

SECOND REGULAR SESSION

HOUSE BILL NO. 1400

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LAGER.

Read 1st time February 5, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4361L.011

AN ACT

To repeal sections 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151, and 320.161, RSMo, and to enact in lieu thereof nine new sections relating to fireworks regulation, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 2 320.151, and 320.161, RSMo, are repealed and nine new sections enacted in lieu thereof, to be 3 known as sections 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151, 4 and 320.161, to read as follows:

320.106. As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the 2 following terms mean:

3 (1) ["Distributor", any person engaged in the business of selling fireworks to 4 wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the 5 necessary permits as specified in sections 320.106 to 320.161, including any person that imports 6 any fireworks of any kind in any manner into the state of Missouri;] "**American Pyrotechnics 7 Association (APA), Standard 87-1**"; or **subsequent standard which may amend or 8 supersede this standard for manufacturers, importers and distributors of fireworks;**

9 (2) "**Chemical composition**", all pyrotechnic and explosive composition contained 10 in fireworks devices as defined in **American Pyrotechnics Association (APA), Standard 87- 11 1;**

12 [(2)] (3) "**Consumer fireworks**", explosive devices designed primarily to produce visible 13 or audible effects by combustion[. This term] **and** includes aerial devices and ground devices,

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

14 all of which are classified as fireworks, UNO336, 1.4G by regulation of the United States
15 Department of Transportation, as amended from time to time, and which were formerly classified
16 as class C common fireworks by regulation of the United States Department of Transportation;

17 **(4) "Discharge site", the area immediately surrounding the fireworks mortars used**
18 **for an outdoor fireworks display;**

19 **(5) "Display site", the immediate area where a fireworks display is conducted,**
20 **including the discharge site, the fallout area, and the required separation distance from**
21 **mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking**
22 **areas;**

23 **(6) "Display fireworks", explosive devices designed primarily to produce visible or**
24 **audible effects by combustion, deflagration or detonation. This term includes devices**
25 **containing more than two grains (130 mg) of explosive composition intended for public**
26 **display. These devices are classified as fireworks, UNO335, 1.3G by regulation of the**
27 **United States Department of Transportation, as amended from time to time, and which**
28 **were formerly classified as class B display fireworks by regulation of the United States**
29 **Department of Transportation;**

30 **(7) "Distributor", any person engaged in the business of selling fireworks to**
31 **wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess**
32 **the necessary permits as specified in sections 320.106 to 320.161, including any person that**
33 **imports any fireworks of any kind in any manner into the state of Missouri;**

34 **(8) "Fireworks", any composition or device for producing a visible, audible, or both**
35 **visible and audible effect by combustion, deflagration, or detonation and that meets the**
36 **definition of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171**
37 **to end, United States Department of Transportation hazardous materials regulations, and**
38 **American Pyrotechnics Association 87-1 standards;**

39 **[(3)] (9) "Fireworks season", the period beginning on the twentieth day of June and**
40 **continuing through the tenth day of July of the same year and the period beginning on the**
41 **twentieth day of December and continuing through the second day of January of the next year,**
42 **which shall be the only periods of time that seasonal retailers may be permitted to sell consumer**
43 **fireworks;**

44 **[(4)] (10) "Jobber", any person engaged in the business of making sales of consumer**
45 **fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and**
46 **distribution outside the state of Missouri during a calendar year from the first day of January**
47 **through the thirty-first day of December;**

48 **(11) "Licensed operator", any person who supervises, manages, or directs the**
49 **discharge of outdoor display fireworks, either by manual or electrical means; who has met**

50 **additional requirements established by promulgated rule and has successfully completed**
51 **a display fireworks training course recognized and approved by the state fire marshal;**

52 [(5)] (12) "Manufacturer", any person engaged in the making, manufacture, assembly or
53 construction of fireworks of any kind within the state of Missouri;

54 (13) "NFPA", National Fire Protection Association; an international codes and
55 standards organization;

