

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. 714

H. P. 671

House of Representatives, February 12, 1953

Referred to the Committee on Legal Affairs, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Gowell of Berwick

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Relating to Explosives.

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

Sec. 1. R. S., c. 85, §§ 41-A - 41-M, additional. Chapter 85 of the revised statutes is hereby amended by adding thereto 13 new sections, to be numbered 41-A to 41-M, 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 greatest possible safety to persons and property. Except when in the factory where made or processed or when in actual use in blasting, 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 properly 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 2 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.

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.

Sec. 41-C. Regulations authorized. The insurance commissioner shall enforce the provisions of sections 41-A to 41-D, inclusive and is hereby authorized and directed to promulgate and enforce reasonable 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, ownership, 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 regulations so promulgated shall be submitted to the governor and council for their approval, and when approved by the governor and council, with or without public hearing as the governor and council may determine, and when filed with the secretary of state, the regulations so promulgated, approved and filed shall have the force of law, insofar as they are not inconsistent with these provisions. 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 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 the refusal of the commissioner to grant a license under the provisions of this section may demand a hearing before the commissioner. At such hearing, findings of fact by the commissioner shall be final. The person aggrieved may appeal from the commissioner's rulings in matters of law by addressing a petition to a justice of the superior court, who shall order notice thereof to be given to the commissioner as in equity, and hear the case in term time or vacation. After such hearing, the said justice may affirm, modify or revoke the decision of the commissioner.

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 transferor 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. No motor truck or other vehicle transporting explosives shall be parked in any public street of a city, town or village adjacent to or in close proximity to any dwelling or building or place where persons work, congregate or assemble; neither shall such trucks or vehicles containing explosives be taken into a public garage or repair shop for repairs or storage. 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-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 shall manufacture, transport, use or have in his possession any compound more explosive than gun powder without a license or permit.

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

Sec. 41-J. Illegal possessions. No person shall at any time have in his possession any explosive 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-K. Additional penalties. Any person violating any provision of the 3 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-L. 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-M, 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-M, 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-M. 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-M, inclusive, of said chapter 85 is hereby repealed.