

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.

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

# A Bill

HOUSE BILL 2411

4  
5 By: Representative Pace  
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## For An Act To Be Entitled

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.  
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## Subtitle

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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.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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  
36 with the knowledge and consent of the owner to facilitate a violation of this



1 subchapter, as well as any explosive material possessed under circumstances  
 2 prohibited by law;

3 (3) "Destruction Device" means:

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

5 (ii) Bomb;

6 (iii) Grenade;

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

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

11 (vi) Mine; or

12 (vii) Similar device; and

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

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

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

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

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

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

31 (B) "Explosives" includes, without limitation, dynamite  
 32 and other high explosives, black powder, pellet powder, initiating  
 33 explosives, detonators, safety fuses, squibs, detonating cord, igniter cord,  
 34 igniters, any material determined to be within the scope of Title 18 United  
 35 States Code Chapter 40, and any material classified as an explosive other  
 36 than consumer fireworks, 1.4 (Class C, Common), by the hazardous materials

1 regulations of DOT 49 C.F.R;

2 ~~(1)~~(7) "Instrument of crime" means anything manifestly designed,  
3 made, adapted, or commonly used for criminal purposes;

4 ~~(2)~~(8) "Minor" means any person under eighteen (18) years of  
5 age; and

6 ~~(3)~~(9) "Violent felony conviction" means a conviction for any  
7 felony offense against the person codified in Title 5, chapters 10-14, or any  
8 other offense containing as an element of the offense one (1) of the  
9 following:

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

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

17 5-73-108. Criminal ~~possession of~~ acts involving explosives.

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

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

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

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

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

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

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

1 (C) Is a fugitive from justice;

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

4 (E) Has been adjudicated mentally incompetent.

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

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

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

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

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

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

20 (C) Is a fugitive from justice;

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

23 (E) Has been adjudicated mentally incompetent.

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

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

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

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

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