

HOUSE No. 4521

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 6, 2008.

The committee on Public Safety and Homeland Security, to whom was referred the petition (accompanied by bill, House, No. 2378) of Theodore C. Speliotis and Robert A. DiPoli relative to fire protection in buildings and structures, reports recommending that the accompanying bill (House, No. 4521) ought to pass.

For the committee,

MICHAEL A. COSTELLO.

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT RELATIVE TO THE ENHANCEMENT OF FIRE AND EXPLOSION PREVENTION IN BUILDINGS AND STRUCTURES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 200 of Chapter 6, as appearing in the
2 2006 Official Edition, is hereby repealed in its entirety.

1 SECTION 2. Section 201 of Chapter 6 of the General Laws, as
2 so appearing, is hereby repealed in its entirety.

1 SECTION 3. Section 28 of Chapter 148 of the General Laws,
2 as so appearing in the 2006 Official Edition, is hereby amended
3 by adding, after subsection 3, the following new subsection:—
4 (4) to provide for the safe keeping, handling, and use of any
5 material and the associated chemical processes used in any
6 building or structure to prevent fire, explosion, or toxic hazards.

1 SECTION 4. Section 31 of Chapter 148 of the General Laws is
2 hereby amended by inserting after the word “thereunder” the
3 following words:—
4 “or any matter which the marshal has determined, in the mar-
5 shal’s sole judgment, is appealable to the Fire Prevention Regula-
6 tions Appeals Board established pursuant to Section 5 of
7 Chapter 22D.”

1 SECTION 5. Chapter 22D of the General Laws, as so
2 appearing, is hereby amended by adding the following new
3 section:—
4 “(5) There is hereby established a Fire Prevention Regula-
5 tions Appeals Board which shall consist of the Board of Fire Pre-
6 vention Regulations, established under the provisions of section
7 four. Whoever is aggrieved by any act, rule, order, decision,

8 requirement, direction, or failure to act by any state or local
9 agency charged with the administration or enforcement of the
10 state fire code or its related rules or regulations, may within forty-
11 five days after the service of notice thereof, appeal from said act,
12 rule, order, decision, requirement, direction or failure to act to
13 said appeals board. Appeals hereunder shall be on a form as pro-
14 vided by the appeals board and shall be accompanied by such fee
15 as said appeals board may determine. The state, city, or town
16 officer in charge of the records and all other persons in possession
17 or control of such records papers and documents relative to an
18 appeal, shall forthwith, upon request of the appeals board,
19 transmit such papers and documents to said appeals board.

20 An appeal shall stay all proceedings in the furtherance of the
21 action or failure to act which is the subject of the appeal, unless
22 said enforcement authority presents evidence that a stay would
23 cause imminent peril of life or property.

24 The chairman of the appeals board shall designate any three
25 members of the appeals board to hold hearing under this section
26 and to hear testimony and take evidence. The appeals board shall
27 not be bound by the strict rules of evidence prevailing in courts of
28 law or equity.

29 The chairman shall fix the time and place for each hearing and
30 such hearing shall take place not later than sixty days after the
31 filing of such appeal, unless such time is extended by agreement
32 with the appellant. Any such party may appear in person or by
33 agent or attorney at the hearing.

34 Decisions on appeal shall be made by the three-member appeals
35 board conducting the public hearing. Every decision shall require
36 the concurrence of at least two of the three members and the
37 appeals board shall state in writing its findings of fact, conclu-
38 sions and reasons for its decision and indicate the vote of each
39 member participating in the decision.

40 The appeals board shall issue a decision or order reversing,
41 affirming, or modifying, in whole or in part, such interpretation,
42 order or decision or postponing the application thereof, within
43 forty-five days after such hearing, unless such time is extended by
44 agreement with the appellant.

45 The appeals board may grant a variance from any provision of
46 the state fire code and related rules and regulations, in any partic-

47 ular case, and may determine the suitability of alternate materials
48 and methods of compliance and may provide reasonable interpre-
49 tations of the provisions of said code consistent with its purpose.

1 SECTION 6. Section 4 of Chapter 22D of the General laws as
2 appearing in the 2006 Official Edition, is hereby amended by
3 inserting, in line 5 after the word “marshal,” the following new
4 words:— “the fire commissioner of the City of Boston and the
5 Chairman of the Board of Building Regulations and Standards.”

