

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1276

By: Cockroft

AS INTRODUCED

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; updating language; 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; updating language; 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

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

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

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

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

21 2. Assemble with one or more persons for the purpose of  
22 training with, practicing with or being instructed in the use of any  
23 firearm, explosive, explosive device, incendiary or incendiary  
24 device or application of physical force capable of causing injury or

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

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

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

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

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

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

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

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

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

22       1. Place or conspire to place in, upon, under, against or near  
23 to any building, car, truck, aircraft, motor or other vehicle,  
24 vessel, railroad, railway car, or locomotive or structure, any

1 explosive, explosive device, incendiary or incendiary device ~~with~~  
2 ~~unlawful intent to destroy, throw down, or injure, in whole or in~~  
3 ~~part, such property, or conspire, aid, counsel or procure the~~  
4 ~~destruction of any building, public or private, or any car, truck,~~  
5 ~~aircraft, motor or other vehicle, vessel, railroad, railway car, or~~  
6 ~~locomotive or structure~~ capable of causing destruction of such  
7 property; or

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

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

20 4. Manufacture, sell, transport, or possess any explosive or  
21 explosive device, the component parts of an explosive material or  
22 explosive device, an incendiary or incendiary device, or simulated  
23 bomb ~~with knowledge or intent that it or they will~~ that could be  
24

1 used to unlawfully kill, injure or intimidate any person, or  
2 unlawfully damage any real or personal property; or

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

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

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

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

21 9. While committing or attempting to commit any felony,  
22 possess, display, or threaten to use any explosive, explosive  
23 device, incendiary, incendiary device, or simulated bomb.  
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1 B. Nothing contained herein shall be construed to apply to, or  
2 repeal any laws pertaining to, the acts of mischief of juveniles  
3 involving no injurious firecrackers or devices commonly called  
4 "stink bombs".

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

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

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

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

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

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

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

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

20 4. "Component parts" means separate parts which if assembled  
21 would form an explosive device. Component parts of an "incendiary  
22 device" shall consist of an inflammable material, a breakable  
23 container and a source of ignition; and  
24



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

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

8        Section 121.1 A. For purposes of this chapter:

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

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

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

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

22 SECTION 9. This act shall become effective November 1, 2015.  
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24 55-1-6549 AMM 01/20/15