

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.
Act 1226 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2411

4
5 By: Representative Pace
6
7

For An Act To Be Entitled

8
9 AN ACT TO PROTECT THE HEALTH AND SAFETY OF THE
10 PEOPLE OF THE STATE OF ARKANSAS FROM UNLAWFUL USE
11 OF EXPLOSIVE MATERIALS AND DESTRUCTIVE DEVICES BY
12 ESTABLISHING VARIOUS NEW CRIMES PERTAINING TO
13 EXPLOSIVE MATERIALS AND DESTRUCTIVE DEVICES; AND
14 FOR OTHER PURPOSES.
15

Subtitle

16
17
18 TO PROTECT THE HEALTH AND SAFETY OF
19 PERSONS FROM UNLAWFUL USE OF EXPLOSIVE
20 MATERIALS AND DESTRUCTIVE DEVICES BY
21 ESTABLISHING VARIOUS NEW CRIMES
22 PERTAINING TO EXPLOSIVE MATERIALS AND
23 DESTRUCTIVE DEVICES.
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 5-73-101 is amended to read as follows:
29 5-73-101. Definitions.

30 As used in this chapter, unless the context otherwise requires:

31 (1) "Blasting agent" means any material or mixture consisting of
32 fuel and oxidizer, intended for blasting provided that the finished product,
33 as mixed for use or shipment, cannot be detonated by means of a No. 8 test
34 blasting cap when unconfined;

35 (2) "Contraband" means any explosive material, which was used



1 with the knowledge and consent of the owner to facilitate a violation of this
 2 subchapter, as well as any explosive material possessed under circumstances
 3 prohibited by law;

4 (3) "Destruction Device" means:

5 (A)(i) Any explosive, incendiary or poison gas;

6 (ii) Bomb;

7 (iii) Grenade;

8 (iv) Rocket having a propellant charge of more than
 9 four ounces;

10 (v) Missile having an explosive or incendiary charge
 11 of more than one-quarter ounce;

12 (vi) Mine; or

13 (vii) Similar device; and

14 (B) Any combination of parts either designed or intended
 15 for use in converting any device into a destructive device as defined in
 16 subdivision (2)(A) and from which a destructive device may be readily
 17 assembled for use as a weapon;

18 (4)(A) "Detonator" means any device containing any initiating or
 19 primary explosive that is used for initiating detonation.

20 (B) A "detonator" may not contain more than ten (10) grams
 21 of total explosives by weight, excluding ignition or delay charges, and may
 22 include, without limitation, electric blasting caps of instantaneous and
 23 delay types, blasting caps for use with safety fuses, detonating cord delay
 24 connectors, and non-instantaneous and delay blasting caps that use detonating
 25 cord, shock tube, or any other replacement for electric leg wires;

26 (5) "Distribute" means to sell, issue, give, transfer, or
 27 otherwise dispose of explosive material;

28 (6) "Explosive Material" means explosives, blasting agents, or
 29 detonators;

30 (7)(A) "Explosives" means any chemical compound mixture, or
 31 device, the primary or common purpose of which is to function by explosion.

32 (B) "Explosives" includes, without limitation, dynamite
 33 and other high explosives, black powder, pellet powder, initiating
 34 explosives, detonators, safety fuses, squibs, detonating cord, igniter cord,
 35 igniters, any material determined to be within the scope of Title 18 United
 36 States Code Chapter 40, and any material classified as an explosive other

1 than consumer fireworks, 1.4 (Class C, Common), by the hazardous materials
 2 regulations of DOT 49 C.F.R;

3 ~~(1)~~(7) "Instrument of crime" means anything manifestly designed,
 4 made, adapted, or commonly used for criminal purposes;

5 ~~(2)~~(8) "Minor" means any person under eighteen (18) years of
 6 age; and

7 ~~(3)~~(9) "Violent felony conviction" means a conviction for any
 8 felony offense against the person codified in Title 5, chapters 10-14, or any
 9 other offense containing as an element of the offense one (1) of the
 10 following:

- 11 (A) The use of physical force;
- 12 (B) The use or threatened use of serious physical force;
- 13 (C) The infliction of physical harm; or
- 14 (D) The creation of a substantial risk of serious physical
 15 harm.

16
 17 SECTION 2. Arkansas Code § 5-73-108 is amended to read as follows:

18 5-73-108. Criminal ~~possession of~~ acts involving explosives.

19 (a)(1) A person commits the offense of criminal possession of
 20 ~~explosives~~ explosive material or destructive device when he sells, possesses,
 21 manufactures, transfers, or transports an explosive ~~substance or incendiary~~
 22 material or destructive device:

23 ~~(1)~~(A) If he has the purpose of using that ~~substance~~ explosive
 24 material or destructive device to commit an offense; or

25 ~~(2)~~(B) If he knows or should know that some other person intends
 26 to use that ~~substance~~ explosive material or destructive device to commit an
 27 offense.

28 ~~(b)~~(2) Criminal possession of ~~explosives~~ explosive material or
 29 destructive device is a Class B felony.

30 (b)(1) A person commits the offense of criminal distribution of
 31 explosive material when he knowingly distributes explosive material to any
 32 individual who:

33 (A) Has plead guilty or nolo contendere or been found
 34 guilty of a crime in state or federal court punishable by imprisonment for a
 35 term exceeding one (1) year;

36 (B) Is under indictment or has been formally charged for a

1 crime punishable by imprisonment for a term exceeding one (1) year;

2 (C) Is a fugitive from justice;

3 (D) Is an unlawful user of or addicted to any controlled
4 substance; or

5 (E) Has been adjudicated mentally incompetent.

6 (2) Criminal distribution of explosive material is a Class C
7 felony:

8 (c)(1) A person commits the offense of possession of stolen explosive
9 material when an individual receives, possess, transports, ships, conceals,
10 stores, barter, sells, disposes of, or pledges or accept as security for
11 loan, any stolen explosive materials knowing or having reasonable cause to
12 believe that the explosive material was stolen.

13 (2) Possession of stolen explosive material is a Class C felony.

14 (d)(1) A person commits the offense of unlawful receipt or possession
15 of an explosive material if the person:

16 (A) Has plead guilty or nolo contendere or been found
17 guilty of a crime in state or federal court in any court of a crime
18 punishable by imprisonment for a term exceeding one (1) year;

19 (B) Is under indictment or has been formally charged for a
20 crime punishable by imprisonment for a term exceeding one (1) year;

21 (C) Is a fugitive from justice;

22 (D) Is an unlawful user of or addicted to any controlled
23 substance; or

24 (E) Has been adjudicated mentally incompetent.

25 (2) Unlawful receipt or possession of explosive material is a
26 Class C felony.

27 (e) It shall be a Class A misdemeanor for any person to store any
28 explosive material in a manner not in conformity with the Arkansas Fire
29 Prevention Code.

30 (f) A person who commits theft of any explosive material with the
31 intent to cause harm to a person or property shall be guilty of a Class B
32 felony.

33 (g) Any explosive material determined to be contraband shall be
34 subject to seizure by a law enforcement officer and destroyed in conformity
35 with the Arkansas Fire Prevention Code.

36

1

APPROVED: 3/24/2005