

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 3137

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, explosive device
13 or incendiary device upon conviction, shall be deemed guilty of a
14 felony, ~~and upon conviction shall be punished~~ punishable by
15 imprisonment in the ~~State Penitentiary~~ custody of the Department of
16 Corrections for a term of not less than twenty (20) years nor more
17 than fifty (50) years.

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

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

23 1. Place or conspire to place in, upon, under, against or near
24 to any building, car, truck, aircraft, motor or other vehicle,

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

9 2. 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
12 explosive, explosive device, incendiary or incendiary device ~~with~~
13 ~~intent to destroy, throw down, or injure in whole or in part~~ capable
14 of causing destruction or injury, under circumstances that, if ~~such~~
15 ~~intent were accomplished~~ functioned, human life or safety would be
16 endangered thereby; or

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

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

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.
24

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~~ custody
15 of the Department of Corrections for not less than seven (7) years
16 or life imprisonment.

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

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

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

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

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

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

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

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, 2016.
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24 55-2-7717 GRS 12/30/15