

Basic Explosives Dealer's and User's Guide to Federal Explosives Regulation

EXPLOSIVES MAY NOT BE DISTRIBUTED BY LICENSEES TO ANY PERSON WHO:

- Is under 21 years of age
- Has been convicted of a crime punishable by imprisonment for a term exceeding one year
- Is under indictment for a crime punishable by imprisonment for a term exceeding one year
- Is an unlawful user of marihuana or any depressant or stimulant or narcotic drugs
- Has been adjudicated a mental defective
- Is a fugitive from justice
- May not lawfully purchase, possess or use such explosives under State or local laws applicable at the place of distribution

DEALERS IN EXPLOSIVES MUST:

- Have a Federal license
- Have proper storage facilities
- Keep accurate and complete records
- Verify that each out-of-State buyer has a Federal permit
- Have nonlicensees or nonpermittees execute Form 4710
- Have employees of buyers or carriers to whom delivery is made at a distributor's premises execute Form 4721
- Verify buyer's identity

USERS OF EXPLOSIVES: PERMITTEES AND NONPERMITTEES

Federal permits are required of those who purchase explosives from outside their State of residence and/or transport them interstate. The permittee must keep complete and accurate records of his acquisitions and dispositions of explosives.

Nonpermittees may buy and use explosives in their State of residence without obtaining a Federal permit. They must give proper identification to the dealer and execute Form 4710.

NO PERSON SHALL STORE ANY EXPLOSIVE IN A MANNER NOT IN CONFORMITY WITH REGULATIONS

ALL PERSONS WILL PROMPTLY REPORT TO ATF AND LOCAL AUTHORITIES ANY LOSS OR THEFT OF THEIR EXPLOSIVES

A FEDERAL LICENSE OR PERMIT DOES NOT CONFER ANY RIGHT OR PRIVILEGE TO VIOLATE ANY STATE LAW OR LOCAL ORDINANCE

The above summary is general and does not purport to convey fully the Federal explosives law and regulations pertaining to dealers and users.



SPECIAL MESSAGE from the Director

Bureau of Alcohol, Tobacco and Firearms

Washington, D. C.

"Your Guide to Explosives Regulation 1976" is designed to serve as a convenient source of information on explosives regulation. It includes the full text of 18 U.S.C. Chapter 40, entitled "Importation, Manufacture, Distribution and Storage of Explosive Materials," and the implementing regulations, as well as information on explosives storage requirements, digests of ATF explosives rulings, and answers to frequently asked questions relating to explosives. A list of explosive materials is also included, as are special articles on the regulation of fireworks, and changes in the numbering system for explosives licenses and permits.

The latter portion of the document is devoted to State laws relating to explosives. Although every effort has been made to include all relevant material from those State laws, because of the large volume of provisions it was necessary to be selective in determining the final content, as is explained in the preface to the State laws section.

Additionally, this publication contains a listing of contact points for both Federal and State agencies involved in the explosives area, along with a listing of private associations, such as the Institute of Makers of Explosives, having expertise in the field of explosives.

If you have any questions concerning explosives and their regulation, please do not hesitate to contact us. We hope this publication will prove helpful to you in discharging your responsibilities under the Federal and State statutes.

Rex D. Davis
Director
Bureau of Alcohol, Tobacco and Firearms
Department of the Treasury

NCJRS

AUG 17 1976

Emphasize Explosives Security

Through prompt reporting of losses or thefts of explosives and increased emphasis on physical security, explosives licensees and permittees can contribute greatly to efforts by Federal, State and local authorities to reduce the incidence of bombings in the United States.

The following actions are of prime importance:

REPORT thefts or losses of explosives from magazines, premises and job sites promptly, by telephone, to the nearest ATF office and appropriate local and/or State authorities. Because the States and many municipalities have designated specific agencies to investigate the theft or loss of explosives, licensees and permittees are urged to be familiar with local and State reporting procedures and appropriate contact points.

FOLLOW UP on telephone notification with a written report on ATF Form 4712, "Report of Theft of Explosives."

OBSERVE activity around magazines, within business premises, and on job sites, particularly if strangers appear to be loitering in the area in which explosives are being kept. On-site users should take special care to assure that explosives removed from storage for use on the job are either detonated or accounted for and returned to storage.

REVIEW recordkeeping practices to assure that no discrepancies exist and that no figures in reported inventories have been manipulated, and correct any clerical errors uncovered promptly.

If any questions arise concerning explosives security procedures or any aspect of explosives regulation coming under the jurisdiction of ATF, do not hesitate to contact the Bureau. A list of ATF contact points is included in this publication.

For More Information

The Bureau publishes a monthly general-information booklet, the Alcohol, Tobacco and Firearms Bulletin. The ATF Bulletin is the Director's means for informing all permittees and licensees on current alcohol, tobacco, firearms, and explosives matters. It contains regulatory, procedural, and administrative information, as well as items of general interest that warrant your attention.

All substantive material published in the monthly Bulletin during each calendar year is consolidated in an annual ATF Cumulative Bulletin. The 1975 Cumulative Bulletin is now available.

These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Alcohol, Tobacco and Firearms Bulletin costs \$5.80 for a 1-year subscription. A single copy is 50 cents. The 1975 ATF Cumulative Bulletin is \$2.20 per copy. Please allow 6 weeks for the first issue to arrive.

Checks should be made payable to the Superintendent of Documents.

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Federal Law Relating to Explosives

Reproduced below is Federal law relating to explosives, taken from 18 U.S.C. Chapter 40, as amended.

Editor's Note: Chapter 40 added by Title XI of Public Law 91-452, October 15, 1970. Congressional purpose of Title: "The Congress hereby declares that the purpose of this title is to protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for industrial, mining, agricultural, or other lawful purposes, or to provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title."

Chapter 40.—Importation, Manufacture, Distribution and Storage of Explosive Materials

Sec.

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Section 841. Definitions

As used in this chapter—

- (a) 'Person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- (b) 'Interstate or foreign commerce' means commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State. 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).
- (c) 'Explosive materials' means explosives, blasting agents, and detonators.
- (d) Except for the purposes of subsections (d), (e), (f), (g), (h), (i), and (j) of section 844 of this title, 'explosives' means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The Secretary shall publish and revise at least annually in the Federal Register a list of these and any additional explosives which he determines to be within the coverage of this chapter. For the purpose of subsections (d), (e), (f), (g), (h), and (i) of section 844 of

this title, the term 'explosive' is defined in subsection (j) of such section 844.

(e) 'Blasting agent' means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided*, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

(f) 'Detonator' means any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

(g) 'Importer' means any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

(h) 'Manufacturer' means any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

(i) 'Dealer' means any person engaged in the business or distributing explosive materials at wholesale or retail.

(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained a user permit under the provisions of this chapter.

(k) 'Secretary' means the Secretary of the Treasury or his delegate.

(l) 'Crime punishable by imprisonment for a term exceeding one year' shall not mean (1) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (2) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a

misdemeanor and punishable by a term of imprisonment of two years or less.

(m) 'Licensee' means any importer, manufacturer, or dealer licensed under the provisions of this chapter.

(n) 'Distribute' means sell, issue, give, transfer, or otherwise dispose of.

Section 842. Unlawful acts

(a) It shall be unlawful for any person—

(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the provisions of this chapter; and

(3) other than a licensee or permittee knowingly—

(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials, except that a person who lawfully purchases explosive materials from a licensee in a State contiguous to the State in which the purchaser resides may ship, transport, or cause to be transported such explosive materials to the State in which he resides and may receive such explosive materials in the State in which he resides, if such transportation, shipment, or receipt is permitted by the law of the State in which he resides; or

(B) to distribute explosive materials to any person (other than a licensee or permittee) who the distributor knows or has reasonable cause to believe does not reside in the State in which the distributor resides.

(b) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person except—

(1) a licensee;

(2) a permittee; or

(3) a resident of the State where distribution is made and in which the licensee is licensed to do business or a State contiguous thereto if permitted by the law of the State of the purchaser's residence.

(c) It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

(d) It shall be unlawful for any licensee knowingly to distribute explosive materials to any individual who:

(1) is under twenty-one years of age;

(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;

(4) is a fugitive from justice;

(5) is an unlawful user of marihuana (as defined in section 4761 of the Internal Revenue Code of 1954) or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4721(a) of the Internal Revenue Code of 1954); or

(6) has been adjudicated a mental defective.

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

(f) It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Secretary may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

(g) It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under section 847 of this title.

(h) It shall be unlawful for any person to receive, conceal, transport, ship, store, barter, sell, or dispose of any explosive materials knowing or having reasonable cause to believe that such explosive materials were stolen.

(i) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to marihuana (as defined in section 4761 of the Internal Revenue Code of 1954) or any depressant or stimulant drug (as defined in section 201(v) of the Federal

Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution; to ship or transport any explosive in interstate or foreign commerce or to receive any explosive which has been shipped or transported in interstate or foreign commerce.

(j) It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary. In promulgating such regulations, the Secretary shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.

(k) It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Secretary and to appropriate local authorities.

Section 843. Licenses and user permits

(a) An application for a user permit or a license to import, manufacture, or deal in explosive materials shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant for a license or permit shall pay a fee to be charged as set by the Secretary, said fee not to exceed \$200 for each license or permit. Each license or permit shall be valid for no longer than three years from date of issuance and shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit and upon payment of a renewal fee not to exceed one-half of the original fee.

(b) Upon the filing of a proper application and payment of the prescribed fee, and subject to the provisions of this chapter and other applicable laws, the Secretary shall issue to such applicant the appropriate license or permit if—

(1) the applicant (including in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not a person to whom the distribution of explosive materials would be unlawful under section 842(d) of this chapter;

(2) the applicant has not willfully violated any of the provisions of this chapter or regulations issued hereunder;

(3) the applicant has in a State premises from which he conducts or intends to conduct business;

(4) the applicant has a place of storage for explosive materials which meets such standards of

public safety and security against theft as the Secretary by regulations shall prescribe; and

(5) the applicant has demonstrated and certified in writing that he is familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business.

(c) The Secretary shall approve or deny an application within a period of forty-five days beginning on the date such application is received by the Secretary.

(d) The Secretary may revoke any license or permit issued under this section if in the opinion of the Secretary the holder thereof has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter, or has become ineligible to acquire explosive materials under section 842(d). The Secretary's action under this subsection may be reviewed only as provided in subsection (e)(2) of this section.

(e) (1) Any person whose application is denied or whose license or permit is revoked shall receive a written notice from the Secretary stating the specific grounds upon which such denial or revocation is based. Any notice of a revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrently with the effective date of the revocation.

(2) If the Secretary denies an application for, or revokes a license, or permit, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation, the Secretary may upon a request of the holder stay the effective date of the revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Secretary shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary's written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation, pursuant to sections 701-706 of title 5, United States Code.

(f) Licensees and permittees shall make available for inspection at all reasonable times their records kept pursuant to this chapter or the regulations issued hereunder, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any licensee or permittee, for the purpose of inspecting or examining (1) any records or documents required to be kept by such licensee or permittee, under the provi-

sions of this chapter or regulations issued hereunder, and (2) any explosive materials kept or stored by such licensee or permittee at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials.

(g) Licenses and permits issued under the provisions of subsection (b) of this section shall be kept posted and kept available for inspection on the premises covered by the license and permit.

Section 844. Penalties

(a) Any person who violates subsections (a) through (i) of section 842 of this chapter shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) Any person who violates any other provision of section 842 of this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) Any explosive materials involved or used or intended to be used in any violation of the provisions of this chapter or any other rule or regulation promulgated thereunder or any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined not more than \$10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than \$20,000, or both; and if death results, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

(e) Whoever, through the use of the mail, telephone, telegraph, or other instrument of commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or

unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of an explosive shall be imprisoned for not more than five years or fined not more than \$5,000, or both.

(f) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle, or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be imprisoned for not more than ten years, or fined not more than \$10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years, or fined not more than \$20,000, or both; and if death results shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

(g) Whoever possesses an explosive in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department, or other person responsible for the management of such building, shall be imprisoned for not more than one year, or fined not more than \$1,000, or both.

(h) Whoever—

(1) uses an explosive to commit any felony which may be prosecuted in a court of the United States, or

(2) carries an explosive unlawfully during the commission of any felony which may be prosecuted in a court of the United States, shall be sentenced to a term of imprisonment for not less than one year not more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than five years nor more than twenty-five years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.

(i) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not more than ten years or fined not more than \$10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than \$20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

(j) For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section, the term 'explosive' means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

Section 845. Exceptions; relief from disabilities

(a) Except in the case of subsections (d), (e), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

(1) any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof;

(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency or the United States or to any State or political subdivision thereof;

(4) small arms ammunition and components thereof;

†(5) commercially manufactured black powder in quantities not to exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term 'destructive device' in section 921 (a) (4) of title 18 of the United States Code; and

(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

(b) A person who had been indicted for or convicted of a crime punishable by imprisonment for a term exceeding one year may make application to the

†As amended by Public Law 93-639, January 4, 1975.

Secretary for relief from the disabilities imposed by this chapter with respect to engaging in the business of importing, manufacturing, or dealing in explosive materials, or the purchase of explosive materials, and incurred by reason of such indictment or conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the indictment or conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief will not be contrary to the public interest. A licensee or permittee who makes application for relief from the disabilities incurred under this chapter by reason of indictment or conviction, shall not be barred by such indictment or conviction from further operations under his license or permit pending final action on an application for relief filed pursuant to this section.

Section 846. Additional powers of the Secretary

The Secretary is authorized to inspect the site of any accident, or fire, in which there is reason to believe that explosive materials were involved, in order that if any such incident has been brought about by accidental means, precautions may be taken to prevent similar accidents from occurring. In order to carry out the purpose of this subsection, the Secretary is authorized to enter into or upon any property where explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location. Nothing in this chapter shall be construed as modifying or otherwise affecting in any way the investigative authority of any other Federal agency. In addition to any other investigatory authority they have with respect to violations or provisions of this chapter, the Attorney General and the Federal Bureau of Investigation, together with the Secretary, shall have authority to conduct investigations with respect to violations of subsection (d), (e), (f), (g), (h), or (i) of section 844 of this title.

Section 847. Rules and regulations

The administration of this chapter shall be vested in the Secretary. The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter. The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

Section 848. Effect on State law

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to

occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

Editor's Note: Effect of Title XI of Public Law 91-452 on Federal laws. PL 91-452 Sec. 1103: Section 2516(1)(c) of title 18, United States Code, is amended by inserting after "section 224 (bribery in sporting contests)," the following: "subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives)". PL 91-452 Sec. 1104: Nothing in this title shall be construed as modifying or affecting any provision of (a) The National Firearms Act (chapter 53 of the Internal Revenue Code of 1954); (b) Section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; (c) Section 1716 of title 18, United States Code, relating to nonmailable materials; (d) Sections 831 through 836 of title 18, United States Code; or (e) Chapter 44 of title 18, United States Code. PL 91-452 Sec. 1106: (a) The Federal Explosives Act of October 6, 1917 (40 Stat. 385, as amended; 50 U.S.C. 121-143), and as extended by Act of July 1, 1948 (40 Stat. 671; 50 U.S.C. 144), and all regulations adopted thereunder are hereby repealed. (b)(1) Section 837 of title 18 of the United States Code is repealed. (2) The item relating to such section 837 in the chapter analysis of chapter 39 of such title 18 is repealed.

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Commerce in Explosives

Part 181

Title 27 Code of Federal Regulations

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AUTHORITY: The provisions of this Part 181 issued under 84 Stat. 952-960, 18 U.S.C. 841-848, unless otherwise noted.

Subpart A—Introduction

Section 181.1 Scope of regulations.

(a) **In general.** The regulations contained in this part relate to commerce in explosives and are promulgated to implement title XI, Regulation of Explosives (18 U.S.C. chapter 40; 84 Stat. 952), of the Organized Crime Control Act of 1970 (84 Stat. 922).

(b) **Procedural and substantive requirements.** This part contains the procedural and substantive requirements relative to:

- (1) The interstate or foreign commerce in explosive materials;
- (2) The licensing of manufacturers and importers of, and dealers in, explosive materials;
- (3) The issuance of user permits;
- (4) The conduct of business by licensees and operations by permittees;
- (5) The storage of explosive materials;
- (6) The records and reports required by licensees and permittees;
- (7) Relief from disabilities under this part; and
- (8) Exemptions, unlawful acts, penalties, seizures, and forfeitures.

(c) **Persons engaged in business or operations on October 15, 1970.** This part fully applies to persons engaged on October 15, 1970, in business or operations requiring a license or permit under this part who have

filed an application for such license or permit prior to February 12, 1971, and who are continuing such business or operations pending final actions on such application pursuant to section 1105(c) of the Organized Crime Control Act of 1970 (84 Stat. 960).

Section 181.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in explosive materials. For regulations applicable to commerce in firearms and ammunition, see Part 178 of this chapter. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), and regulations in Part 180 of this chapter and in Parts 121-128 of Title 22, Code of Federal Regulations. For statutes applicable to nonmailable materials, see 18 U.S.C. 1716 and regulations thereunder. For statutes applicable to water quality standards, see 33 U.S.C. 1171(b).

Subpart B—Definitions

Section 181.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the

masculine gender shall include the feminine. The term "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Act. Chapter 40 of title 18 of the United States Code.

Ammunition. Small arms ammunition or car-

tridge cases, primers, bullets, or smokeless propellants designed for use in small arms, and shall include percussion caps and 3/32-inch pyrotechnic safety fuses. The term shall not include black powder.

Approved storage facility. A facility for the storage of explosive materials conforming to the requirements of this part and covered by a license or permit issued under this part.

Army-type structure. A structure approved by the Department of Defense for the storage of explosive materials.

Assistant Regional Commissioner. An Assistant Regional Commissioner, Alcohol, Tobacco, and Firearms, who is responsible to, and functions under the direction and supervision of, a Regional Commissioner of Internal Revenue.

Blasting agent. Any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided*, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined. A numbered 8 test blasting cap is one containing 2 grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a blasting cap of equivalent strength.

Business premises. When used with respect to a manufacturer, importer or dealer the property on which explosive materials are or will be manufactured, imported, stored or distributed. Such premises shall include the property where the records of a manufacturer, importer or dealer are or will be maintained if different than the premises where explosive materials are or will be manufactured, imported, stored or distributed. When used with respect to a user of explosive materials, the property on which the explosive materials are or will be received or stored. Such premises shall include the property where the records of such user are or will be maintained if different than the premises where explosive materials are or will be received or stored.

Commissioner. The Commissioner of Internal Revenue.

Crime punishable by imprisonment for a term exceeding 1 year. Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices or restraints of trade, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

Customs officer. Any officer of the Bureau of Customs or any agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a Regional Commissioner of Customs, or

by another principal customs officer under delegated authority, to perform the duties of an officer of the Bureau of Customs.

Dealer. Any person engaged in the business of distributing explosive materials at wholesale or retail.

Detonator. Any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

Director. The Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Treasury Department, Washington, D.C. 20224.

Distribute. To sell, issue, give, transfer, or otherwise dispose of. The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment.

District Director. A District Director of Internal Revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Explosive materials. Explosives, blasting agents, and detonators. Such materials shall include all items in the Explosives List provided for in Section 181.23.

Explosives. Any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

Fugitive from justice. Any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term shall also include any person who has been convicted of any crime and has fled to avoid imprisonment.

Importer. Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

Indictment. Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

Inhabited building. Any building regularly occu-

pied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.

Internal revenue district. An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

Internal revenue region. An internal revenue region under the jurisdiction of a Regional Commissioner of Internal Revenue.

Interstate or foreign commerce. Commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State.

Licensed dealer. A dealer licensed under the provisions of this part.

Licensed importer. An importer licensed under the provisions of this part.

Licensed manufacturer. A manufacturer licensed under the provisions of this part to engage in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Licensed manufacturer-limited. A manufacturer licensed under the provisions of this part to engage in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Licensee. Any importer, manufacturer, or dealer licensed under the provisions of this part.

Manufacturer. Any person engaged in the busi-

ness of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Manufacturer-limited. Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Permittee. Any user of explosives for lawful purpose, who has obtained a user permit under the provisions of this part.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Regional Commissioner. A Regional Commissioner of Internal Revenue.

Service Center Director. A director of an internal revenue service center.

State. A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence. The State in which an individual regularly resides or maintains his home. Temporary sojourn in a State does not make the State of temporary sojourn the State of residence.

U.S.C. The United States Code.

User-limited permit. A user permit valid only for a single purchase transaction, a new permit being required for a subsequent purchase transaction.

User permit. A permit issued to a person authorizing him (1) to acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country, and (2) to transport explosive materials so acquired in interstate or foreign commerce.

Subpart C—Administrative and Miscellaneous Provisions

Section 181.21 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

Section 181.22 Emergency variations from requirements.

(a) The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations from the specific requirements (1) are necessary, (2) will not hinder the effective administration of this part, and (3) will not be contrary to any provisions of law.

(b) Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application.

Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations, and the licensee or permittee thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the Director the emergency no longer exists or the effective administration of this part is hindered by the continuation of such variation. A licensee or permittee who desires to employ such variation shall submit a written application so to do, in triplicate, to the Assistant Regional Commissioner for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons therefor. A variation shall not be employed until the application has been approved. The licensee or permittee shall retain, as part of his records, available for examination by internal revenue officers, any application approved by the Director under the provisions of this section.

Section 181.23 Explosives list.

The Director shall compile and publish in the FEDERAL REGISTER an Explosives List. This list shall be published and revised at least annually.

Section 181.24 Right of entry and examination.

Any internal revenue officer may enter during business hours the premises, including places of storage, of any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee for the purpose of inspecting or examining any records or documents required to be kept by such importer, manufacturer, dealer, or permittee under this part, and any explosive materials kept or stored by such importer, manufacturer, dealer, or permittee at such premises.

Section 181.25 Disclosure of information.

Upon receipt of written request of any State or any political subdivision thereof, the Assistant Regional Commissioner may make available to such State or any political subdivision thereof, any information which the Assistant Regional Commissioner may obtain by reason of the provisions of the Act with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials.

Section 181.26 Prohibited shipment, transportation, or receipt of explosive materials.

(a) No person, other than a licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee, shall transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials: *Provided*, That the provisions of this paragraph shall not apply to the transportation, shipment, or receipt of explosive materials by a nonlicensed person or nonpermittee who lawfully purchases explosive materials from a licensee in a State contiguous to the purchaser's State of residence if, (1) the purchaser's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State, (2) the provisions of Section 181.105(c) are fully complied with, and (3) the purchaser is not otherwise prohibited under paragraph (b) from shipping or transporting explosive materials in interstate or foreign commerce or receiving explosive materials which have been shipped or transported in interstate or foreign commerce.

(b) No person may ship or transport any explosive material in interstate or foreign commerce or receive any explosive materials which have been shipped or

transported in interstate or foreign commerce who (1) is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) in an unlawful user of or addicted to marihuana (as defined in section 4761 of the Internal Revenue Code of 1954; 26 U.S.C. 4761) or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(v)), or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954; 26 U.S.C. 4731(a)), or (4) has been adjudicated as a mental defective or has been committed to a mental institution.

Section 181.27 Out-of-State disposition of explosive materials.

No nonlicensee or nonpermittee shall distribute any explosive materials to any other nonlicensee or nonpermittee who the distributor knows or has reasonable cause to believe does not reside in the State in which the distributor resides.

Section 181.28 Stolen explosive materials.

No person shall receive, conceal, transport, ship, store, barter, sell, or dispose of any stolen explosive materials knowing or having reasonable cause to believe that the explosive materials were stolen.

Section 181.29 Unlawful storage.

No person shall store any explosive materials in a manner not in conformity with the provisions of Subpart J.

Section 181.30 Reporting theft or loss of explosive materials.

Any licensee or permittee who has knowledge of the theft or loss of any explosive materials from his stock shall within 24 hours of discovery thereof report such theft or loss on Form 4712 to the Assistant Regional Commissioner in accordance with the instructions on such form, and to appropriate local authorities. Any other person who has knowledge of the theft or loss of any explosive materials from his stock shall within 24 hours of discovery thereof report such theft or loss in writing to the Assistant Regional Commissioner, and to appropriate local authorities.

Section 181.31 Inspection of site of accidents or fires; right of entry.

Any internal revenue officer may inspect the site of any accident or fire in which there is reason to believe that explosive materials were involved. Any internal revenue officer may enter into or upon any property where explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location.

Subpart D—Licenses and Permits

Section 181.41 General.

(a) Each person intending to engage in business as an importer or manufacturer of, or a dealer in, explosive materials shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who intends to acquire for use explosive materials from a licensee in a State other than the State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, shall obtain a permit under the provisions of this subpart: *Provided*, That it is not necessary to obtain such permit if the user intends to lawfully purchase explosive materials from a licensee in a State contiguous to the user's State of residence and the user's State of residence has enacted legislation currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State.

(b) Each person intending to engage in business as an explosive materials importer, manufacturer, or dealer shall file an application, with the required fee (see Section 181.42), with the Service Center Director for the internal revenue district in which his business premises are to be located. A separate license must be obtained for each business premises at which the applicant is to manufacture, import, or distribute explosive materials: *Provided*, That a separate license shall not be required for storage facilities operated by the licensee as an integral part of one business premises or to cover a location used by the licensee solely for maintaining the records required by this part: *Provided further*, That a separate license shall not be required of a licensed manufacturer with respect to his on site manufacturing. A license shall, subject to the provisions of law, entitle the licensee to transport, ship, and receive explosive materials in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license (and in the case of a licensed manufacturer, on site within the same internal revenue region), for the period stated on the license: *Provided*, That it shall not be necessary for a licensed importer or a licensed manufacturer (for purposes of sale or distribution) to also obtain a dealer's license in order to engage in business on his licensed premises as a dealer in explosive materials.

(c) Except as provided in paragraph (a) of this section, each person intending to acquire explosive materials from a licensee in a State other than a State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, shall file an application, with the required fee (see Section 181.43), with the Service Center Director for the internal revenue district in which is located his legal residence or principal place of business. A permit shall, subject to the provisions of the

Act and other applicable provisions of law, entitle the permittee to acquire, transport, ship, and receive in interstate or foreign commerce explosive materials of the class authorized by his permit. Only one permit is required under the provisions of this part.

Section 181.42 License fees.

(a) Each applicant shall pay a fee for obtaining a license, a separate fee being required for each business premises, as follows:

- (1) Manufacturer—\$50.
- (2) Manufacturer-limited (nonrenewable)—\$5.
- (3) Importer—\$50.
- (4) Dealer—\$20.

(b) Each applicant for a renewal of a license shall pay a fee equal to one-half of the fee prescribed under paragraph (a).

Section 181.43 Permit fees.

(a) Each applicant shall pay a fee for obtaining a permit as follows:

- (1) User—\$20.
- (2) User-limited (nonrenewable)—\$2.

(b) Each applicant for a renewal of a user permit shall pay a fee of \$10.

Section 181.44 License or permit fee not refundable.

No refund of any part of the amount paid as a license or permit fee shall be made where the operations of the licensee or permittee are, for any reason, discontinued during the period of an issued license or permit. However, the license or permit fee submitted with an application for a license or permit shall be refunded if that application is denied.

Section 181.45 Original license or permit.

(a) Any person who intends to engage in business as an explosive materials importer, manufacturer, or dealer on or after February 12, 1971, or who has not timely submitted application for renewal of a previous license issued under this part, shall file with the Service Center Director for the internal revenue district in which the applicant is to do business an application, Form 4705, in duplicate. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a). The application shall be accompanied by the appropriate fee in the form of (1) cash, or (2) money order or check made payable to the Internal Revenue Service. Forms 4705 may be obtained from any Assistant Regional Commissioner or from any District Director.

(b) Any person, except as provided in Section 181.41(a), who intends to acquire on or after February 12, 1971, explosive materials from a licensee in a State other than the State in which he resides, or from a foreign country or who intends to transport explosive

materials in interstate or foreign commerce, or who has not timely submitted application for renewal of a previous permit issued under this part, shall file with the Service Center Director for the internal revenue district in which is located his legal residence or principal place of business an application, Form 4707, in duplicate. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a). The application shall be accompanied by the appropriate fee in the form of (1) cash, or (2) money order or check made payable to the Internal Revenue Service. Forms 4707 may be obtained from any Assistant Regional Commissioner or from any District Director.

(c) Any person engaging in a business or operation requiring a license or permit under the provisions of this part who was engaged in such business or operation on October 15, 1970, and who has filed an application for a license or permit prior to February 12, 1971, may continue such business or operation pending final action on the application (see section 181.1(c)).

181.46 Renewal of license or permit.

If a licensee or permittee intends to continue the business or operation described on a license or permit issued under this part after the expiration date of the license or permit, he shall, unless otherwise notified in writing by the Assistant Regional Commissioner, execute and file prior to the expiration of his license or permit an application for license renewal, Form 4706 (Part III), or an application for permit renewal, Form 4708 (Part III), accompanied by the required fee, with the Service Center Director for the internal revenue district in which the business premises are located, or in the case of a permittee, in which is located his legal residence or principal place of business: *Provided*, That a license issued to a manufacturer-limited is not renewable and is only valid for 30 days from date of issuance, and a user-limited permit is not renewable and is only valid for a single purchase transaction. All applications for manufacturer-limited licenses or user-limited permits must be filed on Form 4705 or Form 4707 in the manner required by Section 181.45. In the event the licensee or permittee does not timely file a renewal application, he must file an original application as required by Section 181.45, and obtain the required license or permit in order to continue business or operations. If a licensee or permittee does not timely receive renewal application forms through the mails, he should so notify his Assistant Regional Commissioner.

Section 181.47 Procedure by Service Center Director.

Upon receipt of an application for an original license or an original permit or an application for renewal of a license or renewal of a permit, the Service Center Director shall deposit the fee accompanying the license or permit application and forward the applica-

tion to the Assistant Regional Commissioner. Where an application is filed with an insufficient fee, the application and any fee submitted shall be returned.

Section 181.48 Abandoned application.

Upon receipt of an incomplete or improperly executed application, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned and the license or permit fee returned.

Section 181.49 Issuance of license or permit.

(a) Upon receipt of a properly executed application for a license or permit, the Assistant Regional Commissioner shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is entitled thereto, issue the appropriate license or permit and a copy thereof: *Provided*, That in the case of a user-limited permit, the original only shall be issued. Each license or permit shall bear a serial number and such number may be assigned to the licensee or permittee to whom issued for as long as he maintains continuity of renewal in the same internal revenue region.

(b) The Assistant Regional Commissioner shall approve a properly executed application for license or permit, if:

- (1) The applicant is 21 years of age or over;
- (2) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not a person to whom distribution of explosive materials is prohibited under the provisions of the Act;
- (3) The applicant has not willfully violated any of the provisions of the Act or this part;
- (4) The applicant has not knowingly withheld information or has not made any false or fictitious statement intended or likely to deceive, in connection with his application;
- (5) The applicant has in a State business premises from which he conducts business or operations subject to license or permit under the Act or from which he intends to conduct such business or operations;
- (6) The applicant has storage facilities for the class of explosive materials described on the application which facilities meet the standards prescribed by Subpart J of this part, unless he establishes to the satisfaction of the Assistant Regional Commissioner that the business or operations to be conducted will not require the storage of explosive materials;
- (7) The applicant has certified in writing that he is familiar with and understands all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business; and

(8) The applicant for a license has submitted the certificate required by section 21 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1171(b)).

(c) The Assistant Regional Commissioner shall approve or deny an application for license or permit within the 45-day period beginning on the date a properly executed application was received by the Service Center Director: *Provided*, That when an applicant for license or permit renewal is a person who is, pursuant to the provisions of Section 181.83 or Section 181.142, conducting business or operations under a previously issued license or permit, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant's existing license or permit, or renewal application, or final action by the Commissioner on an application for relief submitted pursuant to Section 181.142, as the case may be.

Section 181.50 Correction of error on license or permit.

(a) Upon receipt of a license or permit issued under the provisions of this part, each licensee or permittee shall examine same to insure that the information contained thereon is accurate. If the license or permit is incorrect, the licensee or permittee shall return the license or permit to the Assistant Regional Commissioner with a statement showing the nature of the error. The Assistant Regional Commissioner shall correct the error, if the error was made in his office, and return the license or permit. However, if the error resulted from information contained in the licensee's or permittee's application for the license or permit, the Assistant Regional Commissioner shall require the licensee or permittee to file an amended application setting forth the correct information and a statement explaining the error contained in the application. Upon receipt of the amended application and a satisfactory explanation of the error, the Assistant Regional Commissioner shall make the correction on the license or permit and return the same to the licensee or permittee.

(b) When the Assistant Regional Commissioner finds through any means other than notice from the licensee or permittee that an incorrect license or permit has been issued, (1) the Assistant Regional Commissioner may require the holder of the incorrect license or permit to return the license or permit for correction, and (2) if the error resulted from information contained in the licensee's or permittee's application for the license or permit, the Assistant Regional Commissioner shall require the licensee or permittee to file an amended application setting forth the correct information, and a statement satisfactorily explaining the error contained in the application. The Assistant Regional Commissioner then shall make the correction on the license or permit and return same to the licensee or permittee.

Section 181.51 Duration of license or permit.

Licenses and permits shall be issued for a period of 1 year; *Provided*, That a manufacturer-limited license shall be issued for a period of 30 days and a user-limited permit shall be valid only for a single purchase transaction.

Section 181.52 Limitations on license or permit.

(a) The license covers the business and class of explosive materials specified in the license at the licensee's business premises (see Section 181.41(b)).

(b) The permit is valid with respect to the type of operations and class of explosive materials specified in the permit.

Section 181.53 License and permit not transferable.

Licenses and permits issued under this part are not transferable to another person. In the event of the lease, sale, or other transfer of the business or operations covered by the license or permit, the successor must obtain the license or permit required by this part prior to commencing such business or operations. However, for rules on right of succession, see Section 181.59.

Section 181.54 Change of location; change in construction.

(a) **Other than storage facilities.** Except as provided in paragraph (b), a licensee or permittee may during the term of his license or permit remove his business or operations to a new location at which he intends regularly to carry on such business or operations, without procuring a new license or permit. However, in every case, whether or not the removal is from one internal revenue region to another, notification of the new location of the business or operations must be given not less than 10 days prior to such removal to the Assistant Regional Commissioner for the internal revenue region from which or within which the removal is to be made, and the Assistant Regional Commissioner for the internal revenue region to which the removal is to be made. In each instance, the license or permit and any copies thereof furnished with the license or permit must be submitted for endorsement to the Assistant Regional Commissioner having jurisdiction over the internal revenue region to which or within which removal is to be made. After endorsement of the license or permit and the copies thereof to show the new location, and the new license or permit number, if any, the Assistant Regional Commissioner will return same to the licensee or permittee.

(b) **Storage facilities.** A licensee or permittee who intends to change the location of his approved storage facility described in his application (other than a change of location of a portable approved storage facility) during the term of his license or permit shall make written application, in duplicate, to the Assistant

Regional Commissioner who issued the license or permit, describing the location, the type of construction, and the class of explosive materials as prescribed in Subpart J. Such application may include a request for approval of specific successive changes in location of an approved storage facility. Storage of explosive materials may not be commenced at the new location prior to receipt of the copy of such application stamped "Approved."

(c) **Additions to or changes in storage facilities.** A licensee or permittee who intends to make additions to or changes in construction of approved storage facilities described in his application, shall file an application on Form 4705 or on Form 4707 with the Assistant Regional Commissioner for an amended license or permit, describing the proposed additions or changes. Additions to or changes in construction of approved storage facilities may not be made prior to issuance of the amended license or permit. Upon receipt of the amended license or amended permit, the licensee or permittee shall submit his superseded license or superseded permit and any copies thereof to the Assistant Regional Commissioner.

Section 181.55 Change in class of explosive materials.

A licensee or permittee who intends to change the class of explosive materials described in his license or permit from a lower to a higher classification (see Subpart J) shall file an application on Form 4705 or on Form 4707 with the Assistant Regional Commissioner for an amended license or permit. If the change in class or explosive materials would require a change in storage facilities, the amended application shall include a description of the type of construction as prescribed in Subpart J. Business or operations with respect to the new class of explosive materials may not be commenced prior to issuance of the amended license or amended permit. Upon receipt of the amended license or amended permit, the licensee or permittee shall submit his superseded license or superseded permit and any copies thereof to the Assistant Regional Commissioner.

Section 181.56 Change in trade name.

A licensee or permittee continuing to conduct business or operations at the location shown on his license or permit is not required to obtain a new license or permit by reason of a mere change in trade name under which he conducts his business or operations: *Provided*, That such licensee or permittee furnishes his license or permit and any copies thereof for endorsement of such change to the Assistant Regional Commissioner for the internal revenue region in which the licensee or permittee conducts his business or operations, within 30 days from the date the licensee or

permittee begins his business or operations under the new trade name.

Section 181.57 Change of control.

In the case of a corporation or association holding a license or permit under this part, if actual or legal control of the corporation or association changes, directly or indirectly, whether by reason of change in stock ownership or control (in the corporation holding a license or permit or in any other corporation), by operation of law, or in any other manner, the licensee or permittee shall, within 30 days of such change, give written notification thereof executed under the penalties of perjury, to the Assistant Regional Commissioner. Upon expiration of the license or permit, the corporation or association must file a Form 4705 or a Form 4707 as required by Section 181.45 and pay the fee prescribed in Section 181.42(b) or Section 181.43 (b).

Section 181.58 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to conduct the business or operations under the license or permit of the partnership. If such surviving partner acquires the business or operations on completion of settlement of the partnership, he shall obtain a license or permit in his own name from the date of acquisition, as provided in Section 181.45. The rule set forth in this section shall also apply where there is more than one surviving partner.

Section 181.59 Right of succession by certain persons.

(a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same business premises for the remainder of the term of license or permit. Such persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit and copies thereof for that business or operations for endorsement of such succession to the Assistant Regional Commissioner for the internal revenue region in which the business or operations is conducted within 30 days from the date on which the successor begins to carry on the business or operations.

Section 181.60 Certain continuances of business or operations.

A licensee or permittee who furnishes his license or permit to the Assistant Regional Commissioner for correction, amendment or endorsement in compliance with the provisions contained in this subpart may continue his business or operations while awaiting its return.

Section 181.61 Discontinuance of business or operations.

Where an explosive materials business or operations is either discontinued or succeeded by a new owner, the owner of the business or operations discontinued or succeeded shall within 30 days thereof furnish to the Assistant Regional Commissioner for the

internal revenue region in which his business or operations was located notification of the discontinuance or succession and his license or permit and any copies thereof. (See also Section 181.128.)

Section 181.62 State or other law.

A license or permit issued under this part confers no right or privilege to conduct business or operations, including storage, contrary to State or other law. The holder of such a license or permit is not by reason of the rights and privileges granted by that license or permit immune from punishment for conducting an explosive materials business or operations in violation of the provisions of any State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under Federal law or regulations.

Subpart E—License and Permit Proceedings

Section 181.71 Opportunity for compliance.

Except in cases of wilfulness or those in which the public interest requires otherwise, and the Assistant Regional Commissioner so alleges in the notice of denial of an application or revocation of a license or permit, no license or permit shall be revoked or renewal application denied without first calling to the attention of the licensee or permittee the reasons for the contemplated action and affording him an opportunity to demonstrate or achieve compliance with all lawful requirements and to submit facts, arguments, or proposals of adjustments. The notice of contemplated action, Form 4715, shall afford the licensee or permittee 15 days from the date of receipt of the notice to respond. If no response is received within the 15 days, or after consideration of relevant matters presented by the licensee or permittee, the Assistant Regional Commissioner finds that the licensee or permittee is not likely to abide by the law and regulations, he will proceed as provided in Section 181.74.

Section 181.72 Denial of initial application.

Whenever the Assistant Regional Commissioner has reason to believe that an applicant for an original license or permit is not eligible to receive a license or permit under the provisions of Section 181.49, he shall issue a notice of denial on Form 4716. The notice shall set forth the matters of fact and law relied upon in determining that the application should be denied, and shall afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within that time, a copy of the application, marked "Disapproved," will be returned to the applicant.

Section 181.73 Hearing after initial application is denied.

If the applicant for an original license or permit desires a hearing, he shall file a request therefor, in duplicate, with the Assistant Regional Commissioner, within 15 days after receipt of the notice of denial. The request should include a statement of the reasons therefor. On receipt of the request, the Assistant Regional Commissioner shall refer the matter to a hearing examiner and the examiner shall set a time and place (see Section 181.77) for a hearing and shall serve notice thereof upon the applicant and the Assistant Regional Commissioner at least 10 days in advance of the hearing date. The hearing shall be conducted in accordance with the hearing procedures prescribed in Part 200 of this chapter (see Section 181.82). Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the examiner shall render his recommended decision. He shall certify to the complete record of the proceedings before him and shall immediately forward the complete certified record, together with four copies of his recommended decision, to the Assistant Regional Commissioner for decision.

Section 181.74 Denial of renewal application or revocation of license or permit.

If, following or without opportunity for compliance under Section 181.71, as circumstances warrant, the Assistant Regional Commissioner finds that the licensee or permittee is not likely to comply with the law or regulations or is otherwise not eligible to continue operations authorized under his license or permit, the Assistant Regional Commissioner will issue a notice of denial of the renewal application or revoca-

tion of the license or permit, Form 4716 or 4717, as appropriate. In either case, the notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The notice shall, in the case of revocation of a license or permit, specify the date on which such action is effective, which date shall be on or after the date the notice is served on the licensee or permittee. The notice shall also advise the licensee or permittee that he may, within 15 days after receipt of the notice, request a hearing and, if applicable, a stay of the effective date of the revocation of his license or permit.

Section 181.75 Hearing after denial of renewal application or revocation of license or permit.

If a licensee or permittee whose renewal application has been denied or whose license or permit has been revoked desires a hearing, he shall file a request therefor, in duplicate, with the Assistant Regional Commissioner. In the case of the revocation of a license or permit, he may include a request for a stay of the effective date of the revocation. On receipt of the request the Assistant Regional Commissioner shall advise the licensee or permittee whether the stay of the effective date of the revocation is granted. If the stay of the effective date of the revocation is granted, the Assistant Regional Commissioner shall refer the matter to a hearing examiner. The hearing examiner shall set a time and place (see Section 181.77) for a hearing and shall serve notice thereof upon the licensee or permittee and the Assistant Regional Commissioner at least 10 days in advance of the hearing date. If the stay of the effective date of the revocation is denied, the licensee or permittee may request an immediate hearing. In such event, the Assistant Regional Commissioner shall immediately refer the matter to a hearing examiner who shall set a date and place for a hearing, which date shall be no later than 10 days from the date the licensee or permittee requested an immediate hearing. The hearing shall be held in accordance with the applicable provisions of Part 200 of this chapter. Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the hearing examiner shall render his decision. He shall certify to the complete record of the proceeding before him and shall immediately forward the complete certified record, together with two copies of his decision, to the Assistant Regional Commissioner, serve one copy of his decision on the licensee or permittee or his counsel, and transmit a copy to the attorney for the Government.

Section 181.76 Action by Assistant Regional Commissioner.

(a) **Initial application proceedings.** If, upon receipt of the record and the recommended decision of the examiner, the Assistant Regional Commissioner decides that the license or permit should be issued, he

shall approve the application, briefly stating, for the record, his reasons therefor. If he contemplates that the denial should stand, he shall serve a copy of the examiner's recommended decision on the applicant, informing the applicant of his contemplated action and affording the applicant not more than 10 days in which to submit proposed findings and conclusions or exceptions to the recommended decision with reasons in support thereof. If the Assistant Regional Commissioner, after consideration of the record of the hearing and of any proposed findings, conclusions, or exceptions filed with him by the applicant, approves the findings, conclusions and recommended decision of the examiner, he shall issue the license or permit or disapprove the application in accordance therewith. If he disapproves of the findings, conclusions, and recommendation of the examiner, in whole or in part, he shall by order make such findings and conclusions as in his opinion are warranted by the law and the facts in the record. Any decision of the Assistant Regional Commissioner ordering the disapproval of an initial application for a license or permit shall state the findings and conclusions upon which it is based, including his ruling upon each proposed finding, conclusion, and exception to the examiner's recommended decision, together with a statement of his findings and conclusions, and reasons or basis therefor, upon all material issues of fact, law or discretion presented on the record. A signed duplicate original of the decision shall be served upon the applicant and the original copy containing certificate of service shall be placed in the official record of the proceedings. If the decision of the Assistant Regional Commissioner is in favor of the applicant, he will issue the license or permit, to be effective on issuance.

(b) **Renewal application and revocation proceedings.** Upon receipt of the complete certified records of the hearing, the Assistant Regional Commissioner shall enter an order confirming the revocation of the license or permit, or disapproving the application, in accordance with the examiner's findings and decision, unless he disagrees with the findings and decision. A signed duplicate original of the order, Form 4718, shall be served upon the licensee or permittee and the original copy containing certificate of service shall be placed in the official record of the proceedings. If the Assistant Regional Commissioner disagrees with the findings and decision of the examiner, he shall file a petition with the Director for review thereof as provided in Section 181.79. In either case, if the renewal application denial is sustained a copy of the application marked "Disapproved" will be returned to the applicant. If the renewal application denial is reversed a license or permit will be issued to become effective on expiration of the license or permit being renewed, or on the date of issuance, whichever is later. If the proceedings involve the revocation of a license or permit which

expired before a decision is in favor of the licensee or permittee, the Assistant Regional Commissioner shall:

(1) If renewal application was timely filed and a stay of the effective date of the revocation was granted, issue a license or permit effective on the date of issuance;

(2) If renewal application was not timely filed but a stay of the effective date of the revocation had been granted, request that a renewal application be filed and, pursuant thereto, issue a license or permit to be effective on issuance; or

(3) If a stay of the effective date of the revocation had not been granted, request that an application be filed as provided in Section 181.45, and process it in the same manner as for an application for an original license or permit.

(c) **Curtailement of stay of revocation effective date.** If, after approval of a request for a stay of the effective date of an order revoking a license or permit but before actions are completed under this subpart, the Assistant Regional Commissioner finds that it is contrary to the public interest for the licensee or permittee to continue the operations or activities covered by his license or permit, the Assistant Regional Commissioner may issue a notice of withdrawal of such approval, effective on the date of issuance. Such notice shall be served upon the licensee or permittee in the manner provided in Section 181.81.

Section 181.77 Designated place of hearing.

The designated place of hearing set as provided in Section 181.73 or Section 181.75 shall be at the location convenient to the aggrieved party.

Section 181.78 Representation at a hearing.

An applicant, licensee or permittee may be represented by an attorney or other person recognized to practice before the Internal Revenue Service as provided in 31 CFR Part 10 (Treasury Department Circular No. 230) if he has otherwise complied with the applicable requirements of Sections 601.521-601.527 of this chapter. The Assistant Regional Commissioner may be represented in proceedings under Sections 181.73 and 181.75 by an attorney in the office of the regional counsel who is authorized to execute and file motions, briefs, and other papers in the proceedings, on behalf of the Assistant Regional Commissioner, in his own name as "Attorney for the Government."

Section 181.79 Appeal on petition to the Director.

An appeal to the Director is not required prior to filing an appeal with the U.S. Court of Appeals for judicial review. An appeal may be taken by the applicant, licensee, or permittee to the Director from a decision resulting from a hearing under Section 181.73 or Section 181.75. An appeal may also be taken by an Assistant Regional Commissioner from a decision resulting from a hearing under Section 181.75 as

provided in Section 181.76(b). Such appeal shall be taken by filing a petition for review on appeal with the Director within 15 days of the service of an examiner's decision or an order. The petition shall set forth facts tending to show (a) action of an arbitrary nature, (b) action without reasonable warrant in fact, or (c) action contrary to law and regulations. A copy of the petition shall be filed with the Assistant Regional Commissioner or served on the applicant, licensee, or permittee, as the case may be. In the event of such appeal, the Assistant Regional Commissioner shall immediately forward the complete original record, by certified mail, to the Director for his consideration, review, and disposition in the manner provided in Subpart I of Part 200 of this chapter. When, on appeal, the Director affirms the initial decision of the Assistant Regional Commissioner or the examiner, as the case may be, such initial decision shall be final.

Section 181.80 Court review.

An applicant, licensee, or permittee may, within 60 days after receipt of the decision of the examiner or the final order of the Assistant Regional Commissioner or the Director, file a petition for a judicial review thereof, with the U.S. Court of Appeals for the district in which he resides or has his principal place of business. The Director, upon notification that such petition has been filed, shall have prepared, in triplicate, a complete transcript of the record of the proceedings. The Assistant Regional Commissioner or the Director, as the case may be, will certify to the correctness of such transcript of the record, forward one copy to the attorney for the Government in the review of the case, and file the original record of the proceedings with the original certificate in the U.S. Court of Appeals.

Section 181.81 Service on applicant, licensee, or permittee.

All notices and other formal documents required to be served on an applicant, licensee, or permittee under this subpart shall be served by certified mail or by personal delivery. Where service is by personal delivery, the signed duplicate original copy of the formal document shall be delivered to the applicant, licensee, or permittee, or, in the case of a corporation, partnership, or association, by delivering it to an officer, manager, or general agent thereof, or to its attorney of record.

Section 181.82 Provisions of Part 200 made applicable.

The provisions of Subpart G of Part 200 of this chapter, as well as those provisions of Part 200 relative to failure to appear, withdrawal of an application or surrender of a permit, the conduct of hearings before a hearing examiner, and record of testimony are hereby made applicable to application, license, and permit proceedings under this subpart to the extent that they are not contrary to or incompatible with the provisions of this subpart.

Section 181.83 Operations by licensees or permittees after notice of denial or revocation.

In any case where a notice of revocation has been issued and a request for a stay of the effective date of the revocation has not been granted, the licensee or permittee may not engage in the activities covered by the license or permit pending the outcome of proceedings under this subpart. In any case where notice of revocation has been issued but a stay of the effective date of the revocation has been granted, the licensee or

permittee may continue to engage in the activities covered by his license or permit unless or until formally notified to the contrary: *Provided*, That in the event the license or permit would have expired before proceedings under this subpart are completed, timely renewal application must have been filed to continue the license or permit beyond its expiration date. In any case where a notice of denial of a renewal application has been issued, the licensee or permittee may continue to engage in the activities covered by the existing license or permit after the date of expiration thereof until proceedings under this subpart are completed.

Subpart F—Conduct of Business or Operations

Section 181.101 Posting of license or permit.

Licenses or permits issued under this part or copies thereof shall be kept posted and kept available for inspection on the business premises at each place where explosive materials are manufactured, imported, or distributed and in each magazine of an approved storage facility.

Section 181.102 Authorized operations by permittees and certain licensees.

(a) **In general.** The license issued to a manufacturer-limited does not authorize such licensee to engage in another class of business required to be licensed under the Act or this part. Therefore if such licensee intends to manufacture explosive materials for purposes of sale or distribution or to deal in explosive materials, he shall so qualify. Similarly, a permit issued under this part does not authorize the permittee to engage in the business of manufacturing, importing, or dealing in explosive materials. Accordingly if a permittee's operations bring him within the definition of a manufacturer, importer, or dealer under this part he shall qualify as such.

