SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

_____

No. _____

_____
(Date)

Mr./Madame President:

I move to amend House Bill No. 2955, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

_____

Senator Holt

Holt-LKS-FS-Req#3660
4/22/2014 11:50 AM

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

FLOOR SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2955 By: Cockroft of the House

and

Holt of the Senate

FLOOR SUBSTITUTE

An Act relating to explosives; amending 21 O.S. 2011, Section 849, which relates to wiring vehicles or structures with explosives; modifying scope of certain prohibited act; updating language; amending 21 O.S. 2011, Section 1320.10, which relates to training persons to use explosives or incendiary devices; modifying scope of certain prohibited acts; amending 21 O.S. 2011, Section 1368, which relates to possession of explosives by felons; expanding scope of certain prohibited act; updating language; amending 21 O.S. 2011, Section 1441, which relates to burglary with explosives; modifying scope of certain prohibited act; amending 21 O.S. 2011, Sections 1767.1, 1767.2 and 1767.3, which relate to the use of explosives and bombs; modifying scope of certain prohibited acts; increasing certain penalty; modifying definition; amending 63 O.S. 2011, Section 121.1, which relates to explosives; clarifying definition; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2011, Section 849, is amended to read as follows:

Section 849. Every person who shall attach to, or place in or upon any motor vehicle or any vehicle designed or customarily used

to transport a person or persons or any structure designed or customarily used for the occupancy of a person or persons, any explosive, explosive device or incendiary material, thing or device with the intent of causing bodily injury or death to any person shall, upon conviction, be guilty of a felony~~, and, upon conviction therefor, shall suffer punishment~~ punishable by imprisonment in the custody of the Department of Corrections for ~~a period of time of~~ not less than five (5) years, or ~~imprisonment in the State Penitentiary~~ for life, at the discretion of the court or the jury trying the same.

SECTION 2. AMENDATORY 21 O.S. 2011, Section 1320.10, is amended to read as follows:

Section 1320.10 No person, except those specifically authorized by the state or federal government, shall:

1. Teach or demonstrate to any group of persons the use, application or making of any firearm, explosive, explosive device, incendiary or incendiary device or application of physical force capable of causing injury or death to a person knowing or intending that such firearm, explosive, explosive device, incendiary or incendiary device or application of physical force will be employed for use in, or in furtherance of, a riot or civil disorder; or

2. Assemble with one or more persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive, explosive device, incendiary or incendiary

device or application of physical force capable of causing injury or death to a person, intending to employ such firearm, explosive, explosive device, incendiary or incendiary device or application of physical force for use in, or in furtherance of, a riot or civil disorder. Any violation of this section shall be a felony.

SECTION 3. AMENDATORY 21 O.S. 2011, Section 1368, is amended to read as follows:

Section 1368. A. Any person who has been convicted of a felony under the laws of this or any other state or the laws of the United States who, with an unlawful intent, is in possession of any explosives, explosive devices or incendiaries, upon conviction, shall be guilty of a felony and shall be punished by a fine of not to exceed Five Thousand Dollars ($5,000.00), or by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term not to exceed ten (10) years, or by both such fine and imprisonment.

B. For purposes of this section, the term "explosive" shall have the same definition as the term "explosive" as defined by Chapter 8 of Title 63 of the Oklahoma Statutes.

C. For purposes of this section, the terms "explosives", "explosive devices", "incendiaries" or "incendiary devices" shall not include fireworks as defined by Section 1622 of Title 68 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 21 O.S. 2011, Section 1441, is amended to read as follows:

Section 1441. Any person who enters any building, railway car, vehicle, or structure and there opens or attempts to open any vault, safe, or receptacle used or kept for the secure keeping of money, securities, books of accounts, or other valuable property, papers or documents, without the consent of the owner, by the use of or aid of dynamite, nitroglycerine, gunpowder, or other ~~explosives~~ explosive, explosive device or incendiary, or who enters any such building, railway car, vehicle, or structure in which is kept any vault, safe or other receptacle for the safe keeping of money or other valuable property, papers, books or documents, with intent and without the consent of the owner, to open or crack such vault, safe or receptacle by the aid or use of any explosive, upon conviction, shall be deemed guilty of a felony~~, and upon conviction shall be punished~~ punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term of not less than twenty (20) years nor more than fifty (50) years.

