

76-10-306 Explosive, chemical, or incendiary device and parts -- Definitions -- Persons exempted -- Penalties.

(1) As used in this section:

(a) "Explosive, chemical, or incendiary device" means:

- (i) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;
- (ii) any explosive bomb, grenade, missile, or similar device; and
- (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

(b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:

- (i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;
- (ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and
- (iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.

(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(2) The provisions in Subsections (3) and (6) do not apply to:

- (a) any public safety officer while acting in an official capacity transporting or otherwise handling explosives, chemical, or incendiary devices;
- (b) any member of the armed forces of the United States or Utah National Guard while acting in an official capacity;
- (c) any person possessing a valid permit issued under the provisions of Uniform Fire Code, Article 77, or any employee of the permittee acting within the scope of employment;
- (d) any person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; and
- (e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of its lawful business operations.

(3) Any person is guilty of a second degree felony who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.

- (4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction, knowingly or intentionally:
 - (a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;
 - (b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or
 - (c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or 78A-2-203.
- (5) Any person who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.
- (6) Any person who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.

Amended by Chapter 61, 2010 General Session