

Legislative Update – Submitted by Sgt. Timothy Maher, Waltham Police Department

On July 15, 2010, the Governor signed into law S. 2468 “An Act Relative to the Regulation of Explosives.” The bill is now codified as Chapter 160 of the Acts of 2010 and became effective upon passage (July 15, 2010). The Department of Fire Services worked in conjunction with the Massachusetts State Police Fire and Explosion Investigation Unit and the bill’s sponsor, Senator Steven Baddour, over the last six months to create a comprehensive law which provides police and prosecutors the tools they need to address the ever increase dangers surrounding the unlawful possession of bombs and bomb making materials.

The so called “bomb bill” creates a comprehensive statutory scheme criminalizing the: possession/use of explosives, dangerous chemicals, or other substances; destructive or incendiary devices; hoax devices, and component parts capable of creating such devices, which are intended to be used to kill or injure persons or damage property.

The impetus for this omnibus bill was an adverse decision in *Comm. v. Carter*, 442 Mass. 822, 817 N.E. 2d 768, where the Court ruled that “infernal machine” as used in the former statute (G.L. c. 266, s. 102A) absent any definition, required proof of assembly of dangerous component parts capable of creating a dangerous device (infernal machine).

The “bomb bill” closes a gap in the previous law by allowing state and local law enforcement to prosecute individuals found in possession of bomb-making materials who intend to construct devices from these component parts. Formally, the law required these parts to be assembled. This change now brings Massachusetts law in line with the federal law regarding component parts and consolidates the prior statutory language found in various statutes into one comprehensive statutory scheme, creating enhanced criminal penalties for:

1. Unlawful possession/use of: explosives or dangerous substances, destructive or incendiary devices or component parts capable of building a destructive or incendiary device;
2. Unlawful possession or use of a hoax or destructive or incendiary device;
3. Discharge or ignition of a destructive or incendiary device; or
4. Possession or use of a biological, chemical or nuclear weapon.

In addition, the bill creates notification requirements be made to the State Fire Marshal, when a defendant convicted for possession/use of bombs or bomb making materials is released from prison, similar to the current notification for the release of convicted arsonists. Finally, the new law authorizes the State Fire Marshal to suspend or otherwise not issue, a blaster's license to any person subject to a domestic violence 209A order (blaster's license allows individuals to obtain explosives).

A copy of Chapter 160 of the Acts and Resolves of 2010 may be obtained at:

<http://www.mass.gov/legis/laws/seslaw10/sl100160.htm>