(b) **Distributions of surplus stocks.** Licensed manufacturers-limited and permittees are not authorized to engage in the business of sale or distribution of explosive materials. However, such licensees or permittees may dispose of surplus stocks of explosive materials to other licensees or permittees in accordance with the provisions of Section 181.103, and to nonlicensees or to nonpermittees in accordance with the provisions of Section 181.105(d).

Section 181.103 Sales or distributions between licensees or between licensees and permittees.

(a) A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise distributing explosive materials to another licensee or permittee, or a permittee or a licensed manufacturer-limited disposing of surplus stock to another permittee or licensee, shall

verify the identity and the status as a licensee or permittee of the distributee prior to making the transaction. Such verification shall be established by the distributee furnishing to the distributor a certified copy (in the case of a user-limited, the original) of the distributee's license or permit and by such other means as the distributor deems necessary: *Provided*, That it shall not be required (1) for a distributee who has furnished a certified copy of his license or permit to a distributor to again furnish such certified copy to that distributor during the term of the distributee's current license or permit, and (2) for the licensees of multilicensed business organizations to furnish certified copies of their licenses to other licensed locations operated by such organization: *Provided further*, That a multilicensed business organization may furnish to a distributor in lieu of a certified copy of each license, a list certified to be true, correct and complete, containing the name, address, license number, and the date of license expiration of each licensed location operated by such organization, and the distributor may sell or otherwise dispose of explosive materials as provided by this section to any licensee appearing on such list without requiring a certified copy of a license therefrom. A distributor licensee who has the certified information required by this section may sell or distribute explosive materials to a licensee or permittee for not more than 45 days following the expiration date of the distributee's license or permit, unless the distributor knows or has reason to believe that the distributee's authority to continue business or operations under this part has been terminated.

(b) A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise distributing explosive materials to another licensee or permittee, or a permittee or a licensed manufacturer-limited disposing of surplus stocks to another permittee or licensee, which is a business entity shall verify the identity of the representative or agent of the business entity who is authorized to acquire explosive materials on behalf of

such business entity. Each business entity acquiring explosive materials shall furnish the licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee with a current certified list of representatives or agents authorized to acquire explosive materials on behalf of such business entity showing the name, address, and date and place of birth of each such representative or agent. A licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee shall not distribute explosive materials to a business entity on the order of a person who does not appear on such list.

(c) A licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee acquiring explosive materials from another licensee or permittee shall furnish such licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee with a certified current statement of the intended use of the explosive materials by such licensee or permittee (such as resale, mining, quarrying, agriculture, construction, road building, oil well drilling, seismographic research, or other specified lawful activity) and specifying the name, address, date and place of birth, social security number of the distributee where the distributee is a natural person. In the case of a business entity such statement shall specify the intended use, taxpayer identification number, the identity and principal and local places of business of such business entity and the information required by paragraph (b) of this section. A licensee or permittee who has furnished such statement to a licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee shall not be required to again furnish such statement to that distributor if the information on the statement remains unchanged.

(d) Where possession of explosive materials is transferred at the distributor's premises, the distributor shall in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing such possession. Prior to the delivery at the distributor's premises of explosive materials to an employee of a licensee or permittee, or to an employee of a carrier transporting explosive materials to a licensee or permittee, the distributor so delivering explosive materials shall obtain an executed Form 4721 from such employee before releasing the explosive materials. The Form 4721 shall contain all of the information as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(e) The user-limited permit issued under the provisions of this part is valid only for a single purchase transaction and is not renewable (see Section 181.51). Accordingly, each permittee holding a user-limited permit shall at the time he acquires explosive materials from a licensed importer, licensed manufacturer, or

licensed dealer present his permit to such licensee. The licensed importer, licensed manufacturer, or licensed dealer shall write across the face of such permit "Transaction completed," the date, sign his name and indicate his license number, and return the permit to the permittee.

Section 181.104 Certified copy of license or permit.

Except as provided in Section 181.49(a), each person issued a license or permit under the provisions of this part shall be furnished together with his license or permit a copy thereof for his certification. If such a person desires an additional copy of his license or permit for certification and for use pursuant to Section 181.103, he shall:

(a) Make a reproduction of the copy of his license or permit and execute the certification thereon, or

(b) Make a reproduction of his license or permit, enter upon such reproduction the statement: "I certify that this is a true copy of a (*insert the word license or permit*) issued to me to engage in the business or operations specified in Item 5" and sign his name adjacent thereto, or

(c) Submit a request, in writing, for certified copies of his license or permit to the Assistant Regional Commissioner for the Internal Revenue region in which the license or permit was issued. The request shall set forth the name, trade name (if any), and address of the licensee or permittee and the number of copies of the license or permit desired. There shall be imposed a fee of \$1 for each copy of a license or permit issued by the Assistant Regional Commissioner under the provisions of this paragraph. Fee payment shall accompany each such request for additional copies of a license or permit. Such fee shall be paid by (1) cash, or (2) money order or check made payable to the Internal Revenue Service.

Section 181.105 Distributions to nonlicensees and nonpermittees.

(a) The provisions of this section shall apply in any case where distribution of explosive materials to the distributee is not otherwise prohibited by the Act or this part.

(b) Except as provided in Paragraph (c) of this section, a licensed importer, licensed manufacturer, or licensed dealer may distribute explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee or nonpermittee furnishes to the licensee the explosives transaction record, Form 4710, required by Section 181.126. Disposition of Form 4710 shall be made in accordance with the provisions of Section 181.126(c).

(c) A licensed importer, licensed manufacturer, or licensed dealer may sell or distribute explosive materials to a resident of a State contiguous to the State in

which the licensee's place of business is located if the purchaser's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State and the purchaser and the licensee have, prior to the distribution of the explosive materials, complied with all the requirements of paragraphs (b), (e), and (f) of this section applicable to intrastate transactions occurring on the licensee's business premises.

(d) A licensed manufacturer-limited or a permittee may dispose of surplus stocks of explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which such licensee's or permittee's business premises or operations are located, or is a resident of a State contiguous to the State in which the licensee's or permittee's place of business or operations are located, and if the requirements of paragraphs (b), (c), (e), and (f) of this section are fully met.

(e) A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise distributing explosive materials to a business entity shall verify the identity of the representative or agent of the business entity who is authorized to acquire explosive materials on behalf of such business entity. Each business entity acquiring explosive materials shall furnish the licensed importer, licensed manufacturer, or licensed dealer with a current certified list of the names of representatives or agents authorized to acquire explosive materials on behalf of such business entity. A licensed importer, licensed manufacturer, or licensed dealer shall not distribute explosive materials to a business entity on the order of a person whose name does not appear on such list.

(f) Where the possession of explosive materials is transferred at the distributor's premises, the distributor shall in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing such possession. Prior to the delivery at the distributor's premises of explosive materials to an employee of a nonlicensee or nonpermittee, or to an employee of a carrier transporting explosive materials to a nonlicensee or nonpermittee, the distributor so delivering explosive materials shall obtain an executed Form 4721 from such employee before releasing the explosive materials. The Form 4721 shall contain all of the information as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

Section 181.106 Certain prohibited distributions.

(a) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute explosive materials to any person not licensed or holding a permit under this part, who the licensee knows or has reason to believe does not reside

in the State in which the licensee's place of business is located: *Provided*, That the foregoing provisions of this paragraph shall not apply to the distribution of explosive materials to a resident of a State contiguous to the State in which the licensee's place of business is located if the requirements of Section 181.105(c) are fully met.

(b) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute any explosive materials to any person (1) who the importer, manufacturer, or dealer knows is less than 21 years of age, or (2) in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution, or (3) who the importer, manufacturer, or dealer has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into such State or to receive explosive materials in such State, or (4) who the importer, manufacturer, or dealer has reasonable cause to believe intends to use such explosive materials for other than a lawful purpose.

(c) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute any explosive materials to any person knowing or having reason to believe that such person (1) is, except as provided under Section 181.142 (d) and (e), under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of marihuana (as defined in section 4761 of the Internal Revenue Code of 1954; 26 U.S.C. 4761) or any depressant or stimulant drug (as defined in section 201 (v) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(v)), or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954; 26 U.S.C. 4731(a)), or (4) has been adjudicated as a mental defective or has been committed to a mental institution.

Section 181.107 Record of transactions.

Every licensee and permittee shall maintain records of explosive materials in such form and manner as is prescribed by Subpart G of this part.

Section 181.108 Importation.

Explosive materials imported or brought into the United States by a licensed importer or permittee may be released from Customs custody to the licensed importer or permittee upon proof of his status as a licensed importer or permittee. Such status shall be established by the licensed importer or permittee furnishing to the Customs officer a certified copy of his license or permit (see Section 181.104). The provisions of this section are in addition to, and are not in lieu of,

any applicable requirement under Part 180 of this chapter.

Section 181.109 Identification of explosive materials.

Each licensed manufacturer of explosive materials on or after February 12, 1971, shall legibly identify by marking all explosive materials he manufactures for sale or distribution. The marks required by this section shall identify the manufacturer and the location, date,

and shift of manufacture. The licensed manufacturer shall place on each cartridge, bag, or other immediate container of explosive materials manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging: *Provided*, That with respect to explosive materials of small size not suitable for marking on the individual item (for example, blasting caps), it shall only be necessary to place such identification marks on the containers used for their packaging.

Subpart G—Records and Reports

Section 181.121 General.

(a) The records pertaining to explosive materials prescribed by this part shall be in permanent form, and shall be retained on the licensed or permit premises in the manner prescribed by this subpart for a period of not less than 5 years from the date the transaction occurs or until discontinuance of business or operations by the licensee or permittee. (See also Section 181.128.)

(b) Internal revenue officers may enter the premises of any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee for the purpose of examining or inspecting any record or document required by or obtained under this part (see Section 181.24). Section 843(f) of the Act requires licensed importers, licensed manufacturers, licensed manufacturers-limited, licensed dealers, and permittees to make such records available for such examination or inspection at all reasonable times. Section 843(f) of the Act also requires licensed importers, licensed manufacturers, licensed manufacturers-limited, licensed dealers, and permittees to submit such reports and information with respect to such records and the contents thereof as the regulations contained in this part prescribe.

(c) Each licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, and permittee shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of explosive materials as the regulations contained in this part prescribe. Section 842(g) of the Act makes it unlawful for any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee knowingly to make any false entry in any record required to be maintained pursuant to the Act and the regulations contained in this part.

Section 181.122 Records maintained by importers.

(a) Each licensed importer of explosive materials shall take true and accurate inventories which shall include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed importer shall take such an inventory as of

February 12, 1971, or at the time of commencing business subsequent thereto, which shall be the effective date of the license issued upon original qualification under this part; at the time of changing the location of his premises to another region; at the time of discontinuing business, and at such other times as the Assistant Regional Commissioner may in writing require. Each inventory shall be prepared in duplicate, the original of which shall be submitted to the Assistant Regional Commissioner, and the duplicate shall be retained by the licensed importer. (See also Section 181.127.)

(b) Each licensed importer shall not later than the close of the next business day following the date of importation or other acquisition, record the quantity and class of explosive materials, as prescribed in the Explosives List, manufacturer, manufacturers' marks of identification (if any), and country of manufacture of explosive materials he imports or otherwise acquires, and the date such importation or other acquisition was made.

(c) A record of explosive materials distributed by a licensed importer to another licensee or permittee shall be maintained by the licensed importer on his licensed premises and shall show the quantity, class (as prescribed in the Explosives List), manufacturer, manufacturers' marks of identification (if any), country of manufacture, and license or permit number of the licensee or permittee to whom the explosive materials were distributed, and the date of the transaction. The information required by Section 181.103(b), (c) and (d) shall also be maintained as part of the records of the licensed importer. The information required by this paragraph shall be entered in the proper record book not later than the close of the next business day following the date of the transaction.

(d) Notwithstanding the provisions of paragraph (c) of this section, the Assistant Regional Commissioner may authorize alternate records to be maintained by a licensed importer to record his distribution of explosive materials when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by para-

graph (c) of this section. A licensed importer who proposes to use alternate records shall submit a letter application, in duplicate, to the Assistant Regional Commissioner and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed importer until approval in such regard is received from the Assistant Regional Commissioner.

(e) Each licensed importer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or nonpermittees. Such records shall be maintained in the form and manner as prescribed by Section 181.126.

Section 181.123 Records maintained by licensed manufacturers.

(a) Each licensed manufacturer shall take true and accurate inventories which shall include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed manufacturer shall take such an inventory as of February 12, 1971, or at the time of commencing business subsequent thereto, which shall be the effective date of the license issued upon original qualification under this part; at the time of changing location of his premises to another region; at the time of discontinuing business, and at such other times as the Assistant Regional Commissioner may in writing require. Each inventory shall be prepared in duplicate, the original of which shall be submitted to the Assistant Regional Commissioner, and the duplicate shall be retained by the licensed manufacturer. (See also Section 181.127.)

(b) Each licensed manufacturer shall record the marks of identification (if any) the quantity and class of explosive materials, as prescribed in the Explosives List, he manufactures or otherwise acquires, and the date of such manufacture or acquisition. The information required by this paragraph shall be recorded not later than the close of the next business day following the date of such manufacture or acquisition.

(c)(1) A record of explosive materials distributed by a licensed manufacturer to another licensee or permittee shall be maintained by the licensed manufacturer on his licensed premises and shall show the marks of identification (if any), the quantity, class (as prescribed in the Explosives List), and manufacturer or importer, as applicable, if acquired other than by his manufacture, and license or permit number of the licensee or permittee to whom the explosive materials were distributed, and the date of the transaction. The information required by Section 181.103(b), (c) and (d) shall also be maintained as part of the records of the licensed manufacturer. The information required by this paragraph shall be entered in the proper record book not later than the close of the next business day following the date of the transaction.

(2) Each licensed manufacturer who manufactures explosive materials for his own use shall record in a

separate permanent record the quantity and class of explosive materials, as prescribed in the Explosives List, he daily uses and the date of such use. The information required by this subparagraph shall be recorded not later than the close of the next business day following the date of such use.

(d) Notwithstanding the provisions of paragraph (c) of this section, the Assistant Regional Commissioner may authorize alternate records to be maintained by a licensed manufacturer to record his distribution or use of explosive materials when it is shown by the licensed manufacturer that such alternate records will accurately and readily disclose the information required by paragraph (c) of this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application, in duplicate, to the Assistant Regional Commissioner and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed manufacturer until approval in such regard is received from the Assistant Regional Commissioner.

(e) Each licensed manufacturer shall maintain separate records of the sales or other distributions made of explosive materials to nonlicensees or nonpermittees. Such records shall be maintained in the form and manner as prescribed by Section 181.126.

Section 181.124 Records maintained by dealers.

(a) Each licensed dealer shall take true and accurate inventories which shall include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed dealer shall take such an inventory as of February 12, 1971, or at the time of commencing business subsequent thereto, which shall be the effective date of the license issued upon original qualification under this part; at the time of changing location of his premises to another region; at the time of discontinuing business, and at such other times as the Assistant Regional Commissioner may in writing require. Each inventory shall be prepared in duplicate, the original of which shall be submitted to the Assistant Regional Commissioner, and the duplicate shall be retained by the licensed dealer. (See also Section 181.127.)

(b) Each licensed dealer shall enter into a permanent record each purchase or other acquisition of explosive materials. The purchase or other acquisition of explosive materials by a licensed dealer shall, except as provided in paragraph (c) of this section, be recorded not later than the close of the next business day following the date of such purchase or acquisition. The record shall show the date of receipt, the name, address and license or permit number of the person from whom received, the name of the manufacturer and importer (if any), the manufacturers' marks of identification (if any), and the quantity and class of explosive materials as prescribed in the Explosives List.

(c) When a commercial record is maintained by a licensed dealer showing his purchase or acquisition of explosive materials, and such record contains all acquisition information required by the permanent record prescribed by paragraph (b) of this section, the licensed dealer acquiring such explosive materials may, for a period not exceeding 7 days following the date of such acquisition, delay making the required entry into such permanent record: *Provided*, That the commercial record is, until such time as the required entry into the permanent record is made, (1) maintained by the licensed dealer separate from other commercial documents maintained by such licensee, and (2) readily available for inspection on the licensed premises.

(d) A permanent record of explosive materials sold or otherwise distributed by a licensed dealer to another licensee or permittee shall be maintained by the licensed dealer on his licensed premises and shall show the quantity, class of explosive materials, as prescribed in the Explosives List, the name of the manufacturer and importer (if any), the manufacturers' marks of identification (if any), the license or permit number of the licensee or permittee to whom the explosive materials were distributed, and the date of the transaction. The information required by Section 181.103(b), (c) and (d) shall also be maintained as part of the records of the licensed dealer. The information required by this paragraph shall be entered in the permanent record in the manner required in paragraphs (b) and (c) of this section with respect to acquisition of explosive materials.

(e) Notwithstanding the provisions of paragraphs (b) and (d) of this section, the Assistant Regional Commissioner may authorize alternate records to be maintained by a licensed dealer to record his acquisition or disposition of explosive materials, when it is shown by the licensed dealer that such alternate records will accurately and readily disclose the required information. A licensed dealer who proposes to use alternate records shall submit a letter application, in duplicate, to the Assistant Regional Commissioner and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed dealer until approval in such regard is received from the Assistant Regional Commissioner.

(f) Each licensed dealer shall maintain separate records of the sales or other distributions made of explosive materials to nonlicensees or nonpermittees. Such records shall be maintained in the form and manner as prescribed by Section 181.126.

Section 181.125 Records maintained by licensed manufacturers-limited and permittees.

(a) Each licensed manufacturer-limited and each permittee shall take true and accurate inventories which shall include all explosive materials on hand required to be accounted for in the records kept under

this part. Such inventory shall be made as of February 12, 1971, or at the time of commencing business or operations subsequent thereto, which shall be the effective date of the license or permit issued upon original qualification under this part; at the time of changing the location of his premises to another region; at the time of discontinuing business or operations, and at such other times as the Assistant Regional Commissioner may in writing require. Each inventory shall be prepared in duplicate, the original of which shall be submitted to the Assistant Regional Commissioner, and the duplicate shall be retained by the licensee or permittee. (See also Section 181.127.)

(b) A licensed manufacturer-limited disposing of surplus stocks of explosive materials to other licensees or to permittees shall record in the permanent record not later than the close of the next business day following the date of the disposition, the information prescribed in Section 181.123(c)(1). Each licensed manufacturer-limited shall maintain separate records of dispositions of surplus stocks of explosive materials to nonlicensees or nonpermittees. Such records shall be maintained in the form and manner as prescribed by Section 181.126.

(c) Each permittee shall record in a permanent record the manufacturers' marks of identification (if any), the quantity and class of explosive materials, as prescribed in the Explosives List, he daily acquires, the date of such acquisition, and the name, address and license number of the person from whom explosive materials were obtained. The information required by this paragraph shall be recorded not later than the close of the next business day following the date of such acquisition. A permittee disposing of surplus stocks of explosive materials to other permittees or to licensees shall record in the permanent record not later than the close of the next business day following the date of the disposition, the information prescribed in Section 181.124(d). Each permittee shall maintain separate records of dispositions of surplus stocks of explosive materials to nonlicensees or nonpermittees. Such records shall be maintained in the form and manner as prescribed by Section 181.126.

(d) Notwithstanding the provisions of paragraph (c) of this section, the Assistant Regional Commissioner may authorize alternate records to be maintained by a permittee to record his acquisition of explosive materials, when it is shown by the permittee that such alternate records will accurately and readily disclose the required information. A permittee who proposes to use alternate records shall submit a letter application, in duplicate, to the Assistant Regional Commissioner and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the permittee until approval in such regard is received from the Assistant Regional Commissioner.

Section 181.126 Explosives transaction record.

(a) A licensee or permittee shall not sell or otherwise distribute, temporarily or permanently, explosive materials to any person, other than another licensee or permittee, unless he records the transaction on an explosives transaction record, Form 4710.

(b) Prior to the sale or other distribution of explosive materials to a nonlicensee or nonpermittee who is a resident of the State in which the licensee or permittee maintains his business premises or who is not a resident of the State in which the licensee or permittee maintains his business premises and such nonlicensee or nonpermittee is acquiring explosive materials under the provisions contained in Section 181.105(c), the licensee or permittee so distributing the explosive materials shall obtain an executed Form 4710 from the distributee. The Form 4710 shall contain all of the information as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(c) Form 4710 shall be completed in duplicate, the original of which shall be retained by the licensee or permittee as part of his permanent records in accordance with the requirements in paragraph (d) of this section, and the copy shall be forwarded to the Assistant Regional Commissioner on or before the close of business on the business day next succeeding that on which the transaction occurs.

(d) Each original Form 4710 shall be retained in numerical (by transaction serial number) order commencing with "1" and continuing in regular sequence. When the numbering of any series reaches "1,000,000," the licensee or permittee may recommence the series. The recommenced series shall be given an alphabetical prefix or suffix. Where there is a change in proprietorship, or in the individual, firm, corporate name or trade name, the series in use at the time of such change may be continued.

(e) The requirements of this section shall be in addition to any other record-keeping requirement contained in this part.

(f) A licensee or permittee may obtain, upon request, a supply of Form 4710 from any Assistant Regional Commissioner or any District Director.

Subpart H—Exemptions

Section 181.141 General.

The provisions of this part shall not apply with respect to:

(a) Any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the U.S. Department of Transportation, and agencies thereof.

Section 181.127 Daily summary of magazine transactions.

In taking the inventory required by Sections 181.122, 181.123, 181.124, and 181.125, the inventory shall be entered in a record of daily transactions to be maintained at each magazine of an approved storage facility. At the close of business of each day each licensee and permittee shall record by class of explosive materials, as prescribed in the Explosives List, the total quantity received in and removed from each magazine during the day and the total remaining on hand at the end of the day. Any discrepancy which might indicate a theft or loss of explosive materials shall be reported in accordance with the provisions of Section 181.30.

181.128 Discontinuance of business.

Where an explosive materials business or operations is discontinued and succeeded by a new licensee or permittee the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business or operations is absolute, the records prescribed by this subpart shall be delivered within 30 days following the business or operations discontinuance to the Assistant Regional Commissioner for the internal revenue region in which the business was operated: *Provided, however*, Where State law or local ordinance requires the delivery of records to other responsible authority, the Assistant Regional Commissioner may arrange for the delivery of the records required by this subpart to such authority. (See also Section 181.61.)

Section 181.129 Exportation.

Explosive materials shall be exported in accordance with the applicable provisions of section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934) and regulations thereunder. However, licensed manufacturers, licensed importers, and licensed dealers exporting explosive materials shall maintain records showing the manufacture or acquisition of explosive materials as required by this part and records showing the quantity and class of explosive materials, as prescribed in the Explosives List, the name and address of the foreign consignee of the explosive materials and the date the explosive materials were exported.

(b) The use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopoeia, or the National Formulary.

(c) The transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof.

(d) Small arms ammunition and components thereof.

†(e) Black powder in quantities not to exceed five pounds.

(f) The manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States.

(g) Arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

(h) The importation and distribution of fireworks in a finished state, commonly sold at retail for personal use in compliance with State laws or local ordinances.

(i) Gasoline, fertilizers, propellant actuated devices, or propellant actuated industrial tools manufactured, imported, or distributed for their intended purposes.

181.142 Relief from disabilities incurred by indictment or conviction.

(a) Any person may make application for relief from the disabilities under the Act incurred by reason of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year.

(b) An application for such relief shall be addressed to the Commissioner and shall include such supporting data as the applicant deems appropriate. In the case of a corporation, the supporting data should include information as to the absence of culpability in the offense of which the corporation was indicted or convicted, or of any person having the power to direct or control the management of the corporation, if such be the fact. The application shall be filed, in triplicate, with the Assistant Regional Commissioner for the internal revenue region wherein the business premises are located or the applicant resides.

(c) The Commissioner may grant relief to an applicant if it is established to the satisfaction of the Commissioner that the circumstances regarding the indictment or conviction, and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that

† See section 845(a)(5) of 18 U.S.C. Chapter 40, as amended. Exempt quantity increased, subject to conditions.

Subpart I—Unlawful Acts, Penalties, Seizures, and Forfeitures

Section 181.161 Engaging in business without a license.

Any person engaging in the business of importing, manufacturing, or dealing in explosive materials without a license issued under the Act, shall be fined not

the granting of the relief would not be contrary to the public interest.

(d) A person who has been granted relief under this section shall be relieved of any disabilities imposed by the Act with respect to engaging in the business of importing, manufacturing, or dealing in explosive materials, or the purchase of explosive materials incurred by reason of such indictment or conviction.

(e)(1) A licensee or permittee who is indicted for or convicted of a crime punishable by imprisonment for a term exceeding 1 year during the term of a current license or permit or while he has pending a license or permit renewal application shall not be barred from licensed or permit operations for 30 days after the date of indictment or 30 days after the date upon which his conviction becomes final, and if he files his application for relief as provided by this section within such 30-day period, he may further continue licensed or permit operations during the pendency of his application. A licensee or permittee who does not file an application within 30 days from the date of his indictment or within 30 days from the date his conviction becomes final, shall not continue licensed or permit operations beyond 30 days from the date of his indictment or beyond 30 days from the date his conviction becomes final.

(2) In the event the term of a license or permit of a person expires during the 30-day period following the date of indictment or during the 30-day period after the date upon which his conviction becomes final or during the pendency of his application for relief, he must file a timely application for renewal of his license or permit in order to continue licensed or permit operations. Such license or permit application shall show that the applicant has been indicted for or convicted of a crime punishable by imprisonment for a term exceeding 1 year.

(3) A licensee or permittee shall not continue licensed or permit operations beyond 30 days following the date the Commissioner issues notification that the licensee's or permittee's application for removal of the disabilities resulting from an indictment or conviction has been denied.

(4) When as provided in this section a licensee or permittee may no longer continue licensed or permit operations, any application for renewal of license or permit filed by the licensee or permittee during the pendency of his application for removal of disabilities resulting from an indictment or conviction, shall be denied by the Assistant Regional Commissioner.

more than \$10,000 or imprisoned not more than 10 years, or both.

Section 181.162 False statement or representation.

Any person who knowingly withholds information or makes any false or fictitious oral or written state-

ment or furnishes or exhibits any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the Act, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

Section 181.163 False entry in record.

Any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee who knowingly makes any false entry in any record required to be kept pursuant to Subpart G of this part, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

181.164 Unlawful storage.

Any person who stores any explosive material in a manner not in conformity with the provisions of Subpart J of this part, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

Subpart J—Storage

181.181 General.

(a) No person shall store any explosive materials in a manner not in conformity with the provisions of this subpart (see Section 181.29). Section 842(j) of the Act requires that the storage of explosive materials by any person must be in a manner conforming with the regulations contained in this subpart. The storage standards prescribed by this subpart confer no rights or privileges to store explosive materials in a manner contrary to State or other law.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Assistant Regional Commissioner may authorize alternate storage facilities for the storage of explosive materials when it is shown that such alternate facilities are or will be constructed in a manner substantially equivalent to the standards of construction contained in this subpart. Such alternate storage facilities shall not be used for the storage of explosive materials until approval is received from the Assistant Regional Commissioner.

(c) A licensee or permittee who intends to make additions to, modification of, or changes in his approved storage facilities shall follow the procedures and be subject to the requirements of Section 181.54(c).

Section 181.182 Classes of explosive materials.

For purposes of this part, there shall be three classes of explosive materials. These classes, together with the description of explosive materials comprising each class, are as follows.

(a) **High explosives.** Explosive materials which can be caused to detonate by means of a blasting cap when unconfined. (For example, dynamite.)

(b) **Low explosives.** Explosive materials which can

Section 181.165 Failure to report theft or loss.

Any person who has knowledge of the theft or loss of any explosive materials from his stock and fails to report such theft or loss within 24 hours of discovery thereof in accordance with Section 181.30, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

Section 181.166 Seizure or forfeiture.

Any explosive material involved or used or intended to be used in any violation of the provisions of the Act or of this part, or in any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 (title 26, U.S.C.) relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code (26 U.S.C. 5845(a)), shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act.

be caused to deflagrate when confined. (For example, black powder.)

(c) **Blasting agents.** (For example, ammonium nitrate-fuel oil.)

Section 181.183 Types of storage facilities.

For purposes of this part, there shall be five types of storage facilities. These types, together with the classes of explosive materials which shall be stored therein, are as follows:

(a) **Type 1 storage facilities.** Permanent storage facilities for the storage of high explosives, subject to the limitations prescribed by Sections 181.186 and 181.193. Other classes may also be stored therein.

(b) **Type 2 storage facilities.** Portable indoor and outdoor storage facilities for the storage of high explosives, subject to the limitations prescribed by Sections 181.186, 181.188(b), and 181.193. Other classes may also be stored therein.

(c) **Type 3 storage facilities.** Portable outdoor facilities for the temporary storage of high explosives while attended (for example, a "day-box"), subject to the limitations prescribed by Sections 181.186 and 181.193. Other classes may also be stored therein.

(d) **Type 4 storage facilities.** Facilities for the storage of low explosives, subject to the limitations prescribed by Sections 181.186(b), 181.190(b), and 181.193. Blasting agents may also be stored therein.

(e) **Type 5 storage facilities.** Facilities for the storage of blasting agents, subject to the limitations prescribed by Sections 181.186(a) and (c), 181.191(b), and 181.193.

Section 181.184 Inspection of storage facilities.

Any person storing explosive materials shall open and inspect his storage facilities at intervals not greater than 3 days to determine whether the explosives therein are intact and to determine whether there has been unauthorized entry or attempted entry into the storage facilities or the unauthorized removal of facilities or their content.

181.185 Movement of explosive materials.

All explosive materials must be kept in storage facilities meeting the standards prescribed by this subpart unless they are:

- (a) In the process of manufacture, or
- (b) Being physically handled in the operating process of a licensee or user, or
- (c) Being used, or
- (d) Being transported to a place of storage or use by a permittee or by a person who has lawfully acquired explosive materials pursuant to the requirements of Section 181.126.

Section 181.186 Location of storage facilities.

(a)(1) Except as otherwise provided in this subpart, storage facilities in which any explosive materials are stored shall be located at minimum distances from inhabited buildings, passenger railways, public highways, and from other storage facilities in which explosive materials are stored as specified in the American Table of Distances (see Section 181.198): *Provided*, That this table shall not apply to any indoor storage facility. When a storage facility is not barricaded, the distances shown in the American Table of Distances shall be doubled. For purposes of this paragraph, a storage facility shall be deemed barricaded when it is effectually screened from inhabited buildings, passenger railways, public highways, and other storage facilities in which explosive materials are stored either by a natural or artificial barricade of such height that a straight line from the top of any sidewall of the storage facility to the eave line of such other inhabited building or storage facility, or to a point 12 feet above the center of a passenger railway or public highway, will pass through such intervening barricade.

(2) If any two or more storage facilities are separated from each other by less than the distances specified in Section 181.198, then such two or more storage facilities, as a group, shall be considered as one storage facility, and the total quantity of explosive materials stored in such group shall be treated as if stored in a single facility and shall comply with the minimum of distances specified in Section 181.198 from other storage facilities, inhabited buildings, passenger railways, and public highways.

(b) Storage facilities in which low explosives are stored shall be located at minimum distances from inhabited buildings, passenger railways, public highways, and from other storage facilities in which explosive materials are stored as specified in the table

of distances for storage of low explosives (see Section 181.199): *Provided*, That this table shall not apply to any indoor storage facility. The distances shown therein shall not be reduced by the presence of barricades.

(c) Ammonium nitrate and storage facilities in which blasting agents are stored shall be located at minimum distances from storage facilities containing high explosives or blasting agents as specified in the Table of Recommended Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents (see Section 181.200).

Section 181.187 Construction of type 1 storage facilities.

A type 1 storage facility shall be a permanent structure: a building, an igloo or Army-type structure, a tunnel, or a dugout. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated.

(a) **Buildings** All building type storage facilities shall be constructed of masonry, wood, metal, or a combination of these materials and shall have no openings except for entrances and ventilation. Ground around such storage facilities shall slope away for drainage.

(1) **Masonry wall construction.** Masonry wall construction shall consist of brick, concrete, tile, cement block, or cinder block and shall be not less than 6 inches in thickness. Hollow masonry units used in construction shall have all hollow spaces filled with well-tamped coarse dry sand or weak concrete (a mixture of one part cement and eight parts of sand with enough water to dampen the mixture while tamping in place). Interior walls shall be covered with a non-sparking material.

(2) **Fabricated metal wall construction.** Metal wall construction shall consist of sectional sheets of steel or aluminum not less than number 14 gauge, securely fastened to a metal framework. Such metal wall construction shall be either lined inside with brick, solid cement blocks, hardwood not less than 4 inches in thickness, or shall have at least a 6-inch sand fill between interior and exterior walls. Interior walls shall be constructed of or covered with a nonsparking material.

(3) **Wood frame wall construction.** The exterior, of outer wood walls shall be covered with iron or aluminum not less than number 26 gauge. An inner wall of nonsparking material shall be constructed so as to provide a space of not less than 6 inches between the outer and inner walls, which space shall be filled with coarse dry sand or weak concrete.

(4) **Floors.** Floors shall be constructed of a nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored.

(5) **Foundations.** Foundations shall be constructed of brick, concrete, cement block, stone, or

wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the buildings shall be enclosed with metal.

(b) **Roof.** Except for buildings with fabricated metal roofs, the outer roof shall be covered with no less than number 26-gauge iron or aluminum fastened to 7/8-inch sheathing.

(7) **Bullet-resistant ceilings or roofs.** Where it is possible for a bullet to be fired directly through the roof and into the storage facility at such an angle that the bullet would strike a point below the top of inner walls, storage facilities shall be protected by one of the following methods:

(i) A sand tray shall be located at the tops of inner walls covering the entire ceiling area, except that necessary for ventilation, lined with a layer of building paper, and filled with not less than 4 inches of coarse dry sand.

(ii) A fabricated metal roof shall be construction of 3/16-inch plate steel lined with 4 inches of hardwood. (For each additional 1/16-inch of plate steel, the hardwood lining may be decreased 1 inch.)

(8) **Doors.** All doors shall be constructed of 1/4-inch plate steel and lined with 2 inches of hardwood. Hinges and hasps shall be attached to the doors by welding, riveting or bolting (nuts on inside of door). They shall be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

(9) **Locks.** Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock; or with a mortise lock that requires two keys to open; or a three-point lock. Locks shall be five-tumbler proof. All padlocks shall be protected with 1/4-inch steel caps constructed so as to prevent sawing or lever action on the locks or hasps.

(10) **Ventilation.** Except at doorways, a 2-inch air space shall be left around ceilings and the perimeter of floors. Foundation ventilators shall be not less than 4 by 6 inches. Vents in the foundation, roof, or gables shall be screened and offset.

(11) **Exposed metal.** No sparking metal construction shall be exposed below the top of walls in the interior of storage facilities, and all nails therein shall be blind-nailed or countersunk.

(b) **Igloos, Army-type structures, tunnels, and dugouts.** Igloo, Army-type, tunnel, and dugout storage facilities shall be constructed of reinforced concrete, masonry, metal or a combination of these materials. They shall have an earthmound covering of not less than 24 inches on the top, sides and rear. Interior walls and floors shall be covered with a nonsparking material. Storage facilities of this type shall also be constructed in conformity with the requirements of paragraph (a)(4) and paragraphs (a)(8) through (11) of this section.

Section 181.188 Construction of type 2 storage facilities.

A type 2 storage facility shall be a box, a trailer, a semitrailer or other mobile facility. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated. Except as provided in paragraph (c) of this section, hinges and hasps shall be attached to the covers or doors in the manner prescribed in Section 181.187(a)(8) and the locking system shall be that prescribed in Section 181.187(a)(9).

(a) **Outdoor storage facilities.** Outdoor storage facilities shall be at least 1 cubic yard in size and supported in such a manner so as to prevent direct contact with the ground. The sides, bottoms, tops, and covers or doors shall be constructed of 1/4-inch steel and shall be lined with 2 inches of hardwood. Edges of metal covers shall overlap sides at least 1 inch. The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or shall be otherwise effectively immobilized by kingpin locking devices or other methods approved by the Director.

(b) **Indoor storage facilities.** No indoor facility for the storage of high explosives shall be located in a residence or dwelling. When located in a warehouse, wholesale, or retail establishment, such storage facilities shall be provided with substantial wheels or casters to facilitate removal therefrom. No more than two indoor storage facilities shall be kept in any one building. Two storage facilities may be kept in the same building only when one is used for the storage of blasting caps, squibs, or similar items and the other facility is used for the storage of other high explosives. Each storage facility shall be located on the floor nearest the ground level and within 10 feet of an outside exit. Indoor storage facilities within one building shall be separated by a distance of not less than 10 feet. No indoor storage facility shall contain a quantity of high explosives in excess of 50 pounds or more than 5,000 blasting caps. Indoor facilities shall be of wood or metal construction as prescribed in subparagraphs (1) or (2) of this paragraph.

(1) **Wood construction.** Wood indoor storage facilities shall have sides, bottoms, and covers or doors constructed of 2-inch hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than number 20 gauge. Nails exposed to the interior of such facilities shall be countersunk.

(2) **Metal construction.** Metal indoor storage facilities shall have sides, bottoms, and covers or doors constructed of number 12-gauge metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least 1 inch.

(c) **Cap boxes.** Storage facilities for blasting caps in quantities of 100 or less shall have sides, bottoms, and covers constructed of number 12-gauge metal and lined with a nonsparking material. Hinges and hasps shall be

attached thereto by welding. A single five-tumbler proof lock shall be sufficient for locking purposes.

Section 181.189 Construction of type 3 storage facilities.

A type 3 storage facility shall be a "day-box" or other portable facility. It shall be constructed in the same manner prescribed for type 2 outdoor storage facilities in Section 181.188(a), except that it may be less than 1 cubic yard in size, and shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated. Hinges, hasps, locks, and lock protection shall be in conformity with the requirements of Section 181.187(a) (8) and (9). The ground around such storage facilities shall slope away for drainage. No explosive materials shall be left in such facilities if unattended. The explosive materials contained therein must be removed to types 1 or 2 storage facilities for unattended storage.

Section 181.190 Construction of type 4 storage facilities.

A type 4 storage facility may be a building, an igloo or Army-type structure, a tunnel, a dugout, a box, a trailer, or a semitrailer or other mobile facility and shall be fire-resistant, weather-resistant, and theft-resistant. They shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. The walls and floors of such storage facilities shall be lined with a nonsparking material. The doors or covers shall be metal or solid wood covered with metal. The foundations, locks, lock protection, hinges, hasps, and interior shall be in conformity with the requirements of Section 181.187(a) (5), (8), (9), and (11).

(a) **Outdoor storage facilities.** The ground around such storage facilities shall slope away from drainage. When unattended, vehicular storage facilities shall have wheels removed or shall be otherwise effectively immobilized by kingpin locking devices or other methods approved by the Director.

(b) **Indoor storage facilities.** No indoor facility for the storage of low explosives shall be located in a residence or dwelling. When located in a warehouse, wholesale, or retail establishment, such storage facilities shall be provided with substantial wheels or casters to facilitate removal therefrom. No more than one indoor storage facility shall be kept in any one building. It shall be located on the floor nearest the ground level and within 10 feet of an outside exit. No indoor storage facility shall contain a quantity of low explosives in excess of 50 pounds.

Section 181.191 Construction of type 5 storage facilities.

A Type 5 storage facility may be a building, an igloo or Army-type structure, a tunnel, a dugout, a bin, a box, a trailer, or a semitrailer or other mobile facility and shall be theft-resistant. The doors or covers

thereof shall be solid wood or metal. The hinges, hasps, locks, and lock protection shall be in conformity with the requirements of Section 181.187 (a) (8) and (9).

(a) **Outdoor storage facilities.** The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or shall be otherwise effectively immobilized by kingpin locking devices or other methods approved by the Director.

(b) **Indoor storage facilities.** No indoor storage facility for the storage of blasting agents shall be located in a residence or dwelling.

181.192 Smoking and open flames.

Smoking, matches, open flames, and spark-producing devices shall not be permitted in, or within 50 feet of, any outdoor storage facility.

Section 181.193 Quantity and storage restrictions.

Explosive materials in excess of 300,000 pounds and blasting caps in excess of 20 million shall not be stored in one storage facility. Blasting caps shall not be stored with other explosive materials in the same storage facility.

Section 181.194 Storage within types 1, 2, 3, and 4 facilities.

(a) Explosive materials within a storage facility shall not be placed directly against interior walls. Any devices constructed or placed within a storage facility shall not interfere with ventilation.

(b) Containers of explosive materials shall be stored by being laid flat with top sides up. Corresponding classes, grades, and brands shall be stored together within a storage facility in such a manner that class, grade, and brand marks are easily visible upon inspection. Stocks of explosive materials shall be stored so as to be easily counted and checked.

(c) Except with respect to fiberboard containers, containers of explosive materials shall not be unpacked or repacked inside a storage facility or within 50 feet thereof and shall not be unpacked or repacked in close proximity to other explosive materials. Containers of explosive materials shall be securely closed while being stored.

(d) Tools used for opening or closing containers of explosive materials shall be of nonsparking materials, except that metal slitters may be used for opening fiberboard containers. A wood wedge and a fiber, rubber, or wooden mallet shall be used for opening or closing wood containers of explosive materials. Metal tools other than nonsparking transfer conveyors shall not be stored in any storage facility containing high explosives.

Section 181.195 Housekeeping.

Storage facilities shall be kept clean, dry, and free of grit, paper, empty packages and containers, and rubbish. Floors shall be regularly swept. Brooms and

other utensils used in the cleaning and maintenance of storage facilities shall have no spark-producing metal parts. Floors stained by leakage from explosive materials shall be cleaned according to instructions of the manufacturer. When any explosive material has deteriorated to the extent that it is in a dangerous condition, or if a liquid leaks therefrom, it shall be destroyed in accordance with the instructions of its manufacturer. The area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass, or trees for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities.

Section 181.196 Repair of storage facilities.

Prior to the interior repair of storage facilities, all explosive materials shall be removed and the interior shall be cleaned. Prior to the exterior repair of storage facilities, all explosive materials shall be removed if there exists a possibility that such repairs may produce sparks or flame. The explosive materials removed from storage facilities under repair shall either be placed in other storage facilities appropriate for the storage of such materials under this subpart or placed a safe distance from the facilities under repair where they shall be properly guarded and protected until the repairs have been completed.

Section 181.197 Lighting.

No lighting shall be placed or used in a storage facility of type 1, 2, 3, or 4 except battery-activated safety lights or battery-activated safety lanterns.

Section 181.198 American table of distances for storage of explosive materials.

Explosives		Distances in feet when storage is barricaded				Separation of magazines
Pounds over	Pounds not over	Inhabited buildings	Passenger railways	Public highways		
2	5	70	30	30	6	
5	10	90	35	35	8	
10	20	110	45	45	10	
20	30	125	50	50	11	
30	40	140	55	55	12	
40	50	150	60	60	14	
50	75	170	70	70	15	
75	100	190	75	75	16	
100	125	200	80	80	18	
125	150	215	85	85	19	
150	200	235	95	95	21	
200	250	255	105	105	23	
250	300	270	110	110	24	
300	400	295	120	120	27	
400	500	320	130	130	29	
500	600	340	135	135	31	
600	700	355	145	145	32	
700	800	375	150	150	33	
800	900	390	155	155	35	
900	1,000	400	160	160	36	

Explosives		Distances in feet when storage is barricaded				Separation of magazines
Pounds over	Pounds not over	Inhabited buildings	Passenger railways	Public highways		
1,000	1,200	425	170	165	39	
1,200	1,400	450	180	170	41	
1,400	1,600	470	190	175	43	
1,600	1,800	490	195	180	44	
1,800	2,000	505	205	185	45	
2,000	2,500	545	220	190	49	
2,500	3,000	580	235	195	52	
3,000	4,000	635	255	210	58	
4,000	5,000	685	275	225	61	
5,000	6,000	730	295	235	65	
6,000	7,000	770	310	245	68	
7,000	8,000	800	320	250	72	
8,000	9,000	835	335	255	75	
9,000	10,000	865	245	260	78	
10,000	12,000	875	370	270	82	
12,000	14,000	885	380	275	87	
14,000	16,000	900	405	280	90	
16,000	18,000	940	420	285	94	
18,000	20,000	975	235	290	98	
20,000	25,000	1,055	470	315	105	
25,000	30,000	1,130	500	340	112	
30,000	35,000	1,205	525	360	119	
35,000	40,000	1,275	550	380	124	
40,000	45,000	1,340	570	400	129	
45,000	50,000	1,400	590	420	135	
50,000	55,000	1,460	610	440	140	
55,000	60,000	1,515	630	455	145	
60,000	65,000	1,565	645	470	150	
65,000	70,000	1,610	660	485	155	
70,000	75,000	1,655	675	500	160	
75,000	80,000	1,695	690	510	165	
80,000	85,000	1,730	705	520	170	
85,000	90,000	1,760	720	530	175	
90,000	95,000	1,790	730	540	180	
95,000	100,000	1,815	745	545	185	
100,000	110,000	1,835	770	550	195	
110,000	120,000	1,855	790	555	205	
120,000	130,000	1,875	810	560	215	
130,000	140,000	1,890	835	565	225	
140,000	150,000	1,900	850	570	235	
150,000	160,000	1,935	870	580	245	
160,000	170,000	1,965	890	590	255	
170,000	180,000	1,990	905	600	265	
180,000	190,000	2,010	920	605	275	
190,000	200,000	2,030	935	610	285	
200,000	210,000	2,055	955	620	295	
210,000	230,000	2,100	980	635	315	
230,000	250,000	2,155	1,010	650	335	
250,000	275,000	2,215	1,040	670	360	
275,000	300,000	2,275	1,075	690	385	

See footnotes at end of document.

(American Table of Distances for Storage of Explosives, as Revised and Approved by The Institute of Makers of Explosives, June 5, 1964)

Section 181.199 Table of distances for storage of low explosives.

Pounds (over)	Pounds (not over)	Inhabited building distance (feet)	Public rail-road and highway distance (feet)	Above-ground magazine (feet)
(1)	(2)	(3)	(4)	(5)
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	375	375	250
200,000	300,000	450	450	300

(A portion of Table 5-4.1, as published in Department of Defense 4145.27 M, "DOD Ammunition and Explosives Safety Standards", March 1969.)

Section 181.200 Table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

Donor Weight		Minimum separation distance of receptor when barricaded ¹ (ft.)		Minimum thickness of artificial barricades ⁴ (in.)
Pounds over	Pounds not over	Ammonium nitrate ²	Blasting agent ³	
	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40

Recommended separation distances to prevent explosion of ammonium nitrate and ammonium nitrate-based blasting agents by propagation from nearby stores of high explosives or blasting agents referred to in the Table as the "donor." Ammonium nitrate, by itself, is not considered to be a donor when applying this Table. Ammonium nitrate, ammonium nitrate-fuel oil or combinations thereof are acceptors. If stores of ammonium nitrate are located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the ammonium nitrate should be included in the mass of the donor.

These distances apply to the separation of stores only. The American Table of Distances shall be used in determining separation distances from inhabited buildings, passenger railways and public highways.

When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the Table shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which may enclose the "donor." Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances and barricade thicknesses in excess of those prescribed in the American Table of Distances are not required.

The distances in the Table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the National Plant Food Institute; and ammonium nitrate failing to pass said test shall be stored at separation distances determined by competent persons and approved by the authority having jurisdiction.

These distances apply to nitro-carbo-nitrates and blasting agents which pass the insensitivity test prescribed in the U.S. Department of Transportation (DOT) regulations.

Earth, or sand dikes, or enclosures filled with the prescribed minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the "donor" when the trees are bare of leaves are also acceptable.

(Reprinted from Recommended Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents, NFPA No. 492-1969 Edition, as approved by the Institute of Makers of Explosives.)

Donor Weight		Minimum separation distance of receptor when barricaded ¹ (ft.)		Minimum thickness of artificial barricades ⁴ (in.)
Pounds over	Pounds not over	Ammonium nitrate ²	Blasting agent ³	
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

Note:

Federal Explosives Storage Requirements

Following, in table form, are construction, house-keeping and storage requirements for Types 1 through 5 explosives storage facilities. These requirements are the minimum acceptable under Federal law and regulations (27 CFR, Part 181, Subpart J—Storage). In specific instances, variance from a particular requirement or requirements may be granted by the Regional Director.

This section includes (a) a table of the classes of explosives which may be stored in each of the five types of magazines; (b) a table of housekeeping and construction requirements that apply to all types of storage facilities; and (c) tables setting forth in detail the requirements that apply specifically to each of the five types of magazines.

Housekeeping and Construction Requirements Common to All Types of Storage Facilities

(18 USC, Section 842(j))
(27 CFR, Sections 181.187, 181.194, and 181.195)

Item	Requirements
Hinges and Hasps	Shall be attached to doors by either Welding, OR Riveting, OR Bolting (nuts on inside of door).
Locks	Each door shall be equipped with either 2 mortise locks, OR 2 padlocks fastened in separate hasps and staples, OR A combination of a mortise lock and a padlock, OR Mortise lock requiring 2 keys to open, OR Three-point lock. Locks shall be five-tumbler proof. Padlocks shall be protected with 1/4" steel caps constructed to prevent sawing or lever action on locks or hasps. Note: Outdoor-mobile storage facilities with one steel, case-hardened, five-tumbler padlock, having at least a 7/16" shackle diameter, have been determined by the Director to meet necessary requirements.
Lighting	No lighting shall be placed or used in a magazine of type 1, 2, 3, or 4 except battery-activated safety lights or battery-activated safety lanterns. Provided, That electrical illumination may be used when explosion-proof fixtures and wiring in rigid conduit are used inside and all electric switches are located outside the magazine.

Types of Storage Facilities

(18 USC, Section 842(j))
(27 CFR, Section 181.183)

Storage Type	Classes of Explosive Materials Which May Be Stored Therein
Type 1 (permanent)	High Explosives Low Explosives Blasting Agents
Type 2 (portable)	High Explosives Low Explosives Blasting Agents
Type 3 ("day-box" for temporary storage)	High Explosives Low Explosives Blasting Agents
Type 4	Low Explosives Blasting Agents *Electric Blasting Caps
Type 5	Blasting Agents

*As a result of tests with electric blasting caps, it has been determined that these blasting caps are not subject to sympathetic detonation. Therefore, a Type 4 storage facility meets the necessary requirements for storage of electric blasting caps.
Note: 1. Blasting caps shall not be stored with other explosive materials in the same storage facility.

2. Explosives storage limitations and quantity restrictions are stated in 27 CFR Sections 181.186, 181.188(b), 181.188(c), 181.189, 181.190(b), and 181.193. For tables of distances for high explosives, low explosives, and blasting agents, see 27 CFR Sections 181.198, 181.199, and 181.200, respectively.

