

HOUSE No. 00662

The Commonwealth of Massachusetts

PRESENTED BY:

Theodore C. Speliotis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the enhancement of fire and explosion prevention in buildings and structures.

PETITION OF:

NAME:

Theodore C. Speliotis

DISTRICT/ADDRESS:

13th Essex

HOUSE No. 00662

By Mr. Theodore C. Speliotis of Danvers, petition (accompanied by bill, House, No. 00662) of Theodore C. Speliotis relative to the enhancement of fire and explosion prevention in buildings and structures.. Joint Committee on Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 2278 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 2006 Official Edition, is hereby
- 2 repealed in its entirety.

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 Section 201 of Chapter 6 of the General Laws, as so appearing, is hereby repealed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

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

9 SECTION 4. Section 31 of Chapter 148 of the General Laws is hereby amended by inserting
10 after the word “thereunder” the following words:-

11 “or any matter which the marshal has determined, in the marshal’s sole judgment, is appealable
12 to the Fire Prevention Regulations Appeals Board established pursuant to section 5 of Chapter
13 22D.”

14 SECTION 5. Chapter 22D of the General Laws, as so appearing, is hereby amended by adding
15 the following new section:-

16 “(5) There is hereby established a Fire Prevention Regulations Appeals Board which shall
17 consist of the Board of Fire Prevention Regulations, established under the provisions of section
18 four. Whoever is aggrieved by any act, rule, order, decision, requirement, direction, or failure to
19 act by any state or local agency charged with the administration or enforcement of the state fire
20 code or its related rules or regulations, may within forty-five days after the service of notice
21 thereof, appeal from said act, rule, order, decision, requirement, direction or failure to act to said
22 appeals board.

23 Appeals hereunder shall be on a form as provided by the appeals board and shall be accompanied
24 by such fee as said appeals board may determine. The state, city, or town officer in charge of the
25 records and all other persons in possession or control of such records papers and documents
26 relative to an appeal, shall forthwith, upon request of the appeals board, transmit such papers and
27 documents to said appeals board.

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

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

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

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

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

44 The appeals board may grant a variance from any provision of the state fire code and related
45 rules and regulations, in any particular case, and may determine the suitability of alternate
46 materials and methods of compliance and may provide reasonable interpretations of the
47 provisions of said code consistent with its purpose.”

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

52 SECTION 7. Section 4 of Chapter 22D of the General Laws is hereby further amended by
53 striking out in line 8 the word “thirteen” and inserting the new word:- “sixteen”. SECTION 8.
54 Said section 4 is further amended by striking out in line 18 the word “ten” and inserting the new
55 word: - “thirteen”.

56 SECTION 9. Section 4 is hereby further amended by adding in line 37 after the word “years” the
57 following new words:- “one whom shall be a member of the sprinkler fitters union, one whom
58 shall be a registered professional engineer, one whom shall be a structural engineer, and one
59 whom shall be a certified building inspector representing the Massachusetts Federation of
60 Municipal Building Inspectors.”

61 SECTION 10. Section 4 is further amended by striking out the following words in lines 39 and
62 40 as so appearing, - “such chairman shall act as a non-voting member of said board, except in
63 the case of a tie vote.”

64 SECTION 11. Section 165 of Chapter 6 of the General Laws, as so appearing, is hereby
65 amended by adding after subsection (6) in the first paragraph a new subsection:
66 (7) the establishment of standards and curriculum for all levels of fire inspector certification.

67 SECTION 12. Section 4 of Chapter 148 of the General Laws, as so appearing, is further
68 amended by adding the following new paragraph:-
69 “Every fire inspector in a city, town, district, or authority fire department shall be certified in
70 accordance with the requirements established by the Massachusetts Fire Training Council. Each
71 fire department shall have a minimum of one certified fire inspector. Fire inspector certification
72 shall be a condition of receiving a delegation of authority from the Marshal.”

73 SECTION 13. Section 5 of chapter 148A, as so appearing, is hereby amended by striking out the
74 second sentence in its entirety and replacing it with the following sentence:-

75 “such city or town shall earmark such fines, penalties or assessments collected for enforcement,
76 training, and education of building inspectors and fire prevention officers including mandatory
77 fire inspector certification.”

78 SECTION 14. Section 26A½, of chapter 148, as so appearing, is hereby amended by striking
79 out, in lines 21 and lines 33, the words “fire safety commission”, and substituting in place
80 thereof, the following words:- “fire prevention regulation appeals board, as provided in section 5
81 of chapter 22D.”

82 SECTION 15. Section 26G of chapter 148, as so appearing, is hereby amended by striking out,
83 in line 39, the words “automatic sprinkler appeals board”, and substituting in place thereof the
84 words:- “fire prevention regulation appeals board, as provided in section 5 of chapter 22D.”

85 SECTION 16. Section 26G1/2 of chapter 148, as so appearing, is hereby amended by striking
86 out, in lines 62 and 63 the words “automatic sprinkler appeals board as provided in section two
87 hundred and one of chapter 6,” and substituting, in place thereof, the words:- “fire prevention
88 regulation appeals board, as provided in section 5 of chapter 22D.”

89 SECTION 17. Section 26H of chapter 148, as so appearing, is hereby amended by striking out,
90 in lines 23 and 24 the words “board of appeals of the fire safety commission as provided in
91 section two hundred and one of chapter six ,” and substituting, in place thereof, the words:- “fire
92 prevention regulation appeals board, as provided in section 5 of chapter 22D.”

93 SECTION 18. Section 26I of Chapter 148 of the General Laws is hereby amended by adding at
94 the end of said section, a new sentence:

95 “Whoever is aggrieved by the head of the fire departments interpretation, order, requirement,
96 direction, or failure to act under the provisions of this section, may, within forty five days after
97 the service of notice thereof, appeal from such interpretation, order, requirement, direction, or
98 failure to act, to the Fire Prevention Regulations Appeals Board as provided for in section 5 of
99 Chapter 22D.”

100 SECTION 19. Section 1 of Chapter 148 of the General Laws, as appearing in the 2006 Official
101 Edition, is hereby amended by adding, after the words “Head of the Fire Department”, the
102 following new definition:- “Highly Hazardous Chemical Process, shall mean any activity
103 involving a highly hazardous chemical process, including any use, storage, mixing and bonding,
104 manufacturing, handling, or the on-site movement of such chemicals, or combination of these
105 activities as determined by the Board of Fire Prevention Regulations established pursuant to
106 section 4, of chapter 22D of the General Laws.”

107 SECTION 20. Chapter 148 of the General Laws as appearing in the 2006 Official Edition is
108 hereby amended by adding, after section 28B, the following new section:-

109 Section 28C.

110 a. No person shall conduct any highly hazardous chemical process, as defined in section 1,
111 without first securing a users certificate therefore from the marshal. The marshal may, after
112 notice and an opportunity for a hearing, suspend or revoke any such permit for cause. However,
113 the marshal may suspend said permit immediately if the continuation of the particular process
114 would constitute an immediate threat to public safety. In the event of such immediate

115 suspension, the marshal shall cause such reasonable written notice of such suspension to be
116 delivered to the facility at the address of record as indicated on said certificate. Such notice shall
117 grant the holder the right to a hearing, within fourteen days of said suspension, before the
118 marshal or a designee of the marshal relative to the administrative action taken.

119 b. The marshal may cause said users certificate to be renewed on a biannual basis and shall cause
120 the premises, activities and methods employed by such facility, to be inspected for compliance
121 with all applicable regulations and standards relative to the highly hazardous chemical process.
122 The marshal may authorize such inspection to be conducted by a qualified person. Such
123 qualifications shall be determined in accordance with standards established by the marshal.

124 c. The marshal shall charge a fee for the initial issuance of said permit and any renewal thereof.
125 The amount of said fee shall be determined annually by the Secretary of administration under the
126 provision of section three B of chapter seven.

127 d. The marshal shall promulgate rules and regulations relative to the issuance of the users
128 certificate, the inspection of such facilities required to hold a users certificate, the qualifications
129 of those persons qualified to conduct inspections of said facilities and such other matters
130 necessary to carry out the provisions of this section.

131 e. The Board of Fire Prevention Regulations, established under section 4 of chapter 22D shall
132 promulgate rules and regulations which establish standards relating to highly hazardous chemical
133 processes, including any use, storage, mixing, bonding, manufacturing, handling, or the on-site
134 movement of such chemicals, or combination of these activities, and such other matters
135 necessary to carry out the Board's duties under the provisions of this section.

136 Every applicant for a certificate under this section shall, as a condition to such issuance, provide
137 evidence of valid liability insurance coverage in the form of a certificate issued by the insurance
138 agency to the Marshal's office. Said insurance certificate shall list the name and claims
139 representative providing general liability coverage in the minimum amount of \$1,000,000 per
140 occurrence and \$1,000,000 aggregate coverage. A 30-day cancellation notice to the Marshal
141 shall be a condition to the policy. Any insurance coverage issued pursuant to this section shall
142 be from a company licensed in the Commonwealth of Massachusetts by the Commissioner of
143 Insurance.

144 There shall be a separate fund on the books of the Commonwealth to be known as the Chemical
145 Process Safety Program Fund. Such fund shall consist of all certification fees submitted by an
146 applicant under this section, together with any interest thereon, and shall, in addition to any other
147 monies made available for such purpose, be expended by the Marshal, without further
148 appropriation, and shall be used solely to support state oversight, auditing, inspection, training,
149 and enforcement activities related to the administration of a statewide chemical process safety
150 program. All payments from the Chemical Process Safety Program Fund shall be made on the
151 audit and warrant of the State Treasurer on vouchers certified and submitted by the Marshal.
152 Provided, however, that for the purpose of accommodating timing discrepancies between the
153 receipt of retained revenues and related expenditures, the Marshal may incur expenses and the
154 Comptroller may certify for payment, amounts not to exceed the most recent revenue estimate in
155 the state accounting system.

156 SECTION 21. Section 12 of this Act shall take effect on January 1, 2012. All other provisions
157 shall be effective 18 months of the date of passage.