

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 505 Session of
1999

INTRODUCED BY L. I. COHEN, THOMAS, GEORGE, BATTISTO, BELARDI,
LAUGHLIN, READSHAW, CURRY, PRESTON, HORSEY, ROSS, RUBLEY,
WOGAN, GIGLIOTTI, CAPPABIANCA, BARD, STURLA, RAMOS, TIGUE,
MUNDY, STABACK, HARHAI AND M. COHEN, FEBRUARY 10, 1999

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 10, 1999

AN ACT

1 Amending the act of July 1, 1937 (P.L.2681, No.537), entitled
2 "An act relating to, and regulating the manufacture, storing,
3 and possession of explosives; requiring permits for
4 magazines, and prescribing permit fees; and providing
5 penalties," providing for identification taggants; imposing a
6 penalty; and making editorial changes.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Sections 2 and 3 of the act of July 1, 1937
10 (P.L.2681, No.537), referred to as the Explosives Manufacture,
11 Storage and Possession Law, are amended to read:

12 Section 2. The term "department," as used in this act, shall
13 mean the Department of Environmental Protection of the
14 Commonwealth.

15 The term "explosives," [whenever] as used in this act, shall
16 mean and include any chemical compound or other substance
17 intended for the purpose of producing an explosion, or that
18 contains oxidizing and combustible units or other ingredients in

1 such proportions or quantities that ignition by fire, by
2 friction, by concussion, by percussion, or by detonator, may
3 produce an explosion capable of causing injury to persons, or
4 damage to property.

5 [For the purpose of this act, manufactured articles shall not
6 be held to be explosives when] The term shall not include
7 manufactured articles that consist of individual units [contain]
8 containing ingredients in such limited quantities and of such
9 nature as not ordinarily to be classified as an explosive, such
10 as fixed ammunition for small arms, firecrackers, safety fuse,
11 matches, and other articles which may be defined from time to
12 time by regulations of the [department] Department of
13 Environmental Protection.

14 The term "identification taggant," as used in this act, shall
15 mean any substance which is added to an explosive material
16 during the manufacture of the material, is retrievable after
17 detonation, permits the identification of the manufacturer and
18 the date of manufacture of the material and provides such other
19 information as required by the Department of Environmental
20 Protection.

21 The term "magazine," as used [herein] in this act, means any
22 building or other structure used exclusively for the storage of
23 explosives.

24 The word "person," as used in this act, shall be construed to
25 include individuals, copartnerships, associations, and
26 corporations, as well as the Commonwealth and all political
27 subdivisions thereof.

28 Section 3. (a) All persons engaged in the manufacture of
29 explosives, or any process involving explosives, or where
30 explosives are used as a component part in the manufacture of

1 any article or device on the date when this act takes effect,
2 shall, within sixty days thereafter, and all persons engaging in
3 the manufacture of explosives, or any process involving
4 explosives, or where explosives are used as a component part in
5 the manufacture of any article or device after this act takes
6 effect, shall, before so engaging, make a report in writing,
7 subscribed to by such person or his agent, to the [Department of
8 Labor and Industry, the report stating--] department.

9 (b) The report shall state:

10 (1) The location of place of manufacture or processing.

11 (2) The kind of explosives manufactured, processed, or used.

12 Section 2. The act is amended by adding a section to read:

13 Section 3.1. (a) No person shall make, manufacture,
14 transport, ship, distribute, import, use or receive or cause to
15 be made, manufactured, transported, shipped, distributed,
16 imported, used or received any explosive material that does not
17 contain an identification taggant in accordance with regulations
18 promulgated by the department under this section.

19 (b) The department shall promulgate rules and regulations
20 relating to the acceptable method or methods of adding
21 identification taggants to explosives and explosive materials.

22 (c) Notwithstanding any penalties provided for in this act,
23 any person in violation of subsection (a) commits a misdemeanor
24 of the first degree.

25 Section 3. Sections 4, 5, 6, 7 and 8 of the act are amended
26 to read:

27 Section 4. (a) All persons storing explosives or having
28 explosives in their possession on the date when this act takes
29 effect, shall, within sixty days thereafter, and all persons
30 contemplating the storing of explosives or having same in their

1 possession after this act takes effect, shall, before obtaining
2 or storing such explosives, make a report in writing, subscribed
3 to by such person or his agent, to the [Department of Labor and
4 Industry, the report stating--] department.

