from possessing firearms. The restrictions are generally comparable to state law with some exceptions. This includes, for example, restricting users of controlled substances from possessing firearms.

Sentencing for Gross Misdemeanors. Crimes are classified as misdemeanors, gross misdemeanors, or felonies (of which there are class A, B, and C felonies). The classification of a crime generally determines the maximum term of confinement and/or fine for an offense. For gross misdemeanors, the maximum term of confinement is 364 days and the maximum fine is \$5,000.

Summary of Substitute Bill:

A "flamethrowing device" means any nonstationary and transportable device designed or intended to emit or propel a burning stream of combustible or flammable liquid a distance of at least 10 feet. "Flamethrowing device" does not include any drip torch, helitorch, fusee, plastic sphere dispenser, or other hand held device, ground-mounted device, or aerial-mounted device with a flame of less than three feet used to ignite fuels on the ground for prescribed agriculture or wildland fire applications.

Using and Possessing a Flamethrowing Device. It is a gross misdemeanor for a person to use or possess a flamethrowing device without a valid flamethrowing device permit (permit) issued by the Fire Marshal.

Permitting and Regulating by the Fire Marshal. The Fire Marshal must establish rules for the issuance and renewal of permits, including background investigation requirements. At a minimum, the rules must:

- require the applicant or permit holder is not addicted to any controlled substance;
- require the applicant or permit holder is not prohibited from possessing a firearm under state or federal law; and
- include standards for use, storage, and transportation of flamethrowing devices.

The Fire Marshal may designate fees for permits and permit renewals at the level necessary to cover the costs of administering and enforcing the permit program.

A permit must be revoked if the permit holder does not comply with the statutory requirements and the rules established by the Fire Marshal. If the Fire Marshal denies an application or renewal application for a permit, or revokes permit, the applicant or permit holder is entitled to an administrative hearing. The Fire Marshal must seize any flamethrowing device found in the possession of a person who is not authorized to possess it.

Exceptions. The restrictions on using and possessing flamethrowing devices do not apply to the sale, purchase, possession, transportation, storage, or use of a flamethrowing device by a person if all of the following apply:

- the person is regularly employed by or a paid officer or employee of a fire department, fire protection district, or firefighting agency;
- the person is on-duty and acting within the course and scope of the person's employment; and
- the flamethrowing device is used in the course of fire suppression.

Substitute Bill Compared to Original Bill:

The definition of "flamethrowing device" is modified, by specifying that a "flamethrowing device" does not include any drip torch, helitorch, fusee, plastic sphere dispenser, or other hand held device, ground-mounted device, or aerial-mounted device with a flame of less than three feet used to ignite fuels on the ground for prescribed agriculture or wildland fire applications.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill arose from a constituent's concern about flamethrowers, and it is modeled on a current California law. While there have not been recent issues with flamethrowers in Washington, it is good to be prepared and take preventative measures.

(Opposed) None.

Persons Testifying: Representative S. Hunt, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.