

Massachusetts General Laws Annotated [Currentness](#)

Part I. Administration of the Government (Ch. 1-182)

▣ [Title XX](#). Public Safety and Good Order (Ch. 133-148A)→ [Chapter 148](#). Fire Prevention ([Refs & Annos](#))→ **§ 1. Definitions**

In this chapter the following words, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:--

“Department”, the department of fire services.

“Division”, the division of fire safety of the department of fire services.

“Head of the fire department”, the chief executive officer of the fire department in a city, town, fire district or the Massachusetts military reservation fire department having such an officer, otherwise the fire commissioner, board of fire commissioners or fire engineers, or commissioner of public safety; and, in towns not having a fire department, the chief engineer, if any, otherwise the chairman of the board of selectmen.

“Local licensing authority”, in towns, including those towns which have adopted a town management form of government, the board of selectmen; in Boston, the board of street commissioners; in cities having adopted one of the plans of government provided in chapter forty-three, the city council, or the licensing board or commission in such cities wherein such a board or commission is authorized by statute or ordinance to grant licenses under this chapter; in other cities, the board of aldermen, or the licensing board or commission in cities wherein such a board or commission is authorized by statute or ordinance to grant licenses under this chapter; provided, that in any town having over twenty thousand inhabitants, an unpaid licensing board of three members may be appointed or designated by the board of selectmen to act as the licensing authority in issuing licenses for garages for not more than two automobiles or motor vehicles. In case the board of aldermen or city council constitute such authority, any hearing required by this chapter may be held before a committee thereof.

“Marshal”, the state fire marshal or his designee.

“Board”, the board of fire prevention regulations established under [section four of chapter twenty-two D](#).

“Building”, a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition “roof” shall include an awning or

any similar covering, whether or not permanent in nature. The word “building” shall be construed where the context allows as though followed by the words “or part or parts thereof”.

“Structure”, a combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, mast for radio antenna or the like. The word “structure” shall be construed, where the context allows, as though followed by the words “or part or parts thereof”.

§ 2. Investigations of fires or explosions by local officials; notice to marshal of suspicious origins or undetermined causes; reports; records

The head of a fire department in a city, town, or district wherein a fire or explosion has destroyed or damaged property shall investigate the cause and circumstances thereof in order to determine if such fire or explosion was caused by carelessness or design or shall cause such an investigation to be made by a member of the fire department of such city, town or district. They shall begin such investigation forthwith after such fire or explosion, and if it appears to the official making such investigation that the fire or explosion is of suspicious origin or is the result of a violation of law, or if he is unable to determine the cause, he shall immediately notify the marshal. All other fires or explosions by which a loss is sustained shall, within forty-eight hours, excluding Sundays and holidays, be reported in writing to the marshal. Reports required by this section shall be on forms furnished by the department, and shall contain a statement of all facts relating to the cause and origin of the fire or explosion that can be ascertained, the extent of damage thereof, the insurance upon the property damaged, and such other information as may be required. The marshal shall keep or cause to be kept a record of all fires or explosions occurring in the commonwealth, with the results of such investigations, and such records shall be open to public inspection.

§ 2A. Notice of unauthorized ignition of fire within public or private schools or on school grounds; submission of report by school principal

The principal of any public or private school that provides instruction to pupils in any of grades 1 to 12, inclusive, shall immediately report any incident involving the unauthorized ignition of any fire within the school building or on school grounds to the local fire department. The principal shall submit a written report of the incident to the head of the fire department within 24 hours on a form furnished by the department of fire services. The report shall be filed without regard to the extent of the fire or whether there was a response by the fire department. The head of the fire department shall report such incident to the marshal in accordance with [section 2](#).

§ 3. Investigations by marshal; examination of witnesses; perjury; criminal complaint; prosecutions; reports to commissioner of insurance

The marshal shall investigate or cause to be investigated the circumstances of all fires or explosions of suspicious origin of which he has notice, and may investigate or cause to be investigated the circumstances of any fire or explosion occurring anywhere within the commonwealth. For such purposes the marshal, or his designee, may summon and examine on oath, administered by the marshal or such person so designated, any person supposed to know or have means of knowing any material facts touching the subject of investigation. Such witnesses may be kept apart and examined separately, and such examination shall be reduced to writing, and false testimony therein shall be perjury. Any justice of a district court or of the superior court, upon application of the marshal, or person so designated, may compel the attendance of such witnesses and the giving of such testimony in the same manner and to the same extent as before said court. If, upon such investigation, the marshal, or person so designated, believes that the evidence is sufficient to charge any person with crime, he shall make a complaint therefor, and shall furnish the proper officers with the evidence and names of witnesses obtained by him. The marshal shall, when required, report to the commissioner of insurance his proceedings and the progress of prosecutions instituted hereunder.

§ 4. Persons authorized to enter and inspect premises; inspections of institutions; reports

The marshal, the head of the fire department, or any person to whom the marshal or the head of the fire department may delegate the authority, may, in the performance of the duties imposed by this chapter, or in furtherance of the purpose of any provision of any law, ordinance or by-law relating to the subject matter of this chapter, or of any rule or regulation of the board of fire prevention regulations, established under [section four of chapter twenty-two D](#), in this chapter referred to as the board, or any order of the marshal or head of the fire department, enter at any reasonable hour any building or other premises, or any ship or vessel, to make inspection or investigation, without being held or deemed to be guilty of trespass.

The marshal or the head of a fire department to whom he may delegate authority, shall make an inspection every three months of institutions as defined by the state building code, licensed by and under the supervision of the department of public health, or licensed by the department of public welfare, and shall make a report of such inspection to each such department on forms submitted to the marshal by such department for this purpose. Said marshal or such head of a fire department shall also make an inspection every three months of the premises specified in innholder's licenses issued under chapter one hundred and forty.

§ 5. Investigation of premises and alleys as to fire hazards; remedy of conditions; expenses; penalty

The marshal, the head of the fire department or any person to whom the marshal or the head of the fire department may delegate his authority in writing may, and upon complaint of a person having an interest in any building or premises or property adjacent thereto, shall, at any reasonable hour, enter into buildings and upon premises, which term for the purposes of the remainder of this section shall include alleys adjacent thereto, within their jurisdiction and make an investigation as to the existence of conditions likely to cause fire. They shall, in writing, order such conditions to be remedied, and whenever such officers or persons find in any building or upon any premises any accumulation of combustible rubbish including, but not limited to, waste

paper, rags, cardboard, string, packing material, sawdust, shavings, sticks, waste leather or rubber, broken boxes or barrels or any other refuse or useable materials that is or may become dangerous as a fire menace or as an obstacle to easy ingress into or egress from such buildings or premises, they shall, in writing, order the same to be removed or such conditions to be remedied. Notice of such order shall be served upon the owner, occupant or his authorized agent by a member of the fire or police department. If said order is not complied with within twenty-four hours, the person making such order, or any person designated by him, may enter into such building or upon such premises and remove such refuse or any useable materials or abate such conditions at the expense of such owner or occupant. Any expense so incurred by or on behalf of the commonwealth or of any city or town, shall be a debt due the commonwealth or the city or town, as the case may be, upon completion of such removal or abatement and the rendering of an account therefor to the owner. The provisions of the second paragraph of [section three A](#) of chapter one hundred and thirty-nine, relative to liens for such debt and the collection of the claims for such debt, shall apply to any debt referred to in this section, except that the marshal or the head of the fire department shall act hereunder in place of the mayor or board of selectmen. In the case of debts due the commonwealth, the collector of taxes shall pay over to the treasurer of the commonwealth the amounts collected by him. Any such owner or occupant who fails or refuses to comply with said order shall be punished by a fine of not more than fifty dollars for each consecutive forty-eight hours during which such failure or refusal to comply continues.

§ 5A. Unvented liquid fired space heaters; use or sale prohibited

No person shall use, allow to be used, sell or offer for sale any unvented liquid fired space heater. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

§ 6. Neglect or refusal of officers to comply with duty

Any city, town or district officer who wilfully neglects or refuses to comply with any duty or requirement imposed upon him by the preceding sections shall be punished by a fine of not less than twenty-five nor more than two hundred dollars.

§ 7. Reports of marshal and commissioner of insurance

The marshal shall submit annually, before February fifteenth, a detailed report of all official action in relation to fires to the commissioner of insurance, who shall embody the material portions thereof in his annual report.

§ 8. Reports to heads of fire departments, insurance companies, property owners and other interested persons

The marshal shall report to insurance companies, to owners of property, or to other persons interested in the subject matter of an investigation of the cause and circumstances of a fire any information obtained by such

investigation which may in his opinion require attention from or by such insurance companies, owners of property or other persons. The fire commissioner of the city of Boston shall make like reports of fires investigated by him or by a person by him designated under [section three](#). The marshal shall also report to the head of the fire department the results of any investigation into fires of suspicious origin reported to him by such head as required by [section two](#).

§ 9. Regulations relating to explosives and inflammable materials; reports of quantities and locations; ordinances and by-laws

The board shall make rules and regulations for the keeping, storage, use, manufacture, sale, handling, transportation or other disposition of gunpowder, dynamite, crude petroleum or any of its products, or explosive or inflammable fluids or compounds, tablets, torpedoes or any explosives of a like nature, or any other explosives, fireworks, firecrackers, or any substance having such properties that it may spontaneously, or acting under the influence of any contiguous substance, or of any chemical or physical agency, ignite, or inflame or generate inflammable or explosive vapors or gases to a dangerous extent, and may prescribe the location, materials and construction of buildings to be used for any of the said purposes. Such rules and regulations shall require persons keeping, storing, using, selling, manufacturing, handling or transporting dynamite or other high explosives to make reports to the department in such particulars and in such detail that the quantity and location thereof will always be a matter of authentic record in the department. Cities and towns may also make and enforce ordinances and by-laws, not inconsistent with said rules and regulations, relative to the subject matter of this section. Each city or town shall submit a copy of each such ordinance or by-law to the board within ten days after the passage thereof. Any ordinance or by-law regulating blasting operations, or the use, handling, transportation or storage of dynamite or gunpowder, shall not take effect until such ordinance or by-law is approved by the board, except that any such ordinance or by-law that has not been approved or disapproved by the board within ninety days after the receipt thereof shall be deemed to have been approved.

§ 9A. Model rocket engines; storage; manufacture; use; sale

The board shall make rules and regulations for the keeping, storage, manufacture, sale and use of model rocket engines and for the launching, operation and flying of model rockets in accordance with nationally recognized standards for model rocketry as promulgated by the National Fire Protection Association. As used in this section, “model rocket engine” shall mean a solid propellant rocket engine produced by a commercial manufacturer in which all chemical ingredients of a combustible nature are preloaded and ready for use, and “model rocket” shall mean an aero model that ascends into the air without use of aerodynamic lifting forces against gravity that is propelled by means of a model rocket engine that includes a device for returning it to the ground in a condition to fly again and whose structural parts are made of nonmetallic material.

§ 10. Regulations relative to fire prevention

The board of fire prevention regulations shall make, and from time to time may alter, amend and repeal, rules

and regulations relative to fire prevention which said board is authorized or required under any provision of this chapter or of [section four of chapter twenty-two D](#) to adopt or make. Such rules and regulations, and any alterations, amendments, or repeals thereof, shall be filed with the state secretary in accordance with the provisions of chapter thirty A. Subsequent to filing and publication by the state secretary, the marshal shall cause one copy to be forwarded to each officer or board in each city or town in the commonwealth whose duties under any provisions of this chapter are affected thereby.

The board shall hold public hearings on the first Thursday in May and October in each year, and at such other times as it may determine, on petitions for changes in the rules and regulations formulated by it. If, after any such hearing, it shall deem it advisable to make changes in said rules and regulations, it shall appoint a day for a further hearing, and shall give notice thereof and of the changes proposed by advertising in such newspapers, and, where appropriate, in such trade, industry or professional publications as the agency may select at least ten days before said hearing. If the board on its own initiative contemplates changes in said rules and regulations, like notice and a hearing shall be given and held before the adoption thereof.

