



*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*  
*Department of Fire Services*



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STEPHEN D. COAN  
STATE FIRE MARSHAL

**MEMORANDUM**

**TO: Heads of Fire Department**

**FROM: Stephen D. Coan  
State Fire Marshal**

**DATE: March 1, 2012**

**SUBJECT: Sky Lanterns**

Recently, the issue of sky lanterns came to the attention of the Department of Fire Services. I have had my Legal Counsel look at this matter and to see if there is law or regulation on the books that would address this issue.

Currently, there is no statute that specifically mentions “sky lanterns.” The closest relevant term is used in Massachusetts General Law, Chapter 148, section 39 and states “the type of toy balloon which requires fire underneath to propel the same.” My Counsel indicates that he does not believe that sky lanterns were envisioned to be covered under this term, although the harm they present is the same. In criminal statutes such as Chapter 148, s. 39, terms are strictly construed against the government and if an individual cannot fairly understand that the term applies to their behavior or conduct (i.e. a sky lantern is the same as a toy balloon), then the statute is deemed void for vagueness.

As Chapter 148 does not specifically define the term “toy balloon,” the Court would look to the plain and usual meaning the term. In this case, the American Heritage Dictionary defines the term “balloon” as “a spherical, flexible, non-porous bag inflated with a gas, lighter than air . . . that causes it to rise and float.” This doesn't comport with the reality of how a sky lantern operates. It was for these reasons, that we have directed Fire Chiefs to Chapter 148, section 5, “conditions likely to cause fire,” which they can regulate and prohibit.

I will continue to discuss this matter with the leadership of the Fire Chiefs Association of Massachusetts to determine if there is sufficient interest to propose an amendment to MGL, Chapter 148, s. 39 to specifically include the words ‘sky lanterns’.