

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 178

H.P. 134

House of Representatives, February 14, 1989

Submitted by the Department of Public Safety pursuant to Joint Rule 24.
Reference to the Committee on Legal Affairs suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative McPHERSON of Eliot.

Cosponsored by Senator HOLLOWAY of Lincoln and Representative PRIEST of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Establish Rules for the Use of Dynamite and Explosives.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **25 MRSA §2441**, as amended by PL 1983, c. 785, §7, is
5 further amended to read:

7 **§2441. Explosives or inflammables; rules**

9 The Commissioner of Public Safety shall make, amend or
11 rescind, after public hearing thereon, notice of which has been
13 duly advertised in the state paper, reasonable rules and
15 regulations for the use of explosives; and the keeping,
17 possession, storage, handling, dispensing or transporting from
place to place in the State of all gunpowder, petroleum, coal
oils, burning fluids, ~~naphtha~~ naphtha, benzine and all other
explosives and illuminating substances which ~~such~~ the
commissioner believes dangerous to the lives or safety of
citizens.

19 This section shall not apply to the storage in underground
21 tanks of petroleum, coal oils, burning fluids, ~~naphtha~~ naphtha,
23 benzines and other hazardous substances, materials or waste which
are regulated by the Department of Environmental Protection under
Title 38.

25 This section shall not apply to the purchase, sale,
27 transportation or storage of smokeless powder in amounts not in
excess of 15 pounds, or primers not in excess of 1,000 in number.

29 ~~Such~~ The rules and ~~regulations~~ shall become effective when
31 reviewed by the Attorney General for form and legality and
33 approved in writing by the Commissioner of Public Safety and when
a certified copy thereof of the rules has been filed with the
35 Secretary of State. Any person aggrieved by any ~~such~~ rule or
37 regulation or the reasonableness of ~~same~~ a rule, or any act or
order of the Commissioner of Public Safety in enforcing any ~~such~~
rule or ~~regulation~~, may appeal to the Superior Court ~~by filing a~~
39 ~~complaint therefor and the.~~ The court shall fix a time and place
of hearing and cause notice thereof to be given to the
41 commissioner and, after the hearing, the court may affirm or
reverse the rule, ~~regulation~~, act or order of the commissioner
~~and the.~~ The decision of the court shall be final.

43 Said The commissioner may waive the requirements of any ~~such~~
45 ~~rules or regulations~~ rule to cover any special circumstances,
conditions or localities.

47 The following schedule of fees shall apply to all
49 inspections and permits required by rule and ~~regulation~~ under
this section:

51 1. Inspection of explosive magazines. Inspection of
53 explosive magazines: \$10 to include any permit issued;

2. Inspection of vehicle used to transport explosives. Inspection of vehicle used to transport explosives: \$10 to include any permit issued; and

3. Inspection of flammable liquid storage facility. Inspection of flammable liquid storage facility: \$10 to include any permit issued.

No person shall may use explosives, nor keep or transport any such ~~article~~ explosive or flammable substance in any quantity or manner, except as prescribed in such ~~regulations~~ the rules, unless waived by the commissioner as provided, ~~under a penalty of~~ Any person who violates this section commits a civil violation for which a forfeiture of not less than \$20 \$100 nor more than \$100, \$500 may be adjudged for each offense. All such ~~articles~~ substances may be seized by any peace officer and forfeited, and, within 20 days after such seizure, may be labeled according to law. Cities and towns may make and enforce reasonable ordinances or bylaws, not inconsistent with said these rules and regulations.

STATEMENT OF FACT

The use of explosives in Maine remains unregulated. Currently, the most common explosives complaint received by the State Fire Marshal's office from citizens and municipal public safety officials relates to the use of explosives. The inability to deal with the complaint results in frustration for both the complainant and State Fire Marshal's office personnel. This bill would allow for the adoption of reasonable rules for the safe use of explosives and would increase the penalty for offenses which have not been raised since the law was enacted.