

1 **SENATE FLOOR VERSION**

2 April 8, 2015

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1276

By: Cockroft of the House

and

Smalley of the Senate

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8
9 [explosives - modifying scope of certain prohibited
10 acts - effective date]

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

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

15 Section 849. Every person who shall attach to, or place in or
16 upon any motor vehicle or any vehicle designed or customarily used
17 to transport a person or persons or any structure designed or
18 customarily used for the occupancy of a person or persons, any
19 explosive, explosive device or incendiary material, thing or device
20 with the intent of causing bodily injury or death to any person
21 shall, upon conviction, be guilty of a felony, ~~and, upon conviction~~
22 ~~therefor, shall suffer punishment~~ punishable by imprisonment in the
23 custody of the Department of Corrections for ~~a period of time of not~~
24 less than five (5) years, or ~~imprisonment in the State Penitentiary~~

1 for life, at the discretion of the court or the jury trying the
2 same.

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

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

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

14 2. Assemble with one or more persons for the purpose of
15 training with, practicing with or being instructed in the use of any
16 firearm, explosive, explosive device, incendiary or incendiary
17 device or application of physical force capable of causing injury or
18 death to a person, intending to employ such firearm, explosive,
19 explosive device, incendiary or incendiary device or application of
20 physical force for use in, or in furtherance of, a riot or civil
21 disorder. Any violation of this section shall be a felony.

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

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

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

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

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

19 Section 1441. Any person who enters any building, railway car,
20 vehicle, or structure and there opens or attempts to open any vault,
21 safe, or receptacle used or kept for the secure keeping of money,
22 securities, books of accounts, or other valuable property, papers or
23 documents, without the consent of the owner, by the use of or aid of
24 dynamite, nitroglycerine, gunpowder, or other ~~explosives~~ explosive,

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

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

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

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

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1 ~~locomotive or structure~~ capable of causing destruction of such
2 property; or

3 2. 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
6 explosive, explosive device, incendiary or incendiary device ~~with~~
7 ~~intent to destroy, throw down, or injure in whole or in part~~ capable
8 of causing destruction or injury, under circumstances that, if ~~such~~
9 ~~intent were accomplished~~ functioned, human life or safety would be
10 endangered thereby; or

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

15 4. Manufacture, sell, transport, or possess any explosive or
16 explosive device, the component parts of an explosive material or
17 explosive device, an incendiary or incendiary device, or simulated
18 bomb ~~with knowledge or intent that it or they will~~ that could be
19 used to unlawfully kill, injure or intimidate any person, or
20 unlawfully damage any real or personal property; or

21 5. Place or conspire to place in, upon, under, against or near
22 to any building, car, truck, aircraft, motor or other vehicle,
23 vessel, railroad, railway car, or locomotive or structure, any foul,
24 poisonous, offensive or injurious substance or compound, explosive,

1 explosive device, incendiary, incendiary device, or simulated bomb
2 with intent to wrongfully injure, molest or coerce another person or
3 to injure or damage the property of another person; or

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

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

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

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

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

22 SECTION 6. AMENDATORY 21 O.S. 2011, Section 1767.2, is
23 amended to read as follows:
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1 Section 1767.2 Any person violating any of the provisions of
2 Section 1767.1 of this title shall be deemed guilty of a felony, and
3 upon conviction shall be punished by imprisonment in the ~~State~~
4 Penitentiary custody of the Department of Corrections for not less
5 than three (3) years nor more than ten (10) years, or by a fine not
6 to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine
7 and imprisonment. If personal injury results, such person shall be
8 punished by imprisonment in the ~~State Penitentiary~~ custody of the
9 Department of Corrections for not less than seven (7) years or life
10 imprisonment.

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

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

14 1. "Explosive" or "explosives" means any chemical compound,
15 mixture, incendiary or device, the primary or common purpose of
16 which is to function by explosion or which, although not its primary
17 or common purpose, has been modified, manipulated, altered,
18 enhanced, or otherwise caused to function by explosion (that is,
19 with substantial instantaneous release of gas, heat, debris, or
20 concussive pressure or force, or any combination of such actions),
21 unless such compound, mixture, incendiary or device is otherwise
22 specifically classified by the United States Department of
23 Transportation. The term "explosive" or "explosives" shall include
24 but not be limited to gunpowder, dynamite, any bomb, all materials

1 as defined in paragraphs 1 and 2 of Section 121.1 of Title 63 of the
2 Oklahoma Statutes, and all material which is classified as
3 explosives by the United States Department of Transportation;

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

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

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

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

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

3 Section 121.1 A. For purposes of this chapter:

4 1. "Explosive" or "explosive device" means any chemical
5 compound or mechanical mixture that is commonly used or which is
6 intended for the purpose of producing an explosion and which
7 contains any oxidizing and combustive units or other ingredients in
8 such proportions, quantities, or packing that an ignition by fire,
9 by friction, by concussion, by percussion, by chemical reaction, or
10 by detonation of any part of the compound or mixture may cause
11 gaseous pressures capable of producing destructive effects on
12 contiguous objects or of destroying life or limb. Provided, that
13 dynamite, nitroglycerin, gunpowder, blasting powder and
14 trinitrotoluene shall be deemed explosives without further proof of
15 their explosive nature. The term "explosive" shall also include all
16 material which is classified as explosive by the United States
17 Department of Transportation. The ~~term~~ terms "explosive" and
18 "explosive device" 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;

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
20 April 8, 2015 - DO PASS AS AMENDED

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