Item	Requirements
Housekeeping	Storage facilities shall be kept clean, dry, and free of grit, paper, empty packages and containers, and rubbish. Explosive materials shall not be placed directly against interior walls of storage facility. Brooms and other cleaning utensils shall have no spark-producing metal parts. Only tools made of nonsparking materials shall be used in Types 1, 2, 3, and 4 magazines. (Metal slitters may be used for opening fiberboard containers. Metal tools other than nonsparking transfer conveyors shall not be stored in any magazine containing high explosives.) Area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass, or trees for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities.

Type 1 Storage
(18 USC, Section 842(j))
(27 CFR, Sections 181.187 and 181.197)

A type 1 storage facility shall be a permanent structure: a building, an igloo or Army-type structure, a tunnel, or a dugout; and shall be bullet-resistant, weather-resistant, theft-resistant, and well-ventilated.

Item	Requirements
Masonry Wall	Shall be constructed of either Brick, not less than 6" thick, OR Concrete, not less than 6" thick, OR Tile, not less than 6" thick, OR *Cement block, not less than 6" thick, OR *Cinder block, not less than 6" thick. *Hollow masonry units shall have all hollow spaces filled with well-tamped coarse dry sand or weak concrete.

Type 1 Storage (Continued)

Item	Requirements
Metal Wall	Sectional sheets of one of the following shall be securely fastened to a metal framework: Steel, not less than 14 gauge, OR Aluminum, not less than 14 gauge. Shall be lined with either Brick, OR Solid cement blocks, OR Hardwood, not less than 4" thick, OR Shall have at least 6" sand fill between inner and outer walls.
Wood Wall	Exterior shall be covered with either Iron, not less than 26 gauge, OR Aluminum, not less than 26 gauge. Inner wall shall be constructed to provide not less than 6" between outer and inner walls, space filled with either Coarse dry sand, OR Weak concrete.
Foundations	Shall be constructed of either Brick, OR Concrete, OR Cement block, OR Stone, OR Wood posts (If piers or posts are used, space under buildings shall be enclosed with metal).
Floors	Shall be constructed of nonsparking material. Shall be strong enough to bear weight of maximum quantity to be stored.
Roof	Outer roof (except fabricated metal roofs) shall be covered with either 26-gauge iron, fastened to 7/8" sheathing, OR 26-gauge aluminum fastened to 7/8" sheathing. Where possible for a bullet to be fired directly through roof and into storage facility, magazine shall be protected by either A sand tray, filled with not less than 4" of coarse dry sand, covering the entire ceiling area; except that necessary for ventilation, OR Fabricated metal roof construction of 3/16" plate steel, lined with 4" hardwood (for each additional 1/16" of plate steel, hardwood may be decreased 1").

Type 1 Storage (Continued)

Item	Requirements
Doors	Shall be constructed of 1/4" steel. Shall be lined with 2" of hardwood.
Hinges, Hasps, and Locks	See construction requirements common to all types of facilities.
Interior	Shall be constructed of or covered with a nonsparking material. No sparking metal construction shall be exposed below top of walls in interior. All nails shall be blind-nailed or countersunk.
Ventilation	2" air space shall be left around ceiling and perimeter of floors, except at doorways. Foundation ventilators shall be not less than 4"x6". Vents in foundation, roof, or gables shall be screened and offset.
Ground	Ground around storage facility shall slope away for drainage.
Igloos, Army-Type Structures, Tunnels and Dugouts	Shall be constructed of reinforced concrete, masonry, metal, or a combination of these materials. Shall have an earthmound covering of not less than 24" on the top, sides and rear. Interior walls and floors shall be covered with a nonsparking material. Floor, door, lock, ventilation, exposed metal, and lighting requirements are as stated above.
Lighting	See construction requirements common to all types of facilities.
Housekeeping	See housekeeping requirements common to all types of facilities.

Type 2 Storage
(18 USC, Section 842(j))
(27 CFR, Sections 181.188 and 181.197)

A type 2 storage facility shall be a box, a trailer, a semi-trailer, or other mobile facility. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated.

Item	Requirements
Hinges, Hasps, and Locks	See construction requirements common to all types of storage facilities.

Type 2 Storage (Continued)

Item	Requirements
Lighting	See construction requirements common to all types of storage facilities.
Housekeeping	See housekeeping requirements common to all types of storage facilities.
Restrictions on Type 2 Outdoor Storage Facilities	
Size	Shall be at least 1 cubic yard in size.
Ground	Outdoor storage facilities shall be supported in such a manner so as to prevent direct contact with the ground. Ground around storage facility shall slope away for drainage.
Construction	Sides, bottoms, tops, and covers or doors shall be constructed of 1/4" steel and lined with 2" of hardwood.
Unattended Storage	Unattended vehicular storage facilities shall have wheels removed or shall be immobilized by kingpin locking devices.
Restrictions On Type 2 Indoor Storage Facilities	
Location	No indoor storage facility for storage of high explosives shall be located in a residence or dwelling. Storage facilities located in a warehouse, or wholesale or retail establishment, shall be provided with substantial wheels or casters to facilitate removal therefrom. No more than two indoor storage facilities shall be located in any one building. Two storage facilities may be kept in the same building only when one is used for storage of blasting caps and the other for storage of other high explosives. Each storage facility shall be located on the floor nearest ground level and within 10 feet of an outside exit. Indoor storage facilities within one building shall be separated by a distance of not less than 10 feet.
Quantity Restrictions	No indoor storage facility shall contain a quantity of high explosives in excess of 50 pounds or more than 5,000 blasting caps.

Type 2 Storage (Continued)

Item	Requirements
Construction	Shall be of either <i>Wood</i> (Shall have sides, bottoms, and covers or doors constructed of 2" hardwood and shall be well braced at corners. They shall be covered with sheet metal (not less than 20 gauge). Exposed nails shall be countersunk), OR <i>Metal</i> (Shall have sides, bottoms, and covers or doors constructed of 12-gauge metal and shall be lined inside with a nonsparking material. Edges of metal shall overlap sides at least 1").
Cap Boxes	
	Storage facilities for blasting caps in quantities of 100 or less shall have sides, bottoms, and covers constructed of 12-gauge metal, with hinges and hasps attached by welding. One five-tumbler proof lock shall be sufficient for locking purposes.

Type 3 Storage

(18 USC, Section 842(j))
(27 CFR, Sections 181.188(a), 181.189, and 181.197)

A type 3 storage facility shall be a "day-box" or other portable facility. It shall be constructed in the same manner prescribed for type 2 outdoor storage facilities in 181.188(a), except that it may be less than 1 cubic yard in size, and shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated.

Item	Requirements
Construction	Doors or covers, sides, bottoms, and tops shall be constructed of 1/4" steel and lined with 2" of hardwood. Edges of metal covers shall overlap sides at least 1".
Hinges, Hasps, and Locks	See housekeeping and construction requirements common to all types of storage facilities.
Ground	Ground around storage facility shall slope away for drainage.

Type 3 Storage (Continued)

Item	Requirements
Unattended Storage	No explosive materials shall be left in storage facility if unattended. Explosive materials must be removed to types 1 or 2 storage facilities for unattended storage.
Lighting	See construction requirements common to all types of storage facilities.
Housekeeping	See housekeeping requirements common to all types of storage facilities.

Type 4 Storage

(18 USC, Section 842(j))
(27 CFR, Sections 181.187(a)(5), (11); 181.190; and 181.197)

A type 4 storage facility may be a building, an igloo or Army-type structure, a tunnel, a dugout, a box, a trailer, or a semitrailer or other mobile facility; and shall be fire-resistant, weather-resistant, and theft-resistant.

Item	Requirements
Construction	Shall be of either Masonry, OR Metal-covered wood, OR Fabricated metal, OR Combinations of these materials.
Doors or Covers	Shall be constructed of either Metal, OR Solid wood covered with metal.
Foundations	Shall be constructed of either Brick, OR Concrete, OR Cement block, OR Stone, OR Wood posts (If piers or posts are used, space under buildings shall be enclosed with metal).
Interior	Shall be lined with nonsparking material. No sparking metal construction shall be exposed below top of walls in interior. All nails shall be blind-nailed or countersunk.

Type 4 Storage (Continued)

Item	Requirements
Hinges, Hasps, and Locks	See construction requirements common to all types of storage facilities.
Lighting	See construction requirements common to all types of storage facilities.
Housekeeping	See housekeeping requirements common to all types of storage facilities.
Restrictions On Type 4 Outdoor Storage Facilities	
Ground	Ground around storage facility shall slope away for drainage.
Unattended Storage	Unattended vehicular storage facilities shall have wheels removed or shall be immobilized by kingpin locking devices.
Restrictions On Type 4 Indoor Storage Facilities	
Location	No indoor facility for the storage of low explosives shall be located in a residence or dwelling. Storage facilities located in a warehouse, or wholesale or retail establishment, shall be provided with substantial wheels or casters to facilitate removal therefrom. No more than one indoor storage facility shall be kept in any one building. Storage facility shall be located on floor nearest ground level and within 10 feet of an outside exit.
Quantity Restrictions	No indoor facility shall contain a quantity of low explosives in excess of 50 pounds.

Type 5 Storage

(18 USC, Section 842(j))
(27 CFR, Sections 181.191 and 181.197)

A Type 5 storage facility may be a building, an igloo or Army-type structure, a tunnel, a dugout, a bin, a box, a trailer, or a semitrailer or other mobile facility; and shall be theft-resistant.

Item	Requirements
Doors or Covers	Shall be constructed of either Solid wood, OR Metal.
Hinges, Hasps, and Locks	See construction requirements common to all types of storage facilities.
Housekeeping	See housekeeping requirements common to all types of storage facilities.
Restrictions on Type 5 Outdoor Storage Facilities	
Ground	Ground around storage facility shall slope away for drainage.
Unattended Storage	Unattended vehicular storage facilities shall have wheels removed or shall be immobilized by kingpin locking devices.
Restrictions on Type 5 Indoor Storage Facilities	
Location	No indoor storage facility for storing of blasting agents shall be located in a residence or dwelling.

Questions and Answers

18 U.S.C. Chapter 40 and 27 CFR Part 181

Introduction

The following Questions and Answers are intended to aid you in gaining a better understanding of 18 U.S.C. Chapter 40—Importation, Manufacture, Distribution and Storage of Explosive Materials, and the implementing regulations issued thereunder (27 CFR Part 181—Commerce in Explosives). Although the listing is by no means all-inclusive, it does contain a selection of those questions that ATF receives most frequently concerning explosives. References following some answers refer to the regulations and publications with which they are concerned. A Table of Contents, which reflects the broad categories into

which questions have been grouped, and a Subject Index have been included for your convenience.

These questions and answers apply only to Federal law and regulations. Numerous States, counties and municipalities have enacted their own requirements relating to explosives. Compliance with Federal law and regulations in no way exempts persons from compliance with State or local requirements. For additional information, see the State laws printed in this document and contact the appropriate county or municipal authorities.

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General Questions

1. Who is affected by the Federal explosives law?

The law affects all persons who import, manufacture, deal in, purchase, use or store explosive materials. It also affects those who ship, transport, or receive explosive materials in interstate or foreign commerce.

2. To whom is the distribution by licensees of explosive materials prohibited?

Explosive materials may not be distributed to a person: (1) who is under 21 years of age; (2) who is under indictment for or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; (3) who is a fugitive from justice; (4) who is an unlawful user of marijuana or any depressant or stimulant drug or addicted to a narcotic drug; (5) who has been adjudicated as a mental defective or who has been committed to a mental institution. [181.26]

3. Does the law prevent some persons from dealing in explosives?

Yes. The same classes of persons listed in the answer to Question #2 may not obtain a Federal explosives license. In addition, prospective li-

cencees must meet the other requirements set forth in 181.49.

4. How does the law affect a person who wants to purchase explosive materials for his own use?

A person who has not acquired a permit from the Federal government may, if he is not barred as discussed in questions 2 and 3, purchase explosives only in the State in which he resides. There is one exception; interstate purchases without permits are allowed if the purchaser's State of residence has passed specific legislation allowing its citizens to transport into or receive in that State explosive materials purchased in a bordering State. All persons, however, who purchase explosives, either intrastate or interstate, must have storage facilities which meet the requirements of law, if the explosives are to be stored.

5. What States allow their citizens to purchase explosive materials in bordering States?

Washington, Wyoming, Delaware and Vermont. Pennsylvania allows such purchases for black powder only.

6. When a person purchases ex-

plosive materials, does he have to sign anything?

Yes. Form 4710 will be executed by the buyer. This form is used in the purchase of high explosives, low explosives, and blasting agents. A licensee or permittee who purchases explosive materials is not required to complete Form 4710.

7. Does Federal law and regulations provide for penalties for purchasers who give false information to a licensee at the time of purchase?

Yes. The penalty for providing false information or misrepresented identification is a maximum of ten years imprisonment and/or \$10,000 fine.

8. When a person purchases explosive materials, is the Government notified?

Yes. The dealer furnishes a copy of Form 4710 to ATF on a daily basis. [181.126(c)]

9. Are thefts of explosives covered by the law?

Yes. Any person discovering a theft or loss of explosive materials from his stock must report it to the Regional Director, ATF, and to the appropriate local authorities within 24 hours. Also, it is unlawful to receive, conceal, transport, ship,

store, barter, sell or dispose of any explosive materials knowing or having reasonable cause to believe that such explosive materials were stolen. [181.30]

10. Will anyone investigate accidents involving explosives?

Yes. ATF is authorized to inspect the site of any accident or fire where there is reason to believe that explosive materials were involved. Other Federal agencies, or State or local agencies, might also investigate such incidents, depending on the circumstances. [181.31]

11. Are small arms ammunition reloaders affected by this law?

No. The law specifically exempts small arms ammunition and components thereof; therefore, the prim-

16. I want to buy five sticks of dynamite from my local dealer to use on my property. Do I need a Federal user's permit?

No, provided they are purchased in your State of residence and are not transported across State lines. The Federal user's permit has no effect upon the actual use of explosives, either within or outside of the State of residence. A Federal user's permit is required when a nonlicensee acquires or transports explosives in interstate or foreign commerce. A permit allows such transactions for personal use only.

It is important to note, however, that Federal explosives storage requirements apply to nonpermittees and nonlicensees as well as to permittees and licensees. Therefore, unless the explosives are being used, appropriate storage will be required as set forth in Federal regulations. [181.181]

17. What activities are covered by licenses and permits?

Licenses are issued to explosives manufacturers, importers and dealers. Any individual or business entity intending to engage in any of these activities must first obtain a license. A permit allows acquisition

ers and smokeless propellants used in small arms ammunition are exempt from the provisions of the law. [181.141(d)]

12. Are unmixed binary explosives subject to regulatory controls of the law?

No. Until the compounds are mixed they are not classified as explosives and, therefore, are not subject to control. However, once mixed, binary explosives are subject to all applicable Federal requirements. A person who regularly and continually combines compounds of binary materials to manufacture an explosive is engaged in the business of manufacturing explosives and shall be required to be licensed as a manufacturer. (ATF Ruling 75-31)

Licenses & Permits

and transportation of explosives in interstate or foreign commerce. [181.41(e)]

18. How would a person qualify for a Federal license or permit?

A person must be 21 years of age or over; must not be within a prohibited category (see Q & A #2); must not have wilfully violated any of the provisions of the act or the regulations; must have premises in the State from which he intends to conduct business; must have a place of storage for explosive materials which meets the standards of the Federal regulations regarding public safety and security against theft; and must be familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business. [181.49(a) & (b)]

A Form 4705 must be filed to obtain a license, and a Form 4707 must be filed to obtain a permit.

19. Does a Federal license or permit exempt the holder from State or local requirements?

No. A license or permit confers no right or privilege to conduct business or operations, including

13. Is the rocket propellant in model rocket kits considered to be an explosive?

No. Propellant-actuated devices, if manufactured, imported, or distributed for their intended purposes, are exempt from the law. [181.141(i)]

14. Does ATF have any regulations governing the actual transportation of explosives?

No.

15. What is the Explosives List?

The Explosives List is a comprehensive, but not all-inclusive, listing of the more common explosive materials that have been determined to be within the coverage of Title XI. The list is published annually by the Director, ATF. [181.23]

storage, contrary to State or other law. [181.62]

20. For what period of time are permits and licenses valid?

With two exceptions, permits and licenses are valid for one year. The two exceptions are manufacturer-limited licenses, which are valid for 30 days from the date of issuance; and user-limited permits, which are valid for a single purchase transaction only. [181.51]

21. Can a license or permit be revoked?

Yes. The Regional Director may revoke any license or permit if the holder has violated any provisions of the law or regulations.

22. What are the fees for licenses and permits?

The license fees are:

1. Manufacturer — \$50
2. Manufacturer-limited (nonrenewable) — \$5
3. Importer — \$50
4. Dealer — \$20
5. The permit fees are: User — \$20; User-limited (nonrenewable) — \$2

The renewal fee for licenses and permits is one-half the original fee. [181.42 & .43]

23. Will the Government investigate an application for license or permit?

Yes. ATF will investigate all applications, and inspect all places of storage before issuing a license or permit. Mining operations will be inspected by the Mine Enforcement and Safety Administration.

24. What may a licensed dealer do?

A licensed dealer may engage in the business of distributing explosives materials at wholesale or retail. [181.11 (Definition of dealers)]

25. What may a licensed importer do?

A licensed importer may engage in the business of importing or bringing explosive materials into the United States for sale or distribution. [181.11 (Definition of Importer)]

It is not necessary for a licensed importer to also obtain a dealer's license in order to engage in business on his licensed premises as a dealer in explosive materials. [181.41(b)]

26. What may a licensed manufacturer do?

Licensed manufacturers may engage in the business of manufacturing explosive materials for purposes of sale or distribution, or for their own use, except that a licensed manufacturer-limited may only manufacture explosive materials for his own use. [181.11]

It is not necessary for a licensed manufacturer to also obtain a dealer's license to engage in business on his licensed premises as a dealer in explosive materials. [181.41(b)]

27. How long does it take to get a license or permit?

The Regional Director shall approve or deny a license or permit application within a 45-day period beginning on the date that a properly executed application is received from the Service Center Director. [181.49(c)]

28. Is a separate license required for each location where business is conducted?

Yes. A separate license is required for each location, but a separate license is not required for facilities used only for the storage of explosive materials. Also, a separate license is not required for a location used by the licensee solely for the storage of records relating to the business.

29. Must a person who engages in the business of manufacturing and importing have separate licenses?

Yes. The licenses for manufacturing and importing allow a person to do separate and distinct things; a separate license is required for each activity. However, a manufacturer or an importer does not need a separate dealer's license in order to distribute explosive materials from his licensed premises. [181.41(b)]

30. Does a licensed manufacturer need a separate license for his own on-site manufacture?

No. As long as the on-site manufacturing takes place in the internal revenue region in which the manufacturer's license is held. [181.41(b)]

31. Are companies having headquarters in one State but doing business in another State required to have a permit in order to acquire explosive materials in the latter State?

No. Companies engaged in business within a State acquire residency in that State by virtue of the work being performed. Explosives purchases made by these companies in States where work is being performed are considered to have been made within their State of residence; therefore, no permit is required. (ATF Ruling 76-4)

32. Does a licensed dealer need a permit to use explosives outside the State in which his business premises is located?

No. No permit is required to use explosives (see Q&A 16). The dealer, by virtue of his license, is authorized to acquire and to transport explosives in interstate commerce.

33. Do I need a permit to transport explosives in my vehicle solely within my State of residence?

No.

34. How does the truck driver for an explosives licensee/permittee qualify to purchase explosives for his employer?

The driver must be on the current certified list of representatives or agents authorized to acquire explosives on behalf of that employer. [181.105(e)]

35. When an explosives licensee/permittee sends his truck driver to the distributor's premises for explosives which have been purchased by the licensee/permittee, will the driver be required to sign any forms?

The driver will be required to identify himself and to complete and sign Section A of Form 1721. [181.103(d)]

36. Will a licensee or permittee be notified in advance when his license or permit needs to be renewed?

Yes. Prior to expiration of the license or permit, a licensee or permittee will be notified by way of Form 4706, Application for License Renewal; or Form 4708, Application for Permit Renewal, which must be timely filed in order to effect renewal.

37. I have timely filed my application for renewal but I have not received my renewed license or permit. May I continue in business? If so, for how long?

Yes. You may continue to operate pursuant to your current license or permit until the application for renewal is acted upon.

38. When may sales of explosives by licensed dealers be made to residents of adjoining States?

Sales may be made legally to the resident of a bordering State only if that State has enacted specific legislation allowing its residents to purchase explosive materials in a bordering State. (See Q&A 5) [181.26, 181.105(c)]

39. Does a person who obtains a license or permit have to keep records of explosive materials transactions?

Yes. A licensee or permittee must keep records of all acquisitions and dispositions of explosive materials. [181.107]

40. How does one account for explosive materials in his records?

If acquisitions are recorded by weight, then dispersments must also be recorded by weight. If acquisitions are recorded by physical count, then dispersments must also be recorded by physical count.

41. Must a permittee or licensee maintain a daily summary of magazine transactions?

Yes. After the initial inventory

45. Who must meet storage requirements?

All persons who store explosive material shall store them in conformity with the provision of Subpart J of the regulations. [181.29, 181.164, 181.181(a)]

46. What are the classes of explosives for storage purposes?

There are three categories of explosive materials:

1. High explosives. (For example, dynamite.)
2. Low explosives. (For example, black powder.)
3. Blasting agents. (For example, ammonium nitrate-fuel oil, and certain water gels) [181.182]

47. May a person store explosives in a residence or dwelling?

No. A person may not store explosive materials in a residence or dwelling. Under certain conditions storage facilities may be located in a warehouse or in a wholesale or retail establishment. An outdoor storage facility must be located at a minimum distance from inhabited

Recordkeeping

required by regulations has been taken, the inventory shall be entered in a record of daily transactions. At the close of business each day, explosives shall be recorded by class, in accordance with the three classes set forth in 181.182, as to the total quantity received in and removed from each magazine during the day and as to totals remaining on hand at the end of each day. [181.127]

42. Must I keep my explosives records on the site of the magazine to which these records pertain?

No. A licensee or permittee proprietor of an approved explosives storage facility may keep the records required by 27 CFR 181.127 at a centrally located area on the li-

Storage

buildings and other objects in accordance with the applicable table of distances. [181.186, 181.188(b), 181.190(b), 181.191(b)]

48. What is the "American Table of Distances?"

This table lists the minimum acceptable distances separating high explosives storage facilities from inhabited buildings, passenger railroads, public highways, and other explosives storage facilities. This table is reprinted in Section 181.198 of the regulations.

49. When low and high explosives are stored together, how is the distance determined to meet table of distance requirements?

The total weight is considered to be high explosive. The table in Section 181.198 would apply.

50. Is it necessary to inspect one's storage facilities on a regular basis?

Yes. Any person storing explosives must inspect his storage facilities at intervals not greater than three days to determine whether

censed premises, provided a separate record of daily transactions for each magazine is maintained. (ATF Ruling 75-30)

43. When must a report be made of a shortage or theft of explosive materials?

Any discrepancy which might indicate a theft or loss of any explosive materials from stock shall, within 24 hours, be reported on Form 4712 to the Regional Director in accordance with instructions on the form. A report must also be made to local authorities. [181.165]

44. Where may I obtain additional copies of Form 4710?

They are available at no charge from the ATF Distribution Center, 3800 S. Four Mile Run Drive, Arlington, Virginia 22206.

the contents are intact or if theft or unauthorized entry has occurred. [181.184]

51. What are the requirements for relocating an approved storage facility or making changes or additions to the same?

You must notify the Regional Director, in duplicate, of the change in location of permanent storage facilities. Complete Form 4705 or 4707 and submit it to the Regional Director for an amended permit to include the changes or additions to storage. The change may be made after receipt of the amended permit. [181.54(c)]

52. Is any type of black powder fuse exempted from storage requirements?

Yes, 3/32-inch pyrotechnic safety fuse for use in small arms is exempt from the explosives law and regulations.

53. With the exception of 3/32-inch pyrotechnic safety fuse for use in small arms, must black

powder fuses in general be stored in approved storage facilities?

Yes. Igniter fuses, time fuses, blasting fuses, safety fuses, or other black powder fuses, by whatever name known, that are designed for use with high explosives in blasting operations must be stored in approved storage facilities.

54. Is smokeless powder for use in small arms ammunition subject to storage requirements?

No. Smokeless powder for use in small arms ammunition is exempt from the law and regulations.

57. Are display fireworks considered to be explosives?

Yes. Display fireworks contain chemical mixtures which are classified as explosive in the Explosives List compiled by the Director, ATF. Such fireworks fall within the category of low explosives, and are regulated in the same manner as are other low explosives. The Department of Transportation classifies display fireworks as Class B explosives.

58. What fireworks are exempted from regulation?

Common fireworks which are classified by the Department of Transportation as Class C explosives are exempted from regulation. Common fireworks are generally small, visible-effects fireworks, but also includes small firecrackers less than 1-1/2-inch in length and 1/4-inch in diameter with a pyro-

55. My office building, in which several company employees work during the day in connection with my explosives business, is located in the general area of my explosives storage facility. Do the regulations and the Table of Distances apply to this office building as an inhabited building?

No. A building, such as an office building or repair shop, which is part of the premises of an explosives manufacturer and is used in connection with the manufacture, transportation, storage, or use of

Fireworks

technic charge of less than two grains. A list of common fireworks is contained in 49 CFR 173.100(r)

59. Is a license required to manufacture fireworks?

No. A manufacturer of fireworks need only have a license if he manufactures fireworks ingredients which constitute explosive materials. (See question 61)

60. Are certain fireworks subject to Federal storage regulations?

Yes. All special or display fireworks which are defined by the Department of Transportation as Class B explosives in 49 CFR 173.88(d) are considered to be low explosives and must be stored in Type 4 storage facilities. This class includes all fireworks which are designed to produce an audible effect and contain a pyrotechnic

explosives materials is not an "inhabited building" as defined in 27 CFR 181.11. (ATF Ruling 75-20)

56. I bought 12 sticks of dynamite to blast stumps on my property. I have four sticks left over. May I give them to my brother, who does not have a Federal explosives license or permit?

You may give them to your brother only if he resides in the same State in which you reside. If either you or your brother store the dynamite, storage must be in conformity with Federal regulations.

charge in excess of two grains. Such items as cherry bombs, silver salutes, and M-80's are included in the display fireworks category because they normally contain more than two grains of pyrotechnic charge.

61. Would a manufacturer of common fireworks, which are exempt from regulation, need a permit in order to acquire explosives ingredients for fireworks he manufactures?

Yes, if he acquires such ingredients in interstate or foreign commerce.

62. Although a manufacturer of display fireworks has no manufacturer's license because he does not manufacture explosives ingredients for such fireworks, does he need a license to deal in display fireworks?

Yes, he would need a license to deal in display fireworks.

ATF Explosives Rulings and Procedures**27 CFR 181.187 &.190****Construction of Storage Facilities**

ATF has held that explosives storage facilities with smooth-finished concrete floors that were constructed under contract for the use of the Department of Defense and that are presently being leased to licensees and permittees for the storage of commercial explosives are considered to be in compliance with the requirements for nonsparking floors, as set forth in 27 CFR 181.187 (a)(4), 181.187(b), and 181.190, for the storage of all types of fully packaged explosives, pyrotechnics and propellants, with the exception of black powder. Any other such magazines which have smooth finished concrete floors and which meet or exceed the Department of Defense construction specifications will also be considered to be in compliance with the requirements of Part 181 with respect to nonsparking floors.

It is the responsibility of the licensee or permittee to provide verification that such facilities were manufactured under the Department of Defense specifications or that the facilities meet or exceed such specification standards.

If the Regional Director determines that the concrete floors of Type 1 or Type 4 explosives storage facilities do not meet the preceding requirements, he will require such floors to be covered with a nonsparking material, such as epoxy paint or mastic. ATF Ruling 75-21, August 11, 1975 (No. 8), page 7.

27 CFR 181.127: Daily Summary of Magazine Transactions

ATF has held that a licensee or permittee proprietor of an approved explosives storage facility may keep the records required by 27 CFR 181.127 at a centrally located area on the licensed premises, provided a separate record of daily transactions for each magazine is maintained.

Regulations in 27 CFR 181.127 dealing with daily transactions in explosives provide that the inventory shall be entered in a record of daily transactions to be maintained at each magazine of an approved storage facility. ATF Ruling 75-30, October 6, 1975 (No. 10), page 3.

Following are digests of ATF rulings on explosives matters which are of special significance to explosives licensees and permittees. The full texts of these rulings can be found in the ATF *Bulletin*; the appropriate *Bulletin* citation is listed following the ruling number at the end of each digest item. Also included is a digest of ATF Procedure 75-4, which was incorporated in Industry Circular 75-10.

Subject Index

1. Meaning of Terms, "Inhabited Buildings," (ATF Ruling 75-20)
2. Construction of Storage Facilities—Concrete Floors, (ATF Ruling 75-21)
3. Daily Summary of Magazine Transactions, (ATF Ruling 75-30)
4. Meaning of Terms, "Engaged in the Business," (ATF Ruling 75-31)
5. Identification of Explosive Materials, (ATF Ruling 75-35)
6. Meaning of Terms, "State of Residence," (ATF Ruling 76-4)
7. Explosives Storage Facility Descriptions, (ATF Procedure 75-4)

27 CFR 181.11: Meaning of Terms**"Inhabited Buildings"**

ATF has held that a building, such as an office or repair shop, which is a part of the premises of an explosives manufacturer and is used in connection with the manufacture, transportation, storage, or use of explosive materials is not an "inhabited building" as defined in 27 CFR 181.11.

Regulations in 27 CFR 181.11 define "inhabited building" as any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage or use of explosive materials.

These provisions are intended to provide protection to persons who inhabit buildings located near premises where explosives are manufactured, stored, etc. However, it is the intent of section 181.11 to except buildings used by the explosives industry in connection with the manufacture, transportation, storage, or use of explosive material from the table of distance requirements on "inhabited buildings."

ATF Ruling 75-20, August 11, 1975 (No. 8), page 7.

27 CFR 181.11: Meaning of Terms

"Engaged in the Business"

ATF has held that companies, such as public utility companies engaged in line and facility construction, which manufacture explosives on a regular or continual basis are considered to be engaged in the business of manufacturing explosive materials and must be appropriately licensed as required by 18 U.S.C. 842.

The term "manufacturer" is defined in 18 U.S.C. 841(h) as "any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution for his own use."

Although the term "engaged in the business" is not susceptible to a rigid definition, it is generally interpreted to imply an element of continuity or habitual practice; such an element is clearly present in the operations of companies as outlined in paragraph one. Therefore, these companies are considered to be "engaged in the business" and must be licensed as explosives manufacturers. See ATF Ruling 75-31, October 6, 1975 (No. 10), page 3.

27 CFR 181.109: Identification of Explosive Materials

The Bureau has held that any method, or combination of methods, for affixing the required marks to the immediate container of explosive materials, or outside container used in the packaging thereof, is authorized provided the identifying marks (1) are legible, (2) show all required information and, (3) are not rendered undecipherable by extended periods of storage. Where it is desired to utilize a coding system and to omit printed markings on the container, a letterhead application displaying the coding to be used and the manner of its application shall be filed and approved by the Director, ATF, prior to the use of the proposed coding. Further, where a manufacturer operates his plant for only one shift during the day, the shift of manufacture need not be shown.

The above holding by ATF came in response to inquiries as to whether methods of affixing identifying marks to containers of explosive materials, other than the traditional stamping of the marks in ink or use of decals, could be authorized for use by licensed manufacturers under the provisions of 27 CFR 181.109.

It has been found that when explosive materials are stored for a period of time in polyethylene or other soft containers, the seepage of oil or other liquid components of the explosive material through the container walls will tend to render illegible the identifying marks on the container. A manufacturer pro-

posed a more permanent method of marking plastic containers by using a system of perforated numbers and code symbols similar to that used on cancelled checks. This perforated coding would be in addition to other identifying marks stamped in ink on the container. The manufacturer contends that although the ink may become illegible, the perforated coding will continue to provide the identification required by 27 CFR 181.109.

Regulations in 27 CFR 181.109 provide in part that each licensed manufacturer of explosive materials shall legibly identify by marking all explosive materials he manufactures for sale or distribution. The marks shall identify the manufacturer, location, date, and shift of manufacture. The manufacturer shall place the required mark on each cartridge, bag or other immediate container of explosive materials manufactured for sale or distribution, and also on any outside container. ATF Ruling 75-35, December 8, 1975 (No. 12), page 1.

27 CFR 181.11: Meaning of Terms

"State of Residence"

ATF has held that, if a person is a corporation or other business entity, "State of residence" means the State in which such corporation or other business entity maintains a "place of business." A business entity establishing another "place of business" or "job site" in another State would acquire a "State of residence" in that State as well. For example, a company engaged in construction work would acquire a residence in each State wherein its work is performed. Its place of business in that State would be the job site at which business is carried on. It would not be essential to a determination of State of residence that a branch office be maintained in, or administrative work performed in, the States where job sites are located.

Such a company would not, therefore, need a permit to acquire explosive materials from a licensee in a State for use at job sites located therein. Form 4710, Explosives Transaction Record, would show the out-of-State address of the business entity as the principal place of business and the location of the job site as the local place of business.

ATF has also received inquiries as to whether licensees may lawfully distribute explosive materials to companies when the employees arranging the purchase and accepting delivery reside outside the distributor's State of residence.

The fact that an employee of a resident business entity does not reside in the same State as the distributor is immaterial. The purpose of the data

requested on Form 4710 is to identify the person authorized by the business entity to make the purchase of explosive materials on the entity's behalf and to assure the distributor that such person appears on the required certified list of names of representatives or agents authorized by the business entity to acquire the materials. (27 CFR 181.105(e)), implementing in part Title 18, U.S.C. 842(f), provides that each business entity acquiring explosive materials shall furnish the *** licensed dealer with a current certified list of the names of representatives or agents authorized to acquire explosive materials on behalf of such business entity.) The purpose of the data requested on Form 4721, Explosives Delivery Record, is to identify the employee of the business entity or the employee of a carrier accepting delivery of explosive materials on behalf of the distributee at the distributor's business premises.

Thus, in the case of business entities, the information required on Forms 4710 and 4721 with respect to employees or agents arranging for the distribution is not for the purpose of establishing the residence of such persons but only for identification purposes. ATF Ruling 76-4, February 1976 (No. 2), page 2

27 CFR 181.41: General Explosives Storage Facility Descriptions

In ATF Procedure 75-4, which became effective November 1, 1975, the Bureau revised requirements for descriptions of explosives storage facilities that are filed by applicants intending to store explosive materials. (This Procedure is incorporated in Industry Circular 75-10.)

The Director, ATF, has determined that this additional descriptive information is required in order to insure compliance with the law and regulations. Accordingly, Form 4705, Application for License, and Form 4707, Application for Permit, have been revised. Following is the text of the Procedure, beginning with Section 3.

Sec. 3. Licenses. A person intending to engage in business as an importer, a manufacturer of, or a dealer in, explosive materials shall complete Form 4705, Application for License, in accordance with the instructions on the form, and forward the forms with the license fee to the office specified on the form. If approved, the Regional Director (ATF) will issue a license and return a copy of the application to the applicant. At the time of renewal of a license the Regional Director may require the licensee to file a new or amended application, or additional descriptive pages to be attached to the application, upon a determination that the licensee's currently approved application is inaccurate or does not fully describe the storage

facilities. If the application is denied, the applicant will be advised in writing of the reasons for the denial.

Sec. 4. Permits. A person intending to acquire, transport, ship, import or receive explosive materials in interstate or foreign commerce for his own use and not for resale shall complete Form 4707, Application for Permit, in accordance with the instructions on the form and forward the forms with the permit fee to the office specified on the form. If approved, the Regional Director (ATF) will issue a permit and return a copy of the application to the applicant. At the time of renewal of a permit the Regional Director may require the permittee to file a new or amended application, or additional descriptive pages to be attached to the application, upon a determination that the permittee's currently approved application is inaccurate or does not fully describe the storage facilities. If the application is denied, the applicant will be advised in writing of the reasons for the denial.

Sec. 5. Storage. .01 If explosive materials are to be stored, the requirements of 27 CFR Part 181, Subpart J—Storage, must be complied with before the application will be approved. An applicant for a license or permit who intends to store explosive materials shall fully describe the intended storage facilities to support the applicant's affirmation that the storage facilities meet the requirements set forth in 27 CFR Part 181, Subpart J—STORAGE.

.02 The description should, as a minimum, include the following information:

- (a) The type of magazine (building, igloo, tunnel, portable box, portable trailer, etc.).
- (b) The location and distance from applicant's place of business.
- (c) The distance to the next nearest storage magazine.
- (d) A description of significant terrain features and physical structures, such as buildings, roads, utilities and other facilities which could be damaged if the magazine exploded. Indicate the distance between the magazine and the feature.
- (e) The materials (including dimensions and thicknesses) used for the structure (e.g. concrete, corrugated iron over wood, plywood, tin and earth, etc.).
- (f) The security, physical safeguards, locks, safety equipment, and anti-theft measures.
- (g) The dimensions and capacity of each magazine.
- (h) The class of explosive materials to be stored in each magazine.
- (i) The owner(s) of the magazine, if other than the applicant.
- (j) The names and telephone numbers of individuals who could open the magazines for inspection by ATF officers.

(k) Any special conditions, such as inaccessibility in winter, etc.

Sec. 6. Effective Date. The effective date of this procedure is November 1, 1975.

Sec. 7. Inquiries. Inquiries regarding this ATF Procedure should refer to its number and be addressed to the office of your Regional Director.

ATF Procedure 75-4, October 6, 1975 (No. 10), page 5

List of Explosive Materials

The following is the 1976 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40. Included are both explosives (including detonators) required by law to be published in the Federal Register, and blasting agents. It is intended that the list include any and all mixtures containing any of the materials on the list. Materials constituting blasting agents are marked by an asterisk*. Although an explosive material may not be on the list, this does not mean that the material is not within the coverage of the law if it otherwise meets the statutory definition in 18 U.S.C. 841. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets.

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex-20 [40% TNT, 20% RDX, 40% Ammonium nitrate].
Amatex-30 [40% TNT, 30% RDX, 30% ammonium nitrate].
Amatex-40 [40% TNT, 40% RDX, 20% ammonium nitrate].
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (not cap sensitive).
Aromatic nitro-explosive mixture.
Ammonium perchlorate having particle size less than 45 microns.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].

B

Baratol [67% barium nitrate, 33% TNT].
Baronal [50% barium nitrate, 35% TNT, 15% aluminum].
BEAF [1,2-bis (2,2-difluoro-2-nitroacetoxyethane)].
Black powder.
*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,3,4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Carboxy-terminated propellant.
Cellulose hexanitrate explosive mixture.
Chlorates and red phosphorus mixture.
Chlorates and sulphur mixture.
Composition A-3 [91% RDX, 9% Wax]
Composition B [40% TNT, 60% RDX]
Composition C-4 [91% RDX, 9% plasticizer]
Copper acetylide.

Crystalline picrate with lead azide explosive mixture.
Cyanuric triazide.
Cyclotrimethylenetrinitramine [RDX].
Cyclotetramethylenetetranitramine.
Cyclotol [75% RDX, 25% TNT]

D

DATB [diaminotrinitrotetramethylene tetranitramine].
DATNB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
*Delay powders.
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethièneurea.
Dinitroglycerine.
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
Dipicryl sulfone.
Dipicrylamine.
DNDP [dinitropentano nitrile].
DNPA [2,2-dinitropropyl acrylate]
Dynamite.

E

EDNP [ethyl 4,4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
EGDN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders.

F

Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
gem-dinitro aliphatic explosive mixtures.

Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen [RDX].
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMX [cyclo-1,3,5,7-tetramethylene-2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate.
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Minol-2 (40% TNT, 40% ammonium nitrate, 20% aluminum).
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobuta metriol trinitrate].
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.

Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].

Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitroparaffins and ammonium nitrate mixtures.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.
Organic peroxides.

P

Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid.
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitroaminotetrazole.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5-trimethylene-2,4,6-trinitramine; hexahydro-1,3,5-trinitro-5-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer.
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a-tetrazapentalene].
TATNB (triaminotrinitrobenzene).
TEGDN (triethylene glycol dinitrate).
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbazole.
Tetranitromethane explosive mixtures.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN (trimethylolethane trinitrate).
TNEF [trinitroethyl formal].
TNEOC [trinitroethyl orthocarbonate].
TNEOF [trinitroethyl orthoformate].
TNT [trinitrotoluene, trotyl, trillite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.

Trimonite.

Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates.

X

Xanthamonas hydrophilic colloid explosive mixture.

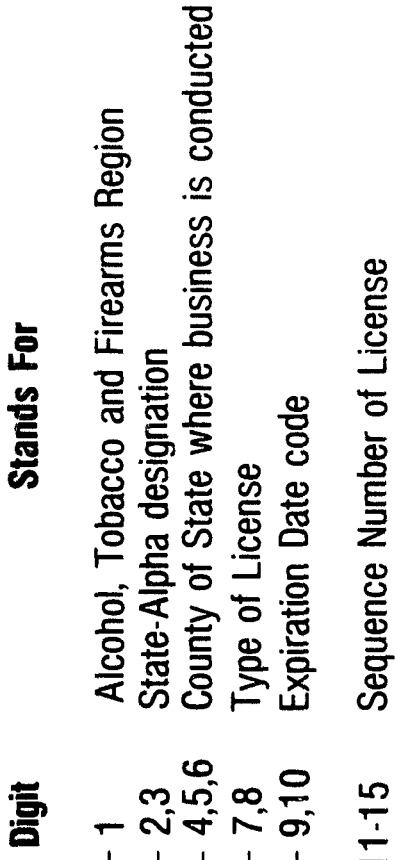
Explosives License/Permit Numbering System Expanded

The Bureau recently instituted a new explosives license numbering system. Through the use of these expanded license numbers, ATF can apply computer operations to increase the efficiency of the explosives licensing program. This procedure offers the potential for saving both money and manpower.

It is not necessary, however, for you as a licensee to use the expanded number in your day-to-day opera-

tions. The basic license number previously issued to you has not been changed and may still be used on your letterheads, business cards, invoices, records, etc. This basic number is composed of digits 2 and 3, and 11 through 15; a key for interpreting the meaning of all the digits is shown below.

This same expanded numbering system will apply also to explosives permits.



License (18 U.S.C. Chapter 40, Explosives)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 181), you are licensed to engage in the business specified in item 5 of the license, within the limitations of Chapter 40, Title 18, United States Code, and the regulations issued thereunder, until the expiration date specified in item 2 of this license.

1. License No. 9 CA 001 20 H6 00001	2. Expiration Date AUG. 1, 1976
3. Employer Identification No. or Social Security No. 76 012 3456	4. County Alameda
5. Class of License and Explosives 20	

MANUFACTURER OF:


- 20. High Explosives
- 21. Low Explosives
- 22. Blasting Agents

IMPORTER OF:

- 23. High Explosives
- 24. Low Explosives
- 25. Blasting Agents

DEALER IN:

- 26. High Explosives
- 27. Low Explosives
- 28. Blasting Agents



**Department of the Treasury
Bureau of Alcohol, Tobacco
and Firearms**

6. Issued by Regional Director, ATF, at (Address)
San Francisco, CA 94105

7. Signature of Regional Director _____

ATF Form 4706 (3-75) Part 1 PREVIOUS EDITIONS ARE OBSOLETE

SEE "WARNING" ON BACK

Effect of Title XI on the Fireworks Industry

Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. Chapter 40) establishes controls over explosive materials, including black powder and other pyrotechnic compositions commonly used in fireworks. Part 181 of Title 27, Code of Federal Regulations (CFR), contains the regulations which implement Title XI.

Section 181.141(h) exempts from regulation "the importation and distribution of fireworks in a finished state, commonly sold at retail for personal use in compliance with State laws or local ordinances." This section does not exempt "special fireworks," often referred to as "display fireworks," which are classified by the Department of Transportation as Class "B" explosives (see Question and Answer section for additional information on fireworks). The exemption applies only to "common fireworks" in a finished state classified by Department of Transportation regulations as Class "C" explosives (49 CFR 173.100).

Who Needs a License?

- 1) Manufacturers of black powder;
- 2) Manufacturers of any other explosive material used in manufacturing "special fireworks" (Class "B" explosives) or "common fireworks" (Class "C" explosives); and
- 3) Importers of or dealers in "special fireworks."

Who Needs a Permit?

- 1) A person acquiring or transporting "special fireworks" interstate for his own use and not for resale. Agencies of the United States or of any State or political subdivision thereof are exempt from permit requirements; and
- 2) A person, other than a licensee, acquiring or transporting explosive materials interstate for use in manufacturing "special fireworks" or "common fireworks," unless the materials consist of black powder of an exempt quantity.

Frequently, persons contracting for display fireworks (such as would be appropriate for Fourth of July observances, for example) from an out-of-State dealer receive a total service, including the services of a pyrotechnician who transports display fireworks in interstate commerce to the site of the display and conducts or supervises the display. In these instances, the customers purchase the dealer's services rather than the explosive materials themselves, and the cost of the services includes the dealer's expense in providing the fireworks utilized. When business is transacted

in this manner, the customers purchasing and receiving the services need not obtain Federal permits since they are not actually acquiring explosive materials outside their States of residence, nor are they receiving such materials or causing them to be transported in interstate commerce. If the dealer furnishing the services is a licensee, his interstate transportation of explosive materials to the display sites would be conducted authorized by his license.

Types of Permits

- 1) User permit: allows a permittee to acquire, transport, ship and receive "special fireworks" in interstate or foreign commerce for his own use and not for resale. This permit is issued at a cost of \$20.00 for a one-year period and is renewable at a cost of \$10.00.
- 2) User-limited permit: identical to the user permit but issued for a single transaction only at a cost of \$2.00; non-renewable. A new permit must be obtained for each transaction. This type of permit is advantageous to civic and veterans organizations who wish to conduct a single display such as on the Fourth of July.

Storage

The law prohibits any person from storing any explosive materials in a manner not in conformity with the regulations promulgated by the Secretary of the Treasury (18 U.S.C. 842(j)). Pursuant to this section, the Secretary has prescribed storage regulations in 27 CFR Part 181, Subpart J. Since display fireworks are not exempt from regulation, they must be stored in conformity with the regulations. Display fireworks generally contain perchlorate mixture explosives, potassium chlorate base explosive mixtures, and black powder, all of which are designated as explosives on the List of Explosive Materials (printed in this publication) compiled by the Director, ATF, and which fall within the definition of low explosives in 27 CFR 181.182(b). Thus, display fireworks should be stored as low explosives in facilities meeting the requirements for Type 4 storage facilities, prescribed by 27 CFR 181.190, unless they contain other classes of explosives. The manufacturer of exempt or non-exempt fireworks having stocks of explosive materials on hand to be used in the manufacture of fireworks must store his stocks in conformity with applicable storage requirements. In storage facilities where weight restrictions apply, the net weight of the explosive materials may be used. To determine the actual weight of the explosive materials it may be necessary to contact the manufacturers.

Support Explosion Investigations

ATF Labs Provide Scientific, Technical Expertise

To support its regulatory and criminal enforcement activities, ATF maintains a National Laboratory in Washington, D.C. and Regional laboratories in Atlanta, Cincinnati, Philadelphia and San Francisco.

These laboratories develop and use chemical, physical and instrumental analyses in support of ATF's criminal enforcement functions and the administration of laws and regulations coming within the Bureau's purview. The laboratories provide technical guidance for ATF, coordinate scientific objectives with other government departments, and exchange information within the scientific community in general. Scientific bases for certain of ATF's policies and decisions are also determined by the laboratories. Specifically in the explosives field, the laboratories assist law enforcement agencies at all levels in investigations of explosions involving destructive devices. Laboratory addresses follow.

Chief, Forensic Laboratory
Bureau of Alcohol, Tobacco and Firearms

P.O. Box 7615—Ben Franklin Station
Washington, D.C. 20044

Chief, Atlanta Regional Laboratory
Bureau of Alcohol, Tobacco and Firearms
3835 North East Expressway
Atlanta, Ga. 30301

Chief, Cincinnati Regional Laboratory
Bureau of Alcohol, Tobacco and Firearms
29 Post Office and Courthouse Building
Cincinnati, Ohio 45202

Chief, Philadelphia Regional Laboratory
Bureau of Alcohol, Tobacco and Firearms
2nd and Chestnut Sts., Room 1104
Philadelphia, Pa. 19106.

Chief, San Francisco Regional Laboratory
U.S. Naval Station, Treasure Island
Building 233
San Francisco, Calif. 94130

Federal Agencies Having Authority in Explosives Matters

The following Federal agencies have regulatory and/or criminal enforcement authority in explosives matters. The listing shows, for each agency, (1) the name; (2) the address of the headquarters office; (3) a brief description of the role of the agency in the explosives area; (4) the areas in the United States Code

and the Code of Federal Regulations where statutory and regulatory authority for the agency's activities in explosives matters can be found; and (5) as applicable, addresses of principal regional/district offices of the agency.

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

1200 Pennsylvania Ave., N.W.
Washington, D.C. 20226

Role: ATF's authority in regulation of explosives is contained in Title XI (Regulation of Explosives) of the Organized Crime Control Act of 1970. Under Title XI, ATF issues licenses to persons engaged in the business of importing, manufacturing, and dealing in explosive materials; issues permits to persons who transport, ship or receive explosive materials in interstate commerce; regulates storage of explosive materials; and enforces the regulatory provisions of Title XI pertaining to interstate and foreign commerce in explosive materials, and the distribution of such materials.

Under its criminal enforcement authority, the Bureau will investigate: (1) unlawful manufacture, importation, or dealing in explosive materials; (2) the withholding of information, or the furnishing of false information to obtain explosive materials, licenses, permits, or relief from disability; (3) unlawful interstate shipment or transportation of explosive materials, except through the mail; (4) unlawful distribution or acquisition of explosive materials; (5) offenses against property used in or affecting commerce; (6)

bomb threats made against, or bombings of Treasury Department buildings or functions; and (7) interstate transportation or receipt of explosives for the purpose of injuring individuals or destroying property.

Under authority contained in 18 U.S.C. 846, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms have concurrent investigative jurisdiction as to the unlawful acts proscribed in subsections (d), (e), (f), (g), (h) and (i) of 18 U.S.C. 844. Although not specified in 18 U.S.C. Chapter 40, the Postal Inspection Service has jurisdiction to investigate all incidents involving explosive or incendiary devices sent through the mails or directed against U.S. Postal Service property. The investigative resources of the Department of Justice, the Department of the Treasury, and the U.S. Postal Service have been allocated pursuant to investigative guidelines which have been agreed upon by the three agencies.

Statutory Authority: 18 U.S.C. 841-848, and 921-928; 22 U.S.C. 1934; 26 U.S.C. Chapter 53; and 26 U.S.C. 7805.

Regulatory Authority: 27 CFR, Parts 178, 179, and 181.

