

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1276

 By: Cockroft

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7 AS INTRODUCED

8 An Act relating to explosives; amending 21 O.S. 2011,
9 Section 849, which relates to wiring vehicles or
 structures with explosives; modifying scope of
10 certain prohibited act; updating language; amending
 21 O.S. 2011, Section 1320.10, which relates to
11 training persons to use explosives or incendiary
 devices; modifying scope of certain prohibited acts;
12 amending 21 O.S. 2011, Section 1368, which relates to
 possession of explosives by felons; expanding scope
13 of certain prohibited act; updating language;
 amending 21 O.S. 2011, Section 1441, which relates to
14 burglary with explosives; modifying scope of certain
 prohibited act; updating language; amending 21 O.S.
15 2011, Sections 1767.1, 1767.2 and 1767.3, which
 relate to the use of explosives and bombs; modifying
16 scope of certain prohibited acts; increasing certain
 penalty; modifying definition; updating language;
17 amending 63 O.S. 2011, Section 121.1, which relates
 to explosives; clarifying definition; and providing
18 an effective date.

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

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

1 Section 849. Every person who shall attach to, or place in or
2 upon any motor vehicle or any vehicle designed or customarily used
3 to transport a person or persons or any structure designed or
4 customarily used for the occupancy of a person or persons, any
5 explosive, explosive device or incendiary material, thing or device
6 with the intent of causing bodily injury or death to any person
7 shall, upon conviction, be guilty of a felony, ~~and, upon conviction~~
8 ~~therefor, shall suffer punishment~~ punishable by imprisonment in the
9 custody of the Department of Corrections for ~~a period of time of~~ not
10 less than five (5) years, or ~~imprisonment in the State Penitentiary~~
11 for life, at the discretion of the court or the jury trying the
12 same.

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

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

17 1. Teach or demonstrate to any group of persons the use,
18 application or making of any firearm, explosive, explosive device,
19 incendiary or incendiary device or application of physical force
20 capable of causing injury or death to a person knowing or intending
21 that such firearm, explosive, explosive device, incendiary or
22 incendiary device or application of physical force will be employed
23 for use in, or in furtherance of, a riot or civil disorder; or
24

1 2. Assemble with one or more persons for the purpose of
2 training with, practicing with or being instructed in the use of any
3 firearm, explosive, explosive device, incendiary or incendiary
4 device or application of physical force capable of causing injury or
5 death to a person, intending to employ such firearm, explosive,
6 explosive device, incendiary or incendiary device or application of
7 physical force for use in, or in furtherance of, a riot or civil
8 disorder. Any violation of this section shall be a felony.

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

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

20 B. For purposes of this section, the term "explosive" shall
21 have the same definition as the term "explosive" as defined by
22 ~~Chapter 8~~ Section 121.1 of Title 63 of the Oklahoma Statutes.

23 C. For purposes of this section, the terms "explosives",
24 "explosive devices", "incendiaries" or "incendiary devices" shall

1 not include fireworks as defined by Section 1622 of Title 68 of the
2 Oklahoma Statutes.

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

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

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

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

4 1. Place or conspire to place in, upon, under, against or near
5 to any building, car, truck, aircraft, motor or other vehicle,
6 vessel, railroad, railway car, or locomotive or structure, any
7 explosive, explosive device, incendiary or incendiary device ~~with~~
8 ~~unlawful intent to destroy, throw down, or injure, in whole or in~~
9 ~~part, such property, or conspire, aid, counsel or procure the~~
10 ~~destruction of any building, public or private, or any car, truck,~~
11 ~~aircraft, motor or other vehicle, vessel, railroad, railway car, or~~
12 ~~locomotive or structure~~ capable of causing destruction of such
13 property; or

14 2. Place or conspire to place in, upon, under, against or near
15 to any building, car, truck, aircraft, motor or other vehicle,
16 vessel, railroad, railway car, or locomotive or structure, any
17 explosive, explosive device, incendiary or incendiary device ~~with~~
18 ~~intent to destroy, throw down, or injure in whole or in part~~ capable
19 of causing destruction or injury, under circumstances that, if ~~such~~
20 ~~intent were accomplished~~ functioned, human life or safety would be
21 endangered thereby; or

