

MAINE STATE LEGISLATURE

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N I N E T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1550

In Senate Chamber, May 1, 1953.
On motion of Senator Chapman of Cumberland ordered printed.
CHESTER T. WINSLOW, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

SENATE AMENDMENT "A" to H. P. 671, L. D. 714, Bill "An Act
Relating to Explosives."

Amend said bill by striking out all after the enacting clause and inserting
in place thereof the following :

Sec. 1. R. S., c. 85, §§ 41-A - 41-L, additional. Chapter 85 of the re-
vised statutes is hereby amended by adding thereto 12 new sections, to be
numbered 41-A to 41-L, inclusive, to read as follows :

'Sec. 41-A. Legislative purpose. The legislature declares that **explosives and explosive materials are inherently dangerous to life and property and shall be manufactured, owned, possessed, transported, kept and used only in such places and under such conditions and circumstances as will give reasonable safety to persons and property. Except when in the factory where made or processed or when in actual use all explosives and explosive materials shall be wrapped or packaged. Except when being transported or blasted, or while in the custody of a common carrier awaiting shipment or delivery to a consignee during the time permitted by federal law, all explosives and explosive materials shall be stored in property designed and constructed magazines. A limited storage of sporting and smokeless powders and primers within a building may be permitted. For the purpose of reloading shells, a maximum quantity of 5 pounds of sporting or smokeless powders, in the original manufacturer's containers, may be kept by a person licensed to own or possess the same. This section shall not apply to small arms, ammunition or signalling instruments, and nothing herein**

shall prevent the transportation of military or naval equipment with their accompanying munitions of war.

Sec. 41-B. "Explosive" defined. The term "explosive" shall be held to mean and include any chemical compound or any mechanical mixture that is commonly used or intended for the purpose of producing an explosion, or that contains any oxidizing and combustible units, or other units in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects upon contiguous objects or of destroying life or limb. The term "explosive" or "explosives" shall not include cartridges for small arms or shot-guns, or such fireworks or signalling devices as are designated by the insurance commissioner, and shall not include ship's signal or emergency equipment. The term "explosive" or "explosives" shall not be deemed to include gasoline, kerosene, naphtha, turpentine or benzine, or other like volatile combustibles.

Sec. 41-C. Regulations authorized. The insurance commissioner shall enforce the provisions of sections 41-A to 41-D, inclusive and is hereby authorized to make, amend, or rescind, after public hearing thereon, notice of which has been duly advertised in the state paper, reasonable rules and regulations for the safe and convenient storage, transportation and use of explosives, which regulations may deal with the quantity and character of explosives to be stored, transported or used; the manner of wrapping and packaging explosives; the proximity of storage to public highways, railroad tracks, inhabited buildings, churches, theatres, hospitals, public buildings and other places of public assembly or gathering; the character, size, location and construction of suitable magazines for such storage; the designation, markings and equipment of vehicles and means of transporting explosives; the issuance and cancellation of permits and licenses for the manufacture, possession, transportation, storage, use and sale of explosives; the abatement of any hazard that may arise incident to the storage, transportation, sale or use of explosives. All rules and regulations so promulgated, when approved by the governor and council and when filed with the secretary of state, shall have the force of law, insofar as they are not inconsistent with the provisions of this section. For the purpose of carrying out these duties the commissioner and his representatives may enter all premises subject to inspection.

Sec. 41-D. License or permit required. No person shall own, possess, keep, store or deal in explosives or explosive materials unless he shall first

obtain from the insurance commissioner a written permit to do so. Such permit shall be valid for 1 year unless otherwise noted thereon, and shall definitely state the location of the building in which such business is to be carried on or the place in which such explosives are to be kept or stored. No person shall transport explosives in intrastate commerce within this state in quantities of more than 200 pounds of dynamite or more than 500 blasting or electric blasting caps, unless he shall first obtain a written permit to do so from the insurance commissioner or from the fire inspector or the municipal officers in the town or city in which such explosives are to be stored or used. Such permit shall be valid for 1 year unless otherwise noted thereon.