§ 10A. Heads of fire departments; permits; inspections; records; fees; list of fire department heads

The head of the fire department in each city, town or fire district shall grant, in accordance with the rules and regulations of the board, such permits for use in such city, town or fire district as may be required by such rules and regulations, and make such inspections therein, and have and exercise such powers and duties in connection therewith, as the marshal may direct. The head of the fire department shall keep a record of every permit so issued, and shall furnish the marshal with such information in respect to such permits as he may require. The head of the fire department or the marshal may revoke any such permit for cause. A fee of \$25 may be charged by the head of the fire department for any permit granted under this section, unless otherwise set in a town by the board of selectmen or town council, or in a city by the mayor, but such fee shall not exceed \$50 except as provided in this paragraph. If a smoke detector inspection, conducted pursuant to [section 26F](#), and a carbon monoxide alarm inspection, conducted pursuant to [section 26F 1/2](#), are conducted simultaneously, the owner shall not be subject to an additional fee for the carbon monoxide alarm inspection. The fee for either a carbon monoxide alarm inspection or a smoke detector inspection, conducted separately, shall not exceed: \$50 for a single-family dwelling or a single dwelling unit; \$100 for a 2-family dwelling; \$150 for any building or structure with 6 or fewer residential units; and \$500 for any building or structure with more than 6 units.

The clerk of each city and town shall annually, not later than April first, transmit to the marshal in writing the name and official address of the head of the fire department in his city or town, or in the fire district or districts in which his town is located or which is or are established within his town.

§ 10B. Violation of regulations of board

Any person who knowingly violates any rule or regulation made by the board of fire prevention regulations shall, except as otherwise provided, be punished by a fine of not less than one hundred dollars nor more than

one thousand dollars.

§ 10C. Alteration, repair or installation of oil burners; necessity of certificate; exceptions

No person shall alter, repair or install any oil burning equipment or any of the appurtenances thereto, except for electrical wiring and connections, as defined by rules and regulations promulgated under the provisions of [section ten](#) governing the construction, installation and operation of oil burning equipment and the keeping, storage and use of fuel oil or other inflammable products used in connection therewith, unless he holds a certificate granted by an examiner for the certification of oil burner technicians. Notwithstanding the provisions of the preceding sentence, the cleaning of an oil burner strainer or nozzle or the cleaning or replacement of a photo cell, in any building or structure by the owner or manager thereof or by any regular employee of such owner or manager in a building or structure owned or managed by his employer, may be done without the holding by such owner, manager or employee of a certificate as an oil burner technician.

§ 10D. Certificate as oil burner technician; minimum age; application; fee; examination; duration of certificate; electrical work

Any person who has attained eighteen years of age may make application to the department for a certificate as an oil burner technician. Application for such certification shall not be made more often than once in thirty days. A fee shall accompany each application, the amount of which shall be determined annually by the commissioner of administration under the provision of [section three B](#) of chapter seven for the filing thereof. The application shall be in such form and contain such information as the commissioner may require. Within one month after the date of receipt of his application the applicant shall be examined as to his experience and ability to alter, repair and install oil burning equipment, and, if found by an examiner to be qualified, he shall forthwith be issued a certificate. Said certificate shall be valid throughout the commonwealth until the date of birth of the licensee occurring more than twelve months but not more than twenty-four months after the effective date of such license and may be renewed within two years after its expiration without examination upon the payment of a renewal fee as determined pursuant to the aforementioned chapter seven provision. If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-ninth shall, for the purposes of this section, expire on March first. Licenses not renewed at the expiration date shall become void, and shall after one year be reinstated only by reexamination of the licensee. A notice of the date of expiration of a license shall, at least thirty days prior to such date, be sent to the licensee.

A person holding a certificate as an oil burner technician may connect or disconnect for the purpose of repair or replacement, any device or control required by rules and regulations of the board to be a part of an oil burner installation, or being an integral part of the oil burning equipment, at the connection on such device, control or part to be repaired or replaced, notwithstanding any contrary provision of chapter one hundred and forty-

one. Any person licensed as an electrician under said chapter one hundred and forty-one may do any electrical work in connection with the alteration, repair or installation of oil burning equipment without being certified as an oil burner technician.

§ 10E. Apprentice certificates; fee; duration; expiration; renewal

An examiner shall upon payment of a fee, the amount of which shall be determined annually by the commissioner of administration under the provision of [section three](#) B of chapter seven for the filing thereof issue without examination an apprentice certificate to any person who applies therefor, which certificate shall permit him to assist and work under the supervision of a person holding a certificate as an oil burner technician in the alteration, repair or installation of oil burning equipment. An apprentice certificate shall be valid until the date of birth of the licensee occurring more than twelve months but not more than twenty-four months after the effective date of such license, and shall be renewed without examination upon the payment of a fee as determined under the aforementioned chapter seven provision. If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-ninth shall, for the purposes of this section, expire on March first.

§ 10F. Rules and regulations regarding types and classes of certificates

The board may make such reasonable rules and regulations as it deems suitable for the issuance of various types and classes of certificates to cover the various types of oil burner installations. A certificate may cover one or more or all types of installations or may be limited to a specific type of installation.

§ 10G. Suspension or revocation of certificates

Any certificate may, after due notice and hearing, be suspended or revoked by an examiner for a violation by the certificate holder of any rule or regulation promulgated by the board relative to construction, installation and operation of oil burning equipment. Any applicant for an oil burner technician certificate or holder of such certificate aggrieved by the action of an examiner in refusing to issue or in revoking or suspending such certificate may, within ten days, appeal therefrom to the chief of inspections of the department, who shall designate three inspectors to sit as a board and to conduct a hearing on such appeal within thirty days. The decision of said board shall be final.

§ 10H. Firms or corporations; licensing requirements

No firm or corporation engaged in the business of altering, repairing or installing oil burning equipment shall be required to hold a certificate as an oil burner technician; provided that such work is performed for them by

persons certified as oil burner technicians.

§ 11. Expert assistants; laboratory

The marshal may expend the amount annually appropriated for the employment of expert assistance, and also for maintaining a laboratory to aid in the enforcement of the laws relative to explosives and inflammable fluids and compounds. Expert assistants employed under this section shall aid in the enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce, and shall perform such other duties as the marshal may prescribe. Said expert assistants shall be exempt from chapter thirty-one and the rules and regulations made thereunder.

§ 12. License and permit for manufacture of fireworks; sale, transfer, or exchange of explosive materials; punishment

No building shall be used for the manufacturing of fireworks or firecrackers without a license from the local licensing authority. No building or structure shall be used for the manufacturing or storage of explosive materials without a permit issued by the marshal. Any person who has applied for or has been issued such a permit by the marshal, shall be deemed to have consented to periodic administrative inspections by the marshal or his designees of any building, structure, magazine or facility used to store such explosive materials or any records relating thereto. No person shall sell, transfer or exchange explosive materials within the commonwealth to any other person unless: (1) said transferee possesses the proper permit or certificate to possess, receive or store explosive materials; and (2) said transferee maintains, at the place of delivery, an approved, permitted, explosive storage magazine or bunker. Any information, data or record maintained by the marshal or his agents or designees, in any form, relative to the amount, location or nature of explosive material within the commonwealth, shall not be considered a public record, as defined in clause Twenty-sixth of [section 7 of chapter 4](#). Such exception from the definition of “Public records” shall not preclude the release of such information to law enforcement personnel.

As used in this section, the words “explosive materials”, “fireworks” and “firecrackers” shall be defined by the board pursuant to its authority as provided by [section 9](#). The board shall promulgate regulations to carry out this section, including strict record keeping requirements. Any person who violates this section shall be punished by imprisonment in a house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

§ 13. Licenses for land for explosives and inflammable materials; certificate of approval; record; certificate of registrations; fees; replacements and alterations of, and regulations for buildings; explosion hazard; appeals to marshal

No building or other structure shall, except as provided in [section fourteen](#), be used for the keeping, storage,

manufacture or sale of any of the articles named in [section nine](#), unless the local licensing authority shall have granted a license to use the land on which such building or other structure is or is to be situated for the aforementioned uses, after a public hearing, notice of the time and place of which hearing shall have been given, at the expense of the applicant, by the clerk of the city or of the local licensing authority, by publication, not less than seven days prior thereto, in a newspaper published in the English language in the city or town wherein said land is situated, if there is any so published therein, otherwise in the county in which such city or town lies, and also by the applicant by registered mail, not less than seven days prior to such hearing, to all owners of real estate abutting on said land or directly opposite said land on any public or private street as they appear on the most recent local tax list at the time the application for such license is filed, and unless the application for such license shall have endorsed thereon the certificate of approval or disapproval of the head of the fire department. Such license shall be recorded in the office of the city or town clerk, and it shall, from the time of the granting thereof by the licensing authority, be deemed a grant attaching to the land described therein and as an incident of ownership thereof running with the land and shall not be deemed to be merely a personal privilege. Any license granted hereunder, or any license for the keeping, storage, manufacture or sale of any of the articles named in [section nine](#), granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, shall remain in force unless and until revoked as hereinafter provided. Any such license granted hereunder shall be subject to such conditions and restrictions as may be prescribed in the license by the local licensing authority, which may include a condition that the license be exercised to such extent and within such period as may be fixed by such authority.

The owner or occupant of said land licensed as herein provided, and the holder of any license for the keeping, storage, manufacture or sale of any of the articles named in [section nine](#), granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, shall annually, on or before April thirtieth, file with the clerk of the city or town where such license is to be or has been exercised, or in Boston, with the fire commissioner, or in Cambridge, with the board of license commissioners, a certificate of registration setting forth the name and address of the holder of such license; provided, that no certificate of registration shall be required for any building used as a garage for storing not more than three vehicles, when once used under such a license. The board may by regulation prescribe the amount of any of the articles named in [section nine](#) that may be kept in a building or other structure without a license and registration, or either of them. Such fee as may be established from time to time by ordinance or by-law may be charged for any such license, registration or certificate of the head of the fire department, respectively.

Every license granted under this section, and every certificate of registration filed under this section, shall be deemed to be granted or filed upon condition that if the land described in the license ceases to be used for the aforementioned uses, the holder of the license shall within three weeks after such cessation eliminate, in accordance with rules and regulations of the board, all hazardous conditions incident to such cessation. If the holder of the license fails so to eliminate such conditions, the local licensing authority may eliminate such conditions; and a claim for the expense incurred by the local licensing authority in so doing shall constitute a debt due the city or town upon the completion of the work and the rendering of an account therefor to the holder of the license, and shall be recoverable from such holder in an action of contract. Said debt, together with interest thereon at the rate of six per cent per annum from the date said debt becomes due, shall constitute a lien on said land if a statement of claim, signed by the local licensing authority, setting forth the amount

claimed without interest is filed, within ninety days after the debt becomes due, with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies. Such lien shall take effect upon the filing of the statement aforesaid and shall continue for two years from the first day of October next following the date of such filing. Such lien may be dissolved by filing with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies, a certificate from the collector of the city or town that the debt for which such lien attached, together with interest and costs thereon, has been paid or legally abated. Such collector shall have the same powers and be subject to the same duties with respect to such claim as in the case of the annual taxes upon real estate; and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the non-payment thereof, and the redemption of land so sold or taken shall apply to such claim.

The marshal may, upon application and after a public hearing, reinstate and continue in force and effect any license granted prior to July first, nineteen hundred and thirty-six, for the keeping, storage, manufacture or sale of any of the articles named in said [section nine](#), irrespective of the extent of the use and occupancy of buildings or other structures made or had under said license prior to the date of such reinstatement and continuance, anything in the provisions of this chapter to the contrary notwithstanding, unless prior to such reinstatement and continuance said license has been revoked for cause or the marshal shall have determined that a fire or explosion hazard would result from the exercise of such license. The marshal shall give written notice of such application, and of the date of the hearing thereon, to the head of the fire department of the city or town wherein is situated the land to which such application relates and shall, after such hearing, notify in like manner the clerk of such city or town of the action taken on such application.

Any license granted hereunder between July first, nineteen hundred and thirty-six and August seventeenth, nineteen hundred and fifty-one, both dates inclusive, not exercised for a period of at least three years, may be revoked by the local licensing authority after notice and hearing given to the owner or occupant of the land licensed.