1 SECTION 7. Section 4 of Chapter 22D of the General Laws is
2 hereby further amended by striking out in line 8 the word “thir-
3 teen” and inserting the new word:— “seventeen”.

1 SECTION 8. Said Section 4 is further amended by striking out
2 in line 18 the word “ten” and inserting the new word:— “thir-
3 teen”.

1 SECTION 9. Section 4 is hereby further amended by adding in
2 line 37 after the word “years” the following new words:— “one
3 whom shall be a member of the sprinkler fitters union, one whom
4 shall be a registered professional engineer, one whom shall be a
5 structural engineer, and one whom shall be a certified building
6 inspector representing the Massachusetts Federation of Municipal
7 Building Inspectors.”

1 SECTION 10. Section 4 is further amended by striking out the
2 following words in lines 39 and 40 as so appearing, - “such
3 chairman shall act as a non-voting member of said board, except
4 in the case of a tie vote.”

1 SECTION 11. Section 165 of Chapter 6 of the General Laws, as
2 so appearing, is hereby amended by adding after subsection (6) in
3 the first paragraph a new subsection:—

4 (7) the establishment of standards and curriculum for all levels
5 of fire inspector certification.

1 SECTION 12. Section 4 of Chapter 148 of the General Laws,
2 as so appearing, is further amended by adding the following new
3 paragraph:—

4 Every fire inspector in a city, town, district, or authority fire
5 department shall be certified in accordance with the requirements
6 established by the Massachusetts Fire Training Council. Each fire
7 department shall have a minimum of one certified fire inspector.
8 Fire inspector certification shall be a condition of receiving a del-
9 egation of authority from the Marshal.

1 SECTION 13. Section 5 of Chapter 148A, as so appearing, is
2 hereby amended by striking out the second sentence in its entirety
3 and replacing it with the following sentence:—

4 “such city or town shall earmark such fines, penalties or assess-
5 ments collected for enforcement, training, and education of
6 building inspectors and fire prevention officers including manda-
7 tory fire inspector certification.”

1 SECTION 14. Section 26A½, of Chapter 148, as so appearing,
2 is hereby amended by striking out, in lines 21 and lines 33, the
3 words “fire safety commission”, and substituting in place thereof,
4 the following words:— fire prevention regulation appeals board,
5 as provided in Section 5 of Chapter 22D.

1 SECTION 15. Section 26G of Chapter 148, as so appearing, is
2 hereby amended by striking out, in line 39, the words “automatic
3 sprinkler appeals board”, and substituting in place thereof the
4 words:— fire prevention regulation appeals board, as provided in
5 Section 5 of Chapter 22D.

1 SECTION 16. Section 26G½ of Chapter 148, as so appearing,
2 is hereby amended by striking out, in lines 62 and 63 the words
3 “automatic sprinkler appeals board as provided in section two
4 hundred and one of Chapter 6,” and substituting, in place thereof,
5 the words:— fire prevention regulation appeals board, as provided
6 in Section 5 of Chapter 22D.

1 SECTION 17. Section 26H of Chapter 148, as so appearing, is
2 hereby amended by striking out, in lines 23 and 24 the words
3 “board of appeals of the fire safety commission as provided in
4 section two hundred and one of Chapter six ,” and substituting, in
5 place thereof, the words:— fire prevention regulation appeals
6 board, as provided in Section 5 of Chapter 22D.

1 SECTION 18. Section 26I of Chapter 148 of the General Laws
2 is hereby amended by adding at the end of said section, a new sen-
3 tence:—

4 Whoever is aggrieved by the head of the fire departments inter-
5 pretation, order, requirement, direction, or failure to act under the
6 provisions of this section, may, within forty five days after the
7 service of notice thereof, appeal from such interpretation, order,
8 requirement, direction, or failure to act, to the Fire Prevention
9 Regulations Appeals Board as provided for in Section 5 of
10 Chapter 22D.”