5 (b) The report shall state:

6 (1) The capacity, type of construction, and location of the
7 magazine, if then existing, or, in case of a new magazine or a
8 removal of any existing magazine, the capacity, type of
9 construction, and proposed location of such magazine.

10 (2) The kind of explosives that are stored or in possession,
11 or intended to be stored or obtained, and the maximum quantity
12 involved.

13 (3) The distance that such magazine is located or intended
14 to be located from the nearest buildings, magazines, railroads,
15 and highways.

16 Section 5. (a) The department shall determine the amount of
17 explosives that may be stored or placed in magazines and shall
18 issue a license to the person applying [therefor, as hereinafter
19 provided, such license to stipulate] for the license. The
20 license shall specify the maximum amount of explosives
21 permitted.

22 (b) Whenever any person fails, for thirty days, to pay the
23 annual license fee [hereinafter provided] under this act, after
24 the same becomes due or otherwise violates any of the provisions
25 of this act, the [Secretary of Labor and Industry] department
26 may cancel [such] the license.

27 (c) Whenever a license is cancelled for any cause, the
28 [Secretary of Labor and Industry, or his duly authorized
29 representative] department shall notify, in writing, the person
30 to whom [such] the license is issued of the [fact of such]

1 cancellation, and shall [in said notice] direct the removal of
2 all explosives stored in [said] the magazine within a reasonable
3 time limit, but not to exceed ten days from the [giving of said]
4 notice. Failure to [so] remove the explosives stored in [said]
5 the magazine within the time specified in [said] the notice
6 shall constitute a violation of this act.

7 Section 6. If at any time any governing body or other
8 authority of any locality may know of any reason why a magazine
9 or building in which explosives are used or kept is not or
10 cannot be conducted in accordance with the provisions of this
11 act, and should not be permitted to operate, upon notifying the
12 [Secretary of Labor and Industry] department, in writing, [or
13 his duly authorized representative,] a hearing may be conducted
14 by the [said Secretary of Labor and Industry or his duly
15 authorized representative,] department to show cause why a
16 license should not be issued or should not be revoked.

17 Section 7. All explosive plants and all buildings and
18 magazines wherein explosives are manufactured or stored shall be
19 located, operated, maintained, equipped, and conducted so as to
20 provide for the adequate protection for all persons employed in
21 or about such explosive plants or magazines. The location of
22 explosive plants with respect to other buildings, railroads, and
23 highways, and the location of buildings wherein explosives are
24 manufactured or stored with respect to other magazines or
25 buildings when explosives are manufactured shall be in
26 accordance with the regulations adopted by the [Department of
27 Labor and Industry] department.

28 Section 8. (a) There shall be kept in the main office on
29 the premises of every explosive plant a plan of said plant,
30 showing the location of all buildings and the distance they are

1 located from other buildings where persons are employed and from
2 magazines, and these plans shall at all times be open to
3 inspection by duly authorized inspectors of the [Department of
4 Labor and Industry] department.

5 (b) The superintendent of each plant shall, upon demand of
6 said inspector, furnish the following information:

7 [(a)] (1) The maximum amount and kind of explosive material
8 which is or will be present in each building at any one time.

9 [(b)] (2) The nature and kind of work carried on in each
10 building, whether or not said buildings are surrounded by
11 natural or artificial barricades, and if so the details of
12 construction of [such] the barricades.

13 Section 4. Section 9 of the act, amended May 22, 1953
14 (P.L.201, No.17), is amended to read:

15 Section 9. (a) After January [first, one thousand nine
16 hundred and thirty-eight] 1, 1938, every person storing or in
17 possession of explosives shall be required to have a license for
18 each magazine used for the storing or placing of explosives,
19 which license shall be issued on a form prepared and furnished
20 by the [Department of Labor and Industry] department. The
21 application for license shall be accompanied by the proper
22 license fee, which shall be prescribed by the department,
23 according to the quantity of explosives which are to be stored
24 or placed in the magazine, and shall not be less than three
25 dollars and fifty cents (\$3.50) nor more than fifty dollars
26 (\$50).