When a fire or explosion hazard exists or is liable to exist due to the exercise of such license, the marshal [\[FN1\]](#) or the head of the fire department, shall issue an order to the licensee to cease and desist in the exercise of such license and said marshal [\[FN1\]](#) or said head of the fire department shall direct that reasonable measures to insure safety to the public be undertaken at the expense of the holder of such license.

Any license granted hereunder or any license for the keeping, storage, manufacture or sale of any of the articles named in [section nine](#), granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, may be revoked for cause, after notice and a hearing given to such owner or occupant, by the local licensing authority or by the marshal. Any building or structure erected or maintained under any of the aforementioned licenses shall always be subject to such replacements and alterations in construction and to such regulations of its use in respect to protection against fire or explosion as the board may prescribe.

Any person aggrieved by the granting of a license hereunder on the ground that the exercise thereof would constitute a fire or explosion hazard may, within ten days after the granting thereof, appeal to the marshal who, after notice and hearing, shall finally determine whether such a hazard would result. If, in his opinion, such a hazard would result, he shall notify the authority granting the license, and such notice when received by such authority shall constitute a revocation of such license and no further license for the same or similar use of the same land shall be granted within one year after the receipt by such authority of such notice.

[FN1] So in enrolled bill.

§ 14. Inflammable fluids in motor vehicles

Gasoline or any other volatile inflammable fluid which emits a vapor at a temperature below one hundred degrees Fahrenheit when tested in the open air shall, when in any motor vehicle which is in a building or other structure, be deemed to be kept in such building or other structure within the meaning of the preceding section; provided, that this section shall not apply to any building in existence on July first, nineteen hundred and eleven, in which not more than two automobiles or motor vehicles are kept, if such building or part thereof is not used either for human habitation or for holding gatherings of more than twenty persons, or for giving entertainments, instruction or employment to more than that number, or to any private garage not in existence on said July first which is an appurtenance to a dwelling and in which not more than three automobiles or motor vehicles are kept.

§ 15. Transportation of explosives or inflammable materials; violation of regulations

Whoever knowingly violates or knowingly causes or permits the violation of any regulation adopted and prescribed for the transportation of gunpowder and other explosives or explosive or inflammable fluids or compounds shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

§ 16. Fireworks, explosives and inflammable materials; violations; penalties

Whoever keeps, stores, uses, manufactures, sells, handles or otherwise disposes of any of the articles mentioned in [section nine](#), in violation of [section twelve](#) or [thirteen](#) or of any regulation, ordinance or by-law made under [section nine](#), or whoever violates any regulation made under [section thirteen](#), or whoever, not being exempt from the provisions of [section thirteen](#) relating to the filing of a certificate of registration, fails to file said certificate and to pay such fee as may be established under [section thirteen](#), shall, except as provided in [sections fifteen](#) and [thirty-five](#) and in [section one hundred and two A of chapter two hundred and sixty-six](#), be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month, or both.

§ 17. Restraint of erection or use of buildings in violation of statute or regulations

The supreme judicial or superior court may restrain the erection, occupation or use of a building in violation of [section thirteen](#) or of any regulation made thereunder.

§ 18. Repealed, 1934, 182, Sec. 2

§ 19. Bonds for blasting permits; filing fee

Before the issue of a permit to use an explosive in the blasting of rock or any other substance as prescribed by the department, the applicant for the permit shall file with the clerk of the city or town where the blasting is to be done a bond running to the city or town, with sureties approved by the treasurer thereof, for such penal sum, not exceeding ten thousand dollars, as the marshal or the officer granting the permit shall determine to be necessary in order to cover the risk of damage that might ensue from the blasting or its keeping therefor; provided, that the marshal or the officer granting the permit may determine that a single and blanket bond in a penal sum not exceeding fifteen thousand dollars is sufficient to cover the risk of damage from all blasting operations of the applicant, either under the permit so issued or under future permits to use explosives in blasting operations. The bond shall be conditioned upon the payment of any loss, damage or injury resulting to persons or property by reason of such blasting or keeping. Such applicant shall pay to said clerk at the time of filing of the said bond the fee provided by clause (15) of [section thirty-four of chapter two hundred and sixty-two](#).

§ 20. Actions on bonds; employee of permittee; pro rata payment of claims

Action on a bond filed under the preceding section may be brought by any person to whom loss, damage or injury has resulted by reason of such blasting or keeping, and shall be brought in the name of, and for the use and at the cost and expense of, such person; but in no event shall action be brought on the bond for personal injury of an employee of the person receiving the permit. If claims on any bond are established to an amount greater than the penal sum thereof, such claims shall be paid pro rata to the amount of the penal sum, and executions shall issue accordingly.

§ 20A. Bond for blasting operations in more than one place

If the applicant for a permit to use an explosive in the blasting of rock or any other substance desires to conduct blasting operations in more than one city or town in the commonwealth he may, instead of filing a bond with the clerk of each city or town in which such operations are to be conducted, file a bond with the state treasurer in the penal sum of twenty thousand dollars, running to the commonwealth, with sureties approved by the state treasurer, and for such additional penal sum as the marshal shall determine to be necessary to cover the losses, damages or injuries that might ensue to persons or property by reason thereof. The provisions of [sections nineteen](#) and [twenty](#) shall apply to said bond and actions thereon so far as applicable.

§ 20B. Certificate of competency to conduct blasting operations; application; fee; examination; issuance; duration; expiration; renewal; duplicate

No person shall conduct blasting operations unless he holds a certificate of competency issued by the department. Any person desiring to obtain a certificate of competency to conduct blasting operations shall make application to the department. A fee, the amount of which shall be determined annually by the commissioner of administration under the provision of [section three B](#) of chapter seven for the filing thereof, shall accompany each application, half of which shall be for the examination and half of which shall be for the certificate if issued. The application shall be in such form and contain such information as the state fire marshal may require. Within three months after the date of receipt of his application, the applicant shall be examined as to his experience and ability to conduct blasting operations, and if found by the examiner to be qualified, he shall forthwith be issued a certificate of competency. Said certificate shall be valid throughout the commonwealth until the date of birth of the licensee occurring more than twelve months but not more than twenty-four months after the effective date of such license and may be renewed after its expiration without examination upon the payment of a fee, as determined pursuant to the aforementioned chapter seven. If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-ninth shall, for the purposes of this section, expire on March first. Licenses not renewed at the expiration date shall become void, and shall after one year be reinstated only by reexamination of the licensee. A notice of the date of expiration of a license shall, at least thirty days prior to such date, be sent to the licensee. If the applicant fails to qualify, five dollars of the fee paid with his application shall be refunded to him. A holder of a certificate of competency to conduct blasting operations whose certificate is lost, misplaced or stolen may obtain a duplicate certificate from the state fire marshal upon the payment of a fee as determined under the aforementioned provision.

§ 20C. Liability for damages caused by blasting

Any person engaged in a blasting operation shall be liable for direct damages to the person or property of another without proof of negligence.

§ 21. Enforcement of laws and regulations relative to blasting

The superior court shall have jurisdiction in equity, upon the petition of the commonwealth or of a city or town, to enforce the laws of the commonwealth and the regulations of the board relative to the blasting of rock, stone or other substance with any explosive.

§ 22. Injuries from explosives kept or transported contrary to statutes or regulations

Whoever suffers injury by the explosion of an explosive which is being kept or transported contrary to the

provisions of this chapter or of the regulations of the board may recover damages therefor in tort against the persons who so violate said provisions or regulations.

§ 23. Keeping and use of inflammable fluids; permit; fee

Except as otherwise provided by rules and regulations of the board of fire prevention regulations, no volatile inflammable fluid except an amount not exceeding one quart contained in an approved safety can and no non-volatile inflammable fluid except an amount not exceeding ten gallons for domestic use shall be kept, used or stored in any part of any building used for habitation, and no volatile inflammable fluid in quantity exceeding one gallon contained in an approved safety can, and no non-volatile inflammable fluid in quantity exceeding thirty gallons, shall be kept, used or stored, except in the tank of an automobile, motor boat or stationary engine, within fifty feet of any building used for habitation, unless a permit has first been obtained therefor from the head of the fire department under such terms and conditions as he may prescribe. A fee of not more than fifty cents may be charged for any permit granted under the authority of this section.

§ 23A. Inflammable anti-freeze in hydrants

No inflammable fluid shall be used as an anti-freeze mixture in hydrants used to convey water for extinguishing fires.

§ 24. Keeping and handling of fire menace material; carpenter or paint shop in habitation

No part of any building used for habitation nor that part of any lot within fifty feet of any building so used shall, except as permitted by [section twenty-three](#), be used for the storage, keeping or handling of any article or material that is or may become dangerous to the public safety as a fire menace, and no part of any such building shall be used as a carpenter shop or paint shop, nor for the storage, keeping or handling of excelsior, shavings, sawdust, cotton, paper stock, feathers or rags, except under such terms and conditions as the head of the fire department may prescribe in writing.

§ 25. Use of salamanders or stoves for drying materials

No salamander or stove for drying any construction material shall be used in any building except under such conditions as may be prescribed by the board; and no such salamander or stove shall be set upon a wooden floor unless it is raised above the floor at least four inches and set upon brick or other incombustible material in a bed of sand at least two inches thick, spread upon the floor and covering an area of at least two feet in all directions larger than the area of the salamander or stove.

§ 25A. Second hand space heaters; unvented space heaters

No person shall sell, offer for sale or install a secondhand space heater, or a secondhand portable stove which uses kerosene, range oil or number 1 fuel oil for fuel. No person shall install or use in a building which is used in whole or in part for human habitation an unvented space heater which uses oil as a fuel. No person shall sell or offer for sale, or install, use or maintain in a building which is used in whole or in part for human habitation, an unvented space heater using natural or propane gas fuel unless the appliance meets the standards for use and installation as promulgated by regulations of the board of fire prevention regulations. Whoever violates this section shall be punished by a fine of not more than \$100.

§ 25B. Unvented liquid fired space heaters; use or sale prohibited

No person shall use, allow to be used, sell or offer for sale any unvented liquid fired space heater. As used in this section, "space heater" includes portable space heater, parlor heater, cabinet heater, room heater and any similar heater having a barometric fed fuel control and its fuel supply tank located less than forty-two inches from the center of the burner and means the type of heating appliance adapted for burning kerosene, range oil or number one fuel oil and used principally for the heating of the space in and adjacent to that in which such appliance is located. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars.

§ 25C. Sale of decorating candles; rules and regulations

The board shall make rules and regulations relating to the sale of decorating candles which are designed to re-ignite after they are apparently extinguished, which rules may specifically prohibit the sale of any such candles which it deems to be a fire hazard.

§ 25D. Manufacture and sale of children's clothing and sleepwear; rules and regulations

The board shall make rules and regulations relating to the manufacture and sale of sleepwear and clothing for children up to and including size fourteen, which rules and regulations may specifically prohibit the sale or manufacture of any such clothing or sleepwear which it deems to be a fire hazard.

§ 25E. Residential gas appliances; sale or installation

As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:--

"Gas appliance", any furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, clothes dryer, clothes washer, or other such device, which uses a gaseous fuel other than propane for the operation thereof, and which is manufactured after June first, nineteen hundred and eighty-eight and is automatically ignited by a

means other than an intermittent ignition device, but not including a water heater which heats water for domestic use, a kitchen heating range or a space heater.

“Automatic gas appliance”, any furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, clothes dryer, clothes washer, or other such device, which uses a gaseous fuel other than propane for the operation thereof, and which is manufactured after the effective date of this section, and is automatically ignited by an intermittent ignition device, but not including a water heater which heats water for domestic use, a kitchen heating range or a space heater.

“Residence”, any building or structure in this state used principally for dwelling purposes, including, but not limited to single and multiple family dwellings or residences of any nature, including apartments, apartment buildings, apartment projects, condominiums and manufactured homes, but not including hotels or motels.

“Intermittent ignition device”, a device which ignites an automatic gas appliance to begin normal operation thereof, and which is activated only at the time such automatic gas appliance is to be so ignited.