ATF Regional and District Offices

CENTRAL REGION

Regional Director's Office
Federal Building, Room 6519
550 Main Street
Cincinnati, Ohio 45202
Phone: 513-684-3331
Firearms and Explosives Coordinator—
Phone: 513-684-3715
Indiana, Kentucky, Michigan,
Ohio and West Virginia

District Offices
Special Agent in Charge (ATF)
U.S. Post Office and Courthouse Building, Room 304
Cincinnati, Ohio 45202
(Mailing: P.O. Box 1759
Cincinnati, Ohio 45201)
Phone: 513-684-3756
Special Agent in Charge (ATF)
Federal Building, Room 371

Detroit, Michigan 48231
(Mailing: P.O. Box 1897,
Detroit, Michigan 48226)
Phone: 313-226-7300

Special Agent in Charge (ATF)
600 Federal Place, Room 872-D
Louisville, Kentucky 40202
(Mailing: P. O. Box 1707
Louisville, Kentucky 40201)
Phone: 502-582-5211

MID-ATLANTIC REGION

Regional Director's Office

2 Penn Center Plaza, Room 360
Philadelphia, Pennsylvania 19102
Phone: 215-597-2209/2214
Firearms and Explosives Coordinator—
Phone: 215-597-2220
Delaware, District of Columbia,
Maryland, New Jersey, Pennsylvania,
and Virginia

District Offices

Special Agent in Charge (ATF)
701 West Broad Street, Room 203
Falls Church, Virginia 22046
Phone: 702-557-2240

Special Agent in Charge (ATF)
2401 Morris Avenue, 2nd Floor
Union, New Jersey 07083
Phone: 201-645-6300

Special Agent in Charge (ATF)
U.S. Custom House, Room 504
2nd and Chestnut Streets
Philadelphia, Pennsylvania 19106
Phone: 215-597-7266

Special Agent in Charge (ATF)
400 North 8th Street, Room 6008
Richmond, Virginia, 23240
(Mailing: P.O. Box 10068)
Phone: 804-782-2871

NORTH ATLANTIC REGION

Regional Director's Office

6 World Trade Center, 6th Floor
New York, N.Y. 10048
(Mailing: P.O. Box 15, Church
Street Station, New York, N.Y. 10008)
Phone: 212-264-8007
Firearms and Explosives Coordinator—
Phone: 212-264-3993
Connecticut, Maine, Massachusetts,
New Hampshire, New York, Rhode Island,
Vermont, Puerto Rico, and Virgin Islands

District Offices

Special Agent in Charge (ATF)
John F. Kennedy Federal Building, Room 1911-D
Boston, Massachusetts 02203
(Mailing: P.O. Box 9115, John F. Kennedy
Post Office)
Phone: 617-223-3817

Special Agent in Charge (ATF)
120 Church Street,
New York, N.Y. 10007
(Mailing: P.O. Box 3482, Church Street
Station, New York, N.Y. 10008)
Phone: 212-264-4658

Special Agent (ATF)
Federal Government Building, Room 318
San Juan, Puerto Rico 00902
(Mailing: P.O. Box 111)
Phone: 809-722-4902

MIDWEST REGION

Regional Director's Office

230 S. Dearborn Street
15th Floor
Chicago, Illinois 60604
Phone: 312-353-3778
Firearms and Explosives Coordinator—
Phone: 312-353-3883
Illinois, Iowa, Kansas, Minnesota, Missouri,
Nebraska, North Dakota, South Dakota, and
Wisconsin

District Offices

Special Agent in Charge (ATF)
Butterfield Office Plaza
2625 Butterfield Road
Oak Brook, Illinois 60521
Phone: 312-353-8444

Special Agent in Charge (ATF)
U.S. Court House, Room 941
811 Grand Avenue
Kansas City, Missouri 64102
Phone: 816-758-3886

Special Agent in Charge (ATF)
1114 Market Street, Room 615
St. Louis, Missouri 63101
Phone: 314-279-5560

Special Agent in Charge (ATF)
U.S. Court House and Federal Building, Room 160
316 North Robert Street
St. Paul, Minnesota 55101
Phone: 612-725-7093

SOUTHEAST REGION

Regional Director's Office

3835 North East Expressway
Atlanta, Georgia 30340
(Mailing Address: P.O. Box 2994, 30301)

Phone: 404-455-2631
Firearms and Explosives Coordinator—
Phone: 404-455-2675
Alabama, Florida, Georgia, Mississippi, North Caro-
lina, South Carolina, and Tennessee

District Offices

Special Agent in Charge (ATF)
C&S Bank Building, Suite 265
1 West Court Square
Decatur, Georgia 30030
Phone: 404-526-6526/27

Special Agent in Charge (ATF)
2121 Building, Room 1025
2121 8th Avenue North
Birmingham, Alabama 35203
Phone: 205-254-1205

Special Agent in Charge (ATF)
5821 Park Road, Suite 504
Charlotte, North Carolina 28209
Phone: 704-373-0711 x425

Special Agent in Charge (ATF)
Federal Building, Room 501
901 Sumter Street
Columbia, South Carolina 29201
Phone: 803-765-5541/42/43

Special Agent in Charge (ATF)
The 301 Building, Room 506
301 North Lamar Street
Jackson, Mississippi 39202
Phone: 601-969-4200

Special Agent in Charge (ATF)
8410 Northwest 53rd Terrace, Suite 219
Miami, Florida 33166
Phone: 305-350-4248

Special Agent in Charge (ATF)
4004 Hillsboro Road, Room 210
(Mailing address: P. O. Box 15726, Green Hills Station)
Nashville, Tennessee 37215
Phone: 615-749-5412

SOUTHWEST REGION

Regional Director's Office

1200 Main Street
Main Tower, Room 345
Dallas, Texas 75202
Phone: 214-749-2853
Firearms and Explosives Coordinator—
Phone: 214-749-3280
Arkansas, Colorado, Louisiana, New Mexico, Okla-
homa, Texas, and Wyoming

District Offices

Special Agent in Charge (ATF)
1100 Commerce Street, Room 12 C 52
Dallas, Texas 75202
Phone: 214-749-1951

Special Agent in Charge (ATF)
3910 Kirby Drive, Suite 260
Houston, Texas 77027
Phone: 713-226-4454

Special Agent in Charge (ATF)
546 Carondelet Street, Room 301
New Orleans, Louisiana 70130
Phone: 504-589-2048

Special Agent in Charge (ATF)
50 Penn Place, Suite 810
Oklahoma City, Oklahoma 73118
Phone 405-231-4877/4841

WESTERN REGION

Regional Director's Office

525 Market Street, 34th Floor
San Francisco, California 94105
Phone: 415-556-6084
Firearms and Explosives Coordinator—
Phone: 415-556-2610
Alaska, Arizona, California, Guam, Hawaii, Idaho,
Montana, Nevada, Oregon, Utah, and Washington

District Offices

Special Agent in Charge (ATF)
Bishop Trust Building, Suite 1402
1000 Bishop Street
Honolulu, Hawaii 96813
(Mailing address: P.O. Box 3313, 96801)
Phone: 808-546-3196

Special Agent in Charge (ATF)
P.O. Box 1991
Main Post Office
Los Angeles, California 90053
Phone: 213-688-4814

Special Agent in Charge (ATF)
Federal Building, Room 806
915 2nd Avenue
Seattle, Washington 98174
Phone: 206-442-4485

Special Agent in Charge (ATF)
525 Market Street, 25th Floor
San Francisco, California 94105
Phone: 415-556-6769

U.S. Attorney
District of Guam
Corn Trading House Building
Aspinall Avenue and West Soledad
P.O. Box Z
Agana, Guam 96910
Overseas Phone: 772-6458

Resident Agent in Charge (ATF)
P.O. Box 2395
Anchorage, Alaska 99501
Phone: 907-279-7914

U.S. Customs Service

1301 Constitution Ave., N.W.
Washington, D.C. 20229

Role: It is the responsibility of the U.S. Customs Service to collect and protect revenue; prevent fraud and smuggling; process and regulate people, carriers, cargo and mail moving into and out of the United

States, and perform a variety of functions in cooperation with other Government agencies, including ATF.

Statutory Authority: 19 U.S.C. 66.

Regulatory Authority: 19 CFR 12.

Principal Regional Offices

Region I—Boston
Regional Commissioner
U.S. Customs Service
JFK Building
Boston, MA 02203

Region II—New York
Regional Commissioner
U.S. Customs Service
6 World Trade Center
New York, NY 10048

Region III—Baltimore
Regional Commissioner
U.S. Customs Service
40 S. Gay St.
Baltimore, MD 21202

Region IV—Miami
Regional Commissioner
U.S. Customs Service
7370 N.W. 36th Street
Miami, FL 33132

Region V—New Orleans
Regional Commissioner
U.S. Customs Service
701 Loyola Ave.
New Orleans, LA 70113

Region VI—Houston
Regional Commissioner
U.S. Customs Service
500 Dallas Ave.
Houston, TX 77002

Region VII—Los Angeles
Regional Commissioner
U.S. Customs Service
300 N. Los Angeles St.
Los Angeles, CA 90053

Region VIII—San Francisco
Regional Commissioner
U.S. Customs Service
450 Golden Gate Ave.
San Francisco, CA 94102

Region IX—Chicago
Regional Commissioner
U.S. Customs Service
55 E. Monroe Street, Chicago, IL 60603

Department of Justice

The Federal Bureau of Investigation

Pennsylvania Avenue, N.W., between 9th and 10th streets, Washington, D.C. 20530

Role: The jurisdiction of the Federal Bureau of Investigation in the area of bombings and explosive incidents encompasses (1) offenses perpetrated by terrorist/revolutionary groups; (2) offenses against property of the United States or federally financed organizations, except Treasury and Postal facilities; (3) offenses against colleges and universities; (4) offenses

directed against foreign diplomatic facilities and related activities; and (5) bomb threats concerning attempts to injure individuals or damage property, other than Treasury or Postal property.

Under authority contained in 18 U.S.C. 846, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms have concurrent inves-

tigative jurisdiction as to the unlawful acts proscribed in subsections (d), (e), (f), (g), (h) and (i) of 18 U.S.C. 844. Although not specified in 18 U.S.C. Chapter 40, the Postal Inspection Service has jurisdiction to investigate all incidents involving explosive or incendiary devices sent through the mails or directed against U.S.

Postal Service property. The investigative resources of the Department of Justice, the Department of the Treasury, and the U.S. Postal Service have been allocated pursuant to investigative guidelines which have been agreed upon by the three agencies.

U.S. Postal Service

Office of Postal Inspection

Chief, Postal Inspection
U.S. Postal Service Headquarters
475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260

Role: The U.S. Postal Service, Office of Postal Inspection, investigates bombings and explosive incidents involving postal facilities (including vehicles etc. transporting mail, and mail boxes) and personnel, and incidents involving bombs or incendiary devices sent through the mails.

Although not specified in 18 U.S.C. Chapter 40, the Postal Inspection Service has jurisdiction to investi-

gate all incidents involving explosive or incendiary devices sent through the mails or directed against U.S. Postal Service property. The investigative resources of the Department of Justice, the Department of the Treasury, and the U.S. Postal Service have been allocated pursuant to investigative guidelines which have been agreed upon by the three agencies.

Department of Defense

Defense Supply Agency

Headquarters, Cameron Station
Alexandria, Virginia 22314

Role: The Defense Supply Agency (DSA), and all other components of the Department of Defense, are directed in Paragraph IV B of DOD Directive 5100.76 to assure that conventional arms, ammunition and explosives are properly safeguarded. In this regard, the Command Security Office (DCSO) is the office of primary interest for DSA.

Paragraph V E, DOD Directive 5100.76, assigns the Director, DSA, the responsibility for assuring, through an appropriate inspection program, the security of conventional arms, ammunition and explosives

(AA&E) which relate to contract performance and are in the possession or custody of DOD prime contractors or subcontractors. The Commander of each Defense Contract Administration Services Region is responsible for inspection of AA&E facilities within his Region.

Statutory Authority: 5 U.S.C. 301, and 10 U.S.C. 2202, 2301-2314.

Regulatory Authority: 32 CFR 1.323 and 7.104-79.

Principal Regional Offices

Command Security Officer, DSAH-T
Defense Supply Agency
Cameron Station
Alexandria, VA 22314

Executive Directorate of Industrial Security
Defense Supply Agency (DCAS-NI)
Cameron Station
Alexandria, VA 22314

Commandant
Defense Industrial Security Institute
Defense General Supply Center
Richmond, VA 23297

Commander
DCASR, Atlanta
ATTN: DCRA-I
805 Walker St.
Marietta, GA 30060

Commander
DCASR, Boston
ATTN: DCRB-I
666 Summer St.
Boston, MA 02210

Commander
DCASR, Chicago
ATTN: DCRI-I
O'Hare International Airport
6400 North Mannheim Rd.
P.O. Box 66475
Chicago, IL 60666

Commander
DCASR, Cleveland
ATTN: DCRO-I
Anthony J. Celebrezze Federal Building
1240 East Ninth St.
Cleveland, OH 44199

Commander
DCASR, Dallas
ATTN: DCRT-I
500 South Ervay St.
Dallas, TX 75201

Commander
DCASR, Detroit
ATTN: DCRD-I
1580 East Grand Blvd.
Detroit, MI

Commander
DCASR, Los Angeles
ATTN: DCRL-I
11099 South La Cienega Blvd.
Los Angeles, CA 90045

Commander
DCASR, New York
ATTN: DCRN-I
60 Hudson St.
New York, NY 10013

Commander
DCASR, Philadelphia
ATTN: DCRP-I
P.O. Box 7478
Philadelphia, PA 19101

Commander
DCASR, St. Louis
ATTN: DCRS-I
1136 Washington Ave.
St. Louis, MO

Commander
DCASR, San Francisco
ATTN: DCRC-I
866 Malcolm Rd.
Burlingame, CA 94010

Principal Regional Offices

Boston Regional Office—Region I
Assistant Regional Director
U.S. Department of Labor—OSHA
18 Oliver Street
Boston, Massachusetts 02110

New York Regional Office—Region II
Assistant Regional Director
U.S. Department of Labor—OSHA
1515 Broadway (1 Astor Plaza)—Room 3445
New York, New York 10036

Philadelphia Regional Office—Region III
Assistant Regional Director
U.S. Department of Labor—OSHA
Gateway Building—Suite 15220
3535 Market Street
Philadelphia, Pennsylvania

Atlanta Regional Office—Region IV
Assistant Regional Director
U.S. Department of Labor—OSHA
1375 Peachtree Street, N.E.—Suite 587
Atlanta, Georgia 30309

Chicago Regional Office—Region V
Assistant Regional Director
U.S. Department of Labor—OSHA
32nd Floor—Room 3263
230 Dearborn Street
Chicago, Illinois 60604

Dallas Regional Office—Region VI
Assistant Regional Director
U.S. Department of Labor—OSHA
555 Griffin Square Bldg.—Room 602
Dallas, Texas 75202

Kansas City Regional Office—Region VII
Assistant Regional Director
U.S. Department of Labor—OSHA
Room 3000
911 Walnut Street
Kansas City, Missouri 64106

Denver Regional Office—Region VIII
Assistant Regional Director
U.S. Department of Labor—OSHA
Federal Building—Room 15010
1961 Stout Street
Denver, Colorado 80202

San Francisco Regional Office—Region IX
Assistant Regional Director
U.S. Department of Labor—OSHA
9470 Federal Building
450 Golden Gate Avenue—P.O. Box 36017
San Francisco, California 94102

Seattle Regional Office—Region X
Assistant Regional Director
U.S. Department of Labor—OSHA
Federal Office Bldg., Room 6048
909 First Avenue
Seattle, Washington 98174

Department of the Interior

Mining Enforcement and Safety Administration

4015 Wilson Boulevard, Arlington, Virginia 22203

Role: The Mining Enforcement and Safety Administration (MESA) conducts programs to control health hazards and reduce fatalities and injuries in the mineral extraction industries through inspection, investigation, and enforcement; assessment of penalties for violations; technical support; and education and training. Mandatory health and safety standards and regulations are developed or revised as warranted by new technology or by changing conditions.

Pursuant to formal agreement between the Departments of Interior and Treasury:

1. MESA performs on behalf of ATF, inspections

under the explosive materials standards prescribed in 27 CFR, Part 181, at all mines subject to the jurisdiction of MESA. The results of all such inspections are promptly submitted to ATF.

2. ATF accepts the inspection of storage facilities by MESA as satisfying the purposes of 18 U.S.C. Chapter 40, including the conditions imposed on license and permit applicants with respect to storage facilities for explosive materials. ATF accepts the inspection by MESA of records maintained by persons holding licenses or permits as satisfying the purposes of 18 U.S.C. Chapter 40; and

Department of Labor

Occupational Safety and Health Administration

Chief, Division of Compliance Programming
U.S. Department of Labor—OSHA
200 Constitution Avenue, N.W., Rm. N3119
Washington, D.C. 20210

Role: The Occupational Safety and Health Administration develops and promulgates occupational safety and health standards; develops and issues regulations; conducts investigations and inspections to determine the status of compliance with safety and health standards and regulations; and issues citations

and proposes penalties for noncompliance with safety and health standards and regulations.

Statutory Authority: 29 U.S.C. 655 and 657.
Regulatory Authority: 29 CFR Parts 1910 and 1926.

3. MESA and ATF cooperate in the development of uniform standards for storage of explosive materials and, to the greatest extent possible, maintain liaison and cooperation with each other in regard to their respective responsibilities under the Federal mine safety programs and under 18 U.S.C. Chapter 40 and each agency furnishes to the other all information deemed of interest to the other obtained through

routine inspection or through investigation of incidents.

Statutory Authority: 5 U.S.C. 301; 30 U.S.C. 3, 5, 7, and 801.

Regulatory Authority: 30 CFR Parts 15-17, and sections 55.6, 56.6, 57.6, 75.1300-75.1308, 77.1300-77.1304.

Principal Regional Offices:

Coal Mine Health and Safety

District Manager

District 1

Mining Enforcement and Safety Admin.
19 North Main Street
Wilkes-Barre, Pennsylvania 18701

District Manager

District 2

Mining Enforcement and Safety Admin.
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

District Manager

District 3

Mining Enforcement and Safety Admin.
P.O. Box 880
Morgantown, West Virginia 26505

District Manager

District 4

Mining Enforcement and Safety Admin.
P.O. Box 112
Mount Hope, West Virginia 25880

District Manager

District 5

Mining Enforcement and Safety Admin.
P.O. Box 560
Norton, Virginia 24273

District Manager

District 6

Mining Enforcement and Safety Admin.
P.O. Box 262, Main St. Station
Pikeville, Kentucky 41501

District Manager

District 7

Mining Enforcement and Safety Admin.
P.O. Box 572
Barbourville, Kentucky 40906

District Manager

District 8

Mining Enforcement and Safety Admin.
501 Busseron Street
Vincennes, Indiana 47591

District Manager

District 9

Mining Enforcement and Safety Admin.
P.O. Box 15037
Lakewood, Colorado 80215

Metal and Nonmetal Mine Health and Safety

District Manager

Northeastern District

Mining Enforcement and Safety Admin.
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

District Manager

Southeastern District

Mining Enforcement and Safety Admin.
228 West Valley Avenue, Room 102
Birmingham, Alabama 35209

District Manager

North Central District

Mining Enforcement and Safety Admin.
228 Federal Building
Duluth, Minnesota 55802

District Manager

South Central District

Mining Enforcement and Safety Admin.
1100 Commerce St., Room 4C50
Dallas, Texas 75202

District Manager

Rocky Mountain District

Mining Enforcement and Safety Admin.
P.O. Box 25367
Denver, Colorado 80225

District Manager

Western District

Mining Enforcement and Safety Admin.
620 Central Avenue, Bldg. 7
Alameda, California 94501

National Park Service

18th and C Sts., N.W.
Washington, D.C. 20240

Role: The National Park Service prohibits the use or possession of explosives in national parks except upon written permission of the superintendent of the park area.

Statutory Authority: 39 Stat. 535 as amended;

Sec. 1, 47 Stat. 1420; 60 Stat. 885 as amended; Sec. 2, 49 Stat. 666; 16 U.S.C. 1,3,9a, 17j-2, 462; and acts relating to the individual areas.

Regulatory Authority: 36 CFR 2.9.

Department of Transportation Materials Transportation Bureau

Office of Hazardous Materials Operations

2100 Second Street, S.W.
(Trans Point Building)
Washington, D.C. 20590

Role: The Office of Hazardous Materials Operations is responsible for designating materials, or groups or classes of materials, as hazardous, and for issuing regulations governing the safe transportation in commerce of hazardous materials. (See Bureau of Explosives, Private Associations listing, elsewhere in this publication).

Statutory Authority: 49 U.S.C. 1801; 18 U.S.C. 831-835.

Regulatory Authority: 49 CFR Parts 170 through 179.

Federal Highway Administration

400 Seventh Street S.W.
Washington, D.C. 20590

Role: Regulation of the transportation of hazardous materials.

Statutory Authority: 18 U.S.C. 834; 49 U.S.C. 304 and 1655.

Regulatory Authority: 49 CFR 397.

United States Coast Guard

400 Seventh Street, S.W.
Washington, D.C. 20590

Role: The Coast Guard, which is at all times a branch of the Armed Forces of the United States, is a part of the Department of Transportation, except when operating as part of the Navy in time of war or when the President directs. Among the Coast Guard's responsibilities are the enforcement of rules and regulations governing the security of ports and the anchorage and movement of vessels in U.S. waters. These func-

tions include supervision of the handling of explosives or other dangerous cargoes within or contiguous to waterfront facilities.

Statutory Authority: 50 U.S.C. 191; 49 U.S.C. 1655(b); and 46 U.S.C. 170, 375, and 416.

Regulatory Authority: 33 CFR Part 126; 46 CFR Parts 146 and 151.

Area Offices

COMMANDER
Atlantic Area, U.S. Coast Guard
Governors Island
New York, NY 10004

COMMANDER
Pacific Area, U.S. Coast Guard
630 Sansome St.
San Francisco, CA 94126

District Offices

COMMANDER
1st Coast Guard District
150 Causeway St.
Boston, MA 02114

2nd Coast Guard District
Federal Building
1520 Market St.
St. Louis, MO 63103

3rd Coast Guard District
Governors Island
New York, NY 10004

5th Coast Guard District
Federal Bldg.
431 Crawford St.
Portsmouth, VA 23705

7th Coast Guard District
Federal Bldg.
51 S.W. 1st Ave.
Miami, FL 33130

8th Coast Guard District
Customhouse
New Orleans, LA 70130

9th Coast Guard District
1240 East 9th St.
Cleveland, OH 44199

11th Coast Guard District
Heartwell Bldg.
19 Pine Ave.
Long Beach, CA 90802

12th Coast Guard District
630 Sansome St.
San Francisco, CA 94126

13th Coast Guard District
Federal Bldg.
915 Second Ave.
Seattle, WA 98174

14th Coast Guard District
P.O. Box 48
FPO San Francisco, 96610

17th Coast Guard District
FPO Seattle 98771

Federal Aviation Administration

Chief, Technical Security Division, ACS-200
Civil Aviation Security Service
Federal Aviation Administration
800 Independence Ave., S.W.
Washington, D.C. 20591

Role: As part of its on-going effort to regulate air commerce and to foster aviation safety, the Federal Aviation Administration (FAA) is concerned with the shipment by air of explosives and other hazardous cargoes.

The point of contact within the FAA for inquiries

concerning the movement of explosives by air is the Technical Security Division, which has several explosives security specialists on its staff.

Statutory Authority: 49 U.S.C. 1348, 1354(a), 1372, 1421, 1442, 1443, 1472, 1510, and 1522.

Regulatory Authority: 14 CFR Part 103.

Consumer Product Safety Commission

5401 Westbard Avenue, Bethesda, Maryland 20207
1750 K Street, N.W., Washington, D.C. 20207

Role: The Consumer Product Safety Commission, an independent Federal regulatory agency, has primary responsibility for establishing mandatory product safety standards, where appropriate, to reduce

unreasonable risk of injury to consumers from consumer products. In addition, it has authority to ban hazardous consumer products. The Consumer Product Safety Act also authorizes the Commission to conduct

extensive research on consumer product standards, engage in broad consumer and industry information and education programs, and establish a comprehensive Injury Information Clearinghouse.

Statutory Authority: In addition to the authority created by the act of October 27, 1972 (86 Stat. 1207),

the Commission assumes responsibility for the Hazardous Substances Act (74 Stat. 372; 15 U.S.C. 1261).
Regulatory Authority: (16 CFR Chapter II, Subchapter C—Federal Hazardous Substances Act Regulations.)

Principal Regional Offices

Director
Atlanta Area Office (ATL)
Consumer Product Safety Commission
1330 West Peachtree Street, N.W.
Atlanta, Georgia 30309

Director
Boston Area Office (BOS)
Consumer Product Safety Commission
100 Summer Street, 16th Floor, Rm. 1607
Boston, Massachusetts 02110

Director
Consumer Product Safety Commission
Chicago Area Office (CHI)
230 South Dearborn St., Room 2945
Chicago, Illinois 60604

Director
Cleveland Area Office (CLE)
Consumer Product Safety Commission
21046 Brookpark Road
Cleveland, Ohio 44135

Director
Dallas Area Office (DAL)
Consumer Product Safety Commission
Room 410C, 500 South Ervay
Dallas, Texas 75201

Director
Denver Area Office (DEN)
Consumer Product Safety Commission
Suite 938, Guaranty Bank Building
817 17th Street
Denver, Colorado 80202

Director
Kansas City Area Office (KAN)
Consumer Product Safety Commission
Suite 1500, Traders National Bank Building
1125 Grand Avenue
Kansas City, Missouri 64106

Director
Los Angeles Area Office (LOS)
Consumer Product Safety Commission
3660 Wilshire Boulevard, Suite 1100
Los Angeles, California 90010

Director
Minneapolis Area Office (MIN)
Consumer Product Safety Commission
Room 650 Federal Building
Fort Snelling
Twin Cities, Minnesota 55111

Director
New Orleans Area Office (NOL)
Consumer Product Safety Commission
Suite 414, International Trade Mart
2 Canal Street
New Orleans, Louisiana 70130

Director
New York Area Office (NYC)
Consumer Product Safety Commission
6 World Trade Center
Vesey Street, 6th Floor
New York, New York 10048

Director
Philadelphia Area Office (PHL)
Consumer Product Safety Commission
10th Floor, 400 Market Street
Philadelphia, Pennsylvania 19106

Director
San Francisco Area Office
Consumer Product Safety Commission
Suite 500, 100 Pine Street
San Francisco, California 94111

Director
Seattle Area Office (SEA)
392 Federal Building
915 Second Avenue
Seattle, Washington 98174

Address Listing of Internal Revenue Service Centers

Find the State or county in which your principal place of business, office or agency (or legal residence, if you have no principal place of business, office or agency in the United States) is located on the following list. The address of your Internal Revenue Service Center will appear in the corresponding righthand column.

Location of Applicant's Business	Internal Revenue Service Centers
New Jersey, New York City and counties of Nassau, Rockland, Suffolk and Westchester; and Guam	1040 Waverly Avenue Holtsville, New York 11799
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	310 Lowell Street Andover, Massachusetts 01812
District of Columbia, Delaware, Maryland, Pennsylvania, Puerto Rico	11601 Roosevelt Boulevard Philadelphia, Pa. 19155
Alabama, Florida, Georgia, Mississippi, South Carolina	4800 Buford Highway Chamblee, Georgia 30006

Location of Applicant's Business	Internal Revenue Service Centers
Michigan, Ohio	Cincinnati, Ohio 45298
Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas	3651 S. Interregional Hwy. Austin, Texas 78740
Alaska, Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	1160 West 1200 South St. Ogden, Utah 84201
Illinois, Iowa, Missouri, Wisconsin	2306 E. Bannister Road Kansas City, Missouri 64170
California, Hawaii	5045 East Butler Avenue Fresno, California 93888
Indiana, Kentucky, North Carolina, Tennessee, Virginia, West Virginia	3131 Democrat Road Memphis, Tennessee 38110

State Offices that Regulate Explosives

Following is a listing, by State, of addresses of State agencies or offices where persons may obtain information on State explosives requirements.

Alabama

State Dept. of Industrial Relations
Room 204, Industrial Relations Building
649 Monroe Street
Montgomery, Alabama 36104

State Fire Marshal
435 South McDonough Street
Montgomery, Alabama 36104

Alaska

Compliance Division
Alaska OSHA
338 Denali Street
Anchorage, Alaska 99501

Arizona

State Mine Inspector
6815 E. Berneil Drive
Scottsdale, Arizona 85253
Deputy State Fire Marshal
1601 West Jefferson
Phoenix, Arizona 85007

Arkansas

Commander—Fire Marshal Section
Arkansas State Police
P.O. Box 4005
Little Rock, Arkansas 72204

California

State Fire Marshal
7171 Bowling Drive
Suite 800
Sacramento, California 95823

Director
Division of Industrial Safety
455 Golden Gate Avenue
San Francisco, California 94102

Colorado

Assistant Chief of Compliance Section
Department of Labor and Employment
Division of Labor
1177 Grant Street
Denver, Colorado 80203
Public Safety Section
Department of Labor and Employment
Division of Labor
1177 Grant Street
Denver, Colorado 80203

Connecticut

State Police
Division of Public Safety
90 Washington Street
Hartford, Connecticut 06106

Delaware

State Fire Marshal's Office
Chestnut Grove Road
Dover, Delaware
(Mailing Address:
Box 109
Dover, Delaware 19901)

Florida

State Treasurer's Office
Larsen Building
Tallahassee, Florida 32304

Georgia

The State Fire Marshal
7 Hunter Street
Atlanta, Georgia 30334

Hawaii

Administrator, Department of Safety and Health
Hawaii Dept. of Labor and Industrial Relations
Room 910, Gold Bond Bldg.
677 Ala Moana Blvd.
Honolulu, Hawaii 96814

Idaho

Director, State Department of Labor
317 Main Street
Boise, Idaho 83720

Illinois

State of Illinois
Department of Mines and Minerals
503 East Main Street
Benton, Illinois 62812

State of Illinois
Department of Law Enforcement
Division of Fire Prevention
160 North LaSalle Street
Chicago, Illinois 60601

Indiana

State Fire Marshal
502 State Office Building
Indianapolis, Indiana 46204

Iowa

Department of Public Safety
523 East 12th Street
Des Moines, Iowa 50319

Kansas

State Fire Marshal
211 West 7th
Topeka, Kansas 66603

Kentucky

State Fire Marshal
Capitol Plaza
Frankfort, Kentucky 40601

Louisiana

Department of Public Safety
Supervisor, Explosive Control Section
P.O. Box 1791
Baton Rouge, Louisiana 70821

Maine

State Fire Marshal
36 Hospital Street
Augusta, Maine 04330

Maryland

Department of Safety and Correctional Services
Office State Fire Marshal
Room 901A
301 West Preston Street
Baltimore, Maryland 21201

Massachusetts

State Department of Public Safety
Fire Marshal Office
1010 Commonwealth Avenue
Boston, Massachusetts 02215

Michigan

State Fire Marshal
1048 Pierpont Drive
Lansing, Michigan 48910

Minnesota

Minnesota State Crime Bureau
1246 University Avenue
St. Paul, Minnesota 55104

Mississippi

Mississippi Attorney General's Office
P.O. Box 220, Gartin Justice Building
Jackson, Mississippi 39205

Missouri

Department of Public Safety
505 Missouri Boulevard
Jefferson City, Missouri 65101

Montana

Deputy State Fire Marshal
State Capitol
Helena, Montana 59601

Nebraska

State Fire Marshal
1047 South Street
Lincoln, Nebraska 68502

Nevada

Director, Dept. of Occupational Safety & Health
Nevada Industrial Commission
515 East Musser Street
Carson City, Nevada 89701

New Hampshire

State Fire Marshal's Office
John O. Mortin Building
Loudon Road
Concord, New Hampshire 03301

New Jersey

New Jersey Department of Labor and Industry—
Bureau of Engineering and Safety
John Fitch Plaza
Trenton, New Jersey
(Mailing Address)
Box 709
Trenton, New Jersey 08675

New Mexico

State Fire Marshal
P.O. Box Drawer 1269
Santa Fe, New Mexico 87501

New York

State of New York Department of Labor
License and Certificate Unit
2 World Trade Center
New York, New York

State of New York Department of Labor
Division of Industrial Safety Service
175 Fulton Avenue
Hempstead, New York 11560

North Carolina

Mine and Quarry Division
North Carolina Department of Labor
Box 27407
Raleigh, North Carolina 27611

North Dakota

State Fire Marshal
Lock Box 1292
Bismarek, North Dakota 58501

State Workmen's Compensation Bureau
State Mine Inspector
State Capitol Building
Bismarek, North Dakota 58501

Ohio

State of Ohio Department of Industrial Relations
Division of Factory and Building Inspection
Room 222
2323 West Fifth Avenue
Columbus, Ohio 43204

Oklahoma

Field Agent Supervisor
Office of State Fire Marshal
4030 North Lincoln
Oklahoma City, Oklahoma 73105

Oregon

State Fire Marshal
Labor and Industries Bldg.
Salem, Oregon 97310

Pennsylvania

Department of Environmental
Resources—Division of Explosives
8th Floor
Fulton Bank Building
Harrisburg, Pennsylvania
(Mailing Address:
Box 2063
Harrisburg, Pennsylvania 17102)

Rhode Island

State of Rhode Island and Providence Plantations
Division of Fire Safety
75 Davis Street
Providence, Rhode Island 02908

South Carolina

South Carolina Law Enforcement Division
Newberry Highway
P.O. Box 21398
Columbia, South Carolina 29221

South Dakota

State of South Dakota
Department of Public Safety
Office of State Fire Marshal
Insurance Building
300 Block on N. Nicollet
Pierre, South Dakota 57501

Tennessee

State of Tennessee
Department of Insurance
202 Capitol Towers
Nashville, Tennessee 37219

Texas

State Fire Marshal
1110 San Jacinto
Austin, Texas 78786

Utah

Utah Occupational Safety and Health Division
Industrial Commission of Utah
448 South 400 East
Salt Lake City, Utah 84111

Vermont

Department of Public Safety
Registration Section (Explosives)
100 State Street
Montpelier, Vermont 05602

Virginia

Construction Safety Division
9th Street
State Office Building
Richmond, Virginia
(Mailing Address:
Box 1814
Richmond, Virginia 23214)

Washington

Chief Mining and Explosives Inspector
Division of Safety
Department of Labor Industries
P.O. Box 207
Olympia, Washington 98504

West Virginia

State Fire Marshal
Room 634
1800 Washington Street, East
Charleston, West Virginia 25305

Wisconsin

Department of Industrial Labor & Human Relations
Supervisor of Mine Safety
201 East Washington Avenue
Madison, Wisconsin
(Mailing Address: P.O. Box 2209
Madison, Wisconsin 53701)
State Fire Marshal
123 West Washington Avenue
Madison, Wisconsin 53701

Wyoming
 State Fire Marshal
 2015 Central Avenue
 Cheyenne, Wyoming 82002

District of Columbia
 District of Columbia Fire Department
 Room 406
 Potomac Building North
 614 H. Street, N.W.
 Washington, D.C.

(Mailing Address:
 614 H. Street, N.W.
 Washington, D.C. 20001)

Puerto Rico
 Policia de Puerto Rico
 Negociado de Servicios Tecnicos
 Seccion de Explosivos
 Box 70166
 Hato Rey
 Puerto Rico 00936

Private Associations Having Explosives Interests

Following is a listing, by name and address, of seven private associations which have an interest in explosives matters. These organizations together possess a wide range of technical expertise in the explosives area.

Additionally, some of these organizations, such as the Institute of Makers of Explosives (IME), which publishes a "Safety Library" series, have available publications which address the use of explosives in specific applications as well as the safe handling and use of explosives materials in general.

A brief description of the activities of the Bureau of Explosives is provided because of its unique role in support of the Department of Transportation.

Bureau of Explosives
 1920 L. Street N.W.
 Washington, D.C. 20036

The Bureau of Explosives, a section of the Association of American Railroads, is concerned basically with the transport of explosives and other hazardous materials via surface carrier. Under Title 49, Code of Federal Regulations, this Bureau is charged with the respon-

sibility of examining all new explosives and explosives devices to determine that methods of manufacture, packing, and storage, as they affect safety in transportation, are in accordance with Federal regulations. The Bureau of Explosives' function in this regard is carried out in support of the Department of Transportation. Such examinations must be made prior to the offering of the explosives or explosives devices for transport.

American Insurance Association
 85 John Street
 New York, New York 10038

American Pyrotechnic Association
 Washington College
 Chestertown, Maryland 21620

Institute of Makers of Explosives
 420 Lexington Avenue
 New York, New York 10017

International Association of Chiefs of Police Inc.
 11 Firstfield Road
 Gaithersburg, Maryland 20760

International Association of Fire Chiefs
 1727 K Street N.W.
 Washington, D.C. 20006

National Fire Prevention Association
 470 Atlantic Avenue
 Boston, Massachusetts 02210

State Laws Governing Explosives

Preface

The statutes of the various States, the District of Columbia, the Virgin Islands, and Puerto Rico were initially searched for all laws governing explosives. Because the volume of material located was extremely large, it was not feasible to reprint all such laws in full text. It became necessary, therefore, to exercise editorial license in the presentation of these statutes. As a result, statutes dealing with (1) mines and mining, (2) fireworks, (3) petroleum products, and (4) labor laws relating to explosives manufacture have been deleted.

Additionally, citations to certain classes of statutes that are common to a number of States have been

presented in chart form. The chart contains a list of the States, in alphabetical order, and categories of particular offenses or requirements. Under these offense and requirement categories appears the chapter number or other numerical designation for the relevant State statute, if one exists.

Comprehensive statutes that deal specifically with explosives, such as those appearing in a State explosives act or under the heading "Explosives," have, except for tables of distances, been reproduced in full text, regardless of content. Also reproduced in full text are one-of-a-kind provisions.

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Alabama

CODE OF ALABAMA

Dynamite or Other Explosives

* * * * *

14-123. Exploding or setting off dynamite; penalty for. Any person who wilfully sets off or explodes any dynamite or other explosive in, under or dangerously near to any steam boat or vessel or railroad car in which there is at the time any human being, or any prison or jail or any other house or building which is occupied by a person lodged therein or any inhabited dwelling house or any house adjoining such house whether there is at the time in such house adjoining a dwelling house a human being or not shall on conviction be punished at the discretion of the jury by death or by imprisonment in the penitentiary for not less than ten years.

14-124. Setting off explosives under public building or uninhabited dwelling; penalty for. Any person who wilfully sets off or explodes any dynamite in, under or dangerously near to any church, meeting house, court house, town house, college, academy, jail or other building erected for public use, or any banking house, warehouse, cotton house, gin house, store, manufactory or mill, or any railroad car, railroad engine, streetcar or automobile, car shed, barn, stable, cotton house or cotton pen containing cotton, or corn pen containing corn, or any shop or office or other house within the curtilage of any dwelling house or any uninhabited dwelling house or unoccupied dwelling house or steam boat or vessel in which there is at the time no human being shall on conviction be punished by imprisonment in the penitentiary for not less than two years or more than ten years.

14-125. Exceptions from chapter. This chapter shall not apply to or include explosions had or caused in case of necessity to prevent the spread of fire, nor to ordinary legitimate uses of explosives for mechanical purposes, where there is no intent to injure another, or his property, and no wanton negligence in the use of the explosives.

* * * * *

14-125(16). Possession of ingredients for making fire bombs; possession, etc., of fire bombs. Any person who possesses the materials for assembling or manufacturing a fire bomb or fire bombs with the intention of using the fire bomb or fire bombs when assembled or manufactured for the purpose of violating any of the criminal laws of the state of Alabama or of the United States is

guilty of a misdemeanor and upon conviction shall be punished as provided in Code 1940, Title 15, section 327, and whoever manufactures, distributes, possesses or uses or attempts to use one or more fire bombs with the intent to violate any of the criminal laws of the state of Alabama or the United States is guilty of a felony, and upon conviction shall be punished by confinement in the penitentiary for not less than one nor more than ten years.

The term "fire bomb" as used herein shall mean a container containing gasoline, kerosene, fuel oil, or other substance, liquid, or semi-solid, with a flash point of one hundred seventy degrees Fahrenheit or less, having a wick or other device capable of igniting or exploding such liquid, or semi-solid, but no device manufactured and used for the purpose of illumination shall be deemed to be a fire bomb.

Nothing in this section shall prohibit the authorized manufacture, use, or possession of any material, substance, or device by a member of the armed forces of the United States, firemen, or law enforcement officers; nor does this section prohibit the manufacture, use, or possession of any material, substance, or device to be used solely for scientific research, educational purposes, or for any lawful purpose. This section is cumulative.

* * * * *

14-391. Storing gunpowder in city or town. Any person who keeps on hand, at any one time, within the limits of any incorporated city or town, for sale or for use, more than fifty pounds of gunpowder, or other explosives shall, on conviction, be fined not less than one hundred dollars.

Transportation of Explosives

48-468. Explosives which cannot be carried on passenger cars; exceptions as to small arms, etc. It shall be unlawful to transport, carry or convey, or cause to be transported, carried or conveyed, any dynamite, gunpowder, or other explosive between any points or places within the State of Alabama, on any vessel, car, or vehicle of any description, operated by any common carrier, which vessel, car or vehicle is carrying passengers for hire. It shall be lawful to transport on any such vessel, car or vehicle small arms, ammunition in any quantity, and such fuses, torpedoes, rockets or other signal devices as may be essential to promote

safety in operation, and properly packaged and marked samples for laboratory examination, not exceeding a net weight of one-half pound each, and not exceeding twenty samples at one time in a single vessel, car or vehicle; but such samples shall not be carried in that part of a vessel, car or vehicle which is intended for the transportation of passengers for hire. Nothing in this section shall be construed to prevent transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels, cars, or vehicles.

48-469. Nitro-glycerine not carried on passenger cars. It shall be unlawful to transport, carry or convey, or cause to be transported, carried or conveyed, liquid nitro-glycerine, fulminate in bulk in dry condition, or other like explosive between any points or places within the State of Alabama, on any vessel, car or vehicle of any description operated by a common carrier in the transportation of passengers, or articles of commerce by land or water.

48-470. Package containing explosives to be marked; unlawful to use deceptive marks. Every package containing explosives or other dangerous articles, when presented to a common carrier or shipment, shall have plainly marked on the outside thereof the contents thereof, and it shall be unlawful for any person, partnership, or corporation to deliver for transportation to any common carrier engaged in commerce by land or water, or to cause to be delivered or to carry any explosive or other dangerous article, under any false or deceptive marking, description, invoice, shipping order, or other declaration, or without informing the agent of such carrier of the true character thereof, at or before the time such delivery or carriage is made, and it shall be unlawful for any person to carry or place, or cause to be carried or placed on any vessel, car or other vehicle on which passengers are carried for hire, any of the explosives in this article prohibited from being carried on vessels, cars, or other vehicles on which passengers are carried for hire.

48-471. Regulations formulated by public service commission. The public service commission of Alabama shall formulate regulations for the safe transportation of explosives between points or places in Alabama, which shall be binding upon all common carriers and shippers and their agents. Said commission of its own motion, or upon application made by any interested party, may make changes or modifications in such regulations made desirable by new information or altered conditions. Such regulations shall be in accord with the best known practicable means for securing safety in

transit covering the packing, marking, loading, handling while in transit and the precautions necessary to determine whether the material when offered is in proper condition to transport. Such regulations as well as all changes or modifications thereof shall take effect twenty days after their formulation and promulgation by said commission and shall be in effect until set aside or modified.

48-472. Penalty for violation. Any person, partnership, or corporation who knowingly violates or causes to be violated any of the foregoing provisions of this article, or any regulation made by the public service commission of Alabama in pursuance thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine not exceeding two thousand dollars, or by im-

prisonment not exceeding eighteen months, or both such fine and imprisonment, in the discretion of the court.

48-473. Penalty when death or bodily injury occurs. When the death or bodily injury of any person is caused by the explosion of any article named in this article, while the same is being placed upon any vessel or vehicle to be transported, in violation thereof, while the same is being so transported, or while the same is being removed from such vessel or vehicle, the person knowingly placing or aiding or permitting the placing of such article upon any such vessel or vehicle, to be so transported, shall be guilty of a felony and may be imprisoned in the penitentiary for not more than ten years.

* * * * *

Alaska

ALASKA STATUTES

Public Utilities and Carriers

Sec. 42.30.060. Prohibition of explosives on vessels or vehicles carrying passengers. It is unlawful to transport, carry or convey dynamite, gunpowder, nitroglycerine, * * * or similar dangerous article on a vessel or vehicle operating in the state, or on the waters of the state, when the vessel or vehicle is carrying passengers for hire. * * * * *

Sec. 42.30.070. Marking packages containing explosives. The contents of every package containing an explosive or other dangerous article when presented to the master, conductor, or proprietor of a vessel

or vehicle for shipment shall be plainly marked on the outside. It is unlawful for a person to deliver, or have delivered, to a vessel or vehicle engaged in commerce by land or water in the state, or to carry upon the vessel or vehicle an explosive or other dangerous article under false or deceptive marking, description, invoice, shipping order, or other declaration, or without informing the agent of the carrier of its character at or before the time delivery or carriage is made.

Sec. 42.30.080. Penalty for violation. A person who knowingly violates (Section) 60 or 70 of this chapter is guilty of a misdemeanor, and is punishable by a fine of not more than \$2000, or by imprisonment for not more than 18 months, or by both.

Arizona

ARIZONA REVISED STATUTES

Criminal Code

13-644. Boarding or interference with train with intent to rob; punishment. A. A person is guilty of a felony who, with the intention of robbing any passenger or other person on a railroad train, car or engine:

* * * * *

3. Places dynamite or other explosive

substance or material upon or near the track of a railroad.

* * * * *

13-881. Derailing or wrecking train; punishment. A. A person is guilty of a felony who unlawfully:

* * * * *

2. Places dynamite or other explosive material or other obstruction upon or near a

railroad with intention of blowing up or derailing a railroad train, car or engine and does thereby blow up or derail the train, car or engine.

* * * * *

B. A person who violates any provision of this section shall be punished by death, or by imprisonment in the state prison for not less than ten years, in the discretion of the jury, or of the court upon a plea of guilty.

13-921. Unlawful keeping or transportation of high explosives; punishment; exceptions. A person is guilty of a misdemeanor who:

1. Keeps or stores dynamite, gun cotton, nitroglycerine or giant powder, in greater quantities than twenty-five pounds at one time, or blasting or gunpowder in greater quantities than fifty pounds at one time, in or upon any building or premises within a distance of one-half mile of the exterior limits of a city or town, except in vessels, railroad cars or vehicles receiving and keeping them in the course of and for the purpose of transportation alone.

2. Keeps or stores percussion caps, gunpowder or other blasting powder, within a distance of two hundred feet of a building or premises where hercules, dynamite, gun cotton, nitroglycerine or giant powder is kept or stored.

3. Knowingly sells or has in his possession dynamite, nitroglycerine or other highly explosive material, or fuse, or transports them from point to point within this state, without having plainly marked, in large letters, in a conspicuous place on the box or package containing such explosive material, the name and explosive character thereof, and without having marked plainly upon the wrapper of each stick of dynamite or other explosive material, or package of fuse, the date of the manufacture thereof.

13-922. Depositing or exploding explosive with intent to injure persons or property; punishment. A person who maliciously deposits, or explodes, or who attempts to explode, at, in, under or near any building, vessel, boat, railroad, tramroad or cableroad, or any train or car or any depot, stable, car-house, heater, schoolhouse, church, dwelling house or other place where human beings usually inhabit, assemble, frequent or pass, any chemical compound or explosive, with the intent to injure or destroy such building, vessel, boat or other structure, or with the intent to injure, intimidate or terrify a human being, or by means of which a human being is injured or endangered, is guilty of a felony punishable by imprisonment in the state prison for not less than one year.

13-923. Possession of explosive, acid or

other substance with intent to injure persons or property; punishment. A person having in his possession or under his control acid, steel filings, explosives or other thing, with intent maliciously to use any of them in injuring any person or property, or in obstructing or preventing the running or operation of machinery, pumping plant, mill, ore crusher, car, train, train of cars, locomotive or other engine, is guilty of a misdemeanor.

13-1246. Forwarding of identification data to bureau. Within forty-eight hours after an arrest, the sheriff or a constable of the county, the chief of police or city or town marshal of an incorporated city or town, shall forward to the bureau two sets of finger and thumb prints, photographs and other identification data of:

* * * * *

3. A person arrested in possession of firearms or other concealed weapons, burglar tools, high explosives without proper authority or other appliances believed to be used solely for criminal purposes.

* * * * *

Motor Vehicles

28-602. Definitions. * * * * * 3. "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

* * * * *

Prisons and Prisoners

31-232. Possession of deadly weapon; punishment. A. Every prisoner committed to a prison maintained by the state who, while at such prison or while being conveyed to or from such prison or while at any prison camp or prison farm or while being conveyed to or from any such place, or while under the custody of prison officials, officers or employees, possesses or carries upon his person or has under his custody or control any instrument or weapon commonly known as a blackjack, sling shot, billy, sandclub, sandbag, or metal knuckles or any explosive substance or any dirk or dagger or sharp instrument, or any pistol, revolver or other firearm, is guilty of a felony punishable upon conviction by imprisonment for a term of not less than five years.

Arkansas

ARKANSAS STATUTES

Crimes

41-3104. Criminal use of prohibited weapons. (1) A person commits the offense of criminal use of prohibited weapons if, except as authorized by law, he uses, possesses, makes, repairs, sells, or otherwise deals in any bomb, machine gun, sawed-off shotgun, firearm specially made or specially adapted for silent discharge, metal knuckles, or other implement for the infliction of serious physical injury or death which serves no common lawful purpose.

(2) It is a defense to a prosecution under this section that:

(a) the person was a law enforcement officer, prison guard, or member of the armed forces acting in the course and scope of his duty at the time he used or possessed the prohibited weapon; or

(b) the defendant used, possessed, made, repaired, sold or otherwise dealt in any of the above enumerated articles under circumstances negating any likelihood that the weapon could be used unlawfully.

(3) Criminal use of prohibited weapons is a class B felony if the weapon is a bomb, machine gun, or firearm specially made or specially adapted for silent discharge. Otherwise, it is a class D felony.

41-3108. Criminal possession of explosives. (1) A person commits the offense of criminal possession of explosives when he sells, possesses, manufactures or transports an explosive substance or incendiary device:

(a) if he has the purpose of using that substance or device to commit an offense; or

(b) if he knows or should know that some other person intends to use that substance or device to commit an offense.

(2) Criminal possession of explosives is a class B felony.

