

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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 and improvement of the Commonwealth's laws relating to fire prevention.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	Bristol and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE ENHANCEMENT AND IMPROVEMENT OF THE COMMONWEALTH'S LAWS RELATING TO FIRE PREVENTION.

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 2 of Chapter 22D of the General Laws as appearing in the 2006 Official Edition, is
2 hereby amended by striking out in lines 6,7,8 and 9 the following words: - A division of underground
3 storage tanks, including the Underground Storage Tank Petroleum Product Cleanup Fund Administrative
4 Review Board as established by Chapter 21J.

5

6 SECTION 2. Section 2 of chapter 22D of The General Laws, as so appearing, is hereby amended by
7 adding to said section the following new paragraph: - The state fire marshal may make rules and
8 regulations to carry out any duty or responsibility mandated by law.

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10 SECTION 3. Section 2 of Chapter 148 of the General Laws, as so appearing, is hereby amended by
11 adding the following new sentence to said section: - However, such records may be withheld by the
12 Marshal, as he determines, during the course of an investigation.

13

14 SECTION 4. Section 8 of Chapter 148 of the General Laws, as so appearing, is hereby amended by
15 inserting after the first sentence the following sentence: - "Notwithstanding any law to the contrary, the
16 marshal may withhold such information from disclosure if, in the marshal's opinion, the release of said
17 information may jeopardize any investigation".

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19 SECTION 5. Section 26 I of chapter 148 of the General Laws, as so appearing, is hereby amended by
20 adding the following paragraph:-

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

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26 SECTION 6. Chapter 148 of the general laws, as so appearing, is hereby amended by inserting after
27 section 33 of said chapter the following new section:

28

29 Section 33A. Suspension or Revocation of License; Notice

30 The marshal may suspend or revoke without a hearing any license, permit or certificate issued under this
31 chapter whenever the holder thereof has committed a violation of any law, ordinance or by-law relating to
32 the subject matter of this chapter, or of any rule or regulation of the board of fire prevention regulations
33 established under section four of chapter 22D, or any order of the marshal or the head of the fire
34 department, the nature of which would give the marshal reason to believe that the continuing operation by

35 such holder constitutes an immediate threat to the public safety. Upon such suspension or revocation, the
36 marshal shall forthwith send written notice thereof to the holder. Such notice shall specify the time and
37 place of the violation. The marshal, or any person to whom he has delegated his authority, may order the
38 license, permit or certificate of such holder to be delivered to him; and the license, permit or certificate
39 shall not be reissued unless, upon examination or investigation, or after a hearing, the marshal, or his
40 designee determines that the holder shall again be permitted to operate. Said holder shall be entitled to a
41 hearing within ten days of the suspension or revocation.

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43 SECTION 7. Section 39 of chapter 148 of the General Laws, as so appearing, is hereby amended by
44 inserting after the fifth paragraph the following new paragraph:

45 Notwithstanding any other provision of this section, at any time after the seizure of fireworks, a district
46 attorney or the attorney general may petition the court in the name of the Commonwealth to order the
47 destruction, by the Marshal, of said fireworks seized in the course of any arrest or investigation. The
48 district attorney or the attorney general, shall notify the defendant of said petition and shall thereafter
49 certify to the court that such notice was duly made. Unless the defendant consents to such destruction in
50 writing, the court shall hold a hearing on the petition. Such hearing shall be held not less than fourteen
51 days from the date that notice was made to the defendant. After the hearing, the court may make such
52 orders as it so determines relative to the destruction of the fireworks and may order that such destruction
53 be made except for a representative sample, which may be kept for an analysis for trial purposes. The
54 Marshal or an agent of the marshal shall destroy said fireworks upon the receipt of an order of the court or
55 upon receipt of an affidavit from the district attorney or the attorney general that such destruction is with
56 the consent of the defendant.

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58 SECTION 8. Section 76 of chapter 233 of the General Laws, as appearing in the

59 2006 Official Edition, is hereby amended by inserting between the word “vehicles” and the word “the”,
60 the second time it appears in line 7, the following phrase:- and the department of fire services.

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