It shall be unlawful to:--

- (a) Sell or offer for sale by advertisement or otherwise or display for sale of gas appliances for use in, or in connection with, a residence.
- (b) Install or cause to be installed a gas appliance in a residence.
- (c) Import into the commonwealth a gas appliance for use in, or in connection with, a residence.
- (d) Deliver in the commonwealth after sale or pursuant to a contract for a sale of a gas appliance for use in, or in connection with, a residence.
- (e) Sell or display for sale an automatic gas appliance, for use in, or in connection with a residence, unless such automatic gas appliance is labeled in a manner visible to the purchaser or prospective purchaser with the words “intermittent ignition”.

Any violation of the provisions of this section shall be punished by a fine not to exceed five hundred dollars for each such violation; provided, however, that each day of a continuing violation shall constitute a separate and distinct offense.

§ 26. Installation of automatic equipment on order of marshal

Any basement of a mercantile establishment, any building used in whole or in part for the business of wood-working, or for the business of manufacturing or working upon wooden, basket, rattan or cane goods or articles, or tow, shavings, excelsior, oakum, rope, twine, string, thread, bagging, paper, paper stock, cardboard, rags, cotton or linen, or cotton or linen garments or goods, or rubber, feathers, paint, grease, soap, oil, varnish, petroleum, gasoline, kerosene, benzine, naphtha or other inflammable fluids or compounds, and any building used in whole or in part for the business of keeping or storing any such goods or articles except in such small quantities as are usual for domestic use or for use in connection with and as incident to some business other than such keeping or storing, shall, upon the order of the marshal, be equipped with automatic sprinklers; provided, that no such order shall apply to any building unless four or more persons live or are usually employed therein above the second floor.

§ 26A. Automatic sprinklers in high rise buildings; enforcement; appeals

Every building or structure of more than seventy feet in height above the mean grade shall be protected with an adequate system of automatic sprinklers in accordance with the provisions of the state building code, except that sprinklers shall not be required to be installed in patient rooms in hospitals.

The head of the fire department shall enforce the provisions of this section.

Whoever is aggrieved by the head of the fire department's interpretation, order, requirement, direction or failure to act under the provisions of this section, may, within forty-five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the board of appeals as provided in the state building code and section twenty-three of chapter twenty-three B.

§ 26A 1/2 . Automatic sprinklers in older high rise buildings; enforcement; installation schedule

Every building or structure of more than seventy feet in height above the mean grade and constructed prior to January first, nineteen hundred and seventy-five, shall be protected with an adequate system of automatic sprinklers in accordance with the provisions of the state building code; provided, however, that sprinklers shall not be required to be installed in patient rooms in hospitals, or in public or private libraries, or in houses of religious worship; provided, further, that sprinklers shall not be required to be installed in buildings where construction has commenced prior to January first, nineteen hundred and seventy-five and which have been submitted to the provisions of chapter one hundred and eighty-three A; and provided, further, that automatic sprinklers shall not be required in rooms or areas of a telephone central office equipment building when such rooms or areas are protected with an automatic fire alarm system.

The head of the fire department shall enforce the provisions of this section.

Whoever is aggrieved by the head of the fire department's interpretation, order, requirement, direction or fail-

ure to act under the provisions of this section, may, within forty-five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the board of appeals of the fire safety commission as provided in [section two hundred and one of chapter six](#).

Any building or structure subject to the provisions of this section shall comply with the following schedule for the installation of automatic sprinklers:-- one-third of the gross square footage of the building or structure shall be equipped with automatic sprinklers by March thirtieth, nineteen hundred and ninety-one; two-thirds of the gross square footage of the building or structure shall be equipped with automatic sprinklers by March thirtieth, nineteen hundred and ninety-four; and the entire gross square footage of the building or structure shall be equipped with automatic sprinklers by March thirtieth, nineteen hundred and ninety-eight; provided, however, that the owner of said building or structure may apply to the board of appeals of the fire safety commission for an extension or a waiver of the provisions of this section as provided for in [section two hundred and one of chapter six](#).

Any building or structure subject to the provisions of this section shall have the option of complying with the following schedule: the entire gross square footage of the building or structure shall be equipped with automatic sprinklers by March thirtieth, nineteen hundred and ninety-four; provided, however, that under said option the owner of said building or structure shall be deemed to have waived his right to any such extension of time.

For purposes of this section, the gross square footage of a building or structure shall include the sum total of the floor areas for all floor levels, basements and sub-basements, measured from outside walls irrespective of the existence of interior fire resistive walls, floors and ceilings.

§ 26B. Automatic fire warning and smoke detection systems in certain buildings; enforcement; appeals

Every building or structure not exceeding seventy feet in height above the mean grade erected or substantially altered to be occupied for residential purposes shall be protected with an approved automatic fire warning system in accordance with the provisions of the state building code. Such system shall include the features of automatic smoke detection in conjunction with the approved fire detection devices.

The head of the fire department as defined in [section one](#) shall enforce the provisions of this section.

Whoever is aggrieved by the head of the fire department's interpretation, order, requirement, direction or failure to act under the provisions of this section, may, within forty-five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the board of appeals as provided in the state building code and section twenty-three of chapter twenty-three B.

§ 26C. Certain public accommodations; automatic smoke or heat detectors

Apartment houses containing six or more dwelling units, hotels, boarding or lodging houses, or family hotels which are not regulated by [section twenty-six A](#) or [twenty-six B](#) shall be equipped with automatic smoke or heat detectors as provided by the rules and regulations of the board of fire prevention regulations.

The head of the fire department as defined in [section one](#) shall enforce the provisions of this section.

§ 26D. Definitions applicable to Secs. 26D to 26F

As used in this section and [sections twenty-six E](#) and [twenty-six F](#) the following terms shall have the following meanings unless the context clearly indicates otherwise:--

“Approved monitored battery power smoke detector”, shall be a smoke detector which is activated by a battery power source provided that the battery is monitored to assure that the following conditions are met:

(a) a distinctive audible trouble signal is given before the battery is incapable of operating the device for alarm purposes, and that such audible trouble signal is produced at least once every minute for seven consecutive days, and

(b) the unit is capable of producing an alarm signal for at least four continuous minutes at the battery voltage at which a trouble signal is normally obtained followed by seven days of trouble signal operation, and

(c) the monitored batteries meeting these specifications are clearly identified on the unit near the battery compartment.

“Approved primary power smoke detector”, shall be a smoke detector which is activated by being permanently wired to a source of alternating current electric power or connected to a source of alternating current electric power by an underwriter's laboratory approved cord with a strain relief and plug retainer; provided, that:

(a) all power supplies shall be sufficient to operate the alarm signal for at least four continuous minutes, and

(b) all such detector systems shall be installed in accordance with the Massachusetts Electrical Code.

“Common hallway”, a common corridor or space separately enclosed which provides common access to the required exitways of the residential building or structure.

“Separate sleeping area”, shall mean the area or areas of the dwelling unit in which the bedrooms, or sleeping rooms, are located. Bedrooms, or sleeping rooms, separated by other use areas such as kitchens or living rooms, but not bathrooms, shall be considered as separate sleeping areas.

§ 26E. Residential buildings or structures; installation of smoke detectors

(a) All one and two family dwellings occupied in whole or in part for residential purposes and not regulated by [section twenty-six A](#) or [twenty-six B](#) shall be equipped with approved smoke detectors. Owners of such buildings or structures shall install either an approved monitored battery powered smoke detector or an approved primary power smoke detector on each level of habitation and on the basement level; provided, however, that the head of the fire department shall allow the installation of approved monitored battery powered smoke detectors. Such approved smoke detectors shall be installed in the following manner; an approved smoke detector shall be installed on the ceiling of each stairway leading to the floor above, near the base of, but not within each stairway and an approved smoke detector shall be installed outside each separate sleeping area.

(b) Buildings or structures occupied in whole or in part for residential purposes and containing not less than three nor more than five units and not regulated by [section twenty-six A](#), [twenty-six B](#) or [twenty-six C](#) shall be equipped with approved smoke detectors. Owners of such buildings or structures shall install either an approved monitored battery powered smoke detector or an approved primary power smoke detector outside each separate sleeping area; provided, however, that the head of the fire department shall allow the installation of approved monitored battery powered smoke detectors; and provided, further, that in all common hallways and basements of said residential buildings or structures a series of interconnected approved primary power smoke detectors shall be installed.

(c) For the purposes of this section, approved primary power shall mean an alternating current primary source of electric power furnished by an electric power or light company municipally operated or operating under the authority of the department of telecommunications and energy which is the primary source of electricity or is a secondary source but is permanently wired thereto and will become operational upon the failure of the primary source of power.

(d) The head of the fire department shall enforce the provisions of this section. The provisions of [section thirty](#) shall not apply to this section.

§ 26F. Residential buildings or structures; equipping with smoke detectors upon sale or transfer

All buildings or structures occupied in whole or in part for residential purposes and not regulated by [sections twenty-six A](#), [twenty-six B](#) or [twenty-six C](#) shall, upon the sale or transfer of such building or structure, be equipped by the seller with approved smoke detectors as provided in [section twenty-six E](#).

The head of the fire department shall enforce the provisions of this section. The provisions of [section thirty](#) shall not apply to this section.

§ 26F 1/2 . Carbon monoxide alarms required in certain residential structures; regulation; inspections; enforcement

(a) Every dwelling, building or structure, including those owned or operated by the commonwealth, occupied in whole or in part for residential purposes, that: (1) contains fossil-fuel burning equipment including, but not limited to, a furnace, boiler, water heater, fireplace or any other apparatus, appliance or device that burns fossil fuel; or (2) incorporates enclosed parking within its structure shall be equipped by the owner with working, approved carbon monoxide alarms in conformance with the requirements of the board of fire prevention regulations; provided, however, that such requirements shall include, but not be limited to, a requirement that a landlord or superintendent shall install either approved monitored battery-powered alarms or approved electrical wiring alarms as defined by the board, as are required to make the alarms operational at the beginning of any rental period by lease or otherwise and shall maintain and, if necessary, replace batteries or such battery-operated or electric hardwired carbon monoxide alarms annually thereafter to insure their continued operability.

(b) The board of fire prevention regulations shall promulgate such regulations as may be necessary to effectuate this section including, but not limited to, the type, installation, location, maintenance and inspectional requirements of carbon monoxide alarms.

(c) Every dwelling, building or structure, occupied in whole or in part for residential purposes, shall, upon sale or transfer of such dwelling, building or structure, be inspected by the head of the fire department for compliance with the requirements of this section.

(d) The state building code may impose stricter carbon monoxide alarm requirements for new construction or dwellings, buildings, or structures substantially [\[FN1\]](#) renovated so as to constitute the equivalent of new construction. Every such dwelling building or structure, occupied in whole or in part for residential purposes, shall, upon sale or transfer of such dwelling, building or structure, be inspected by the head of the fire department for compliance with the carbon monoxide alarm requirements of the state building code in effect on the date of the issuance of the relevant building permit.

(e) The head of the fire department shall enforce this section.

(f) The department of public health shall promulgate such rules and regulations as may be necessary to effectuate subsection (a) into the state sanitary code as established under [section 127A of chapter 111](#).

[\[FN1\]](#) So in enrolled bill; probably should read “substantially”.

§ 26G. Automatic sprinkler systems required for buildings and structures totaling more than 7,500 gross square feet

<[First and second paragraphs applicable as provided by 2008, 508, Sec. 6.]>

Every building or structure, including any additions or major alterations thereto, which totals, in the aggregate, more than 7,500 gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. No such sprinkler system shall be required unless sufficient water and water pressure exists. For purposes of this section, the gross square footage of a building or structure shall include the sum total of the combined floor areas for all floor levels, basements, sub-basements and additions, in the aggregate, measured from the outside walls, irrespective of the existence of interior fire resistive walls, floors and ceilings. This section shall not apply to buildings used for agricultural purposes as defined in [section 1A of chapter 128](#).

In such buildings or structures, or in certain areas of such buildings or structures, where the discharge of water would be an actual danger in the event of fire, the head of the fire department shall permit the installation of such other fire suppressant systems as are prescribed by the state building code in lieu of automatic sprinklers. Automatic suppressant or sprinkler systems shall not be required in rooms or areas of a telephone central office equipment building when such rooms or areas are protected with an automatic fire alarm system. Sprinkler systems shall not be required in open-air parking structures, defined as: buildings, structures, or portions thereof, used for parking motor vehicles and having not less than twenty-five per cent of the total wall area open to atmosphere at each level, utilizing at least two sides of the structure. This section shall not apply to buildings or additions used for residential purposes.