56 [(6)] (14) "Permanent structure", buildings and structures with permanent foundations
57 other than tents, mobile homes, and trailers;

58 [(7)] (15) "Permit", the written authority of the state fire marshal issued pursuant to
59 sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

60 [(8)] (16) "Person", any corporation, association, partnership or individual or group
61 thereof;

62 (17) "Proximate fireworks", a chemical mixture used in the entertainment industry
63 to produce visible or audible effects by combustion, deflagration, or detonation, as defined
64 by the most current edition of the American Pyrotechnics Association (APA), Standard 87-
65 1, section 3.8, specific requirements for theatrical pyrotechnics;

66 (18) "Pyrotechnic operator" or "special effects operator", an individual who has
67 responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates
68 special effects for proximate fireworks and who has met additional requirements
69 established by promulgated rules and has successfully completed a proximate fireworks
70 training course recognized and approved by the state fire marshal;

71 [(9)] (19) "Sale", an exchange of articles of fireworks for money, including barter,
72 exchange, gift or offer thereof, and each such transaction made by any person, whether as a
73 principal proprietor, salesman, agent, association, copartnership or one or more individuals;

74 [(10)] (20) "Seasonal retailer", any person within the state of Missouri engaged in the
75 business of making sales of consumer fireworks in Missouri only during a fireworks season as
76 defined by subdivision [(3)] (9) of this section;

77 [(11)] (21) "Special fireworks", explosive devices designed primarily to produce visible or
78 audible effects by combustion, deflagration or detonation. This term includes devices containing
79 more than two grains (130 mg) of explosive composition intended for public display. These
80 devices are classified as fireworks, UNO335, 1.3G by regulation of the United States Department
81 of Transportation, as amended from time to time, and which were formerly classified as class B
82 display fireworks by regulation of the United States Department of Transportation;

83 (12)] (21) "Wholesaler", any person engaged in the business of making sales of
84 consumer fireworks to any other person engaged in the business of making sales of consumer
85 fireworks at retail within the state of Missouri.

320.111. 1. It is unlawful for any person to manufacture, sell, offer for sale, ship or
2 cause to be shipped into or within the state of Missouri except as herein provided, any item of
3 fireworks, without first having secured the required applicable permit as a manufacturer,
4 distributor, wholesaler, jobber or seasonal retailer from the state fire marshal **and applicable**
5 **federal permit or license**. Possession of said permit is a condition precedent to manufacturing,
6 selling or offering for sale, shipping or causing to be shipped any fireworks into the state of
7 Missouri, except as herein provided. This provision applies to nonresidents as well as residents
8 of the state of Missouri.

9 2. The state fire marshal has the authority and is authorized and directed to issue permits
10 for the sale of fireworks. No permit shall be issued to a person under the age of eighteen years.
11 All permits except for seasonal retailers shall be for the calendar year or any fraction thereof and
12 shall expire on the thirty-first day of December of each year.

13 3. Permits issued must be displayed in the permit holder's place of business. No permit
14 provided for herein shall be transferable nor shall a person operate under a permit issued to
15 another person or under a permit issued for another location. Manufacturer, **wholesaler, jobber,**
16 and distributor permit holders operating out of multiple locations shall obtain a permit for each
17 location.

18 4. Failure to make application for a permit by May thirty-first of the calendar year may
19 result in the fire marshal's refusal to issue a license to the licensee or applicant for such calendar
20 year.

