SENATE DOCKET, NO. 321 FILED ON: 1/19/2011

SENATE . . . . . No. 1243

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:

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	☐ *[District]* ☐

SENATE DOCKET, NO. 321 FILED ON: 1/19/2011

SENATE . . . . . No. 1243

By Mr. Timilty, petition (accompanied by bill, Senate, No. 1243) of Timilty for legislation relative to the enhancement and improvement of the Commonwealth's laws relating to fire prevention [Joint Committee on Public Safety and Homeland Security].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *984* OF 2009-2010.]

The Commonwealth of Massachusetts

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:

SECTION 1. Section 2 of Chapter 22D of the General Laws as appearing in the 2006 Official Edition, is hereby amended by striking out in lines 6,7,8 and 9 the following words: - A division of underground storage tanks, including the Underground Storage Tank Petroleum Product Cleanup Fund Administrative Review Board as established by Chapter 21J.

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

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

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

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

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

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

Section 33A. Suspension or Revocation of License; Notice

The marshal may suspend or revoke without a hearing any license, permit or certificate issued under this chapter whenever the holder thereof has committed a violation of any law, ordinance or by-law relating to the subject matter of this chapter, or of any rule or regulation of the board of fire prevention regulations established under section four of chapter 22D, or any order of the marshal or the head of the fire department, the nature of which would give the marshal reason to believe that the continuing operation by such holder constitutes an immediate threat to the public safety. Upon such suspension or revocation, the marshal shall forthwith send written notice thereof to the holder. Such notice shall specify the time and place of the violation. The marshal, or any person to whom he has delegated his authority, may order the license, permit or certificate of such holder to be delivered to him; and the license, permit or certificate shall not be reissued unless, upon examination or investigation, or after a hearing, the marshal, or his designee determines that the holder shall again be permitted to operate. Said holder shall be entitled to a hearing within ten days of the suspension or revocation.

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

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

53 upon receipt of an affidavit from the district attorney or the attorney general that such destruction
54 is with the consent of the defendant.

55 SECTION 8. Section 76 of chapter 233 of the General Laws, as appearing in
56 the 2006 Official Edition, is hereby amended by inserting between the word “vehicles” and the
57 word “the”, the second time it appears in line 7, the following phrase:- and the department of fire
58 services.