

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 20 February 1985

EXPLOSIVES (FIREWORKS SAFETY) AMENDMENT BILL

Proposed Amendments

Mr J. J. TERRIS, in Committee, to move the following amendments:

Clause 2: To omit the new section 23B (all the words in lines 13 to 15), and substitute the following section:

“23B. (1) No person shall sell any explosive of the third division of the seventh (firework) class to any person under the age of 16 years.

“(2) It shall be a defence to a charge under subsection (1) of this section to prove that the person actually delivering the explosive—

“(a) Believed on reasonable grounds that the person to whom he delivered the explosive was of or over the age of 16 years; or

“(b) Received from the person to whom he delivered the explosive evidence purporting to show that that person was of or over the age of 16 years, and that it was reasonable to and he did accept that evidence as correct.”

Clause 3: To add, after *clause 2*, the following new clause:

3. Offences as to sale of explosives—Section 25 (1) of the principal Act is hereby amended—

(a) By inserting, after the expression “section 23”, the words “or section 23A or section 23B”; and

(b) By omitting the word “either”, and substituting the word “any”.

EXPLANATORY NOTE

Clause 2: In the Bill, as introduced, the new section 23B prohibits the sale of any explosive of the third division of the seventh (firework) class to any person who is *apparently under 16 years of age*.

A similar reference to apparent age formerly appeared in section 202 (1) of the Licensing Act 1908 (as enacted by section 6 (1) of the Licensing Amendment Act 1952). Cases on the interpretation of that section show the difficulties caused by the reference to apparent age. See *Holland v. Peterken* [1961] NZLR 769.

When the Licensing Act 1908 was repealed by the Sale of Liquor Act 1962, the unsatisfactory reference to apparent age was not carried forward into the corresponding provision, section 259 (3), of the Sale of Liquor Act 1962.

The new section 23B (2), set out in this Supplementary Order Paper, is based on section 259 (3) of the Sale of Liquor Act 1962.

Clause 3: The proposed new clause effects consequential amendments to section 25 (1) of the Explosives Act 1957 (which is one of the group of sections dealing with sale of explosives).