21 5. **Any false statement or declaration made on a permit application may result in**
22 **the state fire marshal's refusal to issue such permit to the requesting person for a period**
23 **of time not to exceed three years.**

24 6. The state fire marshal is authorized and directed to charge the following fees for
25 permits:

26 (1) Manufacturer, a fee of seven hundred [fifty] **seventy-five** dollars per **calendar** year;

27 (2) Distributor, a fee of seven hundred [fifty] **seventy-five** dollars per **calendar** year;

28 (3) Wholesaler, a fee of two hundred [fifty] **seventy-five** dollars per **calendar** year;

29 (4) Jobber, a fee of five hundred **twenty-five** dollars per **calendar** year per sales
30 location;

31 (5) Seasonal retailer, a fee of [twenty-five] **fifty** dollars per **calendar** year per sales
32 location;

33 (6) [Special] **Display** fireworks [(displays)], a fee of [twenty-five] **one hundred** dollars
34 per **calendar** year per location;

35 (7) **Proximate fireworks display permit, a fee of one hundred dollars per calendar**
36 **year per location;**

37 **(8) Licensed operator, a fee of one hundred dollars for a three-year license;**

38 **(9) Pyrotechnic operator, a fee of one hundred dollars for a three-year license.**

39 [6.] 7. A holder of a manufacturer's permit shall not be required to have any additional
40 permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell
41 [special] **display, or proximate** fireworks.

42 [7.] 8. A holder of a distributor's permit shall not be required to have any additional
43 permits in order to sell to wholesalers, jobbers, seasonal retailers or to sell [special] **display, or**
44 **proximate** fireworks.

45 [8.] 9. A holder of a jobber's permit shall not be required to have any additional permit
46 in order to sell consumer fireworks at retail during the fireworks season from such jobber's
47 permanent structure.

48 [9.] 10. All fees collected for permits issued pursuant to this section shall be paid to the
49 Missouri department of revenue and deposited in the general revenue fund. Any person engaged
50 in more than one permit classification shall pay one permit fee based upon the permit
51 classification yielding the highest amount of revenue.

52 [10.] 11. The state fire marshal is charged with the enforcement of the provisions of
53 sections 320.106 to 320.161 and may call upon any state, county or city peace officer for
54 assistance in the enforcement of the provisions of sections 320.106 to 320.161. The state fire
55 marshal may promulgate rules pursuant to the requirements of this section and chapter 536,
56 RSMo, **necessary to carry out his or her responsibilities under this act including rules**
57 **requiring training, examination, and licensing of licensed operators and pyrotechnic**
58 **operators engaging in or responsible for the handling and use of display and proximate**
59 **fireworks. The test shall incorporate the rules of the state fire marshal, which shall be**
60 **based upon nationally recognized standards.** No rule or portion of a rule promulgated
61 pursuant to this chapter shall become effective unless it has been promulgated pursuant to the
62 provisions of chapter 536, RSMo.

63 [11.] 12. The state fire marshal, upon notification by the department of revenue, may
64 withhold permits from applicants upon evidence that all state sales taxes for the preceding year
65 or years have not been paid; except, this subsection shall not apply if an applicant is pursuing any
66 proper remedy at law challenging the amount, collection, or assessment of any sales tax.

67 [12.] 13. A holder of a **distributor, wholesaler, or** jobber's permit shall be required to
68 operate out of a permanent structure in compliance with all applicable building **and fire**
69 regulations in the city or county in which said person is [selling consumer] **operating a** fireworks
70 **business. Seasonal retail permit locations shall be in compliance with all applicable**
71 **building and fire regulations, the applicant may be subject to a fire safety inspection by the**
72 **state fire marshal based upon promulgated rules and regulations adopted by the state fire**

73 **marshal.**

74 [13.] **14.** It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell
75 consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the
76 state fire marshal **for the current permit period.** A seasonal retailer shall acquire and present
77 the appropriate permit from the state fire marshal before any manufacturer, distributor,
78 wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided
79 that such seasonal retailer is purchasing the consumer fireworks for resale in this state.