22 3. By the ~~explosion~~ functioning of any explosive ~~or the~~
23 ~~igniting of any,~~ explosive device, incendiary or incendiary device
24

1 destroy, throw down, or injure any property of another person, or
2 cause injury to another person; or

3 4. Manufacture, sell, transport, or possess any explosive or
4 explosive device, the component parts of an explosive material or
5 explosive device, an incendiary or incendiary device, or simulated
6 bomb ~~with knowledge or intent that it or they will~~ that could be
7 used to unlawfully kill, injure or intimidate any person, or
8 unlawfully damage any real or personal property; or

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

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

19 7. Make any threat or convey information known to be false,
20 concerning an attempt or alleged attempt to kill, injure or
21 intimidate any person or unlawfully damage any real or personal
22 property by means of an explosive, explosive device, incendiary,
23 incendiary device, or simulated bomb; or
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1 8. Manufacture, sell, deliver, mail or send an explosive,
2 explosive device, incendiary, incendiary device, or simulated bomb
3 to another person; or

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

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

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

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

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

24 Section 1767.3 As used in Section 1767.1 of this title:

1 1. "Explosive" or "explosives" means any chemical compound,
2 mixture, incendiary or device, the primary or common purpose of
3 which is to function by explosion or which, although not its primary
4 or common purpose, has been modified, manipulated, altered,
5 enhanced, or otherwise caused to function by explosion (that is,
6 with substantial instantaneous release of gas, heat, debris, or
7 concussive pressure or force, or any combination of such actions),
8 unless such compound, mixture, incendiary or device is otherwise
9 specifically classified by the United States Department of
10 Transportation. The term "explosive" or "explosives" shall include
11 but not be limited to gunpowder, dynamite, any bomb, all materials
12 as defined in paragraphs 1 and 2 of Section 121.1 of Title 63 of the
13 Oklahoma Statutes, and all material which is classified as
14 explosives by the United States Department of Transportation;

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

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

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

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

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

14 Section 121.1 A. For purposes of this chapter:

15 1. "Explosive" or "explosive device" means any chemical
16 compound or mechanical mixture that is commonly used or which is
17 intended for the purpose of producing an explosion and which
18 contains any oxidizing and combustive units or other ingredients in
19 such proportions, quantities, or packing that an ignition by fire,
20 by friction, by concussion, by percussion, by chemical reaction, or
21 by detonation of any part of the compound or mixture may cause
22 gaseous pressures capable of producing destructive effects on
23 contiguous objects or of destroying life or limb. Provided, that
24 dynamite, nitroglycerin, gunpowder, blasting powder and

1 trinitrotoluene shall be deemed explosives without further proof of
2 their explosive nature. The term "explosive" shall also include all
3 material which is classified as explosive by the United States
4 Department of Transportation. The ~~term~~ terms "explosive" and
5 "explosive device" shall not include explosives in the forms
6 prescribed in the official UNITED STATES PHARMACOPOEIA; fireworks as
7 defined by Section 1622 of Title 68 of the Oklahoma Statutes; or
8 small arms ammunition and components therefor, which are subject to
9 the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and
10 regulations promulgated thereunder;

11 2. "Blasting agent" means any material or mixture consisting of
12 a fuel and oxidizer, intended for blasting, not otherwise classified
13 as an explosive, provided that the finished product, as mixed and
14 packaged for use or shipment, cannot be detonated when unconfined by
15 means of a test blasting cap containing two (2) grams of a mixture
16 eighty percent (80%) mercury fulminate and twenty percent (20%)
17 potassium chlorate, or a cap of equivalent strength. The term
18 "blasting agent" shall not include explosives in the forms
19 prescribed in the official UNITED STATES PHARMACOPOEIA; fireworks as
20 defined by Section 1622 of Title 68 of the Oklahoma Statutes; or
21 small arms ammunition and components therefor, which are subject to
22 the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and
23 regulations promulgated thereunder; and
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1 3. "Person" means any individual, firm, copartnership,
2 corporation, company, association, joint stock association, and
3 includes any trustee, receiver, assignee or personal representative
4 thereof.

5 SECTION 9. This act shall become effective November 1, 2015.

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7 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/05/2015 -
8 DO PASS.
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