SECTION 5. AMENDATORY 21 O.S. 2011, Section 1767.1, is amended to read as follows:

Section 1767.1 A. Any person who shall willfully or maliciously commit any of the following acts shall be deemed guilty of a felony:

1. Place or conspire to place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive, explosive device, incendiary or incendiary device with unlawful intent to destroy, throw down, or injure, in whole or in part, such property, or conspire, aid, counsel or procure the destruction of ~~any building, public or private, or any car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure~~ said property; or

2. Place or conspire to place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive, explosive device, incendiary or incendiary device with intent to destroy, throw down, or injure in whole or in part, under circumstances that, if such intent were accomplished, human life or safety would be endangered thereby; or

3. By the ~~explosion~~ functioning of any explosive ~~or the igniting of any~~, explosive device, incendiary or incendiary device destroy, throw down, or injure any property of another person, or cause injury to another person; or

4. Manufacture, sell, transport, or possess any explosive or explosive device, the component parts of an explosive material or explosive device, an incendiary or incendiary device, or simulated bomb with knowledge or intent that it or they will be used to

unlawfully kill, injure or intimidate any person, or unlawfully damage any real or personal property; or

5. Place or conspire to place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any foul, poisonous, offensive or injurious substance or compound, explosive, explosive device, incendiary, incendiary device, or simulated bomb with intent to wrongfully injure, molest or coerce another person or to injure or damage the property of another person; or

6. Injure, damage or attempt to damage by an explosive, explosive device, incendiary or incendiary device any person, persons, or property, whether real or personal; or

7. Make any threat or convey information known to be false, concerning an attempt or alleged attempt to kill, injure or intimidate any person or unlawfully damage any real or personal property by means of an explosive, explosive device, incendiary, incendiary device, or simulated bomb; or

8. Manufacture, sell, deliver, mail or send an explosive, explosive device, incendiary, incendiary device, or simulated bomb to another person; or

9. While committing or attempting to commit any felony, possess, display, or threaten to use any explosive, explosive device, incendiary, incendiary device, or simulated bomb.

B. Nothing contained herein shall be construed to apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving no injurious firecrackers or devices commonly called "stink bombs".

SECTION 6. AMENDATORY 21 O.S. 2011, Section 1767.2, is amended to read as follows:

Section 1767.2 Any person violating any of the provisions of Section 1767.1 of this title shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for not less than three (3) years nor more than ~~ten (10)~~ twenty (20) years, or by a fine not to exceed Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment. If personal injury results, such person shall be punished by imprisonment in the State Penitentiary for not less than seven (7) years or life imprisonment.

SECTION 7. AMENDATORY 21 O.S. 2011, Section 1767.3, is amended to read as follows:

Section 1767.3 As used in Section 1767.1 of this title:

1. "Explosive" or "explosives" means any chemical compound, mixture, incendiary or device, the primary or common purpose of which is to function by explosion or which, although not its primary or common purpose, has been modified, manipulated, altered, enhanced, or otherwise caused to function by explosion (that is, with substantial instantaneous release of gas, heat, debris, or

concussive pressure or force, or any combination of such actions), unless such compound, mixture, incendiary or device is otherwise specifically classified by the United States Department of Transportation. The term "explosive" or "explosives" shall include but not be limited to gunpowder, dynamite, any bomb, all materials as defined in paragraphs 1 and 2 of Section 121.1 of Title 63 of the Oklahoma Statutes, and all material which is classified as explosives by the United States Department of Transportation;

2. "Person" means any individual or individuals, firm, copartnership, corporation, company, association, joint stock association, and includes any trustee, receiver, assignee or personal representative thereof;

3. "Incendiary device" means any chemical compound, mixture or device, the primary purpose of which is to ignite on impact or as a result of chemical reaction such as a "Molotov cocktail" or "firebomb" which is ignited on impact, causing a mechanical reaction of the container's breaking and permitting the inflammable matter to spread or splatter and is ignited from the burning wick or hypergolic reaction of chemicals;

4. "Component parts" means separate parts which if assembled would form an explosive device. Component parts of an "incendiary device" shall consist of an inflammable material, a breakable container and a source of ignition; and

5. "Simulated bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, an incendiary device, explosive, or explosives, as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a device or explosive.

SECTION 8. AMENDATORY 63 O.S. 2011, Section 121.1, is amended to read as follows:

Section 121.1 A. For purposes of this chapter:

1. "Explosive" or "explosive device" means any chemical compound or mechanical mixture that is commonly used or which is intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, by chemical reaction, or by detonation of any part of the compound or mixture may cause gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb. Provided, that dynamite, nitroglycerin, gunpowder, blasting powder and trinitrotoluene shall be deemed explosives without further proof of their explosive nature. The term "explosive" shall also include all material which is classified as explosive by the United States Department of Transportation. The ~~term~~ terms "explosive" and "explosive devices" shall not include explosives in the forms prescribed in the official UNITED STATES PHARMACOPOEIA; fireworks as

defined by Section 1622 of Title 68 of the Oklahoma Statutes; or small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and regulations promulgated thereunder;

2. "Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a test blasting cap containing two (2) grams of a mixture eighty percent (80%) mercury fulminate and twenty percent (20%) potassium chlorate, or a cap of equivalent strength. The term "blasting agent" shall not include explosives in the forms prescribed in the official UNITED STATES PHARMACOPOEIA; fireworks as defined by Section 1622 of Title 68 of the Oklahoma Statutes; or small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and regulations promulgated thereunder; and

3. "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, and includes any trustee, receiver, assignee or personal representative thereof.

SECTION 9. This act shall become effective November 1, 2014.

54-2-3660 LKS 4/22/2014 11:50:05 AM