Definition, for Transport Purposes

75-407. Explosives and flammable liquid defined. (a) **Explosives.** Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

California

ANNOTATED CALIFORNIA CODES

Penal Code

Having Possession of Burglarious Instruments and Deadly Weapons

466.3 Possession of tool, device, etc. designed to open, break into, tamper with or damage coin-operated machine with intent to commit theft; punishment. (a) Whoever possesses a key, tool, instrument, explosive, or device, or a drawing, print, or mold of a key, tool, instrument, explosive, or

device, designed to open, break into, tamper with, or damage a coin-operated machine as defined in subdivision (b), with intent to commit a theft from such machine, is punishable by imprisonment in the county jail for not more than one year, or by fine of not more than one thousand dollars (\$1,000), or by both.

(b) As used in this section, the term "coin-operated machine" shall include any automatic vending machine or any part thereof, parking meter, coin telephone, coin laundry machine, coin dry cleaning machine, amusement machine, music machine, vending machine dispensing goods or services, or moneychanger.

Control of Deadly Weapons

Chapter 2.5

Destructive Devices

* * * * *

12301. Definition. The term "destructive device," as used in this chapter, shall include the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns;

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor;

(3) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition;

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

12302. Exemptions. Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of destructive devices by:

(a) Any peace officer listed in Section 830.1 or 830.2, or any peace officer in the Department of Justice authorized by the Attorney General, while on duty and acting within the scope and course of his employment.

(b) Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his employment.

Nothing in this chapter shall prohibit the sale to, purchase by, possession by, or use by any person who is a regularly employed and paid officer, employee or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, while on duty and acting within the scope and course of his employment, of any equipment used by such department or agency in the course of fire suppression.

12303. Sale, possession or transportation; other than fixed ammunition; punishment. Any person, firm or corporation who, within this state, sells, offers for sale, possesses or knowingly transports any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison for a term not to exceed three years, or by a fine not to exceed five thousand dollars (\$5,000), or by both such fine and imprisonment.

* * * * *

12305. Permits to conduct business; fee. Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of such business from the Chief of the Bureau of Criminal Identification and Investigation. Such permit shall be issued upon a satisfactory showing to him that good cause exists for the issuance thereof and after the payment of a fee of fifty dollars (\$50). Such permit shall be valid for a period of one year only.

12306. Permits; non-business purposer; fee. Any person, firm or corporation, other than those included in Section 12305, shall obtain a permit from the Chief of the Bureau of Criminal Identification and Investigation before possessing or transporting any destructive device. The chief may issue such a permit upon a satisfactory showing that good cause exists for the issuance thereof, and after the payment of a fee of ten dollars (\$10). The chief shall issue a permit without payment of a fee upon a satisfactory showing that the possessor of such destructive devices is a bona fide collector of destructive devices. Such permit shall be valid for a period of one year only.

12307. Unlawful possession; injunction; destruction. The possession of any destructive device in violation of this chapter shall be deemed to be a public nuisance and the Attorney General or district attorney of any city, county, or city and county may bring an action before the superior court to enjoin the possession of any such destructive device.

Any such destructive device found to be in violation of this chapter shall be surrendered to the Bureau of Criminal Identification and Investigation, and the bureau shall destroy such destructive device so as to render it unusable and unrepairable as a destructive device, except upon the filing of a certificate with the bureau by a judge or district

attorney stating that the preservation of such destructive device is necessary to serve the ends of justice.

Welfare and Institutions Code

Chapter 3. Institutions for Delinquents

* * * * *

1001.5. Youth Authority institutions; bringing into or within grounds narcotics, drugs, alcoholic beverages, weapons, explosives. Except when authorized by law, or when authorized by the person in charge of an institution or camp administered by the Youth Authority, or by an officer of the institution or camp empowered by the person in charge of the institution or camp to give such authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any institution or camp, or the grounds belonging to any institution or camp, administered by the Youth Authority, any narcotic, the possession of which is prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code, any restricted dangerous drug the possession of which is prohibited by Division 10.5 (commencing with Section 11901) of the Health and Safety Code, any alcoholic beverage or any firearm, weapon or explosive of any kind shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison for not more than five years.

Health and Safety Code

Chapter 1

Definitions and Scope

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12000. Explosives defined. For the purposes of this part, the term "explosives" shall mean any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with others, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat. The term "explosives" shall include, but shall not necessarily be limited to, any of the following:

(a) Dynamite, nitroglycerine, picric acid,

lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, or commercial boosters.

(b) Substances determined to be class A and class B explosives as classified by the United States Department of Transportation.

(c) Nitro carbo nitrate substances (blasting agent) as classified by the United States Department of Transportation.

(d) Any material designated as an explosive by the State Fire Marshal. Such designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation.

(e) Certain class C explosives as designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.

For the purposes of this part, the term "explosives" shall not include any destructive device, as defined in Section 12301 of the Penal Code, nor shall it include ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.

12001. Inapplicability of part. This part does not apply to any of the following:

(a) Any person engaged in the transportation of explosives regulated by, and when subject to, the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Small arms ammunition of .75 caliber or less when designated as a class C explosive by the United States Department of Transportation.

(c) Fireworks regulated under Part 2 (commencing with Section 12500) of this division, including, but not limited to, special-effects pyrotechnics regulated by the State Fire Marshal pursuant to Section 12555.

(d) Any explosives while in the course of transportation via railroad, aircraft, water, or highway when the explosives are in actual movement and under the jurisdiction of and in conformity with regulations adopted by the United States Department of Transportation, United States Coast Guard, or the Federal Aviation Agency. However, no explosives shall be sold, given away, or delivered except as provided in Section 12120.

(e) Special fireworks classified by the United States Department of Transporta-

tion as class B explosives when such special fireworks are regulated under Part 2 (commencing with Section 12500) of this division.

(f) Black powder in quantities of five pounds or less and smokeless powder in quantities of 20 pounds or less used, possessed, stored, sold, or transported that is exempted under, or authorized by, the Federal Organized Crime Control Act of 1970 (P.L. 91-452 of the 91st Congress) and applicable federal regulations thereunder.

12002. Ordinances of cities, counties, or cities and counties; effect of part. Except when transporting explosives on highways and at safe stopping places established under the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code, this part does not affect the operation of provisions of any city, county, or city and county ordinance respecting the delivery, storage, and handling of explosives which are at least as restrictive as the provisions of this part.

12003. Chief defined; designation. "Chief" means the State Forester and his authorized representatives, the chief of a fire department or fire protection agency maintained by a city, county, or city and county, or fire protection district and his authorized representatives, or the authorized representative of the United States Forest Service. In any area of the state in which there exists no organized fire protection agency responsible for the protection of the area, "chief," for the purpose of this part only, shall mean the county sheriff and his authorized representatives.

On any property that is owned by the state the "chief," for the purpose of this part, shall be the official of the fire protection agency responsible for the suppression of fires in the area. On any state property where there is no fire protection agency responsible for the suppression of fires, the "chief," for the purpose of this part, shall be the State Fire Marshal.

Upon request of the State Forester, the chief of a fire department or fire protection agency, or upon request of the county sheriff the governing body of the area under the jurisdiction of such requesting chief or sheriff may designate any person as "chief" for the purposes of this part.

12004. Person defined. For the purposes of this part, the term "person" shall mean any person, organization, firm, corporation, association, city, county, city and county, and state, and shall include any of their employees and authorized representatives.

12005. Transportation and use of explosives by law enforcement officers and fire departments. This part does not apply

to the transportation and use of explosives by representatives of the California Highway Patrol, the State Bureau of Criminal Identification and Investigation, local police departments, sheriff's departments, and fire departments acting in their official capacity, nor shall this part apply to the transportation and use of explosives by any peace officer authorized to enforce the provisions of this part by Section 12020 when he is acting pursuant to such authority.

12005.5. Use of explosives by transportation department in pursuit of seismic explorations; notice to local fire authorities; strict liability. This part shall not apply to the possession, handling, storage, transportation, or use of not more than 10 pounds of blasting agents, two pounds of class A or B explosives, or 1,000 feet of detonating cord, or any combination thereof, by authorized employees of the Department of Transportation, acting within the scope of their employment, in the pursuit of seismic explorations.

The Department of Transportation may not undertake such seismic exploration, unless the fire authority having jurisdiction in the area of such proposed seismic exploration has received a written notice from the department at least 48 hours prior to the commencement of such seismic exploration. The notice shall include the time and location of the proposed seismic exploration. In addition, the employee supervising the proposed seismic exploration, or his designated representative, shall consult with the fire authority to determine if the proposed handling, storage, transportation, or use of explosives would constitute an unreasonable hazard to life or property. If the fire authority determines that such a hazard would arise, the department shall not engage in such handling, storage, transportation, or use of explosives.

The state shall be strictly liable for any injury to any person or property proximately caused by the handling, storage, transportation, or use of explosives by the Department of Transportation for the purpose of conducting seismic exploration. All claims for damages against the state arising under this section are governed by the procedures set forth in Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

12006. Transportation and use subject to division of industrial safety; inapplicability of part; exception. The provisions of this part and the regulations adopted by the State Fire Marshal pursuant to this part shall not apply when the use, handling, possession, storage and transportation is

subject to the requirements of the Division of Industrial Safety, Department of Industrial Relations, except as the provisions of this part and the regulations adopted by the State Fire Marshal may extend beyond the scope or authority of the Division of Industrial Safety, Department of Industrial Relations.

12007. Issuing authority defined. For the purposes of this part, the term "issuing authority" shall mean either the sheriff of a county, or the chief or other head of a municipal police department of any city or county, or the chief of a fire department or fire protection agency, and their authorized representatives, provided that, in the event the designated issuing authority is the chief of a fire department or fire protection agency, such fire department or fire protection agency is organized with regularly paid, full-time personnel. The governing body of any county, city, or city and county shall designate one of the above as the issuing authority within its jurisdiction and shall notify the State Fire Marshal of the person so designated.

Chapter 2

Enforcement

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12020. Persons authorized to enforce part. The chief and the issuing authority, as defined in Sections 12003 and 12007, respectively, shall in their areas of jurisdiction enforce the provisions of this part and the regulations adopted by the State Fire Marshal pursuant to this part.

Any peace officer, as defined in Sections 830.1, 830.2, subdivisions (a), (b), (f), (j), (l), and (m) of Section 830.3, and paragraph (6) of subdivision (a) of Section 830.4 of the Penal Code, may enforce the provisions of this part.

Chapter 3

General

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12080. Sale, gift, or transportation of unclassified explosives prohibited; authorization for transportation. (a) No person shall sell, give away, or transport any explosive which has not been classified as provided in Section 12000.

(b) The State Fire Marshal, upon receiving an application from any interested party, with the concurrence of the chief in the area affected, and if he determines that such action may be taken without jeopardizing the public welfare and safety, may authorize the transportation of unclassified explosives

provided all other provisions of this part are met.

12081. Regulations of state fire marshal. Except as limited by Chapter 6 (commencing with Section 140), Division 1 of the Labor Code, the State Fire Marshal shall prepare and adopt, in accordance with the provisions of Chapter 4.5 (commencing at Section 11371), Part 1, Division 3, Title 2 of the Government Code, reasonable regulations which are not in conflict with this part, relating to the sale, use, handling, possession, and storage of explosives.

The regulations adopted by the State Fire Marshal shall: (a) Make reasonable allowances for storage facilities in existence when the regulations become effective. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(b) Be based on performance standards wherever possible.

(c) Make reasonable allowances for the storage of gunpowder, for commercial and private use. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

In making the regulations the State Fire Marshal shall consider as evidence of generally accepted safety standards the publications of the National Fire Protection Association, the United States Bureau of Mines, the United States Department of Defense, and the Institute of Makers of Explosives.

12082. Sale, furnishing or giving away to minors; ineligibility for permit. No explosives shall be sold, furnished, or given away to any person under 21 years of age, whether such person is acting for himself or for another person, nor shall any such person be eligible to obtain any permit to receive explosives governed by the provisions of this part.

The reference to "under 21 years of age" in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

12083. Unauthorized entry of place containing explosives. With the exception of the chief, the owner, a person authorized to enter by the owner, or the owner's agent, no person shall enter any explosive manufacturing plant, magazine, or vehicle containing explosives.

12084. Discharge of firearms. No person shall willfully discharge any firearm

within 500 feet of any magazine or any explosive manufacturing plant.

12085. Manufacture, possession, or transportation of explosives in manner contrary to laws governing harbors. No person shall make, possess, or transport any explosive in a manner prohibited by this part or prohibited by any ordinance of a city, county, or city and county, or prohibited by the laws or regulations governing a harbor in those areas where such ordinance, laws, or regulations apply.

12086. Theft or loss of explosives; report. Any theft or loss of explosives, whether from a storage magazine, a vehicle in which they are being transported, or from a site on which they are being used, or from any other location, shall immediately be reported by the person having control of such explosives to the local police or county sheriff. The local police or county sheriff shall immediately transmit a report of such theft or loss of explosives to the State Bureau of Criminal Identification and Investigation at Sacramento.

12087. Abandonment of explosives; return to magazine of explosives no longer needed; destruction; removal of magazine.

No person shall abandon or otherwise dispose of any explosives in any manner which might, as the result of such abandonment or disposal, create any danger or threat of danger to life or property. Any person in possession or control of explosives required in the performance of his duties shall, when the need for such explosives no longer exists, either return the explosives to the source from which the explosives were obtained, or to an appropriate issuing authority for disposal or shall destroy the explosives in a safe manner so as not to make them available to persons who might obtain them and use them in a manner prejudicial to the safety of life and property. Magazines or temporary magazines used for storage purposes in any area where blasting is required shall, when the need for such storage no longer exists and the explosives have been removed or disposed of as above required, be removed or demolished, or signs, indicating the presence of explosives in such magazines or on the premises on which such magazines are located, shall be removed or effectively obliterated, and the issuing authority who issued the storage permit shall be immediately notified of the action taken.

12088. Marking of packages; false marking. The contents of a package containing explosives shall be plainly marked on the outside of the package at the time the package is delivered for transportation.

It is unlawful for any person to deliver, or cause to be delivered, to any carrier for

transportation any explosive under any false or deceptive marking, description, invoice, shipping order, or other declaration.

12089. Signs for vehicles transporting explosives. Except when transporting explosives received under Section 12102 of this code, every motor vehicle used in the transportation of explosives and which is subject to this part, shall have displayed thereon, signs conforming to the regulations of the United States Department of Transportation.

12090. Cargoes of explosives; limitations; exceptions. There shall not be included in any cargo of explosives any flammable liquids, acids, or corrosive liquids, oxidizers, or combustible materials, other than the explosives themselves, which may have such characteristics. Blasting caps or detonators shall not be transported upon the same vehicle with other explosives. The foregoing provisions of this section shall be subject to such exceptions as are permitted by the regulations of the United States Department of Transportation.

12091. Transportation of blasting caps or similar devices upon vehicles equipped with radio transmitter or similar detonation device; label. Blasting caps or similar primary explosive initiation devices shall not be transported upon any vehicle equipped with a radio transmitter or other device which may cause detonation of such primary initiators unless such blasting caps or similar primary explosive initiation devices have been tested and proved safe for transportation by laboratory approved by the State Fire Marshal and there is affixed to the shipping container of such devices a label which states all of the following:

(a) The type of primary explosive initiation devices in the container.

(b) That such devices have been tested and proved safe for transportation upon any vehicle equipped with a radio transmitter or other device which may cause detonation of such primary initiators by a laboratory approved by the State Fire Marshal.

Chapter 4

Permits

* * * * *

12101. Activities covered; applications; uses outside jurisdiction of issuing authority; conditions of use; duration. (a) No person shall do any one of the following without first having made application for and received a permit in accordance with the provisions of this section:

- (1) Manufacture explosives.
- (2) Sell, furnish, or give away explosives.
- (3) Receive, store, or possess explosives.

(4) Transport explosives.

(5) Use explosives.

(6) Operate a terminal for handling explosives.

(7) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the Department of the California Highway Patrol under the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Application for a permit shall be made to the appropriate issuing authority in accordance with the provisions of Section 12103. In any area wherein the governing body acting pursuant to Section 12007 designates a second issuing authority to serve within the area, the issuing authority to whom application for a permit is made shall notify the other issuing authority within the area of any application made before such permit shall be issued.

(c) A permit shall be obtained from the issuing authority having the responsibility in the area where the activity, as specified in subdivision (a) of this section, is to be conducted.

If the person holding a valid permit for the use or storage of explosives desires to purchase or receive explosives in a jurisdiction other than that of intended use or storage, such person shall first present such permit to the issuing authority in the jurisdiction of purchase or receipt for endorsement. Such issuing authority may include any reasonable restrictions or conditions which he finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives within his jurisdiction. If, for any reason, such issuing authority refuses to endorse the permit previously issued in the area of intended use or storage, such authority shall immediately notify both the issuing authority who issued the permit and the State Bureau of Criminal Identification and Investigation in Sacramento of the fact of such refusal and the reasons for such refusal.

Every person who sells, gives away, delivers, or otherwise disposes of explosives to another person shall first satisfy himself that the person receiving the explosives has a permit valid for that purpose. When the permit to receive explosives indicates that the intended storage or use of the explosives is other than in that area in which the permittee receives the explosives, the person who sells, gives away, delivers, or otherwise disposes of the explosives shall insure that the permit has been properly endorsed by a local issuing authority and, further, shall immediately send a copy of the record of sale to the issuing authority who originally issued

the permit in the area of intended storage or use. The issuing authority in the area in which the explosives are received or sold shall not have the authority to issue a permit for the possession, use, or storage of explosives in an area not within his jurisdiction.

(d) In the event any person desires to receive explosives for use in an area outside of this state, a permit to receive such explosives shall be obtained from the State Fire Marshal.

(e) A permit may include any restrictions or conditions which the issuing authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives.

(f) A permit shall remain valid only until such time as the act or acts authorized by the permit are performed, but in no event shall the permit remain valid for a period longer than one year from the date of issuance of the permit.

(g) Any valid permit which authorizes the performance of any act shall not constitute authorization for the performance of any act not stipulated in the permit.

12101.5. This chapter does not apply to any possession or use by a person licensed as a pyrotechnic operator—special effects first class of 20 pounds or less of smokeless powder, or * * * five pounds or less of black sporting powder, if all of the following requirements are satisfied:

(a) All such powder is for use in the pursuit of the lawful business of such licensee and not for resale, and, in the case of black sporting powder, there shall be no gift, delivery or other disposition to another person who is not licensed as pyrotechnic operator—special effects first class. Any such licensee may sell, give, deliver, or otherwise dispose of any smokeless or black sporting powder to another such licensee.

(b) The storage, use and handling of such smokeless and black powder conforms to rules, regulations, or ordinances of authorities having jurisdiction for fire prevention and suppression in the area of such storage, use, and handling of such explosives.

12102. Scope of chapter. This chapter does not apply to any possession or use of 20 pounds or less of smokeless powder, or one pound or less of black sporting powder, provided that:

(a) Smokeless powder is intended only for hand loading of small arms ammunition of .75 caliber or less.

(b) Black sporting powder is intended for loading of small arms or small arms ammunition of .75 caliber or less.

(c) All such powder is for private use and not for resale, and, in the case of black sporting powder, there shall be no gift,

delivery, or other disposition to another person.

(d) The storage, use and handling of such smokeless and black powder conforms to rules, regulations, or ordinances of authorities having jurisdiction for fire prevention and suppression in the area of such storage, use, and handling of such explosives.

12102.1. Statement by purchaser of under 20 pounds of smokeless powder or one pound or less of black sporting powder. Any person who sells, gives, delivers or otherwise disposes of 20 pounds or less of smokeless powder, or one pound or less of black sporting powder, shall first obtain a statement from the person who purchases or otherwise receives such powder, which statement shall include:

(a) The name, address and birth date of the person purchasing or receiving the powder.

(b) The purpose for which the powder is intended to be used, handled, stored, or possessed.

(c) The type and amount of the powder.

(d) The signature of the person purchasing or receiving the powder.

(e) The driver's license number, selective service card number, or other identifying information concerning the person purchasing or receiving the powder.

Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date and any person violating any of the provisions of this section is guilty of a misdemeanor.

12103. Filing statement; form; contents. Application for a permit, as required under Section 12101, shall be made by filing a statement on forms prescribed by the State Fire Marshal. Such statement shall contain, but shall not necessarily be limited to, the following:

(a) The name and address of the applicant.

(b) The name and address of the employee or authorized representatives designated by the applicant as being responsible for the use, handling, storage, possession, or transportation of explosives for the applicant.

(c) The place where, and the purpose for which, the explosives are intended to be used, handled, stored, or possessed.

(d) The type and amount of explosives for which application is made.

(e) The signature of the applicant.

(f) The number of times purchases may be made and the frequency of such purchases.

(g) The routes, highways, and stopping places intended to be utilized in transporting the explosives.

12105. Issuance of permit by issuing authority; fee; disposition of funds. If the issuing authority finds, after reviewing

the application for a permit that the applicant possesses sufficient and adequate facilities to conduct the acts specified in the application, and that the issuance of such permit would not appear to be contrary to the public welfare and safety, he shall issue a permit authorizing the applicant to engage in such specific acts. Before issuing a permit for the storage of explosives, the issuing authority shall first inspect and approve the storage facility. No application for such a permit shall be approved by the issuing authority unless the storage facility is in strict compliance with the regulations adopted by the State Fire Marshal pursuant to Section 12081. In addition, the issuing authority may, at his discretion, require the submission of any personal information relevant to the acts for which application is made.

A permit shall not be issued until after the payment of a fee of ten dollars (\$10), unless the quantity of explosives is 100 pounds or less, in which case the fee shall be two dollars (\$2). The permit fee shall be equally divided and deposited into the treasury of the city, county, or city and county having jurisdiction over the issuing authority and into the State Treasury.

12105.1. One week delay in issuance of permit; exceptions; explanation for cause of delay after 14 days. Except in a case in which the issuing authority determines that the explosives are necessary because of an emergency involving a danger to persons or property, no permit shall normally be issued until one week has elapsed after application is made. If the applicant gives evidence that he has previously been issued an explosives permit pursuant to this part and if the legitimacy of the purpose for which the current application is made is clearly apparent to the issuing authority, the issuing authority may in his discretion issue a permit before one week has elapsed. If no affirmative action is taken on the application within 14 days after the application is made, the issuing authority shall explain the cause for such delay to the applicant.

12105.2. Copy to state bureau of criminal identification and investigation. A copy of each permit issued shall be forwarded to the State Bureau of Criminal Identification and Investigation in Sacramento.

12106. Bond; amount. When required by and in amounts set forth in local ordinance, the applicant for a permit for explosives shall submit evidence that the applicant has a minimum and specified amount of funds available for the purpose of the payment of all damages to persons or property

which arise from, or are caused by, the conduct of any act authorized by the permit and from which any legal judgment results.

Such evidence, when required, shall be a bond issued by an authorized surety company or a public liability insurance policy or cash or other evidence of financial security acceptable to the State Fire Marshal. The minimum amount of any such bond or insurance policy shall be determined by the appropriate issuing authority.

The provisions of this section do not apply to any public entity, as defined in Section 811.2 of the Government Code.

12107. Denial of permit; discretion of chief. The issuing authority shall, in the exercise of reasonable discretion, deny a permit to any person if it is his opinion that the handling or use of explosive by such person would be hazardous to property or dangerous to any person.

12108. Form of permits; numbering; disposition of unused explosives. The form of the permits shall be prescribed by the State Fire Marshal. Permits shall be numbered by the local agency issuing the permit. The permit shall include on its face the date of expiration of the permit. It shall also include a statement to the effect that any unused portion of explosives authorized by the permit shall either be returned to the source from which the explosives were obtained, destroyed, or returned to an appropriate issuing authority in accordance with Section 12087 or, in lieu thereof, application for a new permit shall be made.

12109. Specification of time period on permit. Except as provided in Section 12111, permits shall be valid for the period of time specified thereon.

12110. Nontransferability of permits. No permit issued under the provisions of this chapter shall be transferable.

12111. Suspension and revocation; notice and hearing. A permit may be suspended or revoked, after reasonable notice and hearing, by any chief or issuing authority in the area in which explosives are sold, used, stored, handled, or possessed, if the person to whom the permit was issued sells, uses, stores, or handles the explosives in a manner which is unlawful or which creates an unreasonable hazard to life and property.

The chief or issuing authority taking action to suspend or revoke a permit shall immediately notify the agency who issued the permit of the action taken and shall also immediately notify the State Bureau of Criminal Identification and Investigation in Sacramento.

12112. Review. Any decision or action by any chief or issuing authority made

pursuant to this part may be appealed to the governing body of the area in which such decision or action is made.

Chapter 5 Sale or Other Disposition

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12120. Unlawful to sell, give, or deliver explosive to person not possessing valid permit. No person shall knowingly sell, give away, deliver, or otherwise dispose of any explosive to any person who does not possess a valid permit as required pursuant to Section 12101.

The provisions of this section and subdivisions (e) and (f) of Section 12122 do not apply to transactions by the Department of Defense or to the transactions of an agency or organization acting pursuant to contract with the Department of Defense.

12121. Journals and record books. Every person who possesses, stores, uses, sells, gives away, delivers, or otherwise disposes of explosives shall keep an accurate journal, record book, or a record of sale in which he shall note each possession, storage, use, sale, delivery, gift, or other disposition of an explosive and the time when such disposition is made whether in the course of business or otherwise. Such journal, record book, or the record of sale shall be kept on file for a period of not less than three years. Field records required to be kept pursuant to Section 12123 need be kept in the appropriate county only for the period of the possession, storage, use, sale, gift, delivery, or other disposition of explosives within that county, after which time the field records may be destroyed.

12122. Notation; contents. Each notation in the journal, record book, or each record of sale, as required by Section 12121, shall legibly show:

(a) The date of each purchase or receipt, storage, use, sale, delivery, gift, or other disposition of explosives.

(b) The name and quantity of the explosives possessed, stored, used, sold, delivered, given away, or otherwise disposed of.

(c) The name, address, and business of the purchaser or transferee, where applicable.

(d) When the explosives are to be transported under Division 14 (commencing with Section 31600) of the Vehicle Code, the permit number issued by the California Highway Patrol; or when transported other than under Division 14 (commencing with Section 31600) of the Vehicle Code, the vehicle operator's license number or other comparable identification, the motor vehicle

license number of the vehicle used, and the name and address of the individual to whom the explosives are to be delivered.

(e) The number of the permit to receive explosives.

(f) The name of the public agency which issued the permit and the name of the officer issuing such permit.

12123. Location; inspection. The journal, record book, or record of sale shall be kept by the person required to keep it in his principal office or place of business. It shall be at all times, on proper demand, subject to the inspection and examination of any chief or other duly authorized law enforcement official. In addition, if the principal office or place of business is located in a place other than the county within which the explosives are possessed, stored, used, sold, given away, delivered, or otherwise disposed of, field records shall be kept in that county during the period of such possession, storage, use, sale, gift, delivery or other disposition.

12124. Persons not required to keep journal or record book. The keeping of a journal, record book, or record of sale required by Sections 12121, 12122, and 12123 does not apply to those persons who are rendering a delivery service under a permit issued by the California Highway Patrol pursuant to Division 14 (commencing with Section 31600) of the Vehicle Code, nor does it apply to any possessor or user of explosives not required to have a permit under Section 12102. A journal, record book, or record of sale need not be kept by anyone who is in lawful possession of an explosive and who receives and detonates all such explosives within a 24-hour period.

Chapter 6 Storage

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12150. Containers; particles of explosives outside containers. Except for explosives kept only at an explosive manufacturing plant, no person shall possess, keep, or store any explosive which is not completely encased in a tight metal, wooden, or fiber container, or a container approved by the Interstate Commerce Commission.

No person having any explosives in his possession or control shall under any circumstances permit or allow any grains or particles of such explosives to be or remain on the outside of, or about, the containers in which such explosives are kept.

12150.5. Blasting caps; locked approved magazine. Every person having any blasting caps (electric or nonelectric) in his possession or control shall keep the same securely deposited in a locked approved

magazine, except when taken therefrom for actual use, transportation, or sale.

12151. Rules or regulations adopted by state fire marshal. Except while in the custody of a common carrier or in course of transportation pending delivery to a consignee, all explosives shall be kept or stored as specified in the rules or regulations adopted by the State Fire Marshal pursuant to this part.

Chapter 7 Illegal Use or Possession

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12303. Lawful possession of explosive defined. "Lawful possession of an explosive," as used in this chapter, means possessing explosives in accordance with the stated purpose and conditions of a valid permit obtained pursuant to the provisions of this part, unless such person is specifically excepted from the permit requirements by the provisions of this part.

12305. Unlawful possession; felony. Every person not in the lawful possession of an explosive who knowingly has any explosive in his possession is guilty of a felony.

Chapter 8 Confiscation

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12350. Sale, gift, or transportation of unclassified explosives. Except as provided in subdivision (b) of Section 12080, any unclassified explosives which are sold, given away, or transported shall be subject to immediate seizure by any chief or police official.

12351. Explosives subject to seizure. Any explosives which are illegally manufactured, sold, given away, delivered, stored, used, possessed, or transported shall be subject to immediate seizure by any chief, issuing authority, or peace officer authorized to act under Section 12020. When a permit issued pursuant to this part has expired and is not immediately renewed, any explosives in the possession of the permittee shall be subject to immediate seizure by any chief, issuing authority, or peace officer authorized to act under Section 12020, unless first destroyed by the permittee in accordance with Section 12087.

12352. Explosives in possession of permittee when permit suspended or revoked. When a permit issued pursuant to this part has been suspended or revoked any explosives in the possession of such permittee

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shall be subject to immediate seizure by the chief causing such suspension or revocation.

12353. Storage of seized explosives; petition for return. Any explosive seized under this chapter shall be stored in an approved manner and in accordance with regulations adopted by the State Fire Marshal. The person from whom such explosives have been seized may within 10 days after such seizure petition the governing body of the area in which such seizure was made to return the explosives upon the ground that such explosives were illegally or erroneously seized. Any such petition so filed shall be considered by the governing body within 15 days after filing and an oral hearing shall be granted the petitioner if requested. Notice of the decision of the governing body shall be served upon the petitioner.

12354. Return to petitioner. If the governing body finds that the explosives were illegally or erroneously seized, the explosives shall be returned to the petitioner. The determination of the governing body is final unless within 60 days of the notice served pursuant to this chapter, an action is commenced in a court of competent jurisdiction in the State of California for the recovery of the explosives seized by the chief.

12355. Disposal of seized explosives. If no petition is received by the governing body within 10 days of seizure of any explosive, or if no action is commenced in a court of competent jurisdiction in the State of California within 60 days of the notice served pursuant to this chapter, the chief may dispose of the seized explosives in any manner which will not jeopardize public welfare and safety. When any explosive is disposed of pursuant to this section, the person from whom such disposed of explosives were seized shall not have any legal redress against the chief who caused the disposal of the explosives.

Chapter 9 Penalties

12400. Misdemeanors. Except as provided in Chapter 7 (commencing with Section 12302), Part 1, Division 11 of the Health and Safety Code, every person who violates any provision of this part, or violates any regulation adopted by the State Fire Marshal pursuant to this part, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for not more than six months, or by both such fine and imprisonment.

12401. Felonies. Every person who is found guilty of a felony as specified in this part is punishable by imprisonment in the state prison not exceeding five years, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment.

Vehicle Code Division 14. Transportation of Explosives

31600. Explosives. For the purposes of this division, the term "explosive" or "explosives" shall mean any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion and which is capable of a relatively instantaneous or rapid release of gas and heat. The term "explosive" or "explosives" shall include, but shall not necessarily be limited to, any of the following:

(a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, * * * commercial boosters, or nitrocarbonitrates (oxidizing materials) when transported in a combined load with any explosive, as defined in this section.

(b) Substances determined to be class A or class B explosives as classified by the United States Department of Transportation.

(c) * * * Any substance meeting the provisions of this section when designated as class A or class B in regulations adopted by the State Fire Marshal in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2, of the Government Code. Such designations shall be made pursuant to classification standards established by the United States Department of Transportation.

* * * (d) The term "explosives" as used in this division shall not be deemed to include small arms ammunition of .75 caliber or less, nor any other class C explosives as classified by the United States Department of Transportation.

* * * (e) This division shall not apply to special fireworks classified by the United States Department of Transportation as class B explosives when such special fireworks are regulated by and in conformance with Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code.

31601. Application of division. (a) This division shall apply to the operation of

any motor vehicle on any highway, and to the operation and parking of any vehicle on any property designated pursuant to this division as a safe stopping place for the purpose of transporting any explosive in any amount when the transportation is rendered as a delivery service or for hire, or in any other event for the purpose of transporting any explosive or a combined load of any explosive and nitrocarbonitrates in an amount in excess of 1,000 pounds. The transportation of quantities of explosives of 1,000 pounds or less, or other than on a public highway, is governed by Division 11 (commencing at Section 12000) of the Health and Safety Code. Notwithstanding other provisions of this section, a license required by Section 31602 may be used to transport quantities of less than 1,000 pounds of explosives if all other requirements of this division are met.

(b) It is the legislative intention in enacting this division and with particular reference to requiring licenses for transportation of explosives as set forth herein that such provisions shall apply uniformly throughout the State of California and that such license to be obtained from the Department of the California Highway Patrol, as provided in Chapter 2.5 (commencing with Section 2500) of Division 2, shall be in lieu of any requirement for any license to be obtained by any such owner from any local authority within the state.

31610. Requirements in respect to equipment. Every vehicle or combination of vehicles used in the transportation of explosives and subject to this division, in addition to any other equipment required by law, shall be equipped and maintained as required by this section.

(a) Brakes and the brake system shall be maintained in good and safe operating condition.

(b) The ignition and lighting systems shall be maintained in good operating condition. * * *

(c) All tires shall be in good condition, properly matched and inflated. Except as may be necessary to cause immediate replacement, no vehicle shall be driven unless all tires in actual use on the vehicle are properly inflated.

(d) * * * Fire extinguishers and other safety equipment prescribed by regulations adopted by the department pursuant to subdivision (f) of Section 34500 and Section 34501 shall be carried in each vehicle or combination of vehicles.

(e) * * * No flare, fusee, oil lantern, or any signal device producing a flame shall be carried upon any * * * vehicle or combination of vehicles.

31611. Instructions to drivers. Every owner of a vehicle used in the transportation of explosives and subject to this division shall make available in each vehicle the latest map showing the routes which are to be used for the transportation of explosives which has been furnished for the vehicle by the Department of the California Highway Patrol and a list of the safe stopping places prescribed by the regulations of the Department of the California Highway Patrol for vehicles transporting explosives * * *. The owner shall require that the driver be thoroughly familiar with the provisions of this division before operating any vehicle in the transportation of explosives.

31614. Traffic laws applicable to transportation of explosives. The following provisions shall apply to any vehicle transporting explosives subject to this division:

(a) When transporting explosives through or into a city or any other congested area for which a route has not been designated by the Department of the California Highway Patrol, drivers shall follow such routes as may be prescribed or established by local authorities.

(b) Where routes are not prescribed by local authority, every driver of a vehicle transporting explosives shall avoid, so far as practicable, and, where feasible, by prearrangement of routes, driving into or through congested thoroughfares, places where crowds are assembled, streetcar tracks, tunnels, viaducts, and dangerous crossings.

(c) No driver or other person in charge of any vehicle on any public or private property shall permit any explosive to be loaded into, or on, or to be unloaded from any motor vehicle with the engine running, and, whenever any loading operation is in progress, the parking brake on the motor vehicle shall be securely set and all reasonable precautions taken to prevent movement of the motor vehicle during loading or unloading.

(d) No driver or other person in charge of such vehicle shall operate or permit the operation of any vehicle transporting explosives unless all of that portion of the lading which consists of explosives is contained entirely within the body of the motor vehicle or within the horizontal outline thereof, without overhang or projection of any part of the load, and if such motor vehicle has a tailboard or tailgate it shall be closed and secured in place during such transportation.

(e) Every motor vehicle transporting explosives shall have either a closed body or have the explosive cargo covered with a fire- and water-resistant tarpaulin, and in either event, care shall be taken to protect the load from moisture and sparks. Subject to other

exceptions as are permitted by the United States Department of Transportation regulations, explosives may be transported on flat-bed vehicles if the explosive portion of the load on each vehicle is packed in fire- and water-resistant containers or covered with a fire- and water-resistant tarpaulin.

(f) No person shall operate any vehicle transporting explosives past any fire of any kind burning on or near the highway until the driver ascertains that such passing can be made with safety.

(g) No motor vehicle transporting explosives shall be left unattended upon any street or highway except in extreme emergency. The vehicle shall be deemed attended whenever a driver or person in charge thereof

is in or upon the vehicle or is in a position to observe the vehicle at all times. The driver or person in charge of a vehicle transporting explosives may, however, leave the vehicle unattended at any place designated as a safe parking place on the list of safe stopping places prepared by the Department of the California Highway Patrol unless conditions exist, which are known to the driver, which make it unreasonable to do so.

(h) No driver or other person shall smoke or light any match or otherwise have or produce any fire or flame while in, upon, or near any vehicle transporting explosives.

(i) No person shall transport any explosives in a passenger vehicle, or bus, which is subject to this division.

Colorado COLORADO REVISED STATUTES

Explosives Article 6

Explosives * * * * *

9-6-101. Explosives on passenger vehicles and trains. It is unlawful to transport, carry, convey, or deliver to be transported, carried, or conveyed, or to cause to be delivered to be transported, carried, or conveyed any of the substances or articles known as dynamite, nitroglycerine, or glycerine oil, nitrooleum or blasting oil, or nitrated oil, or powder mixed with any such oil, or fiber saturated with any such article or substance in any vehicle used or employed in transporting passengers, or in any train of cars used in transporting passengers; except that an ordinary freight train with a caboose or passenger car used as a caboose shall not be construed as a train of cars used in transporting passengers within the meaning of sections 9-6-101 to 9-6-104.

9-6-102. Packing for shipment. It is unlawful to ship, send, or forward nitroglycerine, glycerine oil, nitrated oil, nitrooleum or blasting oil, or to transport any of the same upon any vehicle of any description, or to deliver the same to be transported, carried, or conveyed unless the same is securely enclosed, deposited, or packed in a metallic vessel surrounded by plaster of paris or other material that is nonexplosive when saturated with such oil or substance, and separate from all other substances, and the outside of the package containing the same is marked or labeled in a conspicuous manner

with the words "nitroglycerine—dangerous".

9-6-103. Violation—penalty. Any person who knowingly violates any of the provisions of sections 9-6-101 and 9-6-102, is guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

9-6-104. Death by negligence. When the death of any person is caused by the explosion of any of the articles or substances named in section 9-6-101 while the same is being delivered to any carrier or while the same is being transported or is being removed from the vehicle on which it has been transported or conveyed or on which it has been placed for transportation, every person who knowingly and unlawfully placed, or aided, or permitted the placing of such article or substance on such vehicle, or delivered the same, or caused the same to be delivered contrary to the provisions of sections 9-6-101 to 9-6-104, is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for a period of not less than two years and not more than ten years.

9-6-105. Marking for sale. It is unlawful for any person, partnership, or corporation to sell or offer for sale, or take or solicit orders of sale, or purchase or use, or have on hand or in store for the purpose of sale or use in this state any giant, hercules, atlas, venture, or any other high explosive containing nitroglycerine, unless on each box

or package and wrapper containing any such giant, hercules, atlas, venture, or any other high explosive containing nitroglycerine, there shall be plainly stamped or printed the name and place of business of the person, partnership, or corporation by which the same was manufactured and the exact and true date of its manufacture, and the percentage of nitroglycerine or other high explosive contained therein.

9-6-106. Date of manufacture—wrappers. It is unlawful for any person, partnership, or corporation to have two or more different dates on any such box or package containing giant, hercules, atlas, venture, or any other high explosive containing nitroglycerine. It is also unlawful for any person, partnership, or corporation to use any box, package, or wrapper formerly used by any other person, partnership, or corporation in the packing of such giant, hercules, atlas, venture, or other high explosives containing nitroglycerine; and the name and date on such box or package shall be the same as on the wrapper containing such giant, hercules, atlas, venture, or other explosives containing nitroglycerine.

9-6-107. Violation—penalty. If any person, partnership, or corporation violates any of the provisions of sections 9-6-105 and 9-6-106, such person, the members of such partnership, or the officers or agents of such corporation are guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Article 7

Explosives—Regulation and Inspection

9-7-101. Short title. This article shall be known and may be cited as the "Explosives Act".

9-7-102. Legislative declaration. The general assembly hereby declares that the purpose of this article is to provide for safety inspections to assure suitable control of the procurement of and access to explosives, and at the same time to avoid undue limitations upon the manufacture, sale, transport, or legitimate use of explosives. To avoid a duplication of supervision, inspection, and enforcement by various governmental agencies, no person, firm, partnership, or corporation whose possession, use, or storage of explosives is subject to regulation by the provisions of articles 20 to 54 of title 34, C.R.S. 1973, shall be subject to the provisions of section 9-7-104, 9-7-105, 9-7-107, 9-7-109, or 9-7-110. Fireworks subject to the provisions of article 28 of title 12, C.R.S.

1973 shall not be subject to regulation under this article.

9-7-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commission" means the industrial commission of Colorado.

(2) "Division" means the division of labor in the department of labor and employment.

(3) "Explosive" or "explosive device" means any material or container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible materials or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, but shall not mean the components for handloading rifle, pistol, and shotgun ammunition and/or rifle, pistol, and shotgun ammunition.

(4) "Incendiary device" means any flammable material or container containing a flammable liquid or material whose ignition by fire, friction, concussion, detonation, or other method produces destructive effects primarily through combustion rather than explosion.

(5) "Molotov cocktail" means a breakable container containing an explosive or flammable liquid or other substance, having a wick or similar device capable of being ignited, and may be described as either an explosive or incendiary device. A molotov cocktail is not intended to mean a device commercially manufactured primarily for the purpose of illumination or other such uses.

9-7-104. Enforcement. (1) The division shall enforce the provisions of this article and for such purposes shall:

(a) Issue permits to applicants found by the division, after inspection and investigation, to be qualified for such permit under the provisions of this article and the rules and regulations of the commission;

(b) Deny, suspend, or revoke permits upon a finding of noncompliance or violation of the provisions of this article or of the applicable rules and regulations;

(c) Hold hearings upon the application of any person aggrieved by any order of the division with respect to the denial, suspension, or revocation of any permit;

(d) Inspect, during normal business hours, any building, structure, or premises subject to the provisions of this article, and, upon the discovery of any violation of this article or the applicable rules and regulations, issue

such orders as are necessary for the safety of workers and the public, and, in the case of imminent hazard, apply for an injunction in the appropriate district court.

9-7-105. Duties of commission. (1) The commission shall promulgate rules and regulations to implement the provisions of this article. Such rules and regulations may include requirements not mentioned specifically in this article but which are reasonably necessary for the safety of workers, the public, and the protection of property. The procedure for the promulgation of such rules and regulations shall be in accordance with the provisions of section 24-4-103, C.R.S. 1973.

(2) The commission shall provide administrative review of any decision or order of the division upon timely application by any person aggrieved by such decision or order, and judicial review of any finding or order of the commission may thereafter be had pursuant to the provisions of section 24-4-106, C.R.S. 1973.

9-7-106. Explosives permits. (1) It is a violation of this article to manufacture, sell, store, transport, or use explosives without first obtaining from the division a permit.

(2) Permits issued under this article shall not be transferable, and shall be readily available for inspection by representatives of the division and law enforcement officials.

(3) The division may place such restrictions and limitations on permits as it deems necessary.

(4) Nothing in this article shall authorize the issuance of a permit for an explosive or incendiary device commonly known as a molotov cocktail, and no permit may be issued for the manufacture, sale, storage, transportation, or use of such device.

(5) No permit shall be required for the occasional purchase of explosives by a person for normal agricultural purposes, if such person is personally known by the seller of such explosives, and a record is kept of such transaction by the seller, including the specific purpose for which such explosives will be used, the location of the proposed use, the signature of the purchaser, and the certification of the seller as to his personal knowledge of the purchaser. Violation of the record requirement of this section shall cause the seller's permit to be cancelled.

9-7-107. Fees. An application for a permit under this article shall be accompanied by a fee of ten dollars.

9-7-108. Issuance of permit—renewal. Permits issued under this article shall be valid for the calendar year after the date of issue unless sooner revoked or suspended. Permits may be renewed annually on January 1, upon the payment of the required fee of ten dollars.

9-7-109. Records. Every person holding a permit issued under this article shall keep such records as may be required by the division. Records shall be maintained for not less than two years following the year in which the record is made. All such records shall be open to inspection by the division or its representatives during normal business hours.

9-7-110. Revocation or suspension of permit. A violation of this article or the rules and regulations promulgated pursuant thereto, shall constitute grounds for the revocation or suspension of a permit issued under this article.

9-7-111. Failure to obtain permit—penalty. Any person who manufactures, sells, stores, transports, or uses explosives without first obtaining a permit therefor under the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

9-7-112. Unlawful use of explosives or incendiaries—penalty. Any person who has in his possession or under his control any explosive device, including a bomb or similar device containing explosives, or any incendiary device or molotov cocktail, intending to use, using, or causing the use of, such explosive or device for any unlawful purpose is guilty of a felony and, upon conviction thereof, shall be subject to the penalty prescribed by section 9-6-103.

Offenses Against Property

18-4-205. Possession of burglary tools.

(1) A person commits possession of burglary tools if he possesses any explosive, tool, instrument, or other article adapted, designed, or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking, and intends to use the thing possessed, or knows that some person intends to use the thing possessed, in the commission of such an offense.

(2) Possession of burglary tools is a class 5 felony.

Offenses Relating to Firearms and Weapons

18-12-101. Definitions. (1) As used in this article, unless the context otherwise requires:

* * * * *

(b) "Bomb" means any explosive or incendiary device or molotov cocktail as defined in section 9-7-103, C.R.S. 1973, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

* * * * *

18-12-102. Possessing an illegal weapon. (1) As used in this section, the term "illegal weapon" means a blackjack, bomb, firearm silencer, gas gun, machine gun, short shotgun, short rifle, metallic knuckles, gravity knife, or switchblade knife.

(2) A person, other than a peace officer or member of the armed forces of the United States or Colorado national guard acting in the lawful discharge of his duties or a person who has a valid permit and license pursuant to the federal code for such weapon, commits a class 1 misdemeanor if he knowingly possesses an illegal weapon. The exceptions in this subsection (2) shall be an affirmative defense.

18-12-105. Unlawfully carrying a concealed weapon—unlawful possession of weapons. (1) A person commits a class 2 misdemeanor if he knowingly and unlawfully:

* * * * *

(c) Without legal authority, carries, brings, or has in his possession a firearm or any explosive, incendiary, or other dangerous device within any building in which the chambers, galleries, or offices of the general assembly, or either house thereof, are lo-

cated, or in which a legislative hearing or meeting is being or is to be conducted, or in which the official offices of any member, officer, or employee of the general assembly are located.

* * * * *

18-12-106. Prohibited use of weapons. (1) A person commits a class 2 misdemeanor if:

* * * * *

(c) He sets a loaded gun, trap, or device designed to cause an explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present:

* * * * *

Vehicles and Traffic

42-2-104. Special restrictions on certain drivers. No person under the age of eighteen years shall drive any motor vehicle used to transport explosives or inflammable material or as a school bus for the transportation of pupils to or from school; nor shall any person under the age of eighteen years drive a motor vehicle used as a commercial, private, or common carrier of persons or property unless he has experience in operating motor vehicles and has been examined on his qualifications in operating such vehicles. The examination shall include safety regulations of commodity hauling, and the driver shall be licensed as a driver or provisional driver.

Connecticut

CONNECTICUT GENERAL STATUTES ANNOTATED

29-83. Explosives. Definition. "Explosive," as used in sections 29-84 to 29-89, inclusive, means any chemical compound or any mechanical mixture that contains oxidizing and combustible units or other ingredients in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonator may cause such a sudden generation of highly heated gases that the resultant gaseous pressure is capable of destroying life or limb or of producing destructive effects to contiguous objects, but not including colloidized nitrocellulose in sheets or rods or grains not under one-eighth of an inch in diameter, wet nitrocellulose containing twenty per cent or more moisture and wet nitrostarch containing twenty per cent or more moisture; and manufactured articles shall not be held to be explosive when the individual units contain explosives in such limited quantity, of such nature or in

such packing that it is impossible to produce a simultaneous or a destructive explosion of such units to the injury of life, limb or property by fire, friction, concussion, percussion or detonator, including fixed ammunition for small arms, firecrackers, safety fuses and matches. "Explosive," as used in said sections, shall not be deemed to include gasoline, kerosene, naphtha, turpentine or benzene.

29-84. Reports to commissioner of state police. Any person engaged in keeping or storing any explosives shall, before engaging in the keeping or storing of such explosives, make a report to the commissioner of state police stating: The location of the magazine, if existing, or, in case of a new magazine, the proposed location of such magazine; the kind of explosives that are kept or stored or intended to be kept or

stored and the maximum quantity that is intended to be kept or stored therein; and the distance such magazine is located or intended to be located from the nearest building or highway.

29-85. License and permit verification. Records of disposition of explosives. Each person selling or giving away any explosive shall first ascertain that the purchaser or donee of such explosives has obtained a license and permit required by section 29-89 and shall keep a record in which shall be entered an accurate account of each disposition by such person in the course of business, or otherwise, of any explosive. Such record shall show, in legible writing to be entered therein at the time of disposition of the explosive, a history of such transaction, showing the name and quantity of the explosive, the name and place of residence and business of the purchaser or donee, and the name and address of the individual to whom delivered. Such record shall be kept by such person in his principal office or place of business in this state and shall be subject to examination by any military authority, the commissioner of state police, his deputies and the police officers of the municipality where situated. Any such authority may at any time require any such dealer to produce such record for the year previous. Nothing in this section shall apply to any transaction when such explosive is to be shipped by common carrier to a point outside this state and for use outside this state.

29-86. Custodian to report. Any person not referred to in sections 29-84 and 29-85, having in his possession any explosive, shall report the amount and kind thereof to the commissioner of state police within ten days after purchase of the same and the purpose for which such explosive is to be used.

29-87. Penalty. Any person who violates any provision of section 29-84, 29-85 or 29-86 shall be fined not more than one thousand dollars or imprisoned not more than six months or both for each offense.

29-88. Illegal possession. Any person, having in his possession any explosive for which he has not a bill of sale or who cannot produce legal evidence showing that he obtained such explosive by a legal transfer, shall be fined not more than ten thousand dollars or imprisoned not more than ten years or both for each offense.

29-89. Storage, transportation and use of explosives and blasting agents. License. Permit. Financial responsibility. Jurisdiction of labor commissioner. (a) The commissioner of state police shall have exclusive jurisdiction in the preparation of and may enforce reasonable regulations for the safe

and convenient storage, transportation and use of explosives and blasting agents used in connection therewith, which regulations shall deal in particular with the quantity and character of explosives and blasting agents to be stored, transported and used, the proximity of such storage to inhabited dwellings or other occupied buildings, public highways and railroad tracks, the character and construction of suitable magazines for such storage, protective measures to secure such stored explosives and blasting agents and the abatement of any hazard that may arise incident to the storage, transportation or use of such explosives and blasting agents.