80 [14.] **15.** The state fire marshal and the marshal's deputies may conduct inspections of
81 any premises and all portions of buildings where fireworks are stored, **manufactured, kept** or
82 being offered for sale. [Licensees] **All persons selling, offering for sale, barter, gift,**
83 **exchange, or offer thereof any fireworks** shall cooperate fully with the state fire marshal and
84 the marshal's deputies during any such inspection. **This inspection shall be performed during**
85 **normal business hours.**

86 **16. In addition to any other penalty, any person who manufactures, sells, offers for**
87 **sale, ships or causes to be shipped into or caused to be shipped into the state of Missouri,**
88 **for use in Missouri, any items of fireworks without first having the required applicable**
89 **permit, shall be assessed a civil penalty of up to a one thousand dollar fine for each day of**
90 **operation up to a maximum of ten thousand dollars.**

320.116. 1. The state fire marshal may revoke any permit issued pursuant to sections
2 320.106 to 320.161 upon evidence that the holder has violated any of the provisions of sections
3 320.106 to 320.161.

4 2. The state fire marshal, in his or her discretion, may refuse to issue a permit, for a
5 period not to exceed three years, to a person whose permit has been revoked [as the result of a
6 conviction] for the possession or sale of illegal fireworks, as referred to in section 320.136.

7 3. The state fire marshal, the marshal's deputies, the marshal's designees or any
8 authorized police or peace officer shall seize as contraband any illegal fireworks as defined
9 pursuant to sections 320.106 to 320.161. Such illegal fireworks seized in the enforcement of
10 sections 320.106 to 320.161 shall be held in custody of the state fire marshal in proper storage
11 facilities. The person surrendering the fireworks may bring an in rem proceeding in the circuit
12 court of the county where the fireworks were seized. Upon hearing, the circuit court may
13 authorize the return of all or part of the confiscated fireworks or the court may authorize and
14 direct that such contraband fireworks be destroyed. If a proceeding is not brought within thirty
15 days, the fireworks shall be destroyed by the state fire marshal. The state fire marshal shall seize,
16 take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered
17 or exposed for sale, stored or held in violation of the provisions of sections 320.106 to 320.161.
18 **All costs, including any expenses incurred with the seizure, shall be the responsibility of**

19 **the adjudicated party if case disposition is in the favor of the state fire marshal.**

20 4. Any person aggrieved by any official action of the state fire marshal affecting their
21 [licensed] **permit** status including revocation, suspension, failure to renew a [license] **permit**,
22 or refusal to grant a [license] **permit** may seek a determination thereon by the administrative
23 hearing commission pursuant to the provisions of section 621.045, RSMo.

320.126. 1. Any person [possessing or], **entity, partnership, corporation, or**
2 **association** transporting [special] **display or proximate** fireworks **or display and proximate**
3 **fireworks** into the state of Missouri for the purpose of resale or to conduct a [special firework]
4 display shall be [licensed] **permitted** by the state fire marshal as a distributor **or manufacturer**
5 **and have obtained applicable federal license or permit.**

6 2. [Possession and] Sale of [special] **display or proximate** fireworks shall be limited
7 to a holder of a federal license or **permit and** a distributor or manufacturer permit issued [for
8 special fireworks displays] **by the state fire marshal.**

9 3. Possession of [special] **display or proximate** fireworks for resale to holders of a
10 permit for [public] **display or proximate fireworks** shall be confined to holders of a state
11 manufacturer or distributor permit **and applicable federal license or permit.**

12 4. Permits for [public displays for special] **display or proximate** fireworks may be
13 granted to municipalities, fair associations, amusement parks, organizations, **persons**, firms or
14 corporations. Such permits may be granted upon application and approval by the state fire
15 marshal or local fire service authorities of the community where the display is proposed to be
16 held. **All applications submitted for display or proximate fireworks permits, must be**
17 **submitted to the office of the state fire marshal a minimum of ten working days prior to**
18 **the date of the event. The application shall be made on a form provided or approved by**
19 **the state fire marshal.** Every such display shall be supervised, managed, or directed by a
20 **Missouri licensed operator, or pyrotechnic operator on site pursuant to subsections 11 and**
21 **18 of section 320.106 and** shall be located, discharged, or fired so as in the opinion of the [chief
22 of the fire department, after proper inspection] **permitting authority, after proper inspection**
23 **based on the most current edition of the National Fire Protection Association standards,**
24 **NFPA 1123, 1124, and 1126,** to not be hazardous to any person or property. After a permit has
25 been granted, the sale, possession, use and distribution of fireworks for such display shall be
26 lawful for that purpose only. A copy of all permits issued for [special] **display or proximate**
27 fireworks [displays] shall be forwarded **by the permit holder** to the state fire marshal's office.
28 No permit granted hereunder shall be transferable **and shall apply to only one location. No**
29 **holder of a manufacturer or distributor permit shall sell, barter, or transfer display or**
30 **proximate fireworks to anyone not possessing an applicable permit or license.**