The head of the fire department shall enforce the provisions of this section.

<[Fourth paragraph applicable as provided by 2008, 508, Sec. 6.]>

Whoever is aggrieved by the head of the fire department's interpretation, order, requirement, direction or failure to act under the provisions of this section, may, within forty-five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction or failure to act to the automatic sprinkler appeals board as provided in [section two hundred and one of chapter six](#). The board may grant a reasonable waiver from the provisions of this section, or may allow the installation of a reasonable alternative or modified system of automatic sprinklers upon reviewing the characteristics of buildings that have architectural or historical significance.

§ 26G 1/2 . Nightclubs, dance halls, discotheques, bars; adequate system of automatic sprinklers

For the purpose of this section the term “adequate system of automatic sprinklers” shall include: (1) a working automatic sprinkler system; (2) fire alarm system control equipment which provides notice of an emergency

within a place of assembly; and (3) adequate monitoring of and reporting of any activation of the automatic sprinkler system and fire alarm equipment, in accordance with the state building code in effect at the time of the installation of such system and equipment.

Every building or structure, or portions thereof, of public assembly, with a capacity of 100 persons or more, that is designed or used for occupancy as a nightclub, dance hall, discotheque, bar, or for similar entertainment purposes, including all rooms, lobbies, and other spaces connected thereto and all means of egress and entrances, including any such public assembly located within a mixed use building or structure, including a building or structure owned or controlled by the commonwealth or a political subdivision thereof, (a) which is existing, or (b) for which an approved building permit was issued before December 1, 2004, shall be protected throughout with an adequate system of automatic sprinklers, in accordance with the state building code.

Any owner of a business designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes to which the second paragraph does not apply shall install a system of automatic sprinklers within the building or structure in accordance with the state building code if the business: (1) violates the maximum capacity for such building or structure, as established by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector or inspector, as provided in chapter 143, 2 or more times during a 12-month period; or (2) violates the maximum capacity of such building or structure by a number greater than $\frac{1}{2}$ of such maximum capacity as established by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector or inspector, as provided in chapter 143. Any owner of a building or structure required to install automatic sprinklers as a result of a violation of this paragraph shall do so within 1 year of being cited for such violation, and shall be responsible for the full costs of installation. Notwithstanding any general or special law to the contrary, any business owner cited for violating the maximum capacity for his place of business shall be subject to a \$10,000 fine for a first or second offense. A third such offense shall result in the business owner losing his license to operate in the commonwealth, and all food, entertainment and other licenses associated with his business. This paragraph shall be enforced by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector as provided in chapter 143, or any state official with concurrent jurisdiction.

This section shall not apply to a place of assembly within a building, structure or portions thereof used principally as a house of worship, restaurant, lecture hall, auditorium, state or local government building, educational function facility, or other similar place of assembly. Temporary use of such a building or structure or portions thereof as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes, may be allowed if a permit is issued for such use by the head of the fire department in consultation with the local building inspector or inspector who may set the terms and conditions to protect against fire and preserve public safety.

Whoever is aggrieved by an interpretation, order, requirement or direction of the head of the fire department under this section, or, whoever is aggrieved by a failure of the head of the fire department to take action under this section, may, within 45 days after the service of notice of such interpretation, order, requirement or direc-

tion, or, after 45 days of such failure to act, appeal from such interpretation, order, requirement, direction or failure to act to the automatic sprinkler appeals board as provided in [section 201 of chapter 6](#).

The cost of installing an adequate system of automatic sprinklers pursuant to this section shall be borne in its entirety by the owner of the building or structure.

Except as provided in the third paragraph, the head of the fire department shall enforce this section.

§ 26H. Lodging or boarding houses; automatic sprinkler systems

In any city or town which accepts the provisions of this section, every lodging house or boarding house shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. No such sprinkler system shall be required unless sufficient water and water pressure exists. In such buildings or in certain areas of such buildings, where the discharge of water would be an actual danger in the event of a fire, the head of the fire department shall permit the installation of such other fire suppressant systems as are prescribed by the state building code in lieu of automatic sprinklers. The head of the fire department shall enforce the provisions of this section.

For the purposes of this section “lodging house” or “boarding house” shall mean a house where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it, but shall not include fraternity houses or dormitories, rest homes or group residences licensed or regulated by agencies of the commonwealth.

Any lodging or boarding house subject to the provisions of this section shall be equipped with automatic sprinklers within five years after acceptance of this act by a city or town.

Whoever is aggrieved by the head of the fire department's interpretation, order, requirement or direction under the provisions of this section, may within forty-five days after the service of notice thereof, appeal from such interpretation, order or requirement to the board of appeals of the fire safety commission as provided in [section two hundred and one of chapter six](#).

§ 26I. Multiple dwelling units; new construction; automatic sprinkler systems

In a city, town or district which accepts the provisions of this section, any building hereafter constructed or hereafter substantially rehabilitated so as to constitute the equivalent of new construction and occupied in whole or in part for residential purposes and containing not less than four dwelling units including, but not limited to, lodging houses, boarding houses, fraternity houses, dormitories, apartments, townhouses, condominiums, hotels, motels and group residences, shall be equipped with an approved system of automatic

sprinklers in accordance with the provisions of the state building code. In the event that adequate water supply is not available, the head of the fire department shall permit the installation of such other fire suppressant systems as are prescribed by the state building code in lieu of automatic sprinklers. Owners of buildings with approved and properly maintained installations may be eligible for a rate reduction on fire insurance.

§ 27. Failure to comply with order of marshal

Any owner of a building who, within six months after having received an order from the marshal under [section twenty-six](#), fails to comply with the requirement of such order shall be punished by a fine of not more than one thousand dollars.

§ 27A. Shutting off, disconnection, obstruction, removal or destruction, of fire protection devices; permit; report; violation of statute; enforcement

Except as hereinafter provided, no person shall shut off, disconnect, obstruct, remove or destroy, or cause or permit to be shut off, disconnected, obstructed, removed or destroyed, any part of any sprinkler system, water main, hydrant or other device used for fire protection or carbon monoxide detection and alarm in any building owned, leased or occupied by such person or under his control or supervision, without first procuring a written permit so to do from the head of the fire department of the city or town wherein such building is situated, which permit such head is hereby authorized to issue subject to such terms and conditions as, in his judgment, protection against fire and the preservation of the public safety may require. This section shall not prevent the temporary shutting off or disconnection or partial removal of such a system, main, hydrant or other device for the purpose of making necessary repairs or preventing freezing or other property damage; provided, however, that the head of the fire department is notified immediately of such emergency action. The head of the fire department shall also be notified when the system, main, hydrant or other device is placed back in service. Violation of this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or both. The supreme judicial and superior courts shall have jurisdiction in equity to enforce compliance with the provisions of this section.

§ 27B. Piling snow on fire hydrants; penalty

No person other than an employee in the service of the commonwealth or any political subdivision thereof or in the service of an independent contractor acting for the commonwealth or any such subdivision shall pile, push or plow snow or ice on or against any fire hydrant or other similar device used for fire protection which is located in any public or private way so as to conceal such hydrant or device or cover any outlet thereof. Whoever violates this section shall be punished by a fine of not more than one hundred dollars.

§ 28. Regulations to prevent fire hazards and fires

The board shall make such rules and regulations, and the head of the fire department shall make such orders or rules not inconsistent therewith, as may be necessary to promulgate a comprehensive fire safety code for the following purposes:

(1) to prevent or remedy any condition in or about any building, structure or other premises or any ship or vessel which may tend to become a fire hazard or to cause a fire.

(2) to provide adequate safety requirements for the protection of the public in the event of a fire in or about any building, structure or other premises or any ship or vessel, including the regulation of fire drills for theaters, schools, hospitals and elderly housing complexes.

(3) to provide for the safe storage, use, handling and manufacturing of corrosive liquids, oxidizing materials, toxic materials or poisonous gases.

§ 28A. Reports of violations of building laws

The head of the fire department or any person designated by him who, in the performance of his official duties, observes any condition which he believes to be a violation of any provision of the state building code or any amendments thereto, shall report the same to the authority charged with the enforcement of such provision.

§ 28B. Buildings with canine guards; reports

The board shall by rule require, and the head of the fire department shall make such orders or rules not inconsistent therewith, that any person having control of a mercantile, commercial or industrial establishment wherein canine guards are maintained shall notify the head of the fire department of the district, city or town within which such establishment is located of the name, address and telephone number of the person who supplies or controls such canines.

§ 29. Application of orders to occupant or owner; payment for cost of changes in premises; maximum expenditure

If buildings or other premises are owned by one person and occupied by another under lease or otherwise, the orders of the marshal or head of the fire department shall apply to the occupant alone, except where the rules or orders require the making of additions to or changes in the premises themselves, such as would immediately become real estate and be the property of the owner of the premises. In such cases the rules or orders shall affect the owner and not the occupant; and unless it is otherwise agreed between the owner and the occupant, the occupant whose use of the premises has caused the making of such additions or changes, in addition

to his rent or other payments, shall, after the additions or changes are made, pay a reasonable per cent of the cost thereof annually to the owner of the premises. No rule or order shall be made or enforced which requires an expenditure by the owner or occupant of more than five per cent of the last annual assessed valuation of the land and buildings to which such rule or order relates. The provisions of this section shall not apply to any rule or order adopted or issued pursuant to [sections thirty-eight B through thirty-eight I](#).

§ 30. Violations; notice and enforcement of orders or regulations

Violation of any lawful rule, order or regulation of the board or of any lawful order of the marshal or lawful rule or order of the head of a fire department, punishment whereof is not otherwise provided for, shall be punished by a fine of not more than fifty dollars for each day during which such violation continues after actual notice of the regulation, rule or order. Such notice may be given by personal service or by posting the same in a conspicuous place on the premises affected thereby. The superior court shall have jurisdiction in equity to enforce any lawful rule, order or regulation of the board, or any lawful order of the marshal or rule or order of the head of a fire department, upon application respectively of the marshal or the head of the fire department.

§ 30A. Unlawful tampering, etc. with notice of violation; punishment

Whoever unlawfully tampers with, changes, mutilates, destroys, or otherwise removes, from a building or structure, any notice of violation affixed under the provisions of [section thirty](#), shall be punished by a fine of not more than fifty dollars or by imprisonment in jail for not more than one month, or by both such fine and imprisonment.

§ 31. Appeals to marshal

Any person aggrieved by any act, rule, order or decision of the head of a fire department, or other person or persons acting or purporting to act under authority derived from this chapter, except [section five](#), or any rule or regulation thereunder, may appeal to the marshal, who shall make all necessary and proper orders thereon, but only in so far as the appeal presents a direct question of fire or explosion hazard. Such appeal shall be filed with the marshal not later than ten days following the act, rule, order or decision appealed from.

§ 32. Sharing information by insurers; liability of insurer or arson squad; confidential information

The marshal or police or fire department or other appropriate law enforcement agency may request an insurance company to share information relative to an investigation concerning a loss due to fire of suspicious or incendiary origin, and to furnish other relevant materials, such as insurance policies, policy premium records, and history of previous claims. The marshal or any of the aforementioned departments or agencies shall, upon request, share the information so acquired with the marshal, department, or agency, as appropriate, requesting the same.

If an insurance company has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the company shall furnish the marshal or any of the aforementioned departments or agencies with all relevant material acquired during its investigation of the fire loss, cooperate with the marshal or any of the aforementioned departments or agencies, and take such action as the marshal or any of the aforementioned departments or agencies may reasonably request. Any other person may, by obtaining a court order, inspect records of such insurance company pertaining to the policy and the loss. Such insurance company may request access to information gathered by the marshal or any of the aforementioned departments or agencies in an investigation into such fire loss of suspected incendiary origin.

In the absence of fraud, malice or criminal act, no insurance company, or person who furnished information on its behalf, or any duly licensed insurance agent or broker, or any employee of such agent or broker, through whom the policy was issued nor any member of the local municipal arson squad of the fire or police department shall be liable for damages in a civil action or subject to criminal prosecution for any conduct reasonably undertaken pursuant to the provisions of this section.