(b) No person, firm or corporation shall engage in any activity concerning the storage, transportation or use of explosives unless such person, firm or corporation has obtained a license therefor from the commissioner of state police. Such license shall be issued upon payment of a fee of twenty-five dollars and upon submission by the applicant of evidence of good moral character and of competence in the control and handling of explosives, provided, if such license is for the use of explosives, it may be issued only to an individual person after demonstration that he is technically qualified to detonate explosives. Any such license to use explosives shall bear both the fingerprints of the licensee obtained by the commissioner of state police at the time of licensing, and his photograph, furnished by him, of a size specified by the commissioner and taken not more than one year prior to the issuance of the license. Each such license shall be valid for one year from the date of its issuance, unless sooner revoked or suspended, and may be renewed annually upon a payment of ten dollars.

(c) No person shall manufacture, keep, store, sell or deal in any explosives unless he has a valid license under the provisions of subsection (b) and obtains from the commissioner of state police or from the fire marshal of the town where such business is conducted a written permit therefor, which permit shall not be valid for more than one year and for which he shall pay a fee of five dollars. If the permit is issued by the commissioner of state police, the commissioner shall forward a copy thereof to the local fire marshal. Such permit so granted shall definitely state the location of the building where such business is to be carried on or such explosive deposited and shall state that such building or premises complies with the regulations provided for in this section.

(d) No person shall procure, transport or use any explosives unless he has a valid license under subsection (b) and has obtained a written permit therefor signed by the

commissioner of state police or by the fire marshal of the town where such explosive is to be used, specifying the name of the purchaser, the amount to be purchased and transported and the purpose for which it is to be used. Any such permit to use explosives shall state the number of years he has been engaged in blasting activity. Such permit shall be valid for such period, not longer than one year, as is required to accomplish the purpose for which it was obtained. No carrier shall transport any such explosive unless such written permit accompanies the same and no person shall have in his possession any such explosive unless he has a license and permit therefor. The fee for such permit shall be two dollars. Each person who has in his custody or possession any explosive or any detonating caps for explosives shall keep the same either under personal observation or securely locked up.

(e) Any license or permit issued under the provisions of this section may be suspended or revoked by the issuing authority for violation by the licensee or permittee of any provision of law or regulation relating to explosives or conviction of such licensee or permittee of any felony or misdemeanor. Suspension or revocation of a license shall automatically suspend or revoke the permit and the suspension or revocation of a permit shall automatically suspend or revoke the license.

(f) Any person who, by himself or by his employee or agent or as the employee or agent of another, violates any provision of this section, or any regulation made by the commissioner of state police pursuant to the provisions of this section, shall be fined not more than ten thousand dollars or imprisoned not more than ten years or both.

(g) As used in this section, "blasting agent" means any material, composition or mixture intended for blasting, consisting substantially of a fuel and oxidizer, none of the ingredients of which is an explosive as defined in section 29-83, and the finished product of which as mixed and packaged for use or shipment cannot be detonated by the test procedure established by regulations promulgated by the state fire marshal.

(h) Notwithstanding the provisions of this section, the labor commissioner shall regulate the storage, transportation and use of explosives and blasting agents in places of employment insofar as such activities relate to employee health and safety, provided such regulations shall be no less stringent than those prepared and enforced by the commissioner of state police pursuant to this section.

29-89a. Exceptions. No provision of section 29-83, 29-85, 29-88, 29-89 or 29-95 shall apply to small arms ammunition or

components thereof, or to gun powder in quantities of not more than fifty pounds in any one place, or to any materials for hand loading, reloading or custom loading small arms ammunition for hunting or other sporting purposes; and any person, firm or corporation, which has obtained and is the holder of either (1) a valid license as an importer, manufacturer, or dealer, or (2) a valid user permit, under the provisions of the federal organized Crime Control Act of 1970, Public Law 91-452, or any law amendatory thereof, shall be entitled to the issuance of a permit and license under said sections; provided blasters, detonators or users of high explosives shall obtain a license of technical qualification under subsection (b) of section 29-89.

29-90. Transportation of explosives by common carrier. No person shall transport, carry or convey gasoline or any other inflammable and explosive substance, not in use to supply motive power, light or heat, on any vessel, car or vehicle operated in the transportation of passengers by a common carrier, which vessel, car or vehicle is carrying passengers for hire; provided such substances may be transported upon any vessel or railroad car if they are not carried in that part of such vessel or car which is being used for the transportation of passengers for hire, and small arms ammunition in any quantity and such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation may be transported on any vessel, car or vehicle. Nothing in this section shall prevent the transportation of military or naval forces with their accompanying munitions of war on passenger-equipped vessels, cars or vehicles. No person shall bring into or place upon any such vessel, car or vehicle any gasoline or other inflammable and explosive substance except as herein provided. Any person or the officers of any corporation violating any provision of this section shall be fined not more than one thousand dollars or imprisoned not more than six months or both.

29-91. Manufacture or storage of explosive material near property of another. No person shall manufacture or store any explosive material or compound, except gunpowder, near another person's property in quantity sufficient to endanger the lives or safety of persons or to injure their property; and any person so offending shall be liable for all damages caused thereby.

29-93. Explosive compounds to be marked. Any person who knowingly has in his possession any package of nitroglycerine, gunpowder, naphtha or other equally explosive material, not marked with a plain and legible label describing its contents, or who

removes any such label or mark, or knowingly delivers to any carrier any such package without such label, shall be fined not more than ten thousand dollars or imprisoned not more than five years.

29-94. Gunpowder may be ordered removed. The fire marshal of any town may, by written order, direct the owner or person having charge of gunpowder within the limits of such town to remove the whole or any part of it at the time and to the place specified in such order; and, if he fails to do so, may cause it to be removed to any place in such town and shall have a lien upon it for all necessary expenses in removing and keeping it. Any person who refuses to remove any gunpowder in his charge, when legally requested by the fire marshal of the town in which the same is deposited or kept, or who does not deposit and keep it at the place legally designated by him, or who keeps more than fifty pounds of gunpowder in any one place, except at such place as may have been previously designated by the fire marshal for that purpose, shall be fined not more than fifty dollars.

29-95. Appeal from orders relating to explosives, blasting agents and gunpowder. If any person considers himself aggrieved by the doings of the commissioner of state police or the fire marshal under section 29-89 or 29-94, he may apply, within thirty days, to the court of common pleas, which may grant appropriate relief; but nothing contained herein shall be construed to prevent the transportation of gunpowder, or its deposit for transportation during a period of not over forty-eight hours.

53-80a. Manufacture of bombs. Any person, other than one engaged in the manufacture of firearms or explosives or incendiary devices for lawful purposes, who fabricates, in any manner, any type of an explosive, incendiary or other device designed to be dropped, hurled, or set in place to be exploded by a timing device, shall be guilty of a class B felony.

53a-174a. Possession of weapon in correctional institution: Class B felony. (a) A person is guilty of possession of a weapon

or dangerous instrument in a correctional institution when, being an inmate of such institution, he knowingly makes, conveys from place to place or has in his possession or under his control any firearm, weapon, dangerous instrument, explosive, or any other substance or thing designed to kill, injure or disable.

(b) Possession of a weapon or dangerous instrument in a correctional institution is a class B felony.

16-262b. Notice of discharge of explosives or highway excavation to gas companies. No person shall discharge explosives in the ground, nor shall any person other than a public service company employee or a state, town, city or borough employee regularly engaged in the maintenance and repair thereof excavate in any then existing street, highway or public place, unless notice thereof has been given at least twenty-four hours in advance to any person, corporation or municipality engaged in the distribution of gas in such territory. The person having direction or control of such work shall give such notice, and he shall ascertain whether there is, within one hundred feet in such street, highway or public place or, in the case of a proposed discharge of explosives, within a radius of two hundred feet of such discharge, any pipe of any other person, corporation or municipality conveying combustible gas, and if there is any such pipe, he shall also give such notice to such other person, corporation or municipality. In any emergency involving danger to life, health or property it shall be lawful to excavate without using explosives if the notices prescribed herein are given as soon as reasonably possible, and to discharge explosives to protect a person or persons from an immediate and substantial danger of death or serious personal injury if such notices are given before any such discharge is undertaken. Any such work shall be performed in such manner as to avoid damage to any pipe conveying combustible gas. Any person who violates any provision of this section shall be fined not more than fifty dollars.

Delaware

DELAWARE CODE ANNOTATED

2-502. Rules of flight. * * * * * (j) The transporting of any explosives other than that necessary for signaling or fuel for such aircraft while in flight or materials for industrial and agricultural spraying (dusting) is prohibited. The provisions of this subsection shall not apply to any flying operations conducted under the authority of

or under a permit granted by the Secretary of Commerce of the United States.

(k) The rules prescribed in this section shall be observed by all operators and pilots of aircraft in flight.

11-1338. Bombs, incendiary devices, Molotov cocktails and explosive devices; class C felony. (a) For purposes of this section the following definitions shall be made applicable:

(1) "Molotov cocktail" means a makeshift incendiary bomb made of a breakable container filled with flammable liquid and provided with a wick composed of any substance capable of bringing flame into contact with the liquid.

(2) "Incendiary device" means any item designed to ignite by hand, chemical reaction or by spontaneous combustion and is not designed for any lawful purpose or use whatsoever or any lawful purpose or use has been or is terminated.

(b) Whoever manufactures, transfers, uses, possesses or transports any bomb, incendiary device, Molotov cocktail or device designed to explode or produce uncontained combustion with intent to cause bodily harm or damage to any property or shall be guilty of a class C felony.

(c) Any other provision of this Criminal Code notwithstanding, any person over 16 years old who violates the provisions of this section shall be prosecuted as an adult.

(d) In any prosecution under this section, it is a prima facie evidence of intent to cause bodily harm or damage to any property or thing if the accused had possession of the device prescribed by this section.

16-6902. Discharging rifle or other explosives; exceptions. No person shall fire or discharge in or on or into any street, highway, alley or public place in the State any rifle, gun, pistol, revolver, cane, cannon or other appliance, whether projecting or exploding any bullet, cartridge, blank cartridge, cap (except a cap excluded from the provisions hereof under the definition set forth in § 6901 of this title) or otherwise or any explosive substance or mixture of chlorates or nitrates. This section shall not apply to peace officers in the regular discharge of their duties as such. Nothing in this section shall be construed to prohibit any person from using explosives in quarrying or for blasting or other industrial use.

16-6904. Confiscation of illegally stored fireworks or explosives. The Department of Public Safety shall confiscate all fireworks or explosives illegally stored within the State.

Chapter 70. Storage of Explosives

* * * * *

16-7001. Signs on premises containing stored explosives. (a) Upon the premises on which explosives are stored there shall be posted signs with the words "EXPLOSIVES - KEEP OFF" legibly printed thereon in letters not less than 3 inches high. Signs shall be placed so that a bullet passing through them will not strike any nearby magazine.

(b) When explosives are being processed or are used in connection with any manufacturing process or if explosives are stored at such manufacturing establishment, a sign no smaller than 4 square feet bearing the words "DANGER—EXPLOSIVES" shall be kept posted at the main plant entrance and, in addition to this, the remainder of the premises shall be posted with signs as set forth in subsection (a) of this section.

16-7002. Exceptions. This chapter shall not apply to regularly licensed commercial establishments handling the sales and distribution of firearms and ammunition.

16-7003. Penalties. Whoever fails to comply with or violates any of the provisions of this chapter shall be fined not less than \$25 nor more than \$1,000 or imprisoned not more than 1 year, or both.

Chapter 71. Sale, Purchase, Receipt, Possession, Transportation, Use, Safety and Control of Explosive Materials

* * * * *

16-7101. Scope. This chapter is intended to supplement the requirements of any federal laws and regulations promulgated by any federal department or agency. This chapter shall apply to the sale, purchase, possession, receipt, transportation and use of explosive materials as provided herein, but shall not apply to:

(1) Explosive materials while in the course of transportation via railroad, water, highway or air when the explosive materials are moving under the jurisdiction of and in conformity with regulations adopted by any federal department or agency;

(2) The laboratories of schools, colleges and similar institutions when confined to the purpose of instruction or research, or to explosive materials in the forms prescribed by the official United States Pharmacopeia

or the National Formulary and used in medicines and medicinal agents;

(3) The normal and emergency operations of any government, including all departments, agencies and divisions thereof, provided they are acting in their official capacity and in the proper performance of their duties or functions;

(4) Explosive materials for delivery to any government or any departments, agencies and divisions thereof;

(5) Pyrotechnics commonly known as fireworks, including signaling devices such as flares, fuses and torpedoes;

(6) Small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968 and regulations promulgated thereunder;

(7) Gasoline, fertilizers and propellant-actuated power devices or tools;

(8) Any type of black powder in quantities of less than 5 pounds.

16-7102. Definitions. As used in this chapter: (1) "Person" means any individual, corporation, company, association, firm, partnership, society or joint stock company.

(2) "Explosive materials" means explosives, blasting agents and detonators as follows:

a. "Explosives" means any chemical compound mixture or device the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters and those materials included in the list published annually in the Federal Register by the Secretary of the Treasury pursuant to the Organized Crime Control Act of 1970.

b. "Blasting agent" means any material or mixture consisting of fuel and oxidizer intended for blasting not otherwise defined as an explosive; provided, that the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

c. "Detonator" means any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

(3) "Crime punishable by imprisonment for a term exceeding 1 year" shall not mean (i) any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices or (ii) any state offense (other than one involving a firearm or explosive material)

classified by the laws of any state as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

(4) "Issuing authorities" shall mean the State Fire Marshal and such local fire marshals as and to the extent the State Fire Marshal shall so designate.

(5) "Fugitive from justice" shall mean any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term shall also include any person who has been convicted of any crime and has fled to avoid imprisonment.

(6) "Propellant-actuated power devices or tools" shall mean any tool or special mechanized device or gas generator system which is actuated by smokeless propellant or which releases and directs work through a smokeless propellant charge. It does not include explosive-actuated devices.

(7) "Explosive-actuated devices" shall mean any tool or special mechanized device which is actuated by explosives, other than smokeless propellants.

(8) "Distribute" shall mean to issue, give, transfer or otherwise dispose of.

16-7103. General provisions. (a) **Loading explosive materials into railroad cars near passenger tracks; penalty.** (1) No person shall load explosive materials into cars on any railroad in this State within 100 yards of the bed of the regular track used in carrying passengers. (2) Whoever engages or participates in any way in loading or putting explosive materials into cars standing within 100 yards of the regular bed of any railroad engaged in carrying passengers in this State shall be fined \$1,000 or imprisoned for 6 months, or both.

(b) **Delivering explosive materials to warehouseman or carrier without disclosure and marking; penalty.** Whoever, within the limits of this State, delivers or causes to be delivered to any warehouseman for storage, or delivers or causes to be delivered to any carrier, whether by land or water, for transportation, any keg, can or other package known by such person to contain explosive materials without first disclosing to the warehouseman or carrier, his or its proper agents or servants, the character of the contents of such keg, can or package and without also having plainly marked or stamped on every such keg, can or package the true nature of the contents thereof, shall, for each offense, be fined not more than \$1,000 or imprisoned not more than 6 months, or both.

(c) **False representations or false marking of package containing explosive materials; penalty.** Whoever, within the limits

of this State, delivers or causes to be delivered to any warehouseman for storage, or delivers or causes to be delivered to any carrier, whether by land or water, for transportation, any keg, can or other package known by such person to contain explosive materials which keg, can or package is falsely marked as to its contents, or whoever, at the time of such delivery, makes a false and fraudulent statement as to the character of the contents of any such keg, can or package to any such warehouseman or carrier, his or its proper agents or servants, whereby such warehouseman or carrier, his or its proper agents or servants, are deceived and misled as to the explosive and dangerous qualities of the contents of such keg, can or package, shall, for each offense, be fined not more than \$2,000 or imprisoned not more than 1 year, or both.

16-7104. Purchase, receipt and possession. (a) **License.** It shall be unlawful for any person to purchase, receive or possess explosive materials in the State without obtaining a license from the issuing authorities.

(b) **Federal license or permit.** Any person who possesses a license or permit under Title XI of the Organized Crime Control Act properly covering the activities of such person shall not be required to obtain a license under this section.

16-7105. Sale. No person shall sell or distribute explosive materials to any person without first obtaining a copy of the license which authorizes the distributee to purchase, receive or possess explosive materials as provided in this chapter; provided that such person shall not be required to again obtain a copy of said license during the effective term shown on said license.

16-7106. Licensed blasters. (a) **License.** It shall be unlawful for any person

Class	Category	Description
A	Unlimited	All types of blasting.
B	General Above Ground	All phases of blasting operations in quarries, open pit mines, above ground construction.
C	General Underground	All phases of blasting operations, in underground mines, shafts, tunnels and drifts.
D	Demolition	All phases of blasting in demolition projects.
E	Seismic Prospecting	All phases of blasting in seismic prospecting.
F	Agriculture	All phases of blasting in agriculture but limited to not more than 50 lbs. per blast.
G	Special	Special blasting as described on the permit.

to use explosive materials unless such person, or if such person is a business entity, an employee of such person using such explosive materials, possesses a blaster's license issued by the issuing authorities having jurisdiction over the locality in which such materials are used. The blaster's license must conform to the class and use as provided in subsection (e) of this section and be carried on the person of each such individual during the use of the explosive materials.

(b) **Use.** Use of explosive materials shall include all applications of explosives for any purpose whatsoever, unless specifically exempted by subsection (c) of this section.

(c) **Use does not include.** For purposes of this section, use does not include any type of commercial manufacturing or research conducted in laboratories of commercial or educational institutions.

(d) **Qualifications.** Blaster's licenses will be issued only to a natural person and shall bear his name, address and photograph. In addition to the qualifications specified in Section 7107 hereof, such person must satisfy each of the following qualifications: (1) Present evidence of training, knowledge and experience in the transporting, storing, handling and use of explosive materials. (2) Be able to understand and give written and oral orders. (3) Be knowledgeable of federal, state and local laws and regulations pertaining to explosive materials. (4) Be able to pass a qualifying written or oral examination as required by the issuing authorities. (5) Be physically and mentally fit for the work required. (6) Such other requirements as the issuing authorities are hereby authorized to prescribe by regulations.

(e) **Classes of license.** Blaster's license shall be issued by the issuing authorities and shall include the following classes of licenses:

16-7107. Administration. (a) **Application.** Applications for license hereunder shall be made to the issuing authorities having jurisdiction over the locality for which license is requested on forms and as prescribed in regulations issued by such issuing authorities.

(b) **License fees.** License fees shall be paid at the time of application in the amount of \$10.

(c) **Qualifications.** No issuing authorities shall issue any license to any person unless:

(1) The applicant is at least 21 years of age, or if a business entity, properly qualified to do business in the State.

(2) The applicant has not been convicted of a willful violation of any provisions of this chapter.

(3) The applicant has not knowingly withheld information or has not made any false or fictitious statement intended or likely to deceive in connection with the application.

(4) The applicant has certified in writing familiarity and understanding of all published federal, state and local laws relating to explosives at the location of the applicant's activities.

(5) The applicant has not been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year.

(6) The applicant is not a fugitive from justice.

(7) The applicant is not an unlawful user of or addicted to marijuana (as defined in Section 4761 of the Internal Revenue Code of 1954) or any depressant or stimulant drug (as defined in Section 201(2) of the Federal Food, Drug and Cosmetic Act (21 U.S.C.A. § 321(2)), or narcotic drug (as defined in Section 4731(a) of the Internal Revenue Code of 1954).

(d) **Posting and possession of licenses.** Licenses issued under the provisions of this chapter, except as otherwise provided with respect to blaster's licenses, shall be kept posted on premises or on the person of the licensee and be available for inspection.

(e) **Licensed locations and activities.** Each license issued under the provisions of this chapter shall specify the licensee, the licensed activity, its effective date and its expiration date.

(f) **Regulations and forms.** The administration of this chapter shall be vested in the issuing authorities who are authorized to:

(1) Prescribe such rules and regulations as are deemed reasonably necessary to carry out the provisions of this chapter. The issuing authorities shall give reasonable public notice and afford to interested parties opportunity for hearing prior to prescribing such regulations.

(2) Prescribe forms required for the administration of this chapter.

(g) **Right of inspection and disclosure.** The issuing authorities or their designees may enter during business hours the premises (including places of storage) of any licensee for the purpose of inspecting or examining (1) any records or documents kept by such licensee, and (2) any explosive materials kept or stored by such licensee. Upon the request of any federal agency, the issuing authorities shall make available any information which it may obtain by reason of the provisions of this section with respect to the identification of persons within the State who have purchased or received explosive materials, together with a description of such explosive materials.

(h) **Denial or revocation of license.** A license under this chapter may be denied or revoked for failure to comply with or satisfy the requirements of any provision of this chapter and for any of the following reasons:

(1) Noncompliance with any order of the applicable issuing authorities.

(2) Proof that the applicant or licensee has been convicted of a crime punishable by imprisonment for more than 1 year.

(3) Proof that the applicant or licensee advocates or knowingly belongs to any organization or group which advocates violent overthrow or violent action against any federal, state or local government, or any individuals therein.

(4) Proof that the applicant or licensee suffers from a mental or physical defect which makes him unfit for the work required.

(5) Violation by the applicant or licensee of any provision of any law or regulation relating to explosive materials or proof that false information was given or misrepresentation made to obtain the license.

(6) Failure by the applicant or licensee to advise the issuing authorities of any change in a material fact supplied in the application.

In any case where the issuing authorities deny or revoke a license, they promptly will notify the applicant or licensee of the basis for the revocation or denial and afford the applicant or licensee an opportunity for a hearing in the manner prescribed by the regulations of the issuing authorities.

(i) **Renewal.** Licenses issued under provisions of this chapter shall be effective for not more than 2 years and may be renewed as the issuing authorities may prescribe by regulations.

(j) **Emergency variations.** Issuing authorities may approve variations from the requirements of this chapter when they find that an emergency exists and that the proposed variations from the specific require-

ments (1) are necessary and (2) will not hinder the effective administration of this chapter.

16-7108. Authority to purchase in contiguous states. Any person who is a resident of the State and who uses explosive materials in the conduct of business or occupation may lawfully purchase explosive materials from a seller located or residing in a state contiguous to the State, provided such person is properly licensed under this chapter.

16-7109. Records. (a) **Records required.** It shall be unlawful for any person wilfully to purchase, possess, receive, sell or distribute explosive materials in the State without keeping records as specified in this section.

(b) **Contents of records.** Records of purchases, possession and receipts of explosive materials shall be maintained by the persons purchasing, possessing and receiving the explosive materials and shall include the date of the transaction, the name, address and license or permit number of the person from whom received, the name of the manufacturer and importer (if any), the manufacturer's marks of identification (if any), and the quantity and description of explosive materials. With respect to explosive materials sold or distributed, the seller or distributor shall record the name, address and license or permit number of the distributee, the date of transaction, the name of the manufacturer and importer (if any), the manufacturer's marks of identification (if any), and the quantity and description of the explosive materials.

(c) **False entry.** It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under Section 7107(f) of this chapter.

(d) **Record retention.** Any record required by this chapter or regulations promulgated under its provisions shall be retained by the licensee or permittee for not less than 5 years from the date of the transaction recorded.

16-7110. Safety. The issuing authorities are authorized to issue such safety regulations as are deemed by the issuing authorities to be necessary in their respective jurisdictions.

16-7111. Transportation. It shall be unlawful for any person to transport explosive materials in violation of the regulations relating to the transportation of explosive materials. Issuing authorities are authorized to issue regulations covering the transportation of explosive materials in their areas of

jurisdiction. Compliance with applicable regulations of the United States Department of Transportation issued pursuant to 18 U.S.C.A., §§ 831 through 835 of the United States Code, and such other federal regulations as exist or are adopted from time to time, shall be deemed compliance with this chapter and the regulations issued hereunder.

16-7112. Penalties. Any person violating this chapter, other than § 7103, or any rules or regulations made thereunder: (1) Shall for each offense be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment, and any license issued under this chapter shall be subject to revocation for such period as the applicable issuing authorities deem appropriate; (2) and, if such violation was committed with the knowledge or intent that any explosive

material involved was to be used to kill, injure or intimidate any person or unlawfully to damage any real or personal property, the person committing such violation shall be guilty of a felony and for each offense be fined not more than \$10,000 or imprisoned for not more than 10 years, or both; (3) and if personal injury results, shall be guilty of a felony and imprisoned for not more than 20 years or fined not more than \$20,000, or both; (4) and if death results, shall be guilty of a felony and subject to imprisonment for any term of years or for life.

The Superior Court shall have exclusive jurisdiction of violations of this chapter.

16-7113. Limitation on legislation. This chapter is intended to and shall preempt and supersede all existing and future county, town, city or municipal ordinances or regulations respecting the subjects covered by this chapter.

District of Columbia

DISTRICT OF COLUMBIA CODE ENCYCLOPEDIA

Sec. 1-224. Police regulations authorized in certain cases. The District of Columbia Council is hereby authorized and empowered to make and modify, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, usual and reasonable police regulations in and for said District as follows: * * * * *

Ninth. To regulate or prohibit loud noises with horns, gongs, or other instruments, or loud crier, upon the streets or public places, and to prohibit the use of any fireworks or explosives within such portions of the District as it may think necessary to public safety. * * * * *

Sec. 1-227. Regulations relative to firearms, explosives, and weapons. The District of Columbia Council is hereby authorized and empowered to make, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, all such usual and reasonable police regulations, in addition to those already made under sections 1-224, 1-225, and 1-226 as the Council may deem necessary for the regulation of firearms, projectiles, explosives, or weapons of any kind in the District of Columbia.

Sec. 9-123. Unlawful conduct on Capitol Grounds or in buildings. (a) It shall be unlawful for any person or group of persons—

(1) Except as authorized by regulations

which shall be promulgated by the Capitol Police Board:

(A) to carry on or have readily accessible to the person of any individual upon the United States Capitol Grounds or within any of the Capitol Buildings any firearm, dangerous weapon, explosive, or incendiary device; or

(B) to discharge any firearm or explosive, to use any dangerous weapon, or to ignite any incendiary device, upon the United States Capitol Grounds or within any of the Capitol Buildings; or

(C) to transport by any means upon the United States Capitol Grounds or within any of the Capitol Buildings any explosive or incendiary device; or

(2) Knowingly, with force and violence, to enter or to remain upon the floor of either House of the Congress.

(c) Nothing contained in this section shall forbid any act of any Member of the Congress, or any employee of a Member of the Congress, any officer or employee of the Congress or any committee or subcommittee thereof, or any officer or employee of either House of the Congress or any committee or subcommittee thereof, which is performed in the lawful discharge of his official duties. * * * * *

Sec. 9-132. Definitions. As used in sections 9-118 to 9-126 and 9-127 to 9-132—

(1) The term "Capitol Buildings" means the

United States Capitol, the Senate and House Office Buildings and garages, the Capitol Power Plant, all subways and enclosed passages connecting two or more of such structures, and the real property underlying and enclosed by any such structures.

(2) The term "firearm" shall have the same meaning as when used in section 901(3) of title 15, U.S. Code.

(3) The term "dangerous weapon" includes all articles enumerated in section 22-3214(a); and also any device designed to expel or hurl a projectile capable of causing injury to persons or property, daggers, dirks, stilettos, and knives having blades over three inches in length.

(4) The term "explosive" shall have the same meaning as when used in section 121(1) of title 50, U.S. Code.

(5) The term "act of physical violence" means any act involving (1) an assault or any other infliction or threat of infliction of death or bodily harm upon any individual, or (2) damage to or destruction of any real property or personal property.

Sec. 22-3105. Placing explosives with intent to destroy or injure property. Whoever places, or causes to be placed, in, upon, under, against, or near to any building, car, vessel, monument, statue, or structure, gunpowder or any explosive substance of any kind whatsoever, with intent to destroy, throw down, or injure the whole or any part thereof, although no damage is done, shall be punished by a fine not exceeding one thousand dollars and by imprisonment for not less than two years or more than ten years.

Sec. 22-3215a. Manufacture, transfer, use, possession or transportation of molotov cocktails or other explosives for unlawful purposes, prohibited—Definitions—Penalties. (a) No person shall within the District of Columbia manufacture, transfer, use, possess, or transport a molotov cocktail. As used in this subsection, the term "molotov cocktail" means (1) a breakable container containing flammable liquid and having a wick or a similar device capable of being ignited, or (2) any other device designed to explode or produce uncontained combustion upon impact; but such term does not include a device lawfully and commercially manufactured primarily for the purpose of illumination, construction work, or other lawful purpose.

(b) No person shall manufacture, transfer, use, possess, or transport any device, instrument, or object designed to explode or produce uncontained combustion, with the intent that the same may be used unlawfully against any person or property.

(c) No person shall, during a state of emergency in the District of Columbia de-

clared by the Commissioner pursuant to law, or during a situation in the District of Columbia concerning which the President has invoked any provision of chapter 15 of title 10, United States Code, manufacture, transfer, use, possess, or transport any device, instrument, or object designed to explode or produce uncontained combustion, except at his residence or place of business.

(d) Whoever violates this section shall (1) for the first offense, be sentenced to a term of imprisonment of not less than one and not more than five years, (2) for the second offense, be sentenced to a term of imprisonment of not less than three and not more than fifteen years, and (3) for the third or subsequent offense, be sentenced to a term of

imprisonment of not less than five years and of any term of years up to life imprisonment. In the case of a person convicted of a third or subsequent violation of this section, chapter 402 of title 18, United States Code (Federal Youth Corrections Act) shall not apply.

Sec. 47-2314. Gasoline, kerosene, oils, and explosives.

* * * * *

(c) Owners or managers of establishments where explosives of any kind are stored or are kept for sale shall pay a license fee of \$5 per annum.

(d) No license shall be issued under this section without the approval of the fire marshal of the District of Columbia.

(4) Subsection (1) shall not prohibit the authorized use or possession of any material, substance or device described therein by a member of the armed forces of the United States or by firemen, police officers, peace officers, or law enforcement officers so authorized by duly constituted authorities.

776.08. Forcible felony. "Forcible felony" means treason; murder; manslaughter; forcible rape; forcible sodomy; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

782.04. Murder. (1)(a) The unlawful killing of a human being, when perpetrated from a premeditated design to effect the death of the person killed or any human being, or when committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy, or unlawful throwing, placing, or discharging of a destructive device or bomb, or which resulted from the unlawful distribution of heroin by a person eighteen years of age or older when such drug is proven to be the proximate cause of the death of the user, shall be murder in the first degree and shall constitute a capital felony, punishable as provided in chapter 775.

(b) In all cases under this section, the procedure set forth in section 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, shall be murder in the second degree and shall constitute a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in chapter 775.

(3) When a person is killed in the perpetration of, or in the attempt to perpetrate, any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy, or unlawful throwing, placing, or discharging of a destructive device or bomb by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony shall be guilty of murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of

years not exceeding life or as provided in chapter 775.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy, or unlawful throwing, placing, or discharging of a destructive device or bomb, it shall be murder in the third degree and shall constitute a felony of the second degree, punishable as provided in chapter 775.

Chapter 552 Manufacture, Distribution and Use of Explosives

552.081. Definitions. The following words used in this chapter shall have the meanings respectively ascribed to them in this section, as follows:

(1) "Explosives." Any chemical compound or mixture that has the property of yielding readily to combustion or oxidation upon the application of heat, flame, or shock, including but not limited to dynamite, nitroglycerin, trinitrotoluene, ammonium nitrate when combined with other ingredients to form an explosive mixture, blasting caps and detonators; but not including cartridges for firearms, and not including fireworks as defined in § 791.01.

(2) "Person." Any natural person, partnership, association or corporation.

(3) "Manufacturer-distributor." A person engaged in the manufacture, compounding, combining, production or distribution of explosives.

(4) "Dealer." A person engaged in the wholesale or retail business of buying and selling explosives; provided, that should a manufacturer-distributor make sales to users, such manufacturer shall not be required to obtain an additional license as a dealer.

(5) "User." The person who, as an ultimate consumer of an explosive, purchases same from a dealer or manufacturer-distributor or a dealer or manufacturer-distributor who uses an explosive as an ultimate consumer.

(6) "Blaster." A person employed by a user who detonates or otherwise effects the explosion of an explosive or who is in immediate personal charge and supervision of one or more other persons engaged in such activity.

(7) "Sale." This word and its various forms as used shall include delivery of an explosive with or without consideration.

(8) "Purchase." This word and its various forms as used shall include acquisition of any explosive by a person with or without consideration.

(9) "Highway." Shall mean any public highway in this state, including public streets, alleys and other thoroughfares, by whatever name, in incorporated cities and towns.

(10) "Department." The department of insurance.

552.091. License or permit required of manufacturer-distributor, dealer, user or blaster of explosives. (1) It shall be unlawful for any person to engage in the business of a manufacturer-distributor or dealer in explosives, or to transport explosives, or to acquire, sell, possess, store or engage in the use of explosives in this state, except in conformity with the provisions of this chapter. Each manufacturer-distributor, dealer, user or blaster, as such words are above defined, must be possessed of a valid and subsisting license or permit issued by the department of insurance. A further requirement in the case of multiple storage of explosives is that each user maintaining more than one permanent storage magazine shall possess an additional license or permit, as herein set forth, for each such magazine. Such licenses and permits are as follows:

(a) Licenses and fees therefor are required for the following: Manufacturer-distributor, \$25.00; Dealer, \$25.00; User, \$1.00.

(b) Permits and fees therefor are required for the following: Blaster, \$1.00.

(2) Said licenses and permits shall be issued by the department for each license year beginning October 1 and expiring the following September 30. The forms of such licenses, permits, and applications therefor shall be prescribed by the department; provided that in addition to such other information and data as the department shall determine are appropriate and required for said forms there shall be included in said forms the following matters:

(3) Applications for all licenses and permits shall set forth the purpose for which the license or permit is sought in relation to explosives, and the license or permit issued shall set forth such purpose. Each of such applications shall be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof. Application for a blaster's permit shall include the name of the user employing such blaster, and the permit issued in pursuance thereof shall set forth the name of such user. A blaster's permit shall be valid solely for use by the holder thereof in his employ-

ment by the user named therein. No license or permit is required for persons detonating or otherwise effecting the explosion of explosives working under the immediate personal supervision and control of a person holding a blaster's permit. No license or permit shall be issued by the department pursuant to an application therefor unless the department shall determine from the information set forth in the application that the purpose for which the applicant seeks a permit or license falls within the purview of this chapter and that such purpose is not violative of any other laws of the state. The fees collected for such licenses and permits are hereby appropriated for the use of the department in the administration of this chapter, and shall be deposited in the state fire marshal's trust fund.

552.101. Possession without license prohibited; exceptions. No person shall be possessed of an explosive unless he is the holder of a license or permit, as above provided, and possesses such explosive for the purpose covered by the license or permit he holds. Provided, that there is excepted from this provision common carriers, contract and private carriers as described in § 552.12, possessed of an explosive in connection with transportation of the same in the ordinary course of their business; and that there is further excepted from this provision persons in possession of explosives during the period of time they are under the immediate personal supervision and control of a person holding a blaster's permit and then engaged in preparations for and in the detonating or otherwise effecting the explosion of an explosive. It shall be unlawful for any person holding a blaster's permit to allow persons working under him to be possessed of an explosive except during the period of time when such persons are loading or unloading or detonating or otherwise effecting the explosion of an explosive under the immediate personal supervision and control of said blaster.

552.111. Maintenance of records by manufacturer-distributors and dealers; inspection. Manufacturer-distributors and dealers shall keep accurate accounts of all inventories and sales of explosives. A manufacturer-distributor is authorized to sell explosives to dealers and users. All such sales shall be evidenced by invoices or sales tickets executed in triplicate, the manufacturer-distributor or dealer retaining the original and one copy and delivering the third copy thereof to the purchaser. No manufacturer-distributor or dealer shall sell any explosive without being satisfied that the purchaser thereof is duly licensed under the provisions of this chapter and authorized

Florida

FLORIDA STATUTES ANNOTATED

Crimes

790.001 Definitions. The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this chapter, except where the context otherwise requires.

(4) "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will, or is designed to or may readily be converted to, expel a projectile by the action of any explosive and has a barrel with a bore of one half inch or more in diameter and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. "Destructive device" shall not include:

(a) A device which is not designed, redesigned, used, or intended for use as a weapon;

(b) Any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device;

(c) Any shotgun other than a short-barreled shotgun; or

(d) Any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

(5) "Explosive" means any chemical compound or mixture that has the property of yielding readily to combustion or oxidation upon application of heat, flame, or shock, including but not limited to dynamite, nitroglycerin, trinitrotoluene, ammonium nitrate

when combined with other ingredients to form an explosive mixture, blasting caps and detonators; but not including:

(a) Shotgun shells, cartridges or ammunition for firearms;

(b) Fireworks as defined in Section 791.01;

(c) Smokeless propellant powder or small arms ammunition primers, if possessed, purchased, sold, transported or used in compliance with Section 552.241;

(d) Black powder in quantities not to exceed that authorized by chapter 552, or by any rules or regulations promulgated thereunder by the department of insurance, when used for or intended to be used for the manufacture of target and sporting ammunition or for use in muzzle loading flint or percussion weapons.

808.111. Fire bombs. (1) Every person who possesses, manufactures, or disposes of a fire bomb with intent that such fire bomb be wilfully and maliciously used to set fire to or burn any building or property is guilty of a felony of the third degree, punishable as provided in chapter 775.

(2) For the purposes of this section, "disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

(3) For the purposes of this section, a "fire bomb" is a breakable container containing flammable liquid with a flash point of one hundred fifty degrees (150 degrees) Fahrenheit or less, having a wick or similar device capable of being ignited; but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be such a fire bomb.

to purchase same and that said explosive is to be used by the purchaser for a purpose covered by the latter's license, with the exception that a manufacturer-distributor or dealer may make an original sale under this section to an unlicensed farmer providing the farmer applies for user's license prior to said sale. Such invoices or sales tickets so delivered to purchaser shall bear the name of the manufacturer or dealer and purchaser, date of sale, quantity sold, use for which explosive is purchased and address of purchaser. Said inventories and original invoices or sales tickets and copies thereof shall be retained by manufacturer-distributors or dealers and shall be made accessible and subject to examination by any peace officer of this state, and by the department, or through its duly authorized agent, at such intervals as the department shall deem proper.

552.112. Maintenance of records by users; inspection. Each user, as defined herein, of explosives shall keep an accurate written inventory of all explosives possessed by him and a record of the use of such explosives. Said inventory and record of use of explosives shall be retained by users and shall be made accessible and subject to examination by any peace officer of this state and by the department, or its duly authorized agent, at such intervals as the department shall deem proper.

552.113. Reports of thefts, illegal use or illegal possession. Any sheriff, police department or peace officer of this state shall give immediate notice to the department of any theft, illegal use or illegal possession of explosives within the purview of this chapter, coming to his attention, and shall forward a copy of his final written report to the department in Tallahassee.

552.12. Transportation of explosives without license prohibited; exceptions. No person shall transport any explosive into this state or within the boundaries of this state over the highways, on navigable waters or by air, unless such person is possessed of a license or permit; provided, there is excepted from the effects of this sentence common, contract and private carriers, as mentioned in the next succeeding sentence. Common carriers by air, highway, railroad or water transporting explosives into this state, or within the boundaries of this state (including ocean-plying vessels loading or unloading explosives in Florida ports), and contract or private carriers by motor vehicle transporting explosives on highways into this state, or within the boundaries of this state, and which contract or private carriers are engaged in such business pursuant to certificate or permit by whatever name issued to

them by any federal or state officer, agency, bureau, commission or department, shall be fully subject to the provisions of this chapter; provided, that in any instance where the federal government, acting through the interstate commerce commission or other federal officer, agency, bureau, commission or department, by virtue of federal laws or rules or regulations promulgated pursuant thereto, has preempted the field of regulation in relation to any activity of any such common, contract or private carrier sought to be regulated by this chapter, such activity of such a carrier is excepted from the provisions of this chapter.

552.13. Promulgation of regulations by department. The department shall make, promulgate and enforce regulations setting forth minimum general standards covering manufacture, transportation (including loading and unloading) use, sale, handling and storage of explosives. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons possessing, handling and using such materials, and shall be in substantial conformity with generally accepted standards of safety concerning such subject matters. It is hereby declared that regulations in substantial conformity with the published rules and standards of the institute of makers of explosives in relation to said subject matters other than locks and locking devices used to secure magazine doors and safeguard the storage of explosives shall be deemed to be in substantial conformity with accepted standards of safety concerning such subject matters. Such regulations shall be adopted by the department only after a public hearing thereon pursuant to the procedures for the filing and taking effect of rules as provided in Section 120.041.

552.141. Conduct of hearings for adoption of or revision to regulations pertaining to explosives. (1) The department shall give notice of the time and place of such hearing not less than twenty days in advance of the hearing date. It shall give such notice to all persons whose pecuniary interests are to be directly and immediately affected by such hearing.

(2) Hearings held for consideration of the rules and regulations of the department which under subsection (1) would otherwise require separate notices to more than fifty persons, in lieu of the notice so required under such subsection, the department may give notice of such hearing by publication thereof, in four or more newspapers of general circulation in this state, at least once each week during the four weeks immediately preceding the week in which the hear-

ing is to be held. The published notice shall state the time and place of the hearing and shall specify the matters to be considered thereat.

(3) The hearing may be held in the offices of the department at Tallahassee or at such other place in this state deemed by the department to be more convenient to parties thereto.

(4) The department or a person designated by it shall preside at the hearing.

(5) All hearings shall be public.

(6) The department shall cause a full stenographic record of the proceedings at the hearing to be made by a competent reporter and at the cost of the state. A transcribed copy of such stenographic record shall be made a part of the department's record of the hearing. A copy of the transcribed stenographic record shall be furnished to any party to the hearing requesting the same and at such reasonable charge therefor as the department may fix. The state's portion of the cost of the stenographic record and transcription thereof shall be paid out of the state fire marshal's trust fund. Any sums received from parties for copies of the transcribed stenographic record shall be deposited in the state fire marshal's trust fund.

(7) No such rule or regulation promulgated pursuant to such hearing shall be effective until after it has been on file as a public record in the office of the department and in the office of the department of state for at least ten days.

(8) Upon request and payment of the reasonable cost thereof, if required and fixed by the department, it shall furnish a copy of any such rules and regulations to any person requesting.

552.151. Cease and desist orders. (1) Whenever the department shall have reason to believe that any person is or has been violating the provisions of this chapter or any rules or regulations adopted and promulgated pursuant thereto, it shall issue to such person an official notice of violation. If said person refuses to comply or fails to comply with the requirements for compliance as set forth in the notice of violation by the date specified on the notice, the department shall issue and mail to such person a statement of the charges in that respect and written notice of its intention to issue a cease and desist order.

(2) If within twenty days after the date of mailing said statement of charges the licensee or permittee has not filed with the department at its office in Tallahassee a written answer to such charges coupled with a written request for a hearing thereon, the department may proceed to issue an order

requiring such person to cease and desist from such violation.

(3) If within such twenty days an answer and request for hearing is filed with the department, it shall hold a hearing with respect to the charges within sixty days from the date of the mailing of the notice and charges unless postponed by mutual consent of the parties. The department shall give the licensee or permittee written notice of the hearing not less than ten days in advance of the hearing date.

(4) At the time and place fixed for such hearing such person shall have an opportunity to be heard and to show cause why an order should not be made by the department requiring such person to cease and desist from the acts, methods or practices so complained of.

(5) Statements of charges, notices, orders and other processes of the department under this law may be served by registered mail addressed to the licensee at his or its residence or principal office or place of business last of record with the department. Such notice shall be deemed given when so addressed and mailed postage prepaid at a United States post office or branch thereof.

(6) If after such hearing the department shall determine that the acts complained of are in violation of the provisions of this law, or the rules and regulations adopted and promulgated in pursuance thereto, it shall reduce its findings to writing and issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from such violation.

552.161. Administrative fines for violation of cease and desist order. (1) If any person violates a cease and desist order, the department may impose a civil penalty not to exceed \$250.00 for each offense, or suspend or revoke the license or permit issued to such person in accordance with the procedure set forth in Section 552.171. The cost of the proceedings is to be in addition to any penalties imposed. The department may allow the licensee or permittee a reasonable period, not to exceed thirty days, within which to pay to the department the amount of the penalty so imposed. If the licensee or permittee fails to pay the penalty in its entirety to the department at its office in Tallahassee within the period so allowed, the licenses or permits of the licensee or permittee shall stand revoked upon expiration of such period and without any further proceedings.

(2) All such fines, monetary penalties and costs received by the department shall be deposited in the state fire marshal's trust fund.

(7) The provisions of this section are cumulative and shall not affect the penalty and injunctive provisions of Sections 552.22 and 552.23.

552.181. Conduct of hearings. (1) The hearing may be held in the department's office at Tallahassee or at such other place in this state deemed by it to be more convenient to parties and witnesses.

(2) The hearing shall be held before the department or before an agent duly designated for that purpose. The department or its agent shall preside at the hearing and shall sit in the capacity of a quasi-judicial officer.

(3) All hearings shall be public.

(4) The department shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence and to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the department to compel attendance of witnesses and production of evidence in his behalf. Testimony may be taken orally or by deposition and any party shall have such right of introducing evidence by deposition as may obtain in the circuit courts of this state.

(5) Upon good cause shown the department shall permit to become a party to the hearing by intervention if timely only such persons who were not original parties thereto and whose interests are to be directly and immediately affected by the department's order made upon the hearing.

(6) Formal rules of pleading or of evidence need not be observed at the hearing except that the right of any person to invoke such rules and the rule of exclusion of witnesses is preserved.

(7) The department shall cause a full stenographic record to be made of the proceedings of the hearing by a competent reporter and at the cost of the state. A transcribed copy of such stenographic record shall be made a part of the department's record of the hearing. A copy of the transcribed stenographic record shall be furnished to any party to the hearing requesting same, and at such reasonable charge therefor as the department may fix. The state's portion of the stenographic record and transcription thereof shall be paid out of the state fire marshal's trust fund. Any sums received from parties for copies of the stenographic record shall be deposited by the department in the state fire marshal's trust fund.

552.191. Witnesses and evidence. (1) As to the subject of any such hearing being conducted by it the department or hearing

552.171. Procedure for suspension or revocation of license or permit. (1) The violation by any person possessed of a license or permit as provided in Section 552.091, after a cease and desist order has been entered pursuant to Section 552.151, shall be cause for revocation or suspension of such license or permit by the department after it shall determine said person guilty of such violation.

(2) Whenever the department shall have reason to believe that any person is or has been violating the provisions of this chapter or any rules or regulations adopted and promulgated pursuant thereto, or is violating or has violated a cease and desist order, it shall issue to such person a statement of the charges in that respect together with written notice of its intention to suspend or revoke the license or permit.

(3) If within twenty days after the date of mailing said statement of charges the licensee or permittee has not filed with the department at its office in Tallahassee a written answer to such charges coupled with a written request for a hearing thereon, the department may proceed to suspend or revoke the license or permit.

(4) If within such twenty days an answer and request for hearing is filed with the department, it shall hold a hearing with respect to the charges within sixty days from the date of the mailing of the statement of charges unless postponed by mutual consent of the parties. The department shall give the licensee or permittee written notice of the hearing not less than ten days in advance of the hearing date.

(5) If after such hearing the department should find that said charges of violation have been proved it shall enter its order suspending or revoking the license or permit of the person charged. An order of suspension shall state the period of time of such suspension which period shall not be in excess of one year from the date of such order. An order of revocation may be entered for a period of not exceeding two years and such order shall effect revocation of license or permit then held by said person and during such period of time no license or permit shall be issued said person. If during the period between the filing of charges and entry of an order of suspension or revocation by the department, a new license or permit has been issued the person so charged, any order of suspension or revocation shall operate effectively with respect to said new license or permit held by such person.

(6) If after such hearing, should the department determine that the charges have not been sustained, it shall enter its order to that effect.

officer appointed by it may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence and shall have the power to subpoena witnesses, compel their attendance and testimony and require by subpoena the production of books, papers, records, files, correspondence, documents or other evidence which it deems relevant to the inquiry.

(2) If any person refuses to comply with any such subpoena or to testify as to any matter concerning which he may lawfully be interrogated, the circuit court of Leon county or of the county wherein such hearing is being conducted, or of the county wherein such person resides, on the department's application, may issue an order requiring such person to comply with the subpoena and to testify. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(3) Subpoenas shall be served and proof of such service made in the same manner as if issued by a circuit court. Witness fees and mileage if claimed shall be allowed the same as for testimony in a circuit court, and shall be paid from the state fire marshal's trust fund.

(4) Any person wilfully testifying falsely under oath as to any matter material to any such hearing shall upon conviction thereof be guilty of perjury and shall be punished accordingly.

(5) If any person asks to be excused from attending or testifying or from producing any books, papers, records, contracts, documents or other evidence in connection with any hearing being conducted by the department on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture and shall notwithstanding be directed to give such testimony or produce such evidence, he must, if so directed by the department of insurance and the department of legal affairs, nonetheless comply with such direction but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; except, however, that no such person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in such testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury; nor shall he be exempt from the refusal, suspension or revocation of

any license, permit or authority conferred or to be conferred pursuant to this chapter.

(6) Any such individual may execute, acknowledge and file in the office of the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement, and thereupon the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

552.20. Review of order of the department. (1) All final orders or decisions of the department shall be subject to review by certiorari by the circuit court of Leon county. Such review shall be commenced within the time provided by the Florida appellate rules after the rendition of such order or decision and in compliance with said rules.

(2) The cost of the record is to be paid by the person seeking review. Any record required to be filed in such review shall be certified by the department or its agent. No such appeal shall operate as a supersedeas with respect to any order of suspension or revocation unless so ordered by the circuit court.

552.21. Confiscation and disposal of confiscated explosives. (1) Whenever the department shall have reason to believe that any person is or has been violating the provisions of this chapter or any rules or regulations adopted and promulgated pursuant thereto, it shall issue to such person an official notice of violation. If such person fails to take immediate steps to comply with the provisions of this notice, and if the department deems the explosives involved to constitute a danger to the safety of the public, it may without further process of law confiscate the explosives in question and cause them to be stored in a safe manner.

(2) If at a subsequent hearing the person so charged is found guilty of violating the provisions of this chapter or any rules or regulations adopted and promulgated pursuant thereto with regard to the possession, handling or storage of explosives, the department is authorized to dispose of the confiscated materials in such a way as it shall deem equitable.

(3) Costs incurred in the confiscation and disposal of such explosives shall be paid from the state fire marshal's trust fund.

552.22. Penalties. Any person who manufactures, purchases, keeps, stores, possesses, distributes, or uses any explosive

with the intent to harm life, limb or property, shall be guilty of a felony of the second degree, punishable as provided in Section 775.082, 775.083, or 775.084. Any person who shall in an application for a license or permit as herein provided, knowingly make a false statement, or who shall obtain explosives under a false statement, pretense or identification, or who shall knowingly otherwise violate any provisions of this chapter, or regulation promulgated pursuant to this chapter, shall be guilty of a felony of the third degree, punishable as provided in Section 775.082, 775.083, or 775.084. Possession of explosives under circumstances contrary to the provisions of this chapter or such regulations shall be prima facie evidence of an intent to use the same for destruction of life, limb or property. Conviction under this section of any person holding a license or permit shall effect cancellation thereof.