31 5. Possession of display or proximate fireworks shall be limited to a holder of a

32 **display or proximate fireworks permit issued by the authority having jurisdiction where**
33 **the display or proximate fireworks is proposed to be held or the state fire marshal or**
34 **holder of a state manufacturer or distributor permit and applicable federal license or**
35 **permit.**

36 [5.] **6.** Before **issuing** any permit for a [special] **display or proximate** fireworks [display
37 shall be issued,] the municipality, fair association, amusement park, organization, firm, **persons,**
38 or corporation making application therefor shall furnish proof of financial responsibility **in an**
39 **amount established by promulgated rule** to the permitting authority in order to satisfy claims
40 for damages to property or personal injuries arising out of any act or omission on the part of such
41 person, firm or corporation or any agent or employee thereof.

42 **7. Any establishment where proximate fireworks are to be discharged shall be**
43 **inspected by the state fire marshal or local fire department having jurisdiction for**
44 **compliance with NFPA 101 Life Safety Code or equivalent nationally recognized code in**
45 **relation to means of egress, occupancy load, and automatic sprinkler and fire alarm**
46 **systems. All permits issued will be forwarded to the state fire marshal by the permit**
47 **holder. Permits will be issued in the same manner as those required in section 320.126.**

320.131. 1. It is unlawful for any person to possess, sell or use within the state of
2 Missouri, or ship into the state of Missouri, except as provided in section 320.126, any
3 pyrotechnics commonly known as "fireworks" and defined as consumer fireworks in subdivision
4 [(2)] **(3)** of section 320.106 other than items now or hereafter classified as fireworks UNO336,
5 1.4G by the United States Department of Transportation that comply with the construction,
6 chemical composition, labeling and other regulations relative to consumer fireworks regulations
7 promulgated by the United States Consumer Product Safety Commission and permitted for use
8 by the general public pursuant to such commission's regulations.

9 2. No [retailer, dealer] **wholesaler, jobber, or seasonal retailer,** or any other person
10 shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that
11 have not been approved as fireworks UNO336, 1.4G by the United States Department of
12 Transportation.

13 3. No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer
14 dealers, or any other person, in this state for the purpose of resale, or use, in this state, any
15 consumer fireworks which do not have the numbers and letter "1.4G" printed within an orange,
16 diamond- shaped label printed on or attached to the fireworks shipping carton.

17 4. This section does not prohibit a manufacturer, distributor or any other person from
18 storing, selling, shipping or otherwise transporting [special] **display or proximate** fireworks,
19 defined as fireworks UNO335, 1.3G/**UN0431, 1.4G or UN0432, 1.4S** by the United States
20 Department of Transportation, provided they possess the proper [licensing] **permits** as specified

21 by state and federal law.

22 5. Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which
23 paper caps containing twenty-five hundredths grains or less of explosive compound, provided
24 that they are so constructed that the hand cannot come into contact with the cap when in place
25 for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of
26 explosive mixture shall be permitted for sale and use at all times and shall not be regulated by
27 the provisions of sections 320.106 to 320.161.