A public official receiving information furnished pursuant to this section shall hold such information in confidence until such time as its disclosure is required in a criminal or civil proceeding, or, if such information is subject to [sections thirty-eight B through thirty-eight I](#), until such information becomes a public record in accordance with [section thirty-eight I](#). Any public official or employee of an insurance company may be required to testify to any information in his possession regarding the fire loss of real or personal property in any civil action in which any person seeks recovery under a policy against an insurance company for the fire loss. Every insurance company adjusting a fire loss of one thousand dollars or more shall forward forthwith to the marshal a written statement of the amount of such adjustment on building and contents.

§ 33. Duties and powers of marshal

The marshal shall study fire hazard and fire prevention and all matters relating thereto, hear suggestions and complaints from all persons and from all cities and towns, advise with the officers of such cities and towns and make suggestions to the general court and to the cities and towns looking to the improvement of the laws, ordinances and by-laws relating to fire departments, construction of buildings, building or fire limits, use and occupation of buildings and other premises, protection of existing buildings, fire escapes and other life-saving devices, segregation and licensing of trades dangerous by reason of fire hazard, and all other matters relating to fire prevention and fire hazard.

The marshal may order the head of a fire department to assist, in his jurisdiction and may order the director of the division of fire safety to assist, in carrying out the provisions of this chapter.

§ 34. Violation of statutes

Except as otherwise provided, any person violating any provision of this chapter shall be liable to a fine of one hundred dollars, or, in case of a continuing offence after notice of such violation, to a fine of not more than one hundred dollars for every day during which the violation continues.

§ 34A. Assembly use group building; dangerous condition

(a) Any owner, occupant, lessee or other person having control or supervision of any assembly use group building, as defined by the state building code, and who causes or permits a dangerous condition to exist on the premises at anytime shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than 2 1/2 years, or both.

For the purposes of this section, “dangerous condition” shall mean:--

- (1) any blocked or impeded ingress or egress;
- (2) the failure to maintain or the shutting off of any fire protection or fire warning system required by law;
- (3) the storage of any flammable or explosive without a properly issued permit in quantities in excess of allowable limits of any permit to store;
- (4) the use of any firework or pyrotechnic device, as defined by the board of fire prevention regulations, without a properly issued permit; or
- (5) exceeding the occupancy limit established by the local building inspector pursuant to chapter 143.

Nothing in this section shall preclude the issuance of a citation for a code violation, as provided for by chapter 148A.

(b) Whoever is convicted of a second or subsequent violation of paragraph (a) shall be punished by a fine of not more than \$25,000 or by imprisonment in the state prison for not more than 5 years or in a house of correction for not more than 2 1/2 years, or both such fine and imprisonment.

§ 34B. Serious bodily injury; penalties

Any person who wantonly or recklessly violates the state building code or state fire code and thereby causes serious bodily injury or death to any person shall be punished by a fine of not more than \$25,000 or by imprisonment in the state prison for not more than 5 years or in a house of correction for not more than 2 1/2 years,

or both.

For purposes of this section, “serious bodily injury” shall mean bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.

§ 34C. Subsequent violations of state building code or state fire code

Whoever (1) commits a second or subsequent violation of the state building code or state fire code, including any incorporated specialized codes, or any lawful order of the marshal, the head of the fire department or a state or local building inspector or (2) continues to violate any such code or order after receipt of actual notice of such violation or order, shall be punished by a fine of not more than \$1,000 or by imprisonment for 1 year in the house of correction or by both such fine and imprisonment. Notice may be provided by in-hand service, by posting the same in a conspicuous place on the premises in violation, or by the lawful issuance of a citation pursuant to chapter 148 A. This section shall not apply to such violations which are under appeal pursuant to [section 100 of chapter 143](#), if such appeal was timely filed.

§ 34D. Enforcement of orders of marshal or head of fire department

Notwithstanding any other general or special law to the contrary, the housing court, the district court or the superior court shall have jurisdiction and equitable powers to enforce the lawful orders of the marshal or head of the fire department pursuant to this chapter.

§ 35. Possession of bombs or explosives in violation of statutes and regulations; punishment; forfeiture; arrest without warrant

No person shall have in his possession or under his control any bomb or other high explosive, as defined by the rules and regulations made under [section nine](#), contrary to the provisions of this chapter or of any rule or regulation made thereunder. Whoever violates this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than two and one half years, or both, and any bomb or explosive found in his possession or under his control on such violation shall be forfeited to the commonwealth. Any officer qualified to serve criminal process may arrest without a warrant any person violating this section.

§ 36. Notice of seizure of bomb or explosive; delivery of bomb or explosive to marshal; disposition

Notice of the seizure of any bomb or explosive found in the possession or under the control of any person in violation of the preceding section shall immediately be sent to the marshal by the officer making the seizure, and, upon final conviction of such person, such bomb or explosive shall be adjudged forfeited to the commonwealth and delivered to the marshal or his authorized representative and disposed of at his discretion.

§ 37. Tanks for storage of fluids; permits; violation of statute or regulation; annual inspection; fees

No person shall construct, maintain or use any tank or container of more than ten thousand gallons' capacity, for the storage of any fluid other than water, unless the same is located underground, without first securing a permit therefor from the marshal. The marshal may, after notice and hearing, revoke any such permit for cause. Whoever violates this section or a rule or regulation made under the following section shall be punished by a fine of not less than fifty nor more than one thousand dollars.

The marshal shall cause such tanks to be inspected annually. The annual inspection fee shall be determined annually by the commissioner of administration under the provision of [section three B](#) of chapter seven. The owner or user of the tank and the local fire department shall be notified of the date of the intended inspection not less than fourteen days prior to the inspection date. Inspections may be made of the premises, tanks, dikes and related equipment at any time during regular business hours.

§ 37A. Removal and testing of fuel storage tanks; grant programs for municipalities and agencies; powers and duties of administrative review board

As used in this section, the term “fuel storage tank” shall mean an underground tank used or designed to be used for the storage of gasoline, oil, or other fuel, or other flammable liquids; provided, that such tank does not have an acceptable form of leak detection and does not have a spill containment manhole and an overflow prevention device.

The underground storage tank petroleum cleanup fund administrative review board, established pursuant to [section eight of chapter twenty-one J](#), herein referred to as “the board”, shall establish and administer a program to provide grants to cities, towns, districts, and other bodies politic, not to include agencies or authorities of the commonwealth, for the purpose of removing or replacing or both, fuel storage tanks that they own or operate, subject to the following conditions:

(1) No grant shall be awarded for the removal or replacement of any fuel storage tank unless the city, town, district, or other body politic, not to include agencies or authorities of the commonwealth, that owns or operates the tank files with the board, within six months after the initial publication in the Massachusetts Register of regulations implementing this section, a statement that it has removed or replaced such tank on or after April first, nineteen hundred and ninety-one.

(2) A city, town, district or other body politic, not to include agencies or authorities of the commonwealth, which removes or replaces a fuel storage tank after the effective date of implementation of said regulations may file an application for a grant with the board within one year after removing or replacing such tank. This clause shall not be construed to limit the board's authority to accept application from a city, town, district, or other body politic, not to include agencies or authorities of the commonwealth, that intends to remove or replace a fuel storage tank.

(3) A grant for the removal or replacement of a fuel storage tank may be made either in a single payment or in annual partial payments for a period not to exceed ten years, as the board shall determine, provided that no grant, whether issued as a single payment or in annual partial payments, shall exceed fifty percent of the total cost of the removal of the fuel storage tank which is the subject of the grant.

All annual payments made to cities and towns pursuant to this section may be made as part of annual local aid distribution to cities and towns.

Nothing in this section shall be construed to affect the rights, responsibilities, or liability of any person pursuant to any other law.

No person who has responsibility or liability pursuant to any other law shall avoid or delay such responsibility or liability, or be excused from such responsibility or liability, because of reliance or grants provided for in this section or because of any failure or delay to provide grants or grant payments pursuant to this section.

The board shall promulgate regulations for the proper implementation of this section, including, without limitation, regulations for filing grant applications and for filing the statements provided for in this section.

§ 37B. Grants for removal or replacement of fuel storage tanks

Notwithstanding the provisions of [section thirty-seven A](#), grants authorized pursuant to said [section thirty-seven A](#) may be awarded for either the removal or replacement of a fuel storage tank; provided, however, that no such grant shall exceed fifty percent of the total cost of any such removal or replacement.

§ 38. Regulations relative to tanks

The board shall make rules and regulations governing the construction, use, and maintenance of tanks to which [section thirty-seven](#) applies; governing the removal and relocation of tanks to which [section thirty-eight A](#) applies; and governing the allocation of grants to cities and towns to which [section thirty-seven A](#) applies.

§ 38A. Removal or relocation of underground flammable or combustible fluid tanks; permits; abandoned underground residential tanks

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

No underground tank which has been used for the keeping or storage of flammable or combustible fluids shall be removed or relocated unless a permit for such removal or relocation has first been obtained from the state

fire marshal or the official designated by him to grant permits in the city, town or district where such tank is located. If the permit is issued by an official of a city, the fee for such permit shall be established by action of the city council or board of aldermen in the form of a duly adopted ordinance.

If the permit is issued by an official of a town, the fee for such permit shall be established by action of the town meeting or, if the town has no town meeting, by action of the town council, in either case in the form of a duly adopted bylaw. In no event shall any such ordinance or bylaw establish a fee greater than two hundred dollars nor require payment of such fees by the commonwealth or any of its departments, boards, commissions, authorities, or political subdivisions.

Abandoned underground residential tanks, as defined by the board, utilized exclusively for area heating or the heating of domestic water on the premises where stored shall be drained and cleaned properly and filled with clean sand, pea gravel, or a concrete slurry or removed from the ground as directed by the head of the fire department. The board may from time to time, adopt, amend or repeal regulations, in accordance with the provisions of chapter thirty A, to insure that the removal, abandonment, or decommissioning of underground storage tanks which have been used for the keeping or storage of flammable or combustible fluids is done in a manner which protects public health, safety, welfare and the environment. Any violation of any regulation adopted by the board shall be presumed to constitute irreparable harm to public health, safety, welfare and the environment. Any person who violates any provisions of this section or any regulation, rule, order, permit or approval issued or adopted under the provisions of this section shall be subject to the penalties specified in [section thirty-eight H of chapter one hundred and forty-eight](#); provided, however, that such person shall have thirty days upon notification of the violation to begin compliance procedures with such provisions before any penalty may be imposed.

Upon abandonment of a tank, notice of such abandonment shall be reported to the board of health for the city or town in which such tank is located.

§ 38B. Notification of operation of underground storage tanks; definitions

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

As used in [sections thirty-eight C](#) through [thirty-eight I](#), the following terms shall have the following meanings:

“CERCLA”, the Comprehensive Environmental Response Compensation and Liability Act of nineteen hundred and eighty, 12 U.S.C. section 9601 et seq., as may be amended from time to time.

“Department”, the department of fire services.

“Board”, Massachusetts Board of Fire Prevention Regulations.

“Guarantor”, any person, other than a person liable pursuant to [section five of chapter twenty-one E](#), who provides evidence of financial responsibility pursuant to this chapter.

“Regulated Substance”, (a) any substance defined in section 101(4) of the Comprehensive Environmental Response Compensation and Liability Act of nineteen hundred and eighty, including waste oil but not including any other substance regulated as a hazardous waste under chapter twenty-one C, and (b) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute).

“Operator”, (1) in the case of an underground storage tank in use on November eighth, nineteen hundred and eighty-four, or brought into use after that date, any person in control of, or having responsibility for, the daily operation of an underground storage tank used for the storage, use, or dispensing of regulated substances or (2) in the case of any underground storage tank in use before November eighth, nineteen hundred and eighty-four, but not in use at any time on or after that date, any person who owns the land on or in which such tank is or was located.

“Owner”, (1) in the case of an underground storage tank in use on November eighth, nineteen hundred and eighty-four, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances or (2) in the case of any underground storage tank in use before November eighth, nineteen hundred and eighty-four, but not in use at any time on or after that date, any person who owned such tank immediately before the discontinuance of such use.

“Person”, any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the United States Government, state, municipality, commission, political subdivision of a state, interstate body, consortium, joint venture, commercial entity.