552.23. Injunction. In addition to the penalties and other enforcement provisions of this chapter, in the event any person engaged in any of the businesses covered by this chapter shall violate any provision of this chapter or any rule or regulation adopted or promulgated in pursuance thereto, the department is authorized to resort to proceedings for injunction in the circuit court of the county where such person shall reside or have his or its principal place of business, and therein apply for such temporary and permanent orders as the department may deem necessary to restrain such person from engaging in any such businesses until such person shall have complied with the provisions of this chapter and such rules and regulations.

552.24. Exceptions. Nothing contained in this chapter shall apply to the regular military or naval forces of the United States; or to the duly organized military force of any state or territory thereof; or to police or fire departments in this state, provided they are acting within their respective official capacities and in the performance of their duties.

552.241. Limited exemptions. The licensing requirements of this chapter shall not apply to:

(1) Dealers who purchase, sell, possess or transport:

(a) Smokeless propellant powder in quantities not exceeding one hundred fifty pounds, provided that such dealer holds a valid federal firearms dealer's license.

(b) Small arms ammunition primers, provided that such dealer holds a valid federal firearms dealer's license.

(2) Users, who are natural persons, who purchase, possess or transport:

(a) Smokeless propellant powder in quan-

ties not to exceed fifty pounds, provided that such powder is for the sole purpose of handloading cartridges for use in pistols or sporting rifles, or handloading shells for use in shotguns, or for a combination of these or other purposes strictly confined to handloading firearms for sporting use.

(b) Small arms ammunition primers, provided that such small arms ammunition primers are for the sole purpose of handloading cartridges for use in pistols or sporting rifles, or handloading shells for use in shotguns, or for a combination of these or other purposes strictly confined to handloading firearms for sporting use.

552.25. Municipal ordinances, rules and regulations. Nothing contained in this chapter shall affect any existing ordinance, rule or regulation pertaining to explosives of any incorporated city or town in this state not less restrictive than the provisions of this chapter and regulations promulgated pursu-

ant thereto, or affect, modify or limit the power of such incorporated cities or towns to make ordinances, rules or regulations hereunder pertaining to explosives within their respective corporate limits.

552.26. Administration of chapter; personnel. The department is authorized to employ such persons as it may deem qualified and necessary, and incur such other expenses as may be required, in connection with the administration of this chapter.

552.27. Construction of chapter. The provisions of this chapter are cumulative and shall not be construed as repealing or affecting any powers, duties or authority of the department of insurance under any other law of this state; provided that with respect to the regulation of explosives as herein provided, in instances where the provisions of this chapter may conflict with any other such law, the provisions of this chapter shall control.

Georgia

CODE OF GEORGIA ANNOTATED

Carriers

18-317. (2745, 2746) Explosives required to be marked; penalty for violation of law. All owners, agents, or others who have any gunpowder, more than five pounds, or dynamite or other dangerous explosive, transported upon water, railroad, or otherwise, shall have the word "Gunpowder," "Dynamite," or other name of the explosive marked upon each package so transported, in large letters. Gunpowder, dynamite, or other dangerous explosive transported in violation of said provision shall be liable to seizure and forfeiture by any officer who may execute a criminal warrant, under warrant for that purpose, issued by any officer who may issue such first-named warrants, one-half of the same to go to the informer, the other half to go to the military fund of the State, after public sale by order of the officer issuing the warrant, or one of like power.

Criminal Code of Georgia

26-1404. Criminal possession of explosives. A person commits criminal possession of explosives when he possesses, manufactures, or transports any explosive compound and either intends to use such explosive to commit a felony or knows that another intends to use such explosive to commit a felony. A person convicted of

criminal possession of explosives shall be punished by imprisonment for not less than one nor more than 10 years.

26-1405. Criminal possession of an incendiary. (a) A person commits criminal possession of an incendiary when he possesses, manufactures, sells, offers for sale, gives away, or transports a fire bomb or molotov cocktail.

(b) The terms "fire bomb" and "molotov cocktail" mean any device, by whatever name called, made of a breakable container containing a flammable liquid or compound with a flash point of 150 degrees Fahrenheit or less which has a wick or any similar material, which, when ignited, is capable of igniting such flammable liquid or compound when such device is thrown or dropped. These terms do not include a device which is manufactured or produced for the primary purpose of illumination or for marking detours, obstructions, defective paving or other hazards on streets, roads, highways and other bridges.

(c) Subsection (a) does not apply to a device coming within the definition of subsection (b) when it is in the use, possession or control of a member of the armed forces of the United States or a fireman or a law enforcement officer when acting in his official capacity or otherwise under proper authority.

(d) A person convicted of criminal possession of an incendiary shall be punished by imprisonment for not less than one nor more than three years, or by a fine not exceeding \$1,000 or by both.

26-1602. Possession of tools for the commission of crime. A person commits possession of tools for the commission of crime when he has in his possession any tool, explosive or other device commonly used in the commission of burglary, theft or other crime with the intent to make use thereof in the commission of a crime. A person convicted of possession of tools for the commission of crime shall be punished by imprisonment for not less than one nor more than five years.

Public Safety

92A-716. Explosives; definition; applicable codes; licenses; fees; report of larcenies. (a) The term "explosive" or "explosives," as used in this section, means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound, or mixture, may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb. Explosives constitute a special hazard to life and safety of persons because of the danger incident to their manufacture, transportation, use, sale and storage.

(b) Every person who manufactures, transports, uses, sells, or stores explosives shall so manufacture, transport, use, sell and store the same as to afford every precaution and protection against injury to persons as the commissioner may determine and by rule declare to be reasonable and practical: Provided, however, that nothing contained in this section shall be construed to extend to storage, use or sale of small arms ammunition.

(c) The commissioner is directed to investigate and examine into the nature and properties of various explosives and known safety and protective techniques, including the safety standards, recommendations and codes of the National Fire Protection Association (Explosives Ordinance, National Fire Code), American Insurance Association, successor to National Board of Fire Underwriters, and, based upon such investigation, the commissioner is authorized to determine and

by rule provide what reasonable and practical protection must be afforded persons with respect to manufacture, transportation, use, sale and storage of explosives.

(d) No person shall manufacture, transport, use, sell or store explosives without having first obtained a license therefor issued by the commissioner in accordance with reasonable rules established by him. The commissioner is authorized to make reasonable rules providing for the issuance of such licenses on an annual basis to those applicants who have observed and may be expected to observe safety rules lawfully made under this section. Graded fees for such licenses may be established with a minimum of \$2 and a maximum of \$50 which fees shall be paid to the State Fire Marshal and by him paid quarterly into the State treasury, except that the permits for the use only of explosives may be issued by ordinaries or other local elected officials whom the commissioner may designate. Fees for such permit to use explosives shall be \$1 for each permit issued which fee shall be retained by the issuing local official.

(e) Every person licensed under this section who suffers a larceny or attempted larceny of primer cord, blasting agents, powders and dynamite shall make report thereof to local law enforcement agencies and to the State Fire Marshal in accordance with rules which the commissioner is hereby authorized to make.

92A-716.1. Making available dynamite caps or like devices to minors. In addition to the punishment provided in section 92A-9924, which prohibits making available any dynamite cap or other like device to a minor, the license or permit of any person, firm or corporation to engage in the business of dealing in or selling explosives shall automatically stand revoked and shall be null and void upon conviction of violating such section.

92A-9924. Making available dynamite caps or like devices to minors. Any person, firm or corporation who shall sell, give or otherwise make available any dynamite cap or other like device to a minor shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

Hawaii

HAWAII REVISED STATUTES

134-8. Ownership, etc., of machine guns, automatic rifles, silencers, etc., prohibited; penalty. The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any * * * hand grenade, dynamite or other explosives, blasting caps, bombs or bombshell is prohibited. Any person violating this section shall be imprisoned for a term of not less than two years nor more than five years, without probation.

188-23. Evidence of. The possession of dynamite, or any kind of explosive or poison or blasting fuse caps, by fishermen, or persons in the habit of fishing, or persons who are in the water or close by the shore where fish can be taken, and who cannot show satisfactory cause for being in possession of same, or who are in possession of fish which show evidence of having been taken by any kind of explosive or poison, shall be prima facie evidence that the person is guilty of taking fish contrary to section 188-22.

Chapter 396

Occupational Safety and Health

* * * * *

396-3. Definitions. When used in this chapter:

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Appeals board" means the labor and industrial relations appeals board.

"Employer" means:

- (1) The State and every state agency;
- (2) Each county and all public and quasi-public corporations and public agencies therein;

- (3) Every person which has any natural person in service;

- (4) The legal representative of any deceased employer;

- (5) Every person having direction, management, control, or custody of any employment, place of employment, or any employee.

"Employee" means every natural person who is required or directed or permitted or suffered by any employer to engage in any employment, or to go to work or be at any time in any place of employment.

"Place of employment" means any place, and the premises appurtenant thereto, where employment is carried on, except a place the safety jurisdiction over which is vested by law in any federal agency.

"Employment" includes the carrying on of any trade, business, occupation, or work,

including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged to work for hire except domestic service in or about a private home.

"Safe" and "safety" as applied to an employment or place of employment mean such freedom from danger to employees as the nature of the employment reasonably permits.

"Safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger.

"Manufacturer" means, for the purpose of the section concerning explosives, any person who is engaged in the manufacture of explosives or who otherwise produces any explosive.

"Occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

"Dealer" means, for the purpose of the section concerning explosives, any person, not a manufacturer, engaged in the business of buying and selling explosives.

* * * * *

396-9. Explosives. (a) Permits and certificates. No person shall manufacture or deal in explosives unless he has obtained a permit therefor and no person shall use explosives unless he has first obtained a certificate of fitness. A certificate of fitness shall only be issued to an individual and shall set forth his competency and provide for his positive identification. Certificates of fitness may be limited as to types or kinds of explosives or to the use of explosives for specific purposes.

(b) **Manufacturer's reports; dealer's record and report.** Manufacturers shall file a report with the director at the end of each calendar month giving in the report the names of all purchasers and the amount and description of all explosives sold or delivered and such other information as the director may require.

(c) **Storage.** No person shall have, store, keep, or possess explosives, or suffer them to remain in any building or upon any premises, unless the same are in a magazine complying with rules and regulations of the department governing the classes, type of construction, and capacity of magazines, the quantities and types or kinds of explosives which may be kept in the several classes of magazines, the location of permanent magazines, the safety precautions to be taken therein, and the places where movable magazines shall be

kept and the duration of such keeping.

(d) **Transportation.** No person shall transport or cause any explosive to be transported except in compliance with rules and regulations of the department and without first having secured a permit from the director.

(e) **Sale of; permits for purchase.** No dealer shall sell or deliver explosives to any person who does not hold a certificate of fitness and a permit for the purchase thereof secured from the director or his authorized subordinates; and no dealer shall sell or deliver explosives except for the types or kinds and in the quantities as prescribed by, and in compliance with all the terms and conditions contained in the permit.

(f) **Unlawful use or possession.** It shall be unlawful for any person to use any explosives unless he has a certificate of fitness or is using the explosives under the immediate supervision and direction of a holder of the certificate. It shall be unlawful for any person, other than a manufacturer or dealer, to have any explosives in his possession unless he has a permit therefor, or unless he has the explosives in his possession under the direction and for the purposes of a holder of the certificate.

(g) **Revocation of permits and certificates.** Any permit or certificate of fitness issued under this section may be revoked or suspended by the director on any ground specified in the rules and regulations promulgated under this chapter, or for any violation of this section.

(h) **National emergency.** Any permit or certificate issued under this section may, during any time of national emergency or crisis, be suspended or canceled by the director, and all explosives in the possession or control of any person may be purchased or seized and held in possession by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the owner thereof and the government of the United States or the government of the State may agree upon some other disposition of the explosives. A national emergency or crisis shall be deemed to exist when such has been so determined under section 134-34.

(i) **Exceptions.** This section shall not apply to the armed forces of the United States or employees of the United States who are authorized by the United States to handle explosives.

707-724. Criminal coercion. (1) A person commits the offense of criminal coercion if he intentionally compels or induces another person to engage in conduct from which he has a legal right to abstain or to abstain from conduct in which he has a

legal right to engage, by means of instilling in him a fear that, if the demand is not complied with, the defendant or a third person will:

(a) Cause bodily injury to any person; or

(b) Cause damage to property; or

(c) Commit a penal offense; or

(d) Accuse any person of an offense or cause a penal charge to be instituted against any person; or

(e) Expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute; or

(f) Reveal any information sought to be concealed by the other person; or

(g) Testify or provide information or withhold testimony or information with respect to any person's legal claim or defense; or

(h) Take or withhold action as a public servant or cause a public servant to take or withhold such action; or

(i) Bring about or continue a strike, boycott, or other similar collective action, to obtain an act or omission which is not

demand for the benefit of the group which the defendant purports to represent.

(2) Criminal coercion is a class C felony under the above conditions.

(3) Criminal coercion is a class A felony when firearms or explosives or any dangerous weapon are used to instill fear under this section.

753-9. Possession with intent to injure; penalty. Any person who has in his possession dynamite or other explosive chemical or substance, other than ammunition for firearms, with intent to use the same for the purpose of inflicting bodily injury upon, or to terrify and frighten any person, or to injure or destroy any property, or to damage the same in any manner, shall be fined not more than \$3,000, or imprisoned at hard labor not more than five years.

753-10. Unlawful intent presumed. At the trial of any person charged with having committed any of the offenses mentioned in section 753-9, proof of possession of any such explosive shall be prima facie evidence of the unlawful intent, and the burden of proof shall be on the defendant to show that the possession was lawful.

Idaho

IDAHO CODE

18-3308. Selling explosives, ammunition or firearms to minors. No person, firm, association or corporation shall sell or give to any minor under the age of sixteen years any powder, commonly called gunpowder, of any description, or any dynamite or other explosive, or any shells or fixed ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of twenty-two caliber or smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five dollars nor more than \$100, or be imprisoned in the county jail not less than ten days nor more than thirty days, or be punished by both such fine and imprisonment in the discretion of the court.

18-3311. Keeping gunpowder or other explosives in towns. Every person who makes or keeps gunpowder, nitroglycerin, or other highly explosive substance, within any city or town, or who carries the same through the streets thereof, in any quantity or man-

ner prohibited by law, or by any ordinance of such city or town, is guilty of a misdemeanor.

19-3807. Confiscation of firearms or explosives upon conviction. At the time any person is convicted of a felony in any court of the state of Idaho, firearms, ammunition, bombs, nitroglycerin, or explosives of any nature, found in his possession or under his control at the time of his arrest may be confiscated and disposed of in accordance with the order of the court before which such person was tried. The court may direct the delivery of such firearms, ammunition, bombs, nitroglycerin, or explosives, to the law enforcement agency which apprehended such person, for its use or for any other disposition in its discretion.

39-2101. Explosives to be marked. It shall be unlawful for any person or persons, partnership or corporation, to sell or offer for sale, or take or solicit orders of sale, or purchase, or use, or have on hand or in store for the purpose of sale or use, in any state, any high explosive, unless on each and every box or package and wrapper containing any high explosive, there shall be plainly stamped or printed the name and place of

business of the person or partnership or corporation by whom or which the same was manufactured, and the exact and true date of its manufacture, and the percentage of nitroglycerin or other high explosive contained therein.

39-2102. Regulations concerning markings. It shall be unlawful for any person or persons, partnership or corporation, to have two (2) or more different dates

on any such box or package containing high explosive; it shall further be unlawful for any person or persons, partnership or corporation, to use any box, package or wrapper formerly used by any other person or persons, partnership or corporation, in the packing of such high explosive; and the name and date on such box or package shall be the same as on the wrapper containing such explosive.

146. Storage of explosives, regulations as to. Except while being transported or blasted or while in the custody of a common carrier awaiting shipment or delivery to a consignee during the time permitted by federal law, all explosives shall be stored, in magazines in accordance with sections 5 to 9, inclusive. Not more than three hundred thousand pounds shall be stored in any magazine at any one time.

147. Magazines for explosives, how constructed—Blasting caps, etc., storage of. Magazines in which explosives shall be lawfully kept or stored shall be constructed of brick, concrete, iron or wood covered with iron, and shall have no openings except for ventilation and entrance.

Blasting caps, detonating or fulminating caps or detonators in quantities of one thousand or over, shall be kept or stored in a separate magazine and a certificate of compliance shall be obtained from the Department. Blasting caps, detonating or fulminating caps or detonators, in quantities of less than one thousand shall be kept or stored in a separate locked magazine.

148. Magazines for explosives, how guarded. The doors of magazines shall be kept closed and locked at all times, except when opened for storage or removal of explosives by persons lawfully entitled to enter the same. Sufficient openings shall be provided for ventilation and shall be screened to prevent the entrance of sparks, except that magazines containing only black powder may be constructed without openings for ventilation. Upon each end of such magazine, above the side walls thereof, or upon its barricade, there shall at all times be kept conspicuously posted a sign with the words "Magazine—Explosives—Dangerous" legibly printed thereon in letters not less than six inches high. No matches or fire of any kind shall at any time be permitted in any magazine. No blasting caps or other detonating or fulminating caps or detonators shall be kept or stored in any magazine in which other explosives are kept or stored. No package of explosives shall at any time be opened within fifty feet of any magazine, nor shall any explosive be kept therein except in the original containers. Except for testing purposes in accordance with section 11, no person shall discharge firearms within five hundred feet of a magazine or factory building, or at or against any such building or magazine.

149. Distance between magazines—Table of quantity and distances. A magazine in which more than five thousand pounds of explosives are stored must be separated at least two hundred feet from any other magazine. The quantity of explosives

that may be stored in any factory building or magazine shall depend upon its distances from the nearest building, railroad and highway. The distances that a quantity of explosives given in column one of the following table may be stored from the nearest building, railroad, and highway are set opposite to it in columns two, three and four. All the above distances may be reduced one-half when the magazine, building, railroad or highway to be protected is effectually screened from the factory building or magazine by an efficient barricade as defined in subdivision 7 of Section 2:

* * * * *

Quantity and distance table deleted

150. Certificate of compliance for keeping or storing explosives—Reports to Department. 1. No person shall have, possess, keep or store explosives until he has obtained a certificate of compliance from the Department. This Section shall not apply where holes are drilled and the explosives are obtained and loaded into the holes for immediate blasting. Every person shall report to the Department, on blanks to be furnished by it:

- The location or proposed location of the magazine;
- The kind and maximum quantity of explosives stored or intended to be stored therein;
- The distance or intended distance of the magazine from the nearest magazine, building, railroad and highway.

2. Following receipt of such report the Department shall inspect the magazine. If it finds that the magazine is located and constructed in accordance with this Act, it shall determine the quantity of explosives that may be stored in such magazine according to the quantity and distance table of Section 7 and shall issue a certificate to the applicant showing compliance with this Act and the maximum quantity of explosives that may be stored in the magazine. The certificate of compliance shall be posted in the magazine.

3. A certificate of compliance shall be valid for one year beginning the first day of March annually. The certificate of compliance may be cancelled at any time whenever any person to whom the certificate has been issued fails for 30 days to pay the annual license fee or whenever any person to whom the certificate has been issued keeps or stores explosives in excess of the amount authorized by the certificate. Whenever there are changes in the physical conditions surrounding a magazine, such as the erection of buildings, operation of railways or opening

of highways near such magazine, the Department shall, in accordance with the changed conditions, modify or cancel the certificate. Upon cancellation of his certificate the owner shall immediately remove all explosives from the magazine. The owner or user of a magazine shall promptly notify the Department of any change in conditions.

4. The owner or user of a magazine shall annually pay to the Department in advance a license fee graduated according to the quantity of explosives authorized to be stored in the magazine. The fee shall not be less than \$15 nor more than \$50 and shall be paid into the State treasury by the Department. The annual fee shall be for a fiscal year beginning March 1, and a part year shall be considered a full year insofar as the annual fee is concerned.

151. Vehicles carrying explosives, regulations. 1. Every vehicle carrying an explosive shall have the word "explosive" painted on or attached to the rear end and on each side of the vehicle in white letters at least eight inches in height against a red background.

2. No person shall approach, ride upon, drive, load or unload a vehicle carrying an explosive carelessly, recklessly, or while smoking or while under the influence of intoxicating liquor.

3. No person shall place or carry, or cause to be placed or carried, in or upon a vehicle containing an explosive any metal tool, piece of metal, fire, or any match, exploder, detonator, blasting cap or other device for producing spark, flame or heat, excepting tools for the operation and repair of such vehicle.

4. No passenger or passengers shall be carried in or upon a vehicle containing an explosive.

152. Dealers in explosives to keep records of sales—Sales to minors prohibited. Every person selling or giving away an explosive shall keep at his principal office or place of business a journal, book of record or other record setting forth in legible writing a complete history of the transaction, including the name and quantity of the explosive, the identification numbers of each stick and container, the name, residence and business address of the purchaser and the address to which the explosive is to be delivered, if different, and the name and address, social security number, driver's license, and brief physical description of the person taking the explosives away and the type and license number of the vehicle by which it is to be transported, except when such transaction is between the manufacturer of the explosive and that manufacturer's employees, and except when the explosives involved in such transaction are being shipped by common

carrier direct from the manufacturer's place of business. Such journal, book of record or other record shall be open to inspection by the Department or by the police authorities. No explosives shall be sold, given away or otherwise disposed of or delivered to any person under 21 years of age, whether such person is acting for himself or for another person.

152.1. Possession of explosives without license prohibited—Exceptions—Application. No person shall possess an explosive unless a license shall have been issued by the Department except those persons possessing agricultural fertilizers which might be of an explosive nature when the use of such fertilizers is for agricultural or horticultural purposes, or except those persons when in the performance of their duties for a mine, quarry, construction, or other legitimate operation, subject to the provisions of this Act.

Application for such license shall be made to the Department on forms provided by it, which shall contain the applicant's name, residence, date of birth, sex, physical description, social security number or drivers license number, and such other additional information as may be required by the Director to identify the purpose for which the place where the explosives are to be manufactured, stored, transported, sold, given or disposed of, as the case may be, and to demonstrate the qualifications of such applicant for the license requested.

152.2. Manufacture, storage, transport, sale, donation or disposition of explosives prohibited without license—Exception. No person shall manufacture, store, transport, sell, give, or dispose of explosives unless a license shall have been issued by the Department, except that a person licensed as a manufacturer or dealer in explosives may sell, give, or dispose of explosives to a non-resident who is duly licensed in the state of his residence and who shall transport such explosives to the state of his residence. Possession and transportation within this state by such non-residents shall conform to the laws of this state, except that the requirements of Section 10.1, requiring a license to be issued by the Department, shall not apply.

152.3. Investigation of eligibility of applicant. Upon receipt of such application, the Director shall investigate the eligibility of the applicant. The Director shall have the authority to request and receive from any federal, state, or local governmental agency such information and assistance as will enable him to carry out his powers and duties under the Act. The Department of Law Enforcement shall investigate the

Illinois

ILLINOIS ANNOTATED STATUTES (SMITH-HURD)

Chapter 93

Mines and Miners

Explosives in General

143. Explosives, application of act. This Act shall apply to the manufacture, possession, storage, transportation, sale or gift of explosives as defined in subdivision 1 of Section 2.

144. Definitions. 1. "Explosive" or "explosives" means any chemical compound or any mechanical mixture containing any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion or detonator of any part of the compound or mixture may cause sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects upon life, limb or contiguous objects, but does not mean gasoline, kerosene, naphtha, turpentine, benzine, butane, propane colloid nitrocellulose in sheets or rods or grains not under one-eighth of an inch in diameter, wet nitrocellulose and wet nitro starch containing twenty per centum or more moisture or wet picric acid containing or being in ten per centum or more moisture. Manufactured articles such as fixed ammunition for small arms, fire crackers, safety fuse, matches, et cetera, shall not be held to be explosives when the individual units contain explosives in such limited quantity, of such nature or in such packing that it is impossible to produce a simultaneous or a destructive explosion of such units, to the injury of life, limb or property.

2. "Highway" means any public street or public highway.

3. "Railroad" or "railway" means any public steam, electric or other railroad which carries passengers for hire, but shall not include auxiliary tracks, spurs and sidings

installed and primarily used in serving any mine, quarry or plant.

4. "Building" means and includes only any building regularly occupied in whole or in part as a habitation for human beings, and any church, school house, railway station or other building where people are accustomed to assemble, but does not mean or include any coal mine or any of the buildings of a manufacturing plant where the business of manufacturing explosives is carried on.

5. "Factory building" means any building or other structure in which the manufacture of explosives or any part of the manufacture is carried on.

6. "Magazine" means any building or other structure, other than a factory building, used to store explosives.

7. "Efficient barricade" means an artificial mound, a properly revetted wall of earth not less than three feet thick or natural features of the ground of such height that any straight line drawn from the top of any side wall of the factory building or magazine to any part of a building or any point twelve feet above the center of a railroad or highway to be protected will pass through such intervening barricade.

8. "Department" means Department of Mines and Minerals.

145. Possession of or storing of explosives prohibited—Exceptions. Except only in a factory building or upon its premises and except while being blasted, no person shall possess or store explosives, unless such explosives are completely enclosed or encased in tight metal, wooden or fibre containers. A person having an explosive in his possession or control, shall, under no circumstances, permit any grains or particles of it to remain on the outside of or about its container. Every container shall be plainly marked with the name of the explosive contained therein.

background of all applicants to determine criminal history.

152.4. Matters to be included in investigation. The investigation prescribed in Section 10.3 shall include, but is not limited to, the following:

(a) An examination as to the applicant's knowledge and ability regarding basic safety precautions in the possession, handling, storage, and transportation of explosives. Passage of this examination shall be prerequisite to the issuance of a license. Such examination may be administered by any person designated by the Director;

(b) A personal interview of the applicant by a designated representative of the Director.

152.5. Grounds for denial, revocation or seizure of license—Denial or failure to renew—Review under Administrative Review Act. The Director has authority to deny an application for, or to revoke and seize, a license issued under the Act, if the Director finds the applicant or the person to whom such card was issued is or was at the time of issuance:

(a) A person under 21 years of age who has been convicted within the prior five years of a misdemeanor other than a traffic offense or an adjudged delinquent;

(b) A person under 21 years of age who does not have written consent of his parent or guardian has revoked such written consent, or where such parent or guardian does not qualify to have a license;

(c) A person convicted of a felony under the laws of this and any other jurisdiction within the prior five years, or a person confined to a penitentiary within the prior five years;

(d) A person who has been a patient in a mental institution within the past five years.

A denial of a license or the failure of the Director to renew a license for probable cause after successful completion of the examination shall be based upon judgment of the Director that possession of explosives by the applicant endangers the health, safety, or welfare of the citizens of Illinois. A denial shall be subject to the provisions of the Administrative Review Act.

152.6. Issuance of license—Fee—Renewal—Exemptions. The Director after investigation of the application, shall issue a license or renewal thereof, which shall be valid for one year from the date of issuance, where he finds that the applicant has complied with the requirements of this Act. Each application for such license, or for its renewal shall be accompanied by a fee of \$5.00 payable in advance to the Department. The

license shall be valid for one year, commencing on the date of issuance. Renewal of such license shall be for additional one-year periods.

Agencies of the United States, the State and its political and civil subdivisions which are subject to the requirements of this Act, and which, in the exercise of their functions, are required to purchase, own, store, use, or transport explosives shall not be liable for the payment of any fee required by this section.

152.7. Notification of executive officer of municipality. Within ten days after the issuance of a license under this section, the Director shall notify the executive officer of the municipality where the explosives are to be manufactured, stored, transported, sold, given, or disposed of, of the issuance of a license, and provide such officer with such other information pertaining thereto as the Director may prescribe.

152.8. Exemptions. The provisions of Sections 10.1 through 10.7, each inclusive, shall not apply:

(a) to a common or contract carrier authorized pursuant to the Interstate Commerce Act or by the Illinois Commerce Commission;

(b) to any person, firm, or corporation who has obtained and is the holder of either (1) a valid license as an importer, manufacturer, or dealer, or (2) a valid user permit, under the provisions of Chapter 40 of the United States Organized Crime Control Act of 1970, or under Public Law 90-618, being "An Act to Amend Title 18, United States Code, To Provide for Better Control of the Interstate Traffic in Firearms."

Notwithstanding the provisions of Sections 10.1 through 10.7, each inclusive, no license hereunder shall be required for an individual to purchase, receive, possess or use primers or propellant power for the purpose of use in muzzle loading firearms, hand loading, reloading or custom loading ammunition for small arms for his own use or for that of his immediate family, and nothing shall prevent any person who holds a valid Illinois Firearms Owners Identification Card, but who is not otherwise licensed under this Act, from purchasing from dealers, importers, or manufacturers, or possessing at any one time smokeless small arms propellant in quantities not to exceed twenty-five pounds, and black powder in quantities not to exceed five pounds, and small arms primers or percussion caps for muzzle loading arms, in containers provided by the manufacturers thereof, or generally recognized as being suitable for the transportation, storage, or commerce in said

Articles at retail; or to prevent any such person from transporting or using said Articles in muzzle loading small arms, or in loading ammunition therefor.

* * * * *

154. Violations of provisions of Act. Whoever fails to comply with or violates any provisions of this Act other than Section 10.1 shall have his license revoked, shall be guilty of a Class B misdemeanor. All law enforcement officers of the State of Illinois and the various units of local government therein are responsible for the enforcement of the provisions of this Act.

Any person who possesses an explosive without having a valid license acquired under the provisions of Section 10.1 of this Act shall be guilty of a Class 3 felony.

* * * * *

Chapter 38 Criminal Law and Procedure

20-2. Possession of Explosives or Explosive or Incendiary Device. (a) A person commits the offense of possession of explosives or explosive or incendiary devices in violation of this Section when he possesses, manufactures or transports any explosive compound, timing or detonating device for use with any explosive compound or incendiary device and either intends to use such explosive or device to commit any offense or knows that another intends to use such explosive or device to commit a felony.

(b) Sentence.

Possession of explosives or explosive or incendiary devices in violation of this Section is a Class 2 felony.

21-4. Criminal Damage to State Supported Property. Any of the following acts is a Class A misdemeanor when the damage to property is \$500 or less, and any such act is a Class 4 felony when the damage to property exceeds \$500:

a) Knowingly damages any property supported in whole or in part with State funds or Federal funds administered or granted through State agencies without the consent of the State; or

b) Knowingly, by means of fire or explosive damages property supported in whole or in part with State funds or Federal funds administered or granted through State agencies; or

c) Knowingly starts a fire on property supported in whole or in part with State funds or Federal funds administered or granted through State agencies without the consent of the State; * * * * *

24-1. Unlawful use of weapons. (a) A person commits the offense of unlawful use of weapons when he knowingly:

* * * * *

(7) Sells, manufactures, purchases, possesses or carries any weapon from which more than 8 shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than 18 inches in length, or any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails;

* * * * *

(b) Sentence.

* * * a person convicted of a violation of Subsection 24-1(a)(7) * * * commits a Class 4 felony.

(c) The presence in an automobile other than a public omnibus of any weapon, instrument or substance referred to in Subsection (a)(7) is prima facie evidence that it is in the possession of, and is being carried by, all persons occupying such automobile at the time such weapon, instrument or substance is found, except under the following circumstances: (i) if such weapon, instrument or instrumentality is found upon the person of one of the occupants therein; or (ii) if such weapon, instrument or substance is found in an automobile operated for hire by a duly

licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver.

26. Public nuisances—Acts constituting. It is a public nuisance. * * * * * 6. To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefor, in any building within 20 rods of any valuable building erected at the time such business may be commenced.

7. To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within 50 rods of any occupied dwelling house.

* * * * *

Nothing in this Section shall be construed to prevent the corporate authorities of any city, village or incorporated town, or the county board of any incorporated county, from declaring what shall be nuisances, and abating them within their limits. Counties have such authority only outside the corporate limits of any city, village or incorporated town.

84-1. Boarding or Attempt to Board. It is unlawful for any person to board or attempt to board any commercial or charter aircraft, having in his possession any firearm, explosive of any type or other lethal or dangerous weapon.

Indiana

INDIANA STATUTES ANNOTATED (BURNS)

Definition, for Transport Purposes

9-4-1-8 [47-1808]. Explosives and flammable liquids. (a) Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

(b) Flammable Liquid. Any liquid which has a flash point of seventy degrees [70 degrees] Fahrenheit, or less, as determined by a tabliabue [tagliabue] or equivalent closed cup test device.

Chapter 13 Manufacture, Use and Disposition of Explosives

* * * * *

22-11-13-1 [20-1501]. Definitions. As used in this act [22-11-13-1—22-11-13-28] unless the context otherwise requires:

(A) "Explosive" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion; that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on

contiguous objects, or of destroying life or limb.

(B) "Manufactured articles" shall not include explosives when the individual units contain explosives in such limited quantities, of such nature or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by detonator, such as fixed ammunition for small arms, firecrackers or safety fuse matches.

(C) "Magazine" means any building or other structure used for the storage of explosives.

(D) "Building" means a building occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railway station or other building where people are accustomed to assemble, but not including the buildings of a manufacturing plant where the business of manufacturing explosives is carried on.

(E) "Factory building" means any building or other structure, including rest and blending houses, in which explosives are manufactured or handled, excepting magazines.

(F) "Railway" or "railroad" means any steam, electric or other railroad which carries passengers or freight for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine, quarry or plant.

(G) "Highway" means any public street, alley or public road, legally established.

(H) "Efficient artificial barricade" means an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three [3] feet or an equivalent artificial protection.

(I) "Person" means firms, partnerships, corporations and joint stock associations, as well as natural persons.

(J) "Agricultural purposes" means explosives used by agriculturists on their own farms for tree planting, subsoiling, ditching, boulder breaking or other purposes exclusively agricultural, but not for quarrying or mining.

22-11-13-2 [20-1502]. Restrictions—Exceptions. No person shall manufacture, have or keep explosives, except in compliance with sections 1 to 27 [22-11-13-1—22-11-13-27] of this act. Such sections shall not apply to the manufacture of explosives in experimental and analytical laboratories, permission for which has been obtained in writing from the office of the state fire marshal, in the laboratories of schools, colleges and similar institutions for the purposes of instruction and investigation.

No person shall sell, give away or otherwise dispose of or deliver to any person under twenty-one [21] years of age any explosives, whether said person is acting for himself or for any other person.

22-11-13-3 [20-1503]. Storage—Quantity and distance table. All factory buildings and magazines in which explosives are had or kept must be located at distances from buildings, railroads and highways in conformity with the quantity and distance table set out in this section. Such table shall be the basis on which applications for certificates of compliance, as provided in section 11 [22-11-13-11] of this act, shall be made and the certificate of compliance issued. Such table may be disregarded and a certificate of compliance may be issued for two [2] second class magazines in any building not otherwise prohibited, if the contents and location of the magazines are as follows:

(A) One [1] second class magazine containing not more than fifty [50] pounds of explosives other than gunpowder or two hundred [200] pounds of gunpowder may be allowed if the second class magazine is placed on wheels and located not more than ten [10] feet from and on the same floor with and directly opposite to the entrance on the floor nearest the street level.

(B) One [1] second class magazine containing not more than five thousand [5,000] blasting caps may be allowed if the said second class magazine is placed on wheels and located on the floor nearest street level.

* * * * *

Quantity and distance table deleted

22-11-13-4 [20-1504]. Screening distances. Whenever the building, railroad or highway to be protected is effectually screened from the factory building or magazine where explosives are had or kept either by natural features of the ground or by efficient artificial barricade of such height that any straight line drawn from the top of any side wall of the factory building or magazine to any part of the building to be protected will pass through the intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the factory building or magazine to any point twelve [12] feet above the center of the railroad or highway to be protected will pass through the intervening natural or efficient artificial barricade, the applicable distances given in columns two [2], three [3] and four [4] of the quantity and distance table provided for in section 3 [22-11-13-3] of this act may be reduced one-half [1/2]. When the physical conditions and surround-

ings warrant, the state fire marshal may reduce the barricaded distance to less than one-half [1/2] of the applicable distances given, in columns two [2], three [3] and four [4] of such table.

22-11-13-5 [20-1505]. Distance between buildings and magazines—Determination by fire marshal—Appeal. The distance at which factory buildings may be located one (1) from another, the distance at which magazines may be located with relation to factory buildings and the distance at which magazines and factory buildings may be located from structures, other exposures or places frequented by persons, not mentioned in section 3 [22-11-13-3], shall be determined and regulated by the state fire marshal. Any person interested either because of ownership in or occupation of any property affected by any order or ruling made by the state fire marshal may petition the state fire marshal for a hearing on the reasonableness and lawfulness of any such order or ruling in the manner provided by the Administrative Adjudication and Court Review Act of 1947, chapter 365 as amended.

22-11-13-6 [20-1506]. Maximum quantities. No quantity of explosives in excess of three hundred thousand [300,000] pounds, or, in the case of blasting caps, no number in excess of twenty million [20,000,000] caps, shall be had or kept in any factory building or magazine.

22-11-13-7 [20-1507]. Container requirements. Except at a factory building, and except while being used, no person shall have or keep explosives unless the explosives are completely inclosed or incased in tight metallic, wooden or fiber containers, and, except while being transported, or used, or in the custody of a common carrier awaiting shipment or pending delivery to consignee during the time permitted by federal law, explosives shall be kept in a magazine constructed and operated as provided in section 8 [22-11-13-8] of this act, and no person having explosives in his possession or control shall, under any circumstances, allow any grains or particles to be or remain on the outside or about the containers in which such explosives are kept. All containers in which explosives are kept shall be plainly marked with the name of the explosive contained therein.

22-11-13-8 [20-1508]. Magazines and specifications—Classification. Magazines in which explosives may be kept shall be of two [2] classes:

(A) Magazines of the first class shall be constructed of brick, concrete, iron or wood covered with iron, and shall have no openings except for ventilation and entrance. The doors of such magazine must be kept closed

and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons entitled to enter. Every such magazine shall have sufficient openings for ventilation, which must be screened in such manner as to prevent the entrance of sparks of fire. No matches, fire or other flame-producing devices of any kind, except electric incandescent flashlights, shall be permitted in any such magazine. No package of explosives shall be opened in or within fifty [50] feet of any magazine, nor shall any open package of explosives be kept therein except in the original containers. Magazines in which more than fifty [50] pounds of explosives are kept must be detached from other structures. Magazines where more than five thousand [5,000] pounds of explosives are kept must be located at least two hundred [200] feet from any other magazine. Magazines where explosives over twenty-five thousand [25,000] pounds are kept must have an increase over two hundred [200] feet of two and two-thirds [2 2/3] feet for each one thousand [1,000] pounds of explosives in excess of twenty-five thousand [25,000] pounds kept therein. Where magazines are protected one from the other by approved natural or efficient artificial barricades, the distances required in this section may be reduced by one-half [1/2]. The premises on which such magazines are located must be conspicuously defined and marked by signs containing the words "EXPLOSIVES—KEEP OFF" legibly printed thereon in letters not less than three [3] inches high. Such signs must not be placed on the magazine and must be so located that a bullet passing through the face of such sign at right angles will not strike the magazine. This section does not prohibit the installation and operation of suitable heating apparatus in magazines used exclusively for the storage of liquid nitroglycerin for the purpose of preventing liquid nitroglycerin from freezing. Such heating apparatus must be entirely inclosed in fireproof material properly vented to the outside air and equipped with proper regulators or devices as will prevent such heating apparatus from creating a temperature in the magazines in excess of one hundred degrees Fahrenheit [100 degrees F.]. Nothing but oil or gas shall be used as fuel for such heating.

(B) Magazines of the second class shall be constructed of fireproof material or wood with outside covering of iron, and not more than fifty [50] pounds of explosives other than gunpowder or two hundred [200] pounds of gunpowder or five thousand [5,000] blasting caps shall at any time be kept therein. Except when necessarily opened for use by authorized persons such magazines

shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign, with words "MAGAZINE—EXPLOSIVE—DANGEROUS" legibly printed thereon, and not more than two [2] such magazines shall be kept in any building.

22-11-13-9 [20-1509]. Storing of caps with other explosives prohibited. No blasting caps, or other detonating or fulminating caps or detonators, shall be kept in any magazine in which other explosives are kept. Blasting caps, detonating or fulminating caps or detonators, in quantities of one thousand [1,000] or over, must be kept in a separate magazine constructed in accordance with section 8 [22-11-13-8] of this act, and a certificate of compliance must be obtained from the office of the state fire marshal.

22-11-13-10 [20-1510]. Warning required on blasting caps. No person shall knowingly sell or distribute any blasting cap or electric blasting cap after January 1, 1970, unless the words "DANGER—EXPLOSIVE" are legibly printed thereon.

22-11-13-11 [20-1511]. Report to state fire marshal—Statements required—Certificate of compliance. All persons engaged in keeping explosives shall make a report in writing, subscribed to by such person or his agent, to the state fire marshal on blanks to be furnished by said office stating:

(A) The location of the magazine, if then existing, or in case of a new magazine or a removal of any existing magazine, the proposed location of such magazine;

(B) The kind of explosives that are kept, or intended to be kept, and the maximum quantity that is intended to be kept;

(C) The distance that such magazine is located, or intended to be located, from the nearest buildings, railways and highways.

The state fire marshal shall, as soon as possible after receiving such report, cause an inspection to be made of the magazine, if then constructed, and in the case of a new magazine or the removal of an existing magazine, as soon as possible after the same is constructed or moved to a new location. If upon such inspection the magazine is found to be constructed in accordance with the specifications provided in section 8 [22-11-13-8] of this act, the state fire marshal shall determine the amount of explosives that may be kept in such magazine by reference to the quantity and distance table set forth in section 3 [22-11-13-3], and shall issue a certificate to the person applying therefor, showing compliance with sections 1 to 28 [22-11-13-1—22-11-13-28], inclusive, which certificate shall set forth the maxi-

mum quantity of explosives that may be had, or kept in said magazine.

Such certificate of compliance shall be valid until canceled for cause as provided in section 12 [22-11-13-12].

22-11-13-12 [20-1512]. Change of conditions—Cancellation or modification of certificate. Whenever changes take place in the physical conditions surrounding any magazine after the issuance of a certificate of compliance under section 11 [22-11-13-11] of this act, such as the erection of buildings near said magazine, the construction of railways nearer said magazine, the opening for public travel of highways nearer said magazine, the owner or operator of the magazine shall immediately notify the state fire marshal and the state fire marshal shall modify or cancel such certificate in accordance with the changed conditions. Whenever any person to whom a certificate of compliance has been issued by the state fire marshal keeps, in the magazine covered by such certificate, any quantity of explosives in excess of the maximum amount set forth in the certificate of compliance, or whenever any person fails for thirty [30] days to pay the annual license fee after the same becomes due, or otherwise violates sections 1 to 28 [22-11-13-1—22-11-13-28], inclusive, the state fire marshal may cancel the certificate of compliance. Whenever a certificate of compliance is canceled by the state fire marshal, it shall notify, in writing, the person to whom the certificate is issued of the fact of such cancellation, and shall in said notice direct the removal of all explosives stored in the magazine within ten [10] days from the giving of the notice. Failure to remove the explosives stored in said magazine within the time specified in the notice constitutes a violation of such sections.

22-11-13-13 [20-1513]. License fees. Every person engaged in keeping explosives shall pay an annual license fee for such magazine maintained. The fees shall be as shown in the following graduated schedules:

(A) Annual license fees for magazines containing explosives other than blasting and electric caps or other detonators:

(1) Second class magazines, \$1.00

(2) First class magazines, grade A, containing over fifty [50] pounds and not over five hundred [500] pounds, \$2.50

(3) First class magazines, grade B, containing over five hundred [500] pounds and not over five thousand [5,000] pounds, \$5.00

(4) First class magazines, grade C, containing over five thousand [5,000] pounds and not over fifteen thousand [15,000] pounds, \$10.00

(5) First class magazines, grade D, containing over fifteen thousand [15,000]

pounds and not over twenty-five thousand [25,000] pounds, \$15.00

(6) First class magazines, grade E, containing over twenty-five thousand [25,000] pounds and not over one hundred fifty thousand [150,000] pounds, \$20.00

(7) First class magazines, grade F, containing over one hundred fifty thousand [150,000] pounds and not over three hundred thousand [300,000] pounds, \$25.00

(B) Annual license fees for magazines containing blasting caps or other detonating or fulminating caps or detonators:

(1) Second class magazines, containing not over five thousand [5,000] caps, \$1.00

(2) First class magazines, containing not over thirty-five thousand [35,000] caps, \$1.00

(3) First class magazines, containing over thirty-five thousand [35,000] caps, \$5.00

Annual license fees are payable in advance to the office of the state fire marshal and the state fire marshal shall deposit such fees with the treasurer of state.

22-11-13-14 [20-1514]. Liability insurance required—Exemptions. The owner or operator of every factory or building in which explosives are manufactured or handled, within sixty [60] days after demand therefor in writing by the state fire marshal, shall file and keep on file with the department of insurance a liability insurance policy issued by an insurance company authorized to write such policies in the state of Indiana and for such limits of liability as may be determined by the state fire marshal and set forth in such demand, not in excess of two hundred fifty thousand dollars [\$250,000] nor less than ten thousand dollars [\$10,000] for the payment of all final judgments that may be rendered against said owner or operator for damages caused to persons and/or property by reason of any explosion at said factory or building of the explosives there manufactured or handled. Any owner or operator, desiring to be exempted from filing such policy shall make application to the department of insurance showing his financial ability to discharge all such judgments to the amount of the policy required by the state fire marshal that may be entered against him, whereupon the department of insurance, if satisfied of such financial ability of the applicant, shall, by written order, exempt the applicant from the filing of such policy; and the department of insurance may require further statements from the applicant showing his financial ability, and is [if] dissatisfied therewith, may revoke such exemption and require the filing of such policy.

22-11-13-15 [20-1515]. Entry into buildings, magazines or railway cars. No person, except an official as authorized in

sections 1 to 27 [22-11-13-1--22-11-13-27], inclusive, or a person authorized to do so by the owner or his agent, shall enter any factory building, magazine or railway car containing explosives.

22-11-13-16 [20-1516]. Transporting vehicles—Placard or warning flag required—Acts prohibited. Every vehicle while carrying explosives upon the public highway shall be in compliance with Acts of 1955, ch. 170 [9-8-6-1--9-8-6-45], as last amended.

No person in or about a vehicle containing explosives shall:

- (A) Smoke in, upon or near such vehicle;
- (B) Drive the vehicle while intoxicated;
- (C) Drive the vehicle in a careless or reckless manner;
- (D) Load or unload such vehicle in a reckless manner;
- (E) Make unnecessary stops with such vehicle.

No person shall place or carry or cause to be placed or carried any metal tool or other similar piece of metal in the bed or body of the vehicle containing explosives, unless contained in a box or other container approved by the state fire marshal. No person shall place or carry, or cause to be placed or carried, in the bed or body of a vehicle containing explosives, any exploders, detonators, blasting caps or other similar explosive material, or carry in or upon such vehicle any matches or any other flame-producing device. This section does not prohibit the transportation of explosives in motor-driven vehicles.

22-11-13-17 [20-1517]. Discharge of firearms at or near magazine prohibited. No person shall discharge any firearm at or against or within five hundred [500] feet of any magazine, factory building or explosive sign. This section does not apply to the testing of firearms or explosives in or upon the premises of any manufacturing plant engaged in the manufacture of firearms or explosives nor in guarding any magazine or factory building. The method of testing all firearms in any manufacturing plant engaged in the business of manufacturing firearms shall be subject to the approval of the state fire marshal.

22-11-13-18 [20-1518]. Exemptions from act. Sections 1 to 28 [22-11-13-1--22-11-13-28] of this act do not apply to:

- (A) Explosives while they are being transported upon vessels or railroad cars, or on, or in highway vehicles in conformity with the regulations adopted by the United States department of transportation.
- (B) The transportation or use of blasting explosives for agricultural purposes in quan-

tity not exceeding two hundred [200] pounds at any one [1] time.

(C) Any explosives in quantities not exceeding five [5] pounds at any one [1] time. Gasoline, kerosene, naphtha, turpentine or benzine shall not be subject to such sections. This section does not cancel the effectiveness of section 26 [22-11-13-26] of this act.

22-11-13-19 [20-1519]. Existing ordinances and regulations. Sections 1 to 28 [22-11-13-1--22-11-13-28], inclusive, of this act shall not affect any existing ordinance, rule or regulation of any municipal corporation more restrictive than such sections, governing the manufacture, storage, sale, use or transportation of explosives. Such sections shall not modify nor limit the power of municipal corporations to make ordinances, rules or regulations more restrictive than sections 1 to 28 [22-11-13-1--22-11-13-28], inclusive, governing the manufacture, storage, sale, use or transportation of explosives within their respective corporate limits.

22-11-13-20 [20-1520]. Prohibited use of matches. No person shall enter or attempt to enter any explosive plant with matches or other flame-producing devices, except electric incandescent flashlights, nor shall any person enter or attempt to enter such premises with narcotics in his possession or control, or while under the influence of liquor or narcotics, nor shall any person partake of intoxicants or narcotics while within the plant, nor shall any person smoke in a factory building or upon the premises thereof except at such places as shall be designated by the owner.

The superintendent of such plant may authorize, in writing, any person to have approved safety matches in his possession or to depart from the other provisions of this section.

The superintendent or other person in charge of all plants included under sections 1 to 28 [22-11-13-1--22-11-13-28] of this act shall provide safety containers for matches at all entrances to said plants.

22-11-13-21 [20-1521]. Certain unguarded receptacles prohibited. No person shall leave unguarded or unprotected a can, shell or receptacle which contains or has contained liquid nitroglycerin, at any place other than a stock wagon, shooter's wagon, factory building or magazine where liquid nitroglycerin is manufactured or stored.

22-11-13-22 [20-1522]. Reports of fires or explosions. All persons handling explosives shall report to the state fire marshal any fire or explosion occurring in the manufacture, transportation or storage involving loss of life or causing damage to property in excess of five hundred dollars

[\$500]. Such report shall be made on the same day that the fire or explosion takes place and shall be transmitted to the state fire marshal by telephone or telegraph, if practicable. If not practicable to make such report by telephone or telegraph, a written report shall be made. The expense of transmitting such reports shall be borne by the person making the same.

22-11-13-23 [20-1523]. Safety orders by state fire marshal. Except as provided in section 11 [22-11-13-11] of this act, where the physical conditions surrounding magazine and factory buildings have changed after the issuance of the certificate of compliance, the state fire marshal may issue general and special orders affecting the location and construction of such existing magazines and factory buildings as are necessary for the safety of employees and of the public.

22-11-13-24 [20-1524]. Inspector—Duties. An inspector of the office of the state fire marshal, assigned to the inspection of factory buildings wherein explosives are manufactured, shall inspect all manufacturing establishments wherein powder, dynamite, nitroglycerin, compounds, fuses or other explosives are manufactured, as well as all magazines or storehouses wherein such explosives are stored and shall perform such other duties connected with the work as the state fire marshal directs.