320.136. Ground salutes commonly known as "cherry bombs", "M-80's", "M-100's",
2 "M-1000's", and [various] **any other tubular salutes or any items described as prohibited**
3 **chemical components or forbidden devices as listed in the American Pyrotechnics**
4 **Association Standard 87-1 or** which exceed the federal limits set for fireworks UNO336, 1.4G
5 formerly known as class C common fireworks, **display fireworks UN0335, 1.3F, and**
6 **proximate fireworks UN0431, 1.4F/UN 0432, 1.4S** by the United States Department of
7 Transportation for explosive composition are expressly prohibited from shipment into,
8 manufacture, possession, sale, [and] **or** use within the state of Missouri for [any purpose]
9 **consumer use**. Possession, sale, manufacture, or transport of this type of illegal explosive shall
10 be punished as provided by the provisions of section 571.020, RSMo.

320.146. 1. It shall be unlawful to expose fireworks to direct sunlight through glass to
2 the merchandise displayed, except where the fireworks are in the original package. All fireworks
3 which the public may examine shall be kept for sale in original packages, except where an
4 attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in
5 showcases out of the reach of the public when an attendant is not on duty. One or more signs
6 reading, "FIREWORKS--NO SMOKING" shall be displayed at all places where fireworks are
7 stored or sold in letters not less than four inches in height.

8 2. Fireworks shall not be stored, kept or sold within fifty feet of any gasoline pump,
9 gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids
10 are sold in quantities in excess of one gallon. The provisions of this subsection shall not apply
11 to stores where cleaners, paints, and oils are sold in the original containers to consumers.

12 3. It shall be unlawful to permit the presence of lighted cigars, cigarettes, pipes, or any
13 other open flame within [ten] **twenty-five** feet of where fireworks are **manufactured, stored,**
14 **kept, or** offered for sale.

15 4. Fireworks shall not be **manufactured,** stored, kept or sold within [fifty] **one hundred**
16 feet of any [area in which] **dispensing unit for** ignitable liquids or gases [are stored above the
17 surface of the ground].

320.151. 1. It is unlawful to attempt to sell or to sell at retail any fireworks to children
2 under the age of fourteen years except when such child is in the presence of a parent or guardian.

3 2. It is unlawful for any person under the age of sixteen to sell fireworks or work in a
4 facility where fireworks are stored, sold, or offered for sale unless supervised by an adult.

5 3. It is unlawful to explode or ignite **consumer** fireworks within six hundred feet of any
6 church, hospital, mental health facility, school, or within one hundred feet of [a permanent
7 structure] **any location** where fireworks are stored, sold, or offered for sale.

8 4. No person shall ignite or discharge any permissible articles of **consumer** fireworks
9 within or throw the same from a [motor] **motorized** vehicle **including watercraft or any other**
10 **means of transportation, except where display permit has been issued for a floating vessel**
11 **or floating platform**, nor shall any person place or throw any ignited article of fireworks into
12 or at a [motor] **motorized** vehicle **including watercraft or any other means of transportation**,
13 or at or near any person or group of people.

14 5. No person shall ignite or discharge **consumer** fireworks within three hundred feet of
15 any **permanent storage of ignitable liquid, gases**, gasoline pump, gasoline filling station, or
16 any nonpermanent structure where fireworks are stored, sold or offered for sale.

17 6. **No items of explosive or pyrotechnic composition other than fireworks as defined**
18 **by subsections (3), (6), and (17) of section 320.106 shall be displayed, sold, or offered for**
19 **sale within the applicable permit location as identified on such permit granted by the state**
20 **fire marshal.**

21 7. **Proximate fireworks shall not be allowed to be stored with consumer fireworks.**

22 8. **All storage and transportation of fireworks shall be in accordance with all**
23 **federal and state rules and regulations.**

24 9. Nothing in sections 320.106 to 320.161 shall be construed to prevent permittees from
25 demonstrating or testing fireworks. Any such demonstration or test shall require the notification
26 and approval of the local fire service or the state fire marshal.

 320.161. 1. Any person violating any provision of sections 320.106 to 320.161 [except
2 section 320.136] is guilty of a class [B] **A** misdemeanor, **except that a person violating section**
3 **320.136 is guilty of a class C felony.**

4 [2. Any person violating the provisions of section 320.136 is guilty of a class A
5 misdemeanor.]