“RCRA”, the Solid Waste Disposal Act, as revised by the Resource Conservation and Recovery Act, [\[FN1\]](#) as may be further amended from time to time.

“Release”, any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into the ground water, surface water or subsurface soil.

“Marshal”, the state fire marshal.

“Head of Fire Department” the chief executive officer of the fire department in a city, town or fire district having such an office otherwise the fire commissioner, board of fire commissioners or fire engineers, or state

fire marshal; and, in towns not having a fire department the chief engineer, if any, otherwise the chairman of the board of selectmen.

“Trade Secret”, anything tangible which constitutes, represents, evidences, or records a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention, or improvement.

“Underground storage tank”, any one or combination of tanks, including, without limitation, underground pipes connected thereto, used to contain an accumulation of regulated substance and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The term shall not include any of the following or any pipes connected to any of the following: (1) any septic tank; or (2) any pipeline facility, including gathering lines, which is regulated under (a) the Natural Gas Pipeline Safety Act of nineteen hundred and sixty-eight; [FN2] or (b) the Hazardous Liquid Pipeline Safety Act of nineteen hundred and seventy-nine; [FN3] or (3) any surface impoundment pit, pond, or lagoon; or (4) any storm water or waste water collection system; or (5) any flow through process tank; or (6) any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or (7) any storage tank situated in an underground area, including without limitation, a basement, cellar, or mine-working drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor, and all sides are accessible and visible.

[FN1] 42 U.S.C.A. § 6901 et seq.

[FN2] 49 App. U.S.C.A. § 1671 et seq.

[FN3] 49 App. U.S.C.A. § 2001 et seq.

§ 38C. Notification of operation of underground storage tanks; requirements; exceptions

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

Nothing in [sections thirty-seven](#), [thirty-seven A](#), [sections thirty-eight A](#) through [thirty-eight I](#), or any other provision of this chapter shall be construed to limit the authority that the department, the head of a fire department, any other department or agency of the Commonwealth, or a city, town, district, or other body politic has pursuant to any law.

(1) Each owner of an underground tank first put into operation on or after January first, nineteen hundred and ninety-one shall, within thirty days after the tank is first put into operation, notify the department of the existence of such tank, specifying the age, size, type, location, and uses of such tank. The requirements of this subsection (1) shall not apply to any underground storage tank that is (a) a farm or residential tank of one thousand and one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive purposes where stored. In prescribing the form of such no-

tice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

(2) The requirements of this subsection (2) shall not apply to any underground storage tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use on the premises where stored. By no later than January thirty-first, nineteen hundred and ninety-one, each owner of an underground storage tank that was in operation at any time after January first, nineteen hundred and seventy-four and before January first, nineteen hundred and ninety-one, regardless of whether or not such tank was removed from beneath the surface of the ground at any time, shall notify the department of the existence of such tank, specifying, to the extent known to the owner, the size, type, and location of the tank, and the quantity of substances stored in such tank before the tank ceased being in operation if the tank was removed from beneath the surface of the ground, prior to the submittal of such notice to the department, such notice shall also specify, to the extent known to the owner, the date the tank was removed from beneath the surface of the ground, prior to the submittal of such notice to the department. In prescribing the form of such notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

(3) The requirements of this subsection (3) shall not apply to any underground storage tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use on the premises where stored. By no later than December thirty-first, nineteen hundred and ninety-one, each owner of an underground storage tank that was not in operation at any time after January first, nineteen hundred and seventy-four and that was not removed from beneath the surface of the ground on or before January first, nineteen hundred and seventy-four, or the operator of any such tank that has no owner or whose owner cannot be definitely ascertained, shall notify the department of the existence of such tank, specifying, to the extent known to the owner, the size, type, and location of the tank, and the type and quantity of substance stored in such tank before the tank ceased being in operation if the tank was removed from beneath the surface of the ground. If the tank was not removed from beneath the surface of the ground prior to the submittal of such notice to the department such notice shall also specify, to the extent known to the owner or operator, the date the tank was removed from beneath the surface of the ground and age of the tank and all methods used to stabilize the tank after the tank ceased being in operation. In prescribing the form of the notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owner and operators.

§ 38D. Notification of operation of underground storage tanks; enforcement; safety regulations

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

The department shall enforce the provisions of [sections thirty-eight B](#) through [thirty-eight I](#), and may, subject to the provisions in [sections thirty-eight B](#) through [thirty-eight I](#), take all action necessary and appropriate to

secure to the commonwealth the benefits of subtitle I of RCRA, including without limitation, obtaining federal grants. The board may, from time to time, adopt, amend, or repeal regulations as it deems necessary to accomplish the following purposes: (1) prevent or remedy any condition in or about any underground storage tank which may tend to become a fire hazard or to cause a fire; or (2) which provide adequate safety requirements for the protection of the public in the event of a fire in or about any underground storage tank; or (3) provide for the safe storage, use, handling and manufacturing of regulated substance in or about any underground storage tank; or (4) protect public health, safety, and welfare, and the environment, from any release of a regulated substance from any underground storage tank; or (5) implement, administer, and enforce [sections thirty-eight B through thirty-eight I](#).

§ 38E. Notification of operation of underground storage tanks; regulations for requirements and standards of tanks

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

The board may, from time to time, adopt, amend, or repeal regulations as it deems necessary to establish the following requirements and standards for underground storage tanks:

- (1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with protection of human health and the environment;
- (2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing system;
- (3) requirements for reporting of any releases and corrective action taken in response to a release from an underground tank;
- (4) requirements for taking corrective action in response to a release from an underground storage tank; provided, that such requirements shall be consistent with and not duplicative of the Massachusetts Contingency Plan pursuant to chapter twenty-one E;
- (5) requirements for the closure of tanks to prevent future releases of regulated substance into the environment;
- (6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental release arising from operating an underground storage tank;

(7) standards of performance for new underground storage tanks; and

(8) requirements (a) for notifying the department and the head of the fire department designated according to section 9002- (b) (1) [FN1] of the existence of any operational or nonoperational underground storage tank: and (b) for providing the information required on the form issued pursuant to section 9002 (b) (2).

[FN1] So in original; probably should read “section 9002(b)(1) of RCRA”.

§ 38F. Notification of operation of underground storage tanks; furnishing information; inspections

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

For any of the purposes set forth in [section thirty-eight D](#), and for the purposes of developing or assisting in the development of any regulation pursuant to [sections thirty-eight B](#) through [thirty-eight I](#), or conducting any study mandated by Congress or by the General Court, any owner or operator of an underground storage tank shall upon request of the marshal, the head of the fire department, and their personnel or authorized agents, furnish information relating to such tanks, their associated equipment and their contents, conduct monitoring or testing, and permit the marshal, the head of the fire department, and their personnel or authorized agents, to have access to, and to copy all records relating to, such tanks. For any of the purposes set forth in [section thirty-eight D](#), and for the purposes of developing or assisting in the development of any regulation pursuant to [sections thirty-eight B](#) through [thirty-eight I](#), or conducting any study mandated by Congress or by the General Court, the marshal, the head of the fire department, and their personnel or authorized agents, are authorized (1) to enter at reasonable times any establishment or other place where an underground storage tank is located; and (2) to inspect and obtain samples from any person of any regulated substance contained in such tank; and (3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water. Each such inspection shall be commenced and completed with reasonable promptness.

§ 38G. Notification of operation of underground storage tanks; violation prevention; orders

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

Whenever it appears that there is a violation of any provision of [sections thirty-eight B](#) through [thirty-eight I](#) or any regulation or order adopted or issued pursuant to [section thirty-eight B](#) through [thirty-eight I](#), the marshal or head of the fire department may issue to a person causing or contributing, or likely to cause or contribute, to such violation or potential violation an order requiring the production or analysis of samples, or the production of records, or imposing such restraints on or requiring such action by said person, as the marshal or the head of the fire department reasonably deems necessary or desirable to abate to prevent such violation or potential violation. Issuance of an order under this section shall not preclude, and shall not be deemed an election to forego, any other remedy authorized by law.

§ 38H. Notification of operation of underground storage tanks; violation of statutes; penalties

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

No person shall violate, or allow or suffer any employee, agent, or contractor to violate, any provision of [sections thirty-eight B to thirty-eight I](#), or of any regulation or order adopted or issued pursuant to [sections thirty-eight B through thirty-eight I](#). Any violation of [sections thirty-eight B through thirty-eight I](#), shall be presumed to constitute irreparable harm to public health, safety and welfare, and to the environment. Such presumption may be rebutted by the introduction of competent evidence. Any person who violates any provisions of [sections thirty-eight B through thirty-eight I](#), or any regulation, rule, order, permit or approval issued or adopted under the provisions of [section thirty-eight B through thirty-eight I](#) inclusive, (a) shall be punished by a fine not to exceed twenty-five thousand dollars, or by imprisonment for not more than two years, or both; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each such violation. Each day each such violation occurs or continues shall be deemed a separate offense. This shall be in addition to any other penalty or remedy prescribed by law.

The superior court department of the trial court shall have jurisdiction to assess civil penalties as set forth in this section, and to enjoin violations of, and grant such additional relief as it deems necessary or appropriate to secure compliance with, the provisions of [sections thirty-eight B through thirty-eight I](#), or any regulation or order adopted or issued pursuant to [sections thirty-eight B through thirty-eight I](#), inclusive, upon petition of the attorney general, a district attorney, the department, the marshal, the head of the fire department, or a city or town.

§ 38I. Notification of operation of underground storage tanks; confidentiality of information; exclusivity of remedy

<[Text of section effective until July 1, 2009. Repealed by 2009, 4, Sec. 5. See 2009, 4, Sec. 81.]>

Notwithstanding the provisions of any general or special law to the contrary, any information, record, or particular part thereof, obtained by the department or by the head of the fire department or by their respective personnel or contractors pursuant to the provisions of [sections thirty-eight B through thirty-eight I](#), upon request, shall be confidential and not be considered to be a public record when it is determined by the marshal or by the head of the fire department, as the case may be, that such information, record, or particular part thereof, if made public, would divulge a trade secret. This section shall not prevent disclosure of any information necessary for an enforcement action or to comply with Federal law or regulations. The exclusive remedy for any person aggrieved by a determination of the marshal or of the head of the fire department, as the case may be, pursuant to this section shall be a civil action in the nature of certiorari pursuant to [section four of chapter two hundred and forty-nine](#); provided, that the action shall be commenced within thirty days of the date of the determination. Notwithstanding the provisions of any general or special law to the contrary, any information, record, or particular part thereof, obtained by the department, or by the head of the fire department or by their respective personnel or contractors pursuant to the provisions of [sections thirty-eight B through thirty-eight I](#)

shall be a public record unless it is not a public record pursuant to this section or pursuant to any other law.

§ 39. Sales, possession, use, etc. of combustible or explosive substances to produce visible or audible effects; fireworks; definitions; exceptions; enforcement procedures; penalties

No person shall sell, or keep or offer for sale, or have in his possession, or under his control, or use, or explode, or cause to explode, any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article, which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.

For the purposes of this section the word “fireworks” shall include compositions, substances or other articles and shall also include blank cartridges or toy cannons in which explosives are used, the type of toy balloon which requires fire underneath to propel the same, firecrackers, cherry bombs, silver salutes, M-80's, torpedoes, sky-rockets, Roman candles, sparklers, rockets, wheels, colored fires, fountains, mines, serpents, or other fireworks of like construction or any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

Whoever shall sell or keep for sale or offer for sale any fireworks in violation of this section shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment for not more than one year or both. Any officer qualified to serve criminal process may arrest without a warrant any person who shall sell or keep for sale or offer for sale any fireworks in violation of this section and any fireworks found in his possession or under his control upon conviction of such a violation shall be forfeited to the commonwealth.

Whoever shall have in his possession or under his control, or whoever shall use or explode or cause to explode any fireworks in violation of this section shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. Any officer qualified to serve criminal process shall seize all of the fireworks mentioned herein without a warrant, and the fireworks seized shall, upon conviction of such violation, be forfeited to the commonwealth.

Notice of such seizure of the fireworks shall immediately be sent to the marshal by the officer making the seizure, and the fireworks seized shall be held and securely stored by that department until the marshal or his authorized representative takes them into his possession for disposal.