1 SECTION 19. Section 1 of Chapter 148 of the General Laws,
2 as appearing in the 2006 Official Edition, is hereby amended by
3 adding, after the words “Head of the Fire Department”, the
4 following new definition:—

5 Highly Hazardous Chemical Process, shall mean any activity
6 involving a highly hazardous chemical process, including any use,
7 storage, mixing and bonding, manufacturing, handling, or the on-
8 site movement of such chemicals, or combination of these activi-
9 ties as determined by the Board of Fire Prevention Regulations
10 established pursuant to Section 4, of Chapter 22D of the General
11 Laws.

1 SECTION 20. Chapter 148 of the General Laws as appearing in
2 the 2006 Official Edition is hereby amended by adding, after
3 Section 28B, the following new section:—

4 Section 28C. a. No person shall conduct any highly hazardous
5 chemical process, as defined in Section 1, without first securing a
6 users certificate therefore from the marshal. The marshal may,
7 after notice and an opportunity for a hearing, suspend or revoke
8 any such permit for cause. However, the marshal may suspend
9 said permit immediately if the continuation of the particular
10 process would constitute an immediate threat to public safety. In
11 the event of such immediate suspension, the marshal shall cause
12 such reasonable written notice of such suspension to be delivered
13 to the facility at the address of record as indicated on said certifi-
14 cate. Such notice shall grant the holder the right to a hearing,
15 within fourteen days of said suspension, before the marshal or a
16 designee of the marshal relative to the administrative action taken.

17 b. The marshal may cause said users certificate to be renewed
18 on a biannual basis and shall cause the premises, activities and
19 methods employed by such facility, to be inspected for compli-
20 ance with all applicable regulations and standards relative to the
21 highly hazardous chemical process. The marshal may authorize
22 such inspection to be conducted by a qualified person. Such quali-
23 fications shall be determined in accordance with standards estab-
24 lished by the marshal.

25 c. The marshal shall charge a fee for the initial issuance of said
26 permit and any renewal thereof. The amount of said fee shall be
27 determined annually by the Secretary of administration under the
28 provision of section three B of Chapter seven.

29 d. The marshal shall promulgate rules and regulations relative
30 to the issuance of the users certificate, the inspection of such facil-
31 ities required to hold a users certificate, the qualifications of those
32 persons qualified to conduct inspections of said facilities and such
33 other matters necessary to carry out the provisions of this section.

34 e. The Board of Fire Prevention Regulations, established under
35 Section 4 of Chapter 22D shall promulgate rules and regulations
36 which establish standards relating to highly hazardous chemical
37 processes, including any use, storage, mixing, bonding, manufac-
38 turing, handling, or the on-site movement of such chemicals, or
39 combination of these activities, and such other matters necessary
40 to carry out the Board's duties under the provisions of this section.

41 f. Every applicant for a certificate under this section shall, as a
42 condition to such issuance, provide evidence of valid liability
43 insurance coverage in the form of a certificate issued by the insur-
44 ance agency to the Marshal's office. Said insurance certificate
45 shall list the name and claims representative providing general lia-
46 bility coverage in the minimum amount of \$1,000,000 per occur-
47 rence and \$1,000,000 aggregate coverage. A 30-day cancellation
48 notice to the Marshal shall be a condition to the policy. Any insur-
49 ance coverage issued pursuant to this section shall be from a com-
50 pany licensed in the Commonwealth of Massachusetts by the
51 Commissioner of Insurance.

52 g. There shall be a separate fund on the books of the Common-
53 wealth to be known as the Chemical Process Safety Program
54 Fund. Such fund shall consist of all certification fees submitted by
55 an applicant under this section, together with any interest thereon,
56 and shall, in addition to any other monies made available for such

57 purpose, be expended by the Marshal, without further appropria-
58 tion, and shall be used solely to support state oversight, auditing,
59 inspection, training, and enforcement activities related to the
60 administration of a statewide chemical process safety program.
61 All payments from the Chemical Process Safety Program Fund
62 shall be made on the audit and warrant of the State Treasurer on
63 vouchers certified and submitted by the Marshal. Provided, how-
64 ever, that for the purpose of accommodating timing discrepancies
65 between the receipt of retained revenues and related expenditures,
66 the Marshal may incur expenses and the Comptroller may certify
67 for payment, amounts not to exceed the most recent revenue esti-
68 mate in the state accounting system.

1 SECTION 21. Section 12 of this Act shall take effect on Jan-
2 uary 1, 2012. All other provisions shall be effective 18 months of
3 the date of passage.