27 [Such] (b) The license shall be kept posted conspicuously in
28 or about the magazine for which issued.

29 (c) Licenses shall expire annually on the thirty-first day
30 of December, and shall be renewed annually upon payment of the

1 fee as specified in this section.

2 Section 5. Section 10 of the act is amended to read:

3 Section 10. Every person, company, or corporation
4 manufacturing, storing, selling, transferring, dealing in, or in
5 any manner disposing of any explosives, shall keep, in a book
6 for that purpose, an accurate record of all transactions with
7 the date [thereof] of the transactions relating to the receiving
8 and disposing of the [same] explosives, which record shall show
9 the amount of each [such] explosive received, by whom
10 transported or conveyed, and each and every sale or other
11 disposition made of [such] the explosives with the amount
12 [thereof] of the explosives, and the name of the person to whom
13 delivery of the [same] explosives was made, who shall be
14 required to receipt [therefor. Such] for the delivery. The
15 record shall at all times be open to the inspection of any duly
16 authorized representative of the Commonwealth.

17 Section 6. Section 10.1 of the act, added March 13, 1982
18 (P.L.181, No.57), is amended to read:

19 Section 10.1. (a) Possession and storage of commercially
20 manufactured black powder (in quantities not to exceed ten
21 pounds), percussion caps, safety and pyrotechnic fuses, matches
22 and friction primers, intended to be used solely for sporting,
23 recreational, cultural purposes in antique firearms or antique
24 devices as defined in § 921(a)(16) of Title 18 of the United
25 States Code shall be exempt from regulation by the [Department
26 of Environmental Resources] department.

27 (b) Possession and storage of smokeless powder, primers used
28 for reloading rifle or pistol cartridges, shot shells,
29 percussion caps and smokeless propellants intended for personal
30 use shall be exempt from regulation by the [Department of

1 Environmental Resources] department.

2 (c) The storage of black powder in quantities not to exceed
3 one thousand pounds shall be in accordance with the storage
4 requirements for low explosives in 27 C.F.R. § 181.181 et seq.
5 (Subpart J).

6 (d) The [Department of Environmental Resources] department
7 may adopt regulations for the storage of black powder in
8 quantities in excess of one thousand pounds.

9 Section 7. Sections 11 and 12 of the act are amended to
10 read:

11 Section 11. (a) For the purpose of carrying out [the
12 provisions of] this act and applying [these provisions] this act
13 to specific cases, the [Department of Labor and Industry]
14 department shall have the power, and its duties shall be, to
15 make, alter, amend, or repeal general rules and regulations to
16 provide protection in the manufacture, processing, adding of
17 identification taggants, transportation, storage, use, or
18 handling of explosives.

19 (b) Nothing in this section shall apply to the
20 transportation of explosives upon a highway or toll road,
21 including the Pennsylvania Turnpike.

22 Section 12. (a) Except as otherwise provided for in this
23 act:

24 (1) Any person or persons who shall violate any of the
25 provisions of this act or the rules and regulations of the
26 department as [herein] provided for under this act, or who shall
27 hinder or interfere with a duly authorized officer of the
28 Commonwealth in the performance of [his] that officer's duties
29 as herein provided, shall, upon conviction in a summary
30 proceeding, be punished by a fine of not less than ten dollars

1 (\$10) or more than one hundred dollars (\$100), and in default of
2 the payment of such fine and costs shall be sentenced to
3 imprisonment for not more than thirty days.

4 (2) Any person or persons who shall, on second offense,
5 violate any of the provisions of this act or the rules and
6 regulations of the department as [herein] provided for under
7 this act, shall be guilty of a misdemeanor, and, upon
8 conviction, shall be sentenced to pay a fine of not less than
9 one hundred dollars (\$100) and not more than one thousand
10 dollars (\$1,000), or to suffer imprisonment for not more than
11 one year, or both, at the discretion of the court.

12 (b) Prosecution for violation of this act may be instituted
13 by the [Secretary of Labor and Industry or his duly authorized
14 representative] department or a duly authorized representative
15 of the department.

16 Section 8. This act shall take effect in one year.