The term “fireworks” as used herein shall not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, if they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, or toy pistol paper caps or plastic caps which contain less than twenty hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times; and provided, further, that this section shall not apply

(1) to the sale of any fireworks to be shipped directly out of the commonwealth, or (2) to the sale of any such article for the use of, and its use by, persons having obtained a permit for a supervised display of such fireworks from the marshal or some officer designated by him therefor, under any provision of [section thirty-nine A](#), or (3) to the sale of flares, lanterns or fireworks for the use of, and their use by, railroads, railways, boats, motor vehicles or other transportation agencies, or other activity, lawfully permitted or required to use any or all of such articles for signal purposes, illumination or otherwise, or (4) to the sale or use of blank cartridges for a duly licensed show or theatre or for signal or ceremonial purposes in athletics or sports, or to the sale of special blank cartridges and their use in the proper operation of industrial tools and equipment only, or (5) to experiments at a factory for explosives, or (6) to the sale of blank cartridges for the use of, or their use by, the militia or any organization of war veterans or other organizations authorized by law to parade in public, a color guard armed with firearms, or (7) in teaching the use of firearms by experts, or (8) to the sale of shells for firearms, cartridges, gunpowder, and for the purpose of using, and their use, or in connection with the hunting of game or in target practice with firearms, or (9) to farmers and fruit growers who, having obtained a permit under [section thirteen of chapter forty-eight](#), use firecrackers for the control of damage to their crops by birds.

§ 39A. Regulations for permits for displays of fireworks; fees

The board shall make rules and regulations for the granting of permits for supervised displays of fireworks by municipalities, fair associations, amusement parks and other organizations or groups of individuals. Such rules and regulations shall provide in part that (a) every such display shall be handled by a competent operator to be approved by the chief of the fire department or officer or officers having similar powers and duties, of the municipality in which the display is to be held and shall be of such a character, and so located, discharged or fired as, in the opinion of the chief of the fire department or the officer or officers having similar powers and duties, after proper inspection, not to be hazardous to property or to endanger any person or persons, (b) application for permits shall be made in writing at least fifteen days in advance of the date of the display, and (c) no permit so granted shall be transferable. The fee for such permits shall be set by the chief of the fire department or the officer or officers having similar powers and duties of the municipality in which the display is to be held, but in no event shall any such fee be greater than twenty-five dollars.

§ 40. Storage of fireworks; bonds for manufacture and storage; fee

No person shall store fireworks in quantities except such as may be permitted by the rules and regulations of the board outside the premises of a fireworks manufactory in any building or other structure located within one thousand feet of any church, theatre, hall, place of assembly, factory or any inhabited building, nor shall any person manufacture fireworks, unless he has previously filed with the clerk of the city or town in which the said fireworks are to be manufactured or stored a bond running to the treasurer of the said city or town with a surety or sureties approved by the said treasurer, in such penal sum, not less than ten thousand dollars, as the mayor of the city or the selectmen of the town, with the approval of the marshal, shall determine to be necessary to cover the losses, damages or injuries that might ensue from the said manufacture or storage. The bond shall be conditioned upon the payment of any judgment obtained in an action against said person so manufacturing or storing fireworks for or on account of any loss, damage or injury resulting to persons or

property by reason of the said manufacture or wholesale storage. Such person shall pay to the said clerk the fee provided by clause (16) of [section thirty-four of chapter two hundred and sixty-two](#).

§ 41. Actions on bonds

Action on a bond filed under [section forty](#) or [forty-two](#) may be brought by any person holding a judgment to secure the payment of which the bond was filed and may be brought by such person in the name of the city or town treasurer, or of the state treasurer, as the case may be, but for the use and benefit, and at the cost and expense, of the person so bringing the said action; provided, that such a judgment was recovered in an action brought within twelve months of the time when the cause of action accrued.

§ 42. Displays or exhibits of fireworks; bonds

No person engaged in the business of displaying or exhibiting fireworks shall, by himself or his agents, discharge, fire off, explode or display fireworks unless he has on file with the state treasurer a bond running to the state treasurer with a surety or sureties approved by him for the penal sum of fifteen thousand dollars, and for such additional penal sum as the marshal shall determine to be necessary to cover the losses, damages or injuries that might ensue to persons or property by reason thereof. The bond shall be conditioned upon the payment of any judgment obtained in an action brought against said person so discharging, firing off, exploding or displaying fireworks, for or on account of any loss, damage or injury resulting to persons or property by reason of the said discharging, firing off, exploding or displaying of said fireworks. As used in this section, the word "persons" shall include municipal corporations, and the word "loss" shall include the reasonable expense of a city or town incurred in the extinguishing of fires caused by said discharging, firing off, exploding or displaying of said fireworks.

§ 43. Actions on bonds; pro rating claims; other remedies

No action for injury to an employee of a person required to give a bond under [section forty](#) or [forty-two](#) shall be brought on such bond if such injury arises out of and in the course of the employment. If claims under any bond filed under either of said sections are established to an amount greater than the penal sum of the bond, such claims shall be paid pro rata to the amount of the penal sum and executions shall issue accordingly. Nothing in the three preceding sections shall deprive a person suffering loss, damage or injury of any other right or remedy provided by law.

§ 44. Firecrackers and pyrotechnical ship or railway signals

Firecrackers and pyrotechnical ship or railway signals shall be included and classed as fireworks, but the provisions of the four preceding sections shall not apply to the storage of pyrotechnical ship or railway signals nor to the discharge, firing or exploding of the said signals when used for the protection of life and property.

§ 45. Violation of Secs. 40 to 44

Whoever violates any provision of the five preceding sections shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

§ 46. Inflammable stove polish and foundry paste; regulations; penalties

No person shall manufacture, store, keep for sale, sell or transport any compound for use as a stove polish containing any liquid or compound whatsoever which will emit a gas that will flash at a temperature of less than one hundred and forty degrees Fahrenheit, except that foundry paste which contains inflammable compound, if packed in metal containers, sealed by fusion and weighing in gross not less than five pounds, and if such container is labeled "Dangerous-Inflammable compound--Keep away from fire, heat and lights" may be manufactured, stored, kept for sale, sold or transported for use only by stove foundries, stove manufacturers and stove dealers on their own premises under rules and regulations prescribed by the board. The flash point of said compound shall be ascertained in the manner prescribed by such rules and regulations. Whoever violates this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months or both.

§ 47. Repealed, 1973, 1028, Sec. 3**§§ 48 to 49A. Repealed, 1946, 282****§§ 48 to 49A. Repealed, 1946, 282****§ 50. Search warrants for explosive, inflammable and combustibile substances kept contrary to statutes or regulations**

Upon complaint made to a court or justice authorized to issue warrants in criminal cases that the complainant has probable cause to suspect and does suspect that gunpowder, dynamite or any other explosives, crude petroleum or any of its products, or explosive or inflammable fluids, or any of the articles named in [section thirty-nine](#), are kept or are to be found in any place contrary to this chapter or regulations made hereunder, such court or justice may issue a search warrant in conformity with chapter two hundred and seventy-six, so far as applicable, commanding the officer to whom the warrant is directed to enter any shop, building, manufactory, vehicle or vessel specified in the warrant, and there make diligent search for the articles specified in the warrant, and make return of his doings forthwith to the court or justice having jurisdiction thereof. Such warrants may be directed to a police officer, the marshal or to the head of the fire department.

§ 51. Forfeiture of explosive, inflammable and combustibile substances; sale or destruction; proceeds

Articles seized under the preceding section may, after due notice and hearing, be adjudged to be forfeited, and may be ordered to be sold or destroyed in such manner as the court or magistrate may direct, and the proceeds, if any, paid into the county treasury.

§ 52. Matches kept for sale or use in store

Whoever keeps matches for sale or use in any store unless the same are in unbroken cases or in a metal or other fireproof receptacle with the cover closed, except when it is necessary to obtain access thereto, shall be punished by a fine of not more than fifty dollars.

§ 52A. Sale of exploding matches, cigars or cigarettes

Whoever sells or keeps for sale so-called exploding matches, exploding cigars or exploding cigarettes shall be punished by a fine of not more than one hundred dollars.

§ 53. Repealed, 1943, 291, Sec. 4

§ 54. Lighted cigarettes, etc. likely to cause fire; dropping or throwing from vehicles or placing on forest lands or fields

Whoever drops or throws from any vehicle while the same is upon a public or private way running along or near forest land or open fields, or, except as permitted by law, drops, throws, deposits or otherwise places in or upon forest land, any lighted cigarette, cigar, match, live ashes or other flaming or glowing substance, or any substance or thing which in and of itself is likely to cause a fire, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

§ 55. Explosive golf balls

Whoever manufactures or sells or knowingly uses, or has in possession for the purpose of sale, any golf ball containing any acid, fluid, gas or other substance tending to cause the ball to explode and to inflict bodily injury shall for the first offence be punished by a fine of not more than five hundred dollars, and for any subsequent offence by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

§ 56. Parking space business; licenses; fees; term; suspension and revocation; unlicensed business

In any city or town which accepts the provisions of this section, no person shall engage in the business of con-

ducting or maintaining an open-air parking space without a license therefor granted, in the city of Boston, by its commissioner of transportation, and in any other city or town, by the local licensing authority, approved in all cases by the head of the fire department. Each license granted under this section and the application therefor shall specify all the premises to be occupied by the licensee for the purpose of conducting the licensed business, the total area of the space therein to be actually used for parking or storing vehicles, and the maximum number of vehicles to be parked or stored in such area. The fee for each such license shall be such amount as may be established by the authority granting the license, and said authority may reasonably classify said licenses and fees. Licenses granted hereunder shall expire on April thirtieth following the date of issue, or on such date as may be specified therein, and may be suspended or revoked by such authority and by the head of the fire department. Whoever, not being licensed, engages in a business required by this section to be licensed, or is concerned therein, or, being licensed, violates any condition of his license or engages in such business, or is concerned therein, and any other place than that designated in his license or after notice to him that his license has been suspended or revoked, shall be punished by a fine of not more than three hundred dollars. The provisions of this section shall not apply to any open-air parking space established under [paragraph \(g\) of section three of chapter one hundred and sixty-one A](#) or under [paragraph \(g\) of section six of chapter one hundred and sixty-one B](#) and maintained or conducted by the Massachusetts Bay Transportation Authority or by an authority created under said chapter one hundred and sixty-one B or a lessee or licensee thereof.

§ 57. Siding as conductor of electricity; approval

No side walling or siding which is a conductor of electricity shall be installed on any building unless it is properly grounded and approved by the city or town electrician or other officer having similar duties.

§ 58. Fire extinguishing systems, issuance of certificates for installation and servicing

The board may make such rules and regulations as it deems suitable for the issuance of various types and classes of certificates for the following:

(a) a firm engaged in the business of servicing portable fire extinguishers or installing and servicing fixed fire extinguishing systems; (b) an employee of firms engaged in the business of servicing portable fire extinguishers or installing or servicing fixed fire extinguishing systems who services extinguishers or fixed systems; (c) a firm performing hydrostatic testing of fire extinguishers.

The provisions of this section shall not apply to the following:

(a) the filling or charging of a portable fire extinguisher by the manufacturer prior to its initial sale; (b) the servicing by a firm of its own portable extinguishers or fixed systems by its own personnel specially trained for such servicing; (c) the installation or servicing of water sprinkler systems installed in compliance with the State Building Code; (d) firms engaged in the selling at wholesale or retail of portable fire extinguishers but

not engaged in the installation or recharging of them; (e) fire departments recharging portable fire extinguishers as a public service where no charge is made; provided, however, that the member of the fire department is trained in the proper filling and recharging of the fire extinguishers.

§ 59. Display of street address number on buildings; use in enhanced 911 service

Every building in the commonwealth, including, but not limited to, dwellings, apartment buildings, condominiums, and business establishments shall have affixed thereto a number representing the address of such building. Said number shall be of a nature and size and shall be situated on the building so that, to the extent practicable, it is visible from the nearest street or road providing vehicular access to such building.

The state 911 department shall cause such number and the address of such building to be entered into the electronic data base for use in enhanced 911 service as defined in [section eighteen A of chapter six A](#).

END OF DOCUMENT