22-11-13-25 [20-1525]. Inspections—Safety orders to correct deficiencies—Appeal. An inspector of the office of the state fire marshal assigned to the inspection of factory buildings and magazines shall inspect the handling and storing of explosives and, in consequence of such inspection, the state fire marshal may order such changes or additions in or about the factory buildings or magazines as are necessary for the safety of the employees and of the public. The state fire marshal may render general and special orders and provide rules and regulations as are necessary, which, with the laws relating thereto, shall be applicable to the places of manufacture, sale and storage of explosives. Any person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition the state fire marshal for a hearing on the reasonableness and lawfulness of any such order in the manner provided by the Administrative Adjudication and Court Review Act of 1947, chapter 365 as amended.

22-11-13-26 [20-1526]. Ammonium nitrate compounds—When excepted. Nothing in this act [22-11-13-1--22-11-13-28] shall apply to ammonium ni-

trate compounds used in mining when stored as prescribed by the federal bureau of mines.

22-11-13-27 [20-1527]. Noncompliance after notice prohibited. No person, after receiving written notice from the state fire marshal directing compliance with sections 1 to 28 [22-11-13-1--22-11-13-28] of this act shall fail to comply with such sections.

22-11-13-28 [20-1528]. Penalties. Whoever violates sections 1 to 25 [22-11-13-1--22-11-13-25] of this act shall be fined not less than twenty-five dollars [\$25.00] nor more than five hundred dollars [\$500].

Whoever violates section 27 [22-11-13-27] of this act shall be fined not less than fifty dollars [\$50.00] nor more than five thousand dollars [\$5,000] or imprisoned not more than one [1] year, or both.

Criminal Offenses

Chapter 19

Explosives

* * * * *

10-1901 [IC 35-28-4-1]. Dynamite—Manufacture and use. It shall be unlawful for any person, firm or corporation to manufacture, sell or use the substance or material known as and called dynamite, or other nitro-explosive compound within the state of Indiana contrary to the provisions of this act.

10-1902 [IC 35-28-4-2]. Dynamite—Limits—Precautions. It shall be unlawful for any person, firm or corporation to engage in the manufacture of dynamite, or other nitro-explosive compound, within one hundred and sixty [160] rods of any occupied dwelling or public building, and it shall also be unlawful for any person, firm or corporation to store dynamite or other nitro-explosive compound in any quantity exceeding one hundred [100] pounds within the limits of any municipal corporation, or within forty [40] rods of any occupied dwelling or public building without having first obtained, in writing, the consent of all adjacent landowners, or to transport or carry the same in any package not having written or printed upon two [2] sides thereof in plain and distinct letters the words "dynamite, dangerous," or in any railroad-car or water-craft without having the packages containing the same marked as above; and any one convicted of the violation of the provisions of this section shall be fined in any sum not less than one hundred dollars [\$100] nor more than five hundred dollars [\$500], or imprisoned in the county jail not less than three [3] months nor more than one [1] year, or both, at the

discretion of the court or jury trying the cause.

10-1904 [IC 35-28-4-4]. Dynamite—Carrying for unlawful use. Whoever carries concealed on or about his person any cartridge, shell or bomb containing dynamite or other nitro-explosive compound for any other than legitimate and lawful use, or uses or attempts to use the same in any manner to the injury of persons or property, or shall place or deposit the same upon or about the premises of another, without the consent of such person, shall, upon conviction thereof, be imprisoned in the penitentiary not less than two [2] years nor more than fourteen [14] years.

10-4537 [IC 35-19-6-1]. Unlawful entry into vehicles, vessels, aircraft and recreational vehicles. A person is guilty of an offense if:

- (a) he enters into a vehicle, vessel or aircraft without a license, privilege or otherwise lawful authorization to do so; or
- (b) he enters into a vehicle, vessel or aircraft with intent to commit a felony; or
- (c) he enters into a trailer, semitrailer or camper, attached or unattached, without a license, privilege or otherwise lawful authorization to do so or with intent to commit a felony.

10-4538 [IC 35-19-6-2]. Penalties. A person convicted of an offense described in:

- (a) section 1(a) [Section 10-4537, subsec. (a)] shall be guilty of a misdemeanor and imprisoned in the Indiana state farm for a determinate period of not to exceed one [1] year to which may be added a fine of not less than one hundred dollars [\$100] nor more than one thousand dollars [\$1,000];

- (b) section 1(b) [Section 10-4537, subsec. (b)] shall be guilty of a felony and shall be imprisoned in the state prison for a determinate period fixed by the court of not less than one [1] year nor more than three [3] years to which may be added a fine not to exceed five hundred dollars [\$500];

- (c) Provided, however, if said person, while committing an offense described in this chapter [Sections 10-4537--10-4539], was armed with an explosive, firearm, or other dangerous weapon, the possession of which indicates an intent or readiness to inflict bodily injury, he shall be guilty of a felony and be imprisoned in the state prison for a determinate period fixed by the court of not less than three [3] years nor more than five [5] years to which may be added a fine not to exceed one thousand dollars [\$1,000].

10-4539 [IC 35-19-6-3]. Defenses. It is a defense to a prosecution under section 1(a) [Section 10-4537, subsec. (a)] if the person reasonably believed that his unautho-

rized entry into a vehicle, vessel or aircraft was necessary to protect his personal safety, the safety of other persons or the safety of the vehicle, vessel or aircraft or if the person reasonably believed that he was licensed, privileged or otherwise lawfully authorized to enter such vehicle, vessel or aircraft.

10-1903 [IC 35-28-4-3]. Dynamite—Sale—Restrictions—Penalty. It shall be unlawful for any person, firm or corporation to sell or give away any quantity of the substance known as dynamite, or other nitro-explosive compound, to any person under the age of twenty-one [21] years, or to sell or give away the same to any person without marking the word "dynamite" upon the label, wrapper or vessel containing it, and shall also register in a book, to be kept by him for that purpose, the day and date upon which it is sold or given away, the quantity thereof, the name, age, sex, color, and place of residence of the person obtaining the same, the purpose for which it is required, and the name and place of abode of the person for whom the same is intended; and any person convicted of the violation of any of the provisions of this section shall be fined in any sum not less than one hundred dollars [\$100] or more than one thousand dollars [\$1,000], to which may be added imprisonment in the county jail not less than three [3] months or longer than one [1] year.

10-1911 [IC 35-23-7-1]. Sale, manufacture, use, purchase or possession of container with explosive or inflammables with intent to use—Penalty. Whoever sells, manufactures, purchases, possesses or carries with intent to use the same or cause the same to be used for an unlawful purpose, any bomb, bombshell, grenade, bottle or other container containing an explosive or inflammable substance, such as but not limited to black powder bombs and Molotov cocktails, shall be deemed guilty of a felony, and upon conviction thereof, shall be imprisoned for a term of not less than one [1] year nor more than five [5] years.

10-1905 [IC 35-28-5-1]. Dynamite—Exploding in construction of railroad—Permission of landowner. It shall be unlawful for any firm, company, contractor or person engaged in the construction of any railway or road-bed or grade for a railway, to use or explode any dynamite or other explosive compound, except gunpowder, within twelve hundred [1,200] feet of any ledge or outcrop of oolitic limestone, or any ledge or outcrop of any stone suitable for building purposes, without securing the permission, in writing, of the owner of the land upon which such ledge or outcrop of stone is situated, for such dynamite or other explo-

sive compound than gunpowder, to be used or exploded within such distance of twelve hundred [1,200] feet.

10-1906 [IC 35-28-5-2]. Dynamite—Exploding in construction of railroad—Penalty. Whoever shall violate any of the provisions of section 1 [Section 10-1905] of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than twenty dollars [\$20.00] nor more than one hundred dollars [\$100] for each offense, to which may be added imprisonment in the county jail for not less than ten [10] nor more than thirty [30] days.

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10-1909 [IC 35-28-11-1]. Transporting explosives—Unlawful—Exception. It shall be unlawful for any person, when transporting any explosive or highly inflammable material, substance or liquid, by means of a motor or other vehicle, on or along any public highway which crosses any steam or interurban railroad, to cross or drive upon the track or tracks of such railroad unless such person shall first bring such vehicle to a full stop, and, shall ascertain definitely that no train, car or engine is approaching such crossing and is in such close proximity thereto as to create a hazard or danger of a collision. The provisions of this act shall not apply to railroad crossings which are equipped with mechanical traffic signals or crossings at which flagmen are stationed.

10-1910 [IC 35-28-11-2]. Transporting explosives—Penalty. Any person who shall violate any of the provisions of this act shall be deemed guilty of a felony and upon conviction thereof shall be fined in any sum not less than twenty-five dollars [\$25.00] and not more than one hundred dollars [\$100] to which may be added imprisonment for any determinate period not less than six [6] months and not more than one [1] year.

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10-1760 [IC 35-23-1-1]. Boarding aircraft with lethal weapon unlawful. It shall be unlawful for any person to board or attempt to board any commercial or charter aircraft, having in his possession any firearm, explosive of any type or other lethal or dangerous weapon.

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10-4712 [IC 35-23-3-1]. Machine guns and bombs—Ownership, possession, or control. Whoever shall be the owner of, or have in his possession, or under his control, in an automobile, or in any other way, a machine gun or bomb loaded with explosives, poisonous or dangerous gases, shall be deemed guilty of a felony, and upon conviction thereof, shall be imprisoned for a term

of not less than one [1] year nor more than five [5] years.

10-4713 [IC 35-23-3-2]. Machine guns and bombs—Operation and discharge. Whoever shall discharge, fire off, or operate any loaded machine gun, or who shall drop from an airplane, automobile, or from any building or structure, or who

shall throw, hurl, or drop from ground or street, or keep in his possession and under his control any bomb filled with deadly or dangerous explosives, or dangerous or poisonous gases, shall be deemed guilty of a felony and upon conviction shall be imprisoned for a term of not less than two [2] nor more than ten [10] years.

Iowa

IOWA CODE ANNOTATED

Chapter 101A

Explosive Materials

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101A.1. Definitions. As used in this chapter: 1. "Explosive" or "explosives" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term "explosives" includes all material which is classified as class A, class B, and class C explosives by the United States department of transportation, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices and cartridges for industrial guns, but shall not include "fireworks" as defined and regulated pursuant to sections 732.17 through 732.19 nor ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

2. "Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting but not otherwise classified as an explosive, in which none of the finished products as mixed and packaged for use or shipment can be detonated by means of a number eight test blasting cap when unconfined.

3. "Commercial license" or "license" means a license issued by the commissioner of public safety pursuant to this chapter.

4. "Licensee" means a person holding a commercial license issued by the commis-

sioner of public safety pursuant to this chapter.

5. "Users permit" or "permit" means a permit issued by a county sheriff or chief of police of a city of ten thousand or more population, pursuant to this chapter.

6. "Permittee" means a person holding a user's permit issued pursuant to this chapter.

7. "Import" and "importation" means transfer into the state of Iowa.

8. "Explosive materials" means explosives or blasting agents.

9. "Magazine" means any building or structure, other than an explosives manufacturing building, approved by the commissioner of public safety or his designated agent for the storage of explosive materials.

10. "Person" means any individual, corporation, partnership, or association.

101A.2. Commercial license—how issued—violation. 1. The commissioner of public safety shall issue commercial licenses for the manufacture, importation, distribution, sale, and commercial use of explosives to persons who, in the commissioner's discretion are of good character and sound judgment, and have sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety. Licenses shall be issued for a period of one year, but may be issued for shorter periods, and may be revoked or suspended by the commissioner of public safety for any of the following reasons:

a. Falsification of information submitted in the application for a license.

b. Proof that the licensee has violated any provisions of this chapter or any rules or regulations prescribed by the commissioner of public safety pursuant to the provisions of this chapter.

2. Licenses shall be issued by the commissioner of public safety upon payment to him of a fee of sixty dollars, valid, for a period of one calendar year, commencing on January 1 and terminating on December 31; however,

an initial license may be issued during any calendar year for the number of months remaining in such calendar year, computed to the first day of the month when the application for the license is approved. The license fee shall be charged on a pro rata basis for the number of months remaining in the year of issue. Applications for renewal of licenses shall be submitted within thirty days prior to the license expiration date and shall be accompanied by payment of the prescribed annual fee.

3. Except as permitted in section 101A.3 and sections 101A.9 to 101A.11 it shall be unlawful for any person to willfully manufacture, import, store, detonate, sell, or otherwise transfer any explosive materials unless such person is the holder of a valid license issued pursuant to this section.

4. Commercial dealers having a federal firearms license shall be exempt from the requirement of this chapter for importation, distribution, sale, transportation, storage and possession of smokeless powder propellants or black sporting powder propellants provided that such dealer must conform and comply to rules, regulations, or ordinances of federal, state, city or town authorities having jurisdiction of such powder.

101A.3. User's permit—how issued—violation. 1. User's permits to purchase, possess, transport, store, and detonate explosive materials shall be issued by the sheriff of the county or the chief of police of a city of ten thousand population or more where the possession and detonation will occur. If the possession and detonation are to occur in more than one county or city, then such permit must be issued by the sheriff or chief of police of each of such counties or cities, except in counties and cities in which the explosives are possessed for the sole purpose of transporting them through such counties and cities. A permit shall not be issued unless the sheriff or chief of police having jurisdiction is satisfied that possession and detonation of explosive materials is necessary to the applicant's business or to improve his property. Permits shall be issued only to persons who, in the discretion of the sheriff or chief of police, are of good character and sound judgment, and have sufficient knowledge of the use and handling of explosive materials to protect the public safety. The commissioner of public safety shall prescribe, have printed, and distribute permit application forms to all local permit issuing authorities.

2. The user's permit shall state the quantity of explosive materials which the permittee may purchase, the amount he may have in his possession at any one time, the amount

he may detonate at any one time, and the period of time during which the purchase, possession, and detonation of explosive materials is authorized. The permit shall also specify the place where detonation may occur, the location and description of the place where the explosive materials will be stored, if such be the case, and shall contain such other information as may be required under the rules and regulations of the commissioner of public safety. The permit shall not authorize purchase, possession, and detonation of a quantity of explosive materials in excess of that which is necessary in the pursuit of the applicant's business or the improvement of his property, nor shall such purchase, possession, and detonation be authorized for a period longer than is necessary for the specified purpose. In no event shall the permit be valid for more than thirty days from date of issuance but it may be renewed upon proper showing of necessity.

3. The user's permit may be revoked for any of the reasons specified in section 101A.2, subsection 1 for suspension or revocation of a commercial license.

4. It shall be unlawful for a person to willfully purchase, possess, transport, store, or detonate explosive materials unless such person is the holder of a valid permit issued pursuant to this section or a valid license issued pursuant to section 101A.2.

101A.4. Refusal to grant license or permit—appeal. 1. Judicial review of the action of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act.

2. A person who is refused issuance of a user's permit by a local permit issuing authority may appeal the authority's decision to the county board of supervisors or the city council of the county or city where the permit is sought, and de novo to the district court.

101A.5. Rules. The commissioner of public safety shall prepare, adopt, and distribute to permit issuing authorities and other interested persons, without cost, rules in accordance with provisions of chapter 17A, pertaining to the manufacture, transportation, storage, possession, and use of explosive materials. Rules adopted by the commissioner of public safety shall be compatible with, but not limited to the National Fire Protection Association's pamphlet number 495 and federal rules pertaining to commerce, possession, storage, and use of explosive materials. Such rules shall:

1. Prescribe reasonable standards for the safe transportation and handling of explosive materials so as to prevent accidental fires and explosions and prevent theft and

unlawful or unauthorized possession of explosive materials.

2. Prescribe procedures and methods of inventory so as to assure accurate records of all explosive materials manufactured or imported into the state and records of the disposition of such explosive materials, including records of the identity of persons to whom sales and transfers are made, and the time and place of any loss or destruction of explosive materials which might occur.

3. Prescribe reasonable standards for the safe storage of explosive materials as may be necessary to prevent accidental fires and explosions and prevent thefts and unlawful or unauthorized possession of explosive materials.

4. Require such reports from licensees, permittees, sheriffs, and chiefs of police as may be necessary for the commissioner of public safety to discharge his duties pursuant to this chapter.

5. Prescribe the form and content of license and permit applications.

6. Conduct such inspections of licensees and permittees as may be necessary to enforce the provisions of this chapter.

101A.6. Notice of storage required. A licensee shall notify the sheriff of the county and the local police authority of any city or town in which explosive materials will be stored, and shall also notify such authorities when the storage is terminated.

101A.7. Inspection of storage facility. The licensee's or permittee's explosive storage facility shall be inspected at least once every six months by either the sheriff of the county where the facility is located or by the local police authority if the facility is located within a city of over ten thousand population. The facility may be examined at other times by the sheriff if he considers it necessary.

If the sheriff or local police authority find the facility to be improperly secured, the licensee or permittee shall immediately correct the improper security and, if not so corrected, the sheriff or local police authority shall immediately confiscate the stored explosives. If the explosives are confiscated by the local police authority, they shall be delivered to the sheriff. The sheriff shall hold confiscated explosives for a period of thirty days under proper security unless the period of holding is shortened pursuant to this section.

If the licensee or permittee corrects the improper security within such thirty-day period, the explosives shall be returned to the licensee or permittee after he has made such correction and after he has paid into the county fund an amount equal to the expense incurred by the county in storing the explosives during the period of confiscation. The

amount of such expense shall be determined by the sheriff.

If the improper security is not corrected during the thirty-day period, the sheriff shall deliver the explosives to the fire marshal for disposal and the license or permit shall be canceled. Such canceled license or permit shall not be reissued for a period of two years from the date of cancellation.

The licensee or permittee may obtain possession of the explosives from the sheriff during the thirty-day period for the purpose of disposing of them. The disposal procedure shall conform to the provisions of section 101A.9. The licensee or permittee shall first pay into the county fund an amount equal to the expense incurred by the county in storing the explosives during the period of confiscation. The amount of the expense shall be determined by the sheriff.

101A.8. Report of theft or loss required. Any theft or loss of explosive materials, whether from a storage magazine, a vehicle in which they are being transported, or from a site on which they are being used, or from any other location, shall immediately be reported by the person authorized to possess such explosives to the local police or county sheriff. The local police or county sheriff shall immediately transmit a report of such theft or loss of explosive materials to the commissioner of public safety.

101A.9. Disposal regulated. No person shall abandon or otherwise dispose of any explosives in any manner which might, as the result of such abandonment or disposal, create any danger or threat of danger to life or property. Any person in possession or control of explosives shall, when the need for such explosives no longer exists, dispose of them in accordance with rules prescribed by the commissioner of public safety.

101A.10. Persons and agencies exempt. This chapter shall not apply to the transportation and use of explosive materials by the regular military or naval forces of the United States, the duly organized militia of this state, representatives of the state fire marshal, the Iowa highway safety patrol, division of criminal investigation and bureau of identification, local police departments, sheriffs departments, and fire departments acting in their official capacity; nor shall this chapter apply to the transportation and use of explosive materials by any peace officer to enforce provisions of this chapter when he is acting pursuant to such authority, however, other agencies of the state or any of its political subdivisions desiring to purchase, possess, transport, or use explosive materials for construction or other purposes shall be required to obtain user's permits.

101A.11. Explosive materials exempt. This chapter shall not apply to the possession or use of twenty-five pounds or less of smokeless powder, or five pounds or less of black sporting powder, provided that:

1. Smokeless powder is intended for handloading or reloading of ammunition for small arms with bores equivalent to ten gauge or less.

2. Black sporting powder is intended for handloading or reloading ammunition for small arms with bores equivalent to ten gauge or less, loading black ammunition, loading cap and ball revolvers, loading muzzle loading arms, or loading muzzle loading cannon.

3. All such powder is for private use and not for commercial resale, and in the case of black sporting powder or smokeless powder the sharing with or disposition to another person is permitted if otherwise lawful.

4. The storage, use, and handling of smokeless and black powder conforms to rules, regulations, or ordinances of authorities having jurisdiction for fire prevention and suppression purposes in the area of such storage, use, and handling.

101A.12. Use of fees. The fees collected by the commissioner of public safety in issuing licenses shall be deposited in a special fund in the state treasury to be used by the commissioner in administering and enforcing the provisions of this chapter.

101A.13. Local ordinances. Nothing in this chapter shall limit the authority of cities and towns to impose additional regulations governing the storage, handling, use, and transportation of explosive materials within their respective corporate limits, however, such regulations shall be at least as stringent as and not inconsistent with the provisions of this chapter and the rules promulgated pursuant to this chapter.

101A.14. Criminal penalties. 1. Any person who violates the provisions of section 101A.2, subsection 3, or section 101A.3, subsection 4 commits a public offense and, upon conviction, shall be punished by imprisonment in the penitentiary for a term not to exceed fifteen years, or fined not to exceed five thousand dollars, or by both such imprisonment and fine.

2. Any person who violates the provisions of sections 101A.6, 101A.8 or 101A.9 or any of the rules adopted by the commissioner of public safety pursuant to the provisions of this chapter, commits a public offense and, upon conviction, shall be punished by imprisonment in the county jail not to exceed thirty days, or fined not to exceed one hundred dollars.

Police Power

111.42. Use of firearms prohibited—exceptions. The use by the public of firearms, fireworks, explosives, and weapons of all kinds is prohibited in all state parks and preserves, except preserves or portions of preserves designated as hunting areas by the state advisory board on preserves upon the request of the state conservation commission. However, any person may use a bow and arrow with attached bow fishing reel and ninety-pound minimum line attached to the arrow to take rough fish under rules and regulations prescribed by the state conservation commission.

Motor Vehicles

321.1. Definitions of words and phrases. The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them. * * * * * 31. "Explosives" mean any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that on ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb. * * * * *

Criminal Law

Chapter 697. Injuries by Explosives—Bomb Threats

697.1. Death caused by high explosives. If any person willfully deposits or throws in, under, or about any dwelling house, building, boat, vessel, or raft or other inhabited place, where its combustion or explosion will or is likely to destroy the same, any explosive or incendiary device or molotov cocktail, and by reason of the combustion or explosion thereof any person is killed, he shall be guilty of murder.

697.2. Injury to person. If any person willfully deposits or throws any explosive or incendiary device or molotov cocktail as provided in section 697.1, and by means of the explosion thereof any person is injured, he shall be guilty of an assault with intent to commit murder.

697.3. Injury to property. If any person, with intent to destroy or injure any building, boat, vessel, or raft, any bridge, viaduct, or other structure not provided for in sections 697.1, 697.2, and 697.4, deposits or throws in, under, or about such building, boat, vessel, raft, bridge, viaduct, or other structure any explosive or incendiary device or molotov cocktail, by the combustion or explosion of which any such structure will or will be likely to be destroyed or injured, he shall be imprisoned in the penitentiary not more than fifteen years.

697.4. Damages by high explosives. If any person, with intent to destroy or injure any inhabited dwelling house, building, boat, vessel, or raft, deposits or throws therein or thereunder, or elsewhere about the same, where its explosion or combustion will or is likely to destroy or injure the same, any explosive or incendiary device or molotov cocktail, he shall be imprisoned in the penitentiary not more than twenty-five years.

697.5. Manufacture of gunpowder—public nuisance. If any person carry on the business of manufacturing gunpowder, or of mixing or grinding the composition therefor, in any building within eighty rods of any valuable building erected at the time when such business may be commenced, the building in which such business is thus carried on is a public nuisance, and such person shall be fined not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding one year, and the court, with or without such fine, may order such nuisance abated, and issue a warrant as provided in chapter 657.

697.6. False report of bomb or explosive. Any person who, knowing the information to be false, willfully conveys or causes to be conveyed to any other person any false information concerning the placement of or an attempt being made or to be made to place any bomb or other explosive or destructive substance or device in or upon the premises of any school, place of worship, business establishment, home or other dwelling place, place of accommodation, aircraft, bus, train, or other public or private transportation facility, public building, or other public place shall be guilty of a felony.

697.7. Threat to place bomb or explosive—knowledge to be reported. Any person who willfully makes any threat to any other person to place or attempt to place any bomb or other explosive or destructive substance or device in or upon the premises of any school, place of worship, business establishment, home or other dwelling place, place of accommodation, aircraft, bus, train, or other public or private transportation

facility, public building, or other public place shall be guilty of a felony.

Any person who receives or has knowledge of such a threat or who discovers or has knowledge of the discovery of any bomb or explosive materials shall promptly report the same to a peace officer or to the county attorney. Failure to report such knowledge or discovery shall be a public offense punishable, upon conviction, by imprisonment in the county jail not to exceed thirty days, or by a fine not to exceed one hundred dollars.

697.8. Where prosecuted. Violations of sections 697.6 and 697.7 may be prosecuted in either the county wherein the false information or threat is made or conveyed or the county wherein the false information or threat is received.

697.9. Penalty. Any person convicted of violating section 697.6 or section 697.7 shall be imprisoned in the penitentiary not exceeding five (5) years or in the county jail not exceeding one (1) year, or be fined in an amount not exceeding one thousand (1,000) dollars, or be both so fined and imprisoned.

697.10. Definitions. As used in this Chapter, unless the context otherwise indicates:

1. "Explosive device" means any material, container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible materials or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects.

2. "Incendiary device" means any inflammable material or container containing an inflammable liquid or material whose ignition, by fire, friction, concussion, detonation, or other method is intended to produce destructive effects primarily through combustion rather than explosion.

3. "Molotov cocktail" means a breakable container containing an explosive or inflammable liquid or other substance, having a

wick or similar device capable of being ignited, and may be described as either an explosive or incendiary device. A "molotov cocktail" is not intended to mean a device commercially manufactured primarily for the purpose of illumination or other such uses.

697.11. Unlawful materials—exceptions. It shall be unlawful for any person to receive, possess, sell, purchase, or manufacture a bomb, bombshell, grenade, or incendiary or explosive device including but not limited to black powder bombs and molotov cocktails, or, with intent to assemble them, the materials which may be assembled into any such device and any person violating any of the provisions of this section shall be guilty of a felony and shall, upon conviction thereof, be punished by a fine of not more than two thousand dollars or by imprisonment in the penitentiary or men's or women's reformatory for not more than five years, or by both such fine and imprisonment, or by imprisonment in the county jail for not more than six months; provided, however, that this section shall not apply to military and law-enforcement agencies and their personnel, and persons, firms, or corporations engaged in business, occupational or recreational use of commercial explosives, fireworks, firearms, or ammunition when possession and use is otherwise authorized or permitted by law. Section 697.10 and this Section shall have no application to the possession or sale of rifle, pistol, or shotgun ammunition; nor shall it prohibit the use, sale, or possession of primers, percussion caps, brass, powder, and other components and supplies for hand loading or reloading rifle, pistol, or shotgun ammunition or loading muzzle-loading arms, where the same is for lawful purposes.

711.4. Train robbery. If any person shall: * * * * * 4. Place upon any railway track, or under any engine, tender, coach, or car any explosive substance, with intent to obstruct, stop, detain, derail, or wreck such train, for the purpose of committing such robbery; * * * * * he shall, upon conviction thereof, be imprisoned in the penitentiary at hard labor, for life.

Kansas

KANSAS STATUTES ANNOTATED

Automobiles and Other Motor Vehicles

8-1419. "Explosives" defined. "Explosives" means any chemical compound or

mechanical mixture that is commonly used or intended for the purpose of producing an explosion, and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that

an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Crimes and Punishments

21-3731. Criminal use of explosives. Criminal use of explosives is the possession, manufacture or transportation of any explosive or combustible substance with intent to use such substance to commit a crime, or the knowing delivery of such substance to another with knowledge that such other intends to use such substance to commit a crime.

Criminal use of explosives is a class E felony.

21-3732. Possession or transportation of incendiary or explosive device. Possession or transportation of incendiary or explosive device is the knowing possession or transportation of any incendiary or explosive material, liquid, solid or mixture, equipped with a fuse, wick, or any other detonating device, commonly known as a "molotov cocktail."

21-2501. Officers to take fingerprints of suspected law violators; identification data to national bureau of identification and to the state bureau of investigation. It is hereby made the duty of every sheriff and police department in the state, immediately upon the arrest of any person or persons wanted for the commission of a felony or believed to be a fugitive from justice, or upon the arrest of any person or persons who may be in the possession at the time of arrest of any goods or property reasonably believed to have been stolen by such person or persons, or in whose possession may be found firearms or other concealed weapons, burglary tools, high explosives, or other appliances believed to be used solely for criminal purposes, or who may be known to be vagrants, or who are wanted for any offense which involves sexual conduct prohibited by law, or for violation of article 25 (uniform narcotic drug act) or article 26 (hypnotic, somnifacient or stimulating drugs) of chapter 65 of the Kansas statutes annotated, or suspected of being or known to be habitual criminals or violators of the intoxicating liquor law, to cause two sets of fingerprint impressions to be made of such person or persons, on the forms provided by the department of justice of the United States or the bureau of investigation of the

state of Kansas, and forward one set of such impressions to the national bureau of identification and investigation, department of justice, at Washington, D. C., and forward one set of such impressions to the bureau of investigation of the state of Kansas at Topeka, Kansas, together with a comprehensive description of such individual or individuals and such other data and information as to the identification of such person or persons arrested as the department of justice and bureau of investigation may require; and such sheriff and police department as aforesaid may take and retain copies of such fingerprint impressions for their own use, together with a comprehensive description and such other data and information as may be necessary to properly identify such person or persons. This section shall not be construed to include violators of any city, town or local ordinance.

Explosives

21-4207. Failure to register sale of explosives. (1) Failure to register sale of explosives is the omission, by the seller of any explosive or detonating substance, to keep a register of every sale or other disposition of such explosives made by him as required by this section.

(2) The register of sales required by this section shall contain the date of the sale or other disposition, the name, address, age and occupation of the person to whom the explosive is sold or delivered, the kind and amount of explosive delivered, the place at which it is to be used and for what purpose it is to be used. Said register and said record of sale or other disposition shall be open for inspection

by any law enforcement officer, mine inspector or fire marshal of this state for a period of not less than one (1) year after said sale or other disposition.

(3) Failure to register sale of explosives is a class B misdemeanor.

21-4208. Failure to register receipt of explosives. Failure to register receipt of explosives is the omission, by any person to whom delivery of any quantity of explosive or other detonating substance is made, to acknowledge the receipt thereof by signing his name in the register provided in section 21-4207 (2) on the page where the record of such delivery is entered.

Failure to register receipt of explosives is a class C misdemeanor.

21-4209. Unlawful disposal of explosives. (1) Unlawful disposal of explosives is knowingly selling, giving or otherwise transferring any explosive or detonating substance to:

(a) A person under eighteen (18) years of age; or

(b) An habitual drunkard or narcotic addict; or

(c) A person who has been convicted of a felony under the laws of this or any other jurisdiction within five (5) years after his release from a penal institution or within five (5) years after his conviction if he has not been imprisoned.

(2) Unlawful disposal of explosives is a class A misdemeanor.

21-4210. Carrying concealed explosives. Carrying concealed explosives is carrying any explosive or detonating substance on the person in a wholly or partly concealed manner.

Carrying concealed explosives is a class C misdemeanor.

Kentucky

KENTUCKY REVISED STATUTES ANNOTATED

237.030. Definitions for KRS 237.040 and 237.050. (1) "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device and includes the unassembled components from which such a device can be made.

(2) "Booby trap device" includes any device, or substance designed to surreptitiously or covertly take life, endanger life or destroy or damage property and shall not include firearms.

237.040. Criminal possession of destructive device or booby trap device. A

person is guilty of criminal possession of a destructive device or a booby trap device when he possesses, manufactures, or transports such substance or device with:

(1) Intent to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States; or

(2) Knowledge that some other person intends to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States.

(3) Mere possession without substantial evidence of the requisite intent is insufficient to bring action under KRS 237.030 to 237.050.

237.050. Exemptions. KRS 237.030 to 237.050 shall not apply to:

(1) Destructive devices or booby trap devices which are possessed by the government of the United States, this state, or a political subdivision thereof;

(2) Any device which is lawfully possessed under the Gun Control Act of 1968, the Organized Crime Control Act of 1971, or any other law of the United States or this state, unless a crime is committed therewith;

(3) Non-lethal devices placed on the premises of the owner or the lawful occupant thereof for his own self-protection or the protection of the said property;

(4) The setting of traps suitable and legal for the taking of game by persons licensed or permitted to do so by the game laws of the Commonwealth;

(5) Inert devices which cannot readily be restored to operating condition; or

(6) The acquisition, possession, use, or control of firearms.

237.990. Penalties. Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be imprisoned in the penitentiary for not less than one nor more than five years, or punished by a fine of not more than \$1,000, or both.

276.450. Transportation of explosives by carriers; rules of Railroad Commission governing. (1) No railroad company, street railway company, steamboat company or other person engaged in the transportation of passengers within this state shall knowingly transport within this state, or into this state for sale, storage or use therein, in any vehicle containing passengers, or in any vehicle attached to any railroad train or vehicle carrying passengers, any explosive compound that is not plainly and legibly marked with the name of the compound and the words "Explosives—Dangerous." No person shall send or receive any explosive compound that is not so marked.

(2) The Railroad Commission shall make rules fixing the method of packing and the maximum amounts of various explosive compounds that may be so carried in any railroad train containing passengers, or in a vehicle attached to such train, or in any public vehicle, whether freight or passenger. The rules, signed by the railroad commissioners, shall be published pursuant to KRS Ch. 424. A copy of the rules, certified by one of the railroad commissioners, and a like certificate of the fact of their due publication, shall be

conclusive proof of the rules and of their proper publication.

(3) No person shall transport any explosive compound in violation of the rules prescribed and published by the Railroad Commission under subsection (2) of this section, or send or receive any explosive compound that is not packed as required by such rules. No conductor of a train, captain of a steamboat, or person in charge of any public vehicle engaged in carrying passen-

gers or freight shall fail to observe such rules in transporting an explosive compound.

433.470. Supplier of dynamite to keep register. Any person who sells, lends or gives any dynamite or caps for dynamite without keeping a register showing the amount sold, lent or given, to whom it is sold, lent or given, the date of the sale, loan or gift and for what purpose it is to be used shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense.

Louisiana

LOUISIANA STATUTES ANNOTATED

Offenses Against Property

14:54.2. Manufacture and possession of delayed action incendiary devices; penalty. It shall be unlawful for any person knowingly and for the purpose and intent of committing arson to manufacture, possess or have under his control, any instrument, device, chemical or explosive substance which is arranged, manufactured, mixed or so made up as to be a device or substance which, when exposed to heat, humidity, air or foreign elements, will after prolongation of time burst into flame, ignite, cause to be ignited or explode.

Whoever violates this section shall be fined not more than ten thousand dollars or be imprisoned at hard labor for not more than twenty years, or both.

14:54.3. Manufacture and possession of a bomb. It shall be unlawful for any person knowingly and for the purpose of causing injury or death to any person or damage to property to manufacture, possess or have under his control any bomb.

A bomb, for the purposes of this section, is defined as an explosive compound or mixture with a detonator and/or initiator.

As used herein the term "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

Whoever violates this section shall be fined not more than ten thousand dollars or be imprisoned at hard labor for not more than twenty years, or both.

Offenses—Public Generally

14:95. Illegal carrying of weapons. A. Illegal carrying of weapon is: * * * * (3) The ownership, possession, custody or use of any tools, or dynamite, or nitroglycerine, or explosives, or other instrumentality customarily used by thieves or burglars at any time by any person with the intent to commit a crime; * * * *

14:311. Discharging fire-works or explosives within one thousand feet of hospital prohibited; penalty. No person shall shoot, discharge, explode, or cause to be shot, discharged or exploded any fire-crackers, fire-works or other explosives within one thousand feet of any hospital in Louisiana.

Whoever violates this Section shall be fined not more than one dollar or imprisoned for not more than one day, or both.

Motor Vehicles

Part I. Definitions and General Authority

32:1. Definitions. * * * * (13) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases

that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Public Health and Safety

Title 40, Chapter 6

Part V, Regulation of Explosives

40:1471.1. Construction of Part. The provisions of this Part are cumulative and shall not be construed as repealing or affecting any powers, duties, or authorities of the director of public safety under any other law of this state; provided that with respect to the regulations of explosives as herein provided, in instances where the provisions of this Part may conflict with any other such law, the provisions of this Part shall control.

40:1471.2. Definitions. The following words used in this part shall have the meanings respectively ascribed to them in this section, as follows:

(1) "Explosives" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder in quantities in excess of five pounds, pellet powder, initiating explosives, detonators, safety fuzes, squibs, detonating cord, igniter cord, and igniters. The term "explosives" shall further include, but not be limited to, the following:

(a) "blasting agent" which shall mean any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive; provided, that the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

(b) "detonator" which shall mean any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuzes and detonating-cord delay connectors.

(2) "Person." Any natural person, partnership, association or corporation.

(3) "Manufacturer-distributor." A person engaged in the manufacture, compounding, combining, production or distribution of explosives.

(4) "Dealer." A person engaged in the wholesale or retail business of buying and selling explosives; provided, that should a

manufacturer-distributor make sales to users, such manufacturer shall not be required to obtain an additional license as a dealer.

(5) "User." The person who, as an ultimate consumer of an explosive, purchases same from a dealer or manufacturer-distributor or a dealer or manufacturer-distributor who uses an explosive as an ultimate consumer.

(6) "Blaster." A person employed by a user who detonates or otherwise effects the explosion of an explosive or who is in immediate personal charge and supervision of one or more other persons engaged in such activity.

(7) "Sale." This word and its various forms as used shall include delivery of an explosive with or without consideration.

(8) "Purchase." This word and its various forms as used shall include acquisition of any explosive by a person with or without consideration.

(9) "Highway." Shall mean any public highway in this state, including public streets, alleys and other thoroughfares, by whatever name, in incorporated cities and towns.

40:1471.3. License or permit required of manufacturer-distributor, dealer, user or blaster of explosives. It shall be unlawful for any person to engage in the business of a manufacturer-distributor or dealer in explosives, or to transport explosives, or to acquire, sell, possess, store or engage in the use of explosives in this state, except in conformity with the provisions of this part. Each manufacturer-distributor, dealer, user or blaster, as such words are above defined, must be possessed of a valid and subsisting license or permit issued by the director of public safety. A further requirement in the case of multiple storage of explosives is that each user maintaining more than one permanent storage magazine shall possess an additional license or permit, as herein set forth, for each such magazine.

Such licenses and permits are as follows: Licenses and fees therefor are required for the following:

- (1) Manufacturer-distributor, \$25.00
- (2) Dealer, 25.00
- (3) User, 2.00
- (4) Magazine, 2.00
- (5) Blaster, 2.00

Said licenses and permits shall be issued by the director of public safety for each license year beginning January 1 and expiring on the following December 31. The forms of such licenses, permits, and applications therefor shall be prescribed by the director of public safety; provided that in addition to such other information and data the director of public safety shall determine are appropriate and required for said forms there shall

be included in said forms the following matter:

Applications for all licenses and permits shall set forth the purpose for which the license or permit is sought in relation to explosives, and the license or permit issued shall set forth such purpose. Each of such applications shall be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof. Application for a blaster's permit shall include the name of the user employing such blaster, and the permit issued in pursuance thereof shall set forth the name of such user. A blaster's permit shall be valid solely for use by the holder thereof in his employment by the user named therein. No license or permit is required for persons detonating or otherwise effecting the explosion of explosives working under the immediate personal supervision and control of a person holding a blaster's permit. No license or permit shall be issued by the director of public safety pursuant to an application therefor unless the director of public safety shall determine from the information set forth in the application that the purpose for which the applicant seeks a permit or license falls within the purview of this part and that such purpose is not violative of any other laws of the state. The fees collected for such licenses and permits are hereby appropriated for the use of the director of public safety in the administration of this part, and shall be deposited in a special fund to be set up in the office of the state treasurer.

40:1471.4. Possession without license prohibited; exceptions. No person shall be possessed of an explosive unless he is the holder of a license or permit, as above provided, and possesses such explosive for the purpose covered by the license or permit he holds. Provided, that there is excepted from this provision common carriers, contract and private carriers possessed of an explosive in connection with transportation of the same in the ordinary course of their business; and that there is further excepted from this provision persons in possession of explosives during the period of time they are under the immediate personal supervision and control of a person holding a blaster's permit and then engaged in preparations for and in the detonating or otherwise effecting the explosion of an explosive. It shall be unlawful for any person holding a blaster's permit to allow persons working under him to be possessed of an explosive except during the period of time when such persons are loading or unloading or detonating or otherwise effecting the explosion of an explosive

under the immediate personal supervision and control of said blaster.

40:1471.5. Maintenance of records by manufacturer-distributors and dealers; inspection; notice of sale or delivery. Each and every stick of dynamite and each and every unit of explosives manufactured in this state or transported into this state for distribution or sale in this state shall have affixed thereto a label stating the type and class of explosive as well as a serial or control number.

Manufacturer-distributors and dealers shall keep accurate accounts of all inventories and sales of explosives. A manufacturer-distributor is authorized to sell explosives to dealers and users. All such sales shall be evidenced by invoices or sales tickets executed in quadruplicate, the manufacturer-distributor or dealer retaining the original and one copy and delivering the third copy thereof to the purchaser, and forwarding the fourth copy thereof to the Department of Public Safety, Baton Rouge, Louisiana. No manufacturer-distributor or dealer shall sell any explosive without being satisfied that the purchaser thereof is duly licensed under the provisions of this part and authorized to purchase same and that said explosive is to be used by the purchaser for a purpose covered by the latter's license, with the exception that a manufacturer-distributor or dealer may make an original sale under this section to an unlicensed farmer providing the farmer applies for user's license prior to said sale. Such invoices or sales tickets so delivered to purchaser shall bear the name of the manufacturer or dealer and purchaser, date of sale, quantity sold, use for which explosive is purchased and address of purchaser. Said inventories and original invoices or sales tickets and copies thereof shall be retained by manufacturer-distributors or dealers and shall be made accessible and subject to examination by any peace officer of this state, and by the director of public safety, either in person or through his duly authorized deputy or agent, at such intervals as the director of public safety shall deem proper.

Upon the sale or delivery of any explosive within the state of Louisiana, the selling and/or the receiving agency shall notify the department of public safety of the sale or delivery by forwarding thereto a copy of the bill of sale or bill of lading.

40:1471.6. Maintenance of records by users; inspection. Each user, as defined herein, of explosives shall keep an accurate written inventory of all explosives possessed by him and a record of the use of such explosives. Said inventory and record of use of explosives shall be retained by users and

shall be made accessible and subject to examination by any peace officer of this state, and by the director of public safety, either in person or through his duly authorized deputy or agent, at such intervals as the director of public safety shall deem proper.

40:1471.7. Reports of thefts, illegal use or illegal possession. Any sheriff, police department or peace officer of this state shall give immediate notice to the director of public safety of any theft, illegal use or illegal possession of explosives within the purview of this Part, coming to his attention, and shall forward a copy of his final written report to the director of public safety in Louisiana. Any manufacturer-distributor, dealer, user, or blaster who knows that explosives in his possession have been stolen or otherwise misappropriated shall immediately notify the nearest sheriff, police department or peace officer of this state of such fact.

40:1471.8. Transportation of explosives without license prohibited; exceptions. No person shall transport any explosive into this state or within the boundaries of this state over the highways, on navigable waters or by air, unless such person is possessed of a license or permit; provided, there is excepted from the effects of this sentence, common, contract and private carriers, as mentioned in the next succeeding sentence. Common carriers by air, highway, railroad or water transporting explosives into this state, or within the boundaries of this state including ocean-plying vessels loading or unloading explosives in Louisiana ports, and contract or private carriers by motor vehicle transporting explosives on highways into this state, or within the boundaries of this state, and which contract or private carriers are engaged in such business pursuant to certificate or permit by whatever name issued to them by any federal or state officer, agency, bureau, commission or department, shall be fully subject to the provisions of this Part; provided, that in any instance where the federal government, acting through the interstate commerce commission or other federal officer, agency, bureau, commission or department, by virtue of federal laws or rules or regulations promulgated pursuant thereto, has preempted the field of regulation in relation to any activity of any such common, contract or private carrier sought to be regulated by this Part, such activity of such a carrier is excepted from the provisions of this Part.

40:1471.9. Promulgation of regulations by director of public safety. The director of public safety shall make, promulgate and enforce regulations setting forth minimum general standards covering manu-

facture, transportation (including loading and unloading), use, sale, handling and storage of explosives. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons possessing, handling and using such materials, and shall be in substantial conformity with generally accepted standards of safety concerning such subject matters. It is hereby declared that regulations in substantial conformity with the published rules and standards of the Institute of Makers of Explosives in relation to said subject matters shall be deemed to be in substantial conformity with accepted standards of safety concerning such subject matters. Such regulations shall be adopted by the director of public safety only after a public hearing thereon pursuant to notice previously given to persons he shall deem interested therein.

40:1471.10. Conduct of hearings for adoption of or revision to regulations pertaining to explosives. (1) The director of public safety shall give notice of the time and place of such hearing not less than twenty days in advance of the hearing date. He shall give such notice to all persons whose pecuniary interests are to be directly and immediately affected by such hearing.

(2) Hearings held for consideration of the rules and regulations of the director of public safety which under Subsection (1) would otherwise require separate notices to more than fifty persons, in lieu of the notice so required under such subsection, the director of public safety may give notice of such hearing by publication thereof, in four or more newspapers of general circulation in this state, at least once each week during the four weeks immediately preceding the week in which the hearing is to be held. The published notice shall state the time and place of the hearing and shall specify the matters to be considered thereat.

(3) The hearing may be held in the director of public safety's offices at Baton Rouge or at such other place in this state deemed by the director of public safety to be more convenient to parties thereto.

(4) The director of public safety or his designated representative shall preside at the hearing.

(5) All hearings shall be public.

(6) The director of public safety shall cause a full stenographic record of the proceedings at the hearing to be made by a competent reporter and at the cost of the state. A transcribed copy of such stenographic record shall be made a part of the director of public safety's record of the hearing. A copy of the transcribed stenographic record shall be furnished to any

party to the hearing requesting the same and at such reasonable charge therefor as the director of public safety may fix. The state's portion of the cost of the stenographic record and transcription thereof shall be paid out of the explosives trust fund. Any sums received from parties for copies of the transcribed stenographic record shall be deposited in the explosives trust fund.

(7) No such rule or regulation promulgated pursuant to such hearing shall be effective until after it has been on file as a public record in the office of the director of public safety and in the office of the secretary of state for at least ten days.

(8) Upon request and payment of the reasonable cost thereof, if required and fixed by the director of public safety, said director shall furnish a copy of any such rules and regulations to any person requesting.

40:1471.13. Procedure for suspension or revocation of license or permit. A. Whenever the director of public safety shall have reason to believe that any person is or has been violating the provisions of this chapter or any rules or regulations adopted and promulgated pursuant thereto, he shall issue to such person an official notice of the violation and the requirements necessary for compliance which requirements shall be put into effect not later than ninety days after receipt of said notice. The continued violation by any person possessed of a license or permit as provided in R.S. 40:1471.2 after the time set forth in the notice of violation has been given, shall be cause for revocation or suspension of such license or permit by the director of public safety after such officer shall determine said person guilty of such violation.

B. If any person refuses or fails to comply with the requirements for compliance as set forth in the notice of violation by the date specified in the notice, the director of public safety shall issue to such person a statement of the charges in that respect together with written notice of his intention to suspend or revoke the license or permit.

C. All statements of charges, notices, orders and other processes of the director of public safety under the provisions of this section shall be served by registered mail addressed to the license at his or its residence or principal office or place of business last of record with the director of public safety. Such notice shall be deemed given when so addressed and mailed postage prepaid at a United States post office or branch thereof.

D. If within twenty days after the date of mailing said statement of charges the licensee or permittee has not filed with the director of public safety at his office in Baton

Rouge a written answer to such charges coupled with a written request for a hearing thereon, the director of public safety may proceed to suspend or revoke the license or permit.

E. If within such twenty days an answer and request for hearing is filed with the director of public safety, he shall hold a hearing with respect to the charges within sixty days from the date of the mailing of the statement of charges unless postponed by mutual consent of the parties. The director of public safety shall give the licensee or permittee written notice of the hearing not less than ten days in advance of the hearing date.

F. If after such hearing the director of public safety should find in his judgment that said charges of violation have been proved he shall enter his order suspending or revoking the license or permit of the person charged. An order of suspension shall state the period of time of such suspension which period shall not be in excess of one year from the date of such order. An order of revocation may be entered for a period of not exceeding two years and such order shall effect revocation of license or permit then held by said person, and during such period of time no license or permit shall be issued said person. If during the period between the filing of charges and entry of an order of suspension or revocation by the director of public safety, a new license or permit has been issued the person so charged, any order of suspension or revocation shall operate effectively with respect to said new license or permit held by such person.

G. If after such hearing, should the director of public safety determine that the charges have not been sustained, he shall enter his order to that effect.

H. The provisions of this section are cumulative and shall not affect the penalty and injunctive provisions of R.S. 40:1471.17 and R.S. 40:1471.18.

40:1471.14. Conduct of hearings. (1) The hearing may be held in the director of public safety's office at Baton Rouge or at such other place in this state deemed by the director of public safety to be more convenient to parties and witnesses.

(2) The hearing shall be held before the director of public safety or before his designated representative named for that purpose. The director of public safety or his designate shall preside at the hearing and shall sit in the capacity of a quasi-judicial officer.

(3) All hearings shall be public.

(4) The director of public safety shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reason-

able opportunity to inspect all documentary and other evidence and to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the director of public safety to compel attendance of witnesses and production of evidence in his behalf. Testimony may be taken orally or by deposition and any party shall have such right of introducing evidence by deposition as allowed in the district courts of this state.

(5) Upon good cause shown the director of public safety shall permit to become a party to the hearing by intervention if timely only such persons who were not original parties thereto and whose interests are to be directly and immediately affected by the director of public safety's order made upon the hearing.

(6) Formal rules of pleading or of evidence need not be observed at the hearing except that the right of any person to invoke such rules and the rule of sequestration of witnesses is preserved.

(7) The director of public safety shall cause a full stenographic record to be made of the proceedings of the hearing by a competent reporter and at the cost of the state. A transcribed copy of such stenographic record shall be made a part of the director of public safety's record of the hearing. A copy of the transcribed stenographic record shall be furnished to any party to the hearing requesting same, and at such reasonable charge therefor as the director of public safety may fix. The state's portion of the stenographic record and transcription thereof shall be paid out of the explosives trust fund. Any sums received from parties for copies of the stenographic record shall be deposited by the director of public safety in the explosives trust fund.

40:1471.15. Witnesses and evidence.

A. As to the subject of any such hearing being conducted by him the director of public safety or his designated representative named to conduct such hearing may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence and shall have the power to subpoena witnesses, compel their attendance and testimony and require by subpoena the production of books, papers, records, files, correspondence, documents or other evidence which he deems relevant to the inquiry.

B. If any person refuses to comply with any such subpoena or to testify as to any matter concerning which he may lawfully be interrogated, the district court of East Baton Rouge Parish or the parish wherein such hearing is being conducted, or of the parish wherein such person resