

**21-5814. Criminal use of an explosive.** (a) Criminal use of an explosive is:

- (1) Possessing, manufacturing or transporting a commercial explosive, whether or not a person knows or has reason to know it is a commercial explosive; or
  - (2) possessing, creating or constructing a simulated explosive, destructive device, incendiary, radiological, biological or poison gas, bomb, rocket, missile, mine, grenade, dispersal device or similar simulated device, with intent to intimidate or cause alarm to another person.
- (b) Criminal use of an explosive as defined in:
- (1) Subsection (a)(1) is a:
    - (A) Severity level 6, person felony, except as provided in (b)(1)(B);
    - (B) severity level 5, person felony if:
      - (i) The possession, manufacture or transportation is intended to be used to commit a crime or is distributed to another with knowledge that such other intends to use such substance to commit a crime;
      - (ii) a public safety officer is placed at risk to defuse such explosive; or
      - (iii) the explosive is introduced into a building in which there is another human being; and
  - (2) subsection (a)(2) is a severity level 8, person felony.
- (c) As used in:
- (1) Subsection (a)(1), an "explosive" shall not include any legally obtained and transferred commercial explosive by licensed individuals and ammunition and commercially available loading powders and products used as ammunition, and consumer fireworks, as defined in 27 C.F.R. § 555.11, in effect on May 17, 2007, unless such consumer fireworks are modified or assembled as a device that deflagrates or explodes when used for a purpose not intended by the manufacturer; and
  - (2) this section, "commercial explosive" includes chemical compounds that form an explosive; a combination of chemicals, compounds or materials, including, but not limited to, the presence of an acid, a base, dry ice or aluminum foil, that are placed in a container for the purpose of generating a gas or gases to cause a mechanical failure, rupture or bursting of the container; incendiary or explosive material, liquid or solid; detonator; blasting cap; military explosive fuse assembly; squib; electric match or functional improvised fuse assembly; or any completed explosive device commonly known as a pipe bomb or a molotov cocktail.
- (d) The provisions of subsection (a)(1) shall not prohibit law enforcement officials, the United States military, public safety officials, accredited educational institutions or licensed or registered businesses, and associated personnel, from engaging in legitimate public safety training, demonstrations or exhibitions requiring the authorized construction or use of such simulated devices or materials.

**History:** L. 2010, ch. 136, § 100; July 1, 2011.