HOUSE DOCKET, NO. 466 FILED ON: 1/14/2011

HOUSE . . . . . No. 662

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Theodore C. Speliotis	*13th Essex*

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HOUSE . . . . . No. 662

By Mr. Speliotis of Danvers, petition (accompanied by bill, House, No. 662) of Theodore C. Speliotis relative to the enhancement of fire and explosion prevention in buildings and structures. 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:

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 Section 200 of Chapter 6, as appearing in the 2006 Official Edition, is hereby repealed in its entirety.

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 Section 201 of Chapter 6 of the General Laws, as so appearing, is hereby repealed in its entirety.

SECTION 3. Section 28 of Chapter 148 of the General Laws, as so appearing in the 2006 Official Edition, is hereby amended by adding, after subsection 3, the following new subsection:-

"(4) to provide for the safe keeping, handling, and use of any material and the associated chemical processes used in any building or structure to prevent fire, explosion, or toxic hazards."

11 SECTION 4. Section 31 of Chapter 148 of the General Laws is hereby amended by
12 inserting after the word "thereunder" the following words:-

13 "or any matter which the marshal has determined, in the marshal's sole judgment, is
14 appealable to the Fire Prevention Regulations Appeals Board established pursuant to section 5 of
15 Chapter 22D."

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

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

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

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

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

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

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

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

48 The appeals board may grant a variance from any provision of the state fire code and
49 related rules and regulations, in any particular case, and may determine the suitability of alternate
50 materials and methods of compliance and may provide reasonable interpretations of the
51 provisions of said code consistent with its purpose."

52 SECTION 6. Section 4 of Chapter 22D of the General laws as appearing in the 2006
53 Official Edition, is hereby amended by inserting, in line 5 after the word "marshal," the

54 following new words:- “the fire commissioner of the City of Boston and the Chairman of the
55 Board of Building Regulations and Standards.”

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

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

65 SECTION 10. Section 4 is further amended by striking out the following words in lines
66 39 and

67 40 as so appearing, - “such chairman shall act as a non-voting member of said board,
68 except in the case of a tie vote.”

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

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

73 SECTION 12. Section 4 of Chapter 148 of the General Laws, as so appearing, is further
74 amended by adding the following new paragraph:-

75 “Every fire inspector in a city, town, district, or authority fire department shall be
76 certified in accordance with the requirements established by the Massachusetts Fire Training
77 Council. Each fire department shall have a minimum of one certified fire inspector. Fire
78 inspector certification shall be a condition of receiving a delegation of authority from the
79 Marshal.”

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

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

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

89 SECTION 15. Section 26G of chapter 148, as so appearing, is hereby amended by
90 striking out, in line 39, the words “automatic sprinkler appeals board”, and substituting in place
91 thereof the words:- “fire prevention regulation appeals board, as provided in section 5 of chapter
92 22D.”

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

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

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

103 "Whoever is aggrieved by the head of the fire departments interpretation, order,
104 requirement, direction, or failure to act under the provisions of this section, may, within forty
105 five days after the service of notice thereof, appeal from such interpretation, order, requirement,
106 direction, or failure to act, to the Fire Prevention Regulations Appeals Board as provided for in
107 section 5 of Chapter 22D."

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

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

117 Section 28C.

118 a. No person shall conduct any highly hazardous chemical process, as defined in section
119 1, without first securing a users certificate therefore from the marshal. The marshal may, after
120 notice and an opportunity for a hearing, suspend or revoke any such permit for cause. However,
121 the marshal may suspend said permit immediately if the continuation of the particular process
122 would constitute an immediate threat to public safety. In the event of such immediate
123 suspension, the marshal shall cause such reasonable written notice of such suspension to be
124 delivered to the facility at the address of record as indicated on said certificate. Such notice shall
125 grant the holder the right to a hearing, within fourteen days of said suspension, before the
126 marshal or a designee of the marshal relative to the administrative action taken.

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

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

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

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

145 Every applicant for a certificate under this section shall, as a condition to such issuance,
146 provide evidence of valid liability insurance coverage in the form of a certificate issued by the
147 insurance agency to the Marshal's office. Said insurance certificate shall list the name and
148 claims representative providing general liability coverage in the minimum amount of $1,000,000
149 per occurrence and $1,000,000 aggregate coverage. A 30-day cancellation notice to the Marshal
150 shall be a condition to the policy. Any insurance coverage issued pursuant to this section shall
151 be from a company licensed in the Commonwealth of Massachusetts by the Commissioner of
152 Insurance.

153 There shall be a separate fund on the books of the Commonwealth to be known as the
154 Chemical Process Safety Program Fund. Such fund shall consist of all certification fees
155 submitted by an applicant under this section, together with any interest thereon, and shall, in
156 addition to any other monies made available for such purpose, be expended by the Marshal,
157 without further appropriation, and shall be used solely to support state oversight, auditing,
158 inspection, training, and enforcement activities related to the administration of a statewide
159 chemical process safety program. All payments from the Chemical Process Safety Program
160 Fund shall be made on the audit and warrant of the State Treasurer on vouchers certified and
161 submitted by the Marshal. Provided, however, that for the purpose of accommodating timing
162 discrepancies between the receipt of retained revenues and related expenditures, the Marshal

163 may incur expenses and the Comptroller may certify for payment, amounts not to exceed the

164 most recent revenue estimate in the state accounting system.

165 SECTION 21. Section 12 of this Act shall take effect on January 1, 2012. All other

166 provisions shall be effective 18 months of the date of passage.