No person shall sell, give or except when in actual use deliver to any person any explosive unless the person to whom such explosive is sold, given or delivered exhibits a permit to transport the same, and also a permit for the storage or keeping of such explosive. Provided, however, that as a condition to the granting of a permit or license to transport explosives, the commissioner may require that the vehicle used in transportation of explosives may be accompanied by a representative of the commissioner, who shall be paid mileage by the person to whom the license is issued at the rate allowed to fire inspectors by the state for the use of his car. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the insurance commissioner in enforcing any such rule or order, may appeal within 30 days to the justice of the superior court by presenting to him a petition therefor in term time or vacation, and such justice shall fix the time and place of hearing and cause notice thereof to be given to the commissioner; and after such hearing, the justice may affirm, modify or reverse the decision of the commissioner and shall remand the case to the commissioner for execution in accordance with the court decree.

Sec. 41-E. Record of sales. Each person selling or giving away any explosive shall keep a record in which shall be entered an accurate account of each sale made, whether in due course of trade or otherwise. Each transaction shall be legibly recorded at the time of the sale or transfer, and the record shall show the name and quantity of the explosive involved, the name, residence and business of the purchaser or transferee, and the name and address of the person to whom it is delivered. The dealer or transferer shall keep this record in his principal office or place of business within the state, and it shall be available for inspection by any military authority, the insurance commissioner or his representative, the local municipal officers and fire inspector and the state police.

Sec. 41-F. Explosives not to be transported by common carrier. No person shall transport explosives on any vessel, car or vehicle operated in the transporting of passengers by a common carrier; provided, however, such explosives may be transported upon such vessel, car or vehicle if not stored in a part thereof used for transportation of passengers for hire.

Sec. 41-G. Penalties. Any person or the officers of any corporation violating any provision of sections 41-A to 41-F, inclusive, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 41-H. Manufacture without license. No person without a license or permit shall manufacture, transport, use or have in his possession any compound more explosive than gun powder for which he has not a bill of sale or for which he cannot produce legal evidence showing that he obtained such explosive by a legal sale.

Sec. 41-I. Explosive compounds to be marked. All explosives and explosive matter as defined in sections 41-A to 41-L, inclusive, shall be marked with a plain and legible label describing its contents.

Sec. 41-J. Additional penalties. Any person violating any provision of the 2 preceding sections shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than 10 years, or by both such fine and imprisonment.

Sec. 41-K. Right to destroy explosives. The commissioner is empowered to seize and impound:

- I. Any explosives found in the possession of any person who is not licensed therefor;
- II. Explosives abandoned or lost; or
- III. Explosives in the possession of one charged, in accordance with state or federal statutes, of a felony, or with violation of any provision of sections 41-A to 41-L, inclusive.

The commissioner is empowered to destroy any explosives seized pursuant to the provisions of subsections I or II; provided that before such destruction the owner or possessor of such explosives is given at least 10 days' notice in writing, which may be waived in writing, to be served either personally or by registered mail, of a hearing for the said owner or possessor to show cause why such explosives should not be destroyed in accordance with the provisions of this chapter. If after such hearing the commissioner determines that such explosives should be destroyed, he may

in his discretion, in lieu of destruction, deliver such explosives to proper officials of the federal government for military uses, or to state officials for the use of the state. Likewise, when a person charged with a felony or with violation of the provisions of sections 41-A to 41-L, inclusive, has been convicted, impounded explosives may be destroyed, or turned over to appropriate federal or state officials, in the discretion of the commissioner. When a person so charged is acquitted, he may within 30 days thereafter ask for a restoration of impounded explosives, and shall be entitled to the same if he shall be licensed to receive the same; otherwise such explosives shall be forfeited and the commissioner may destroy or turn the same over to federal or state officials. Notwithstanding any of the foregoing provisions of this section, whenever the condition of explosives, their packing or location makes the continued existence or transportation of the same a hazard, the commissioner in his discretion may destroy the same forthwith, without hearing and without recourse by the owner or possessor.

Sec. 41-L. Civil rights. Any person manufacturing or storing any explosives or explosive materials near another's property in sufficient quantity to endanger the lives or safety of such other persons or injure their property shall be liable for all damages caused thereby.'

Sec. 2. Repealing clause. So much of section 42 of chapter 85 of the revised statutes as is inconsistent with the provisions of section 41-A to 41-L, inclusive, of said chapter 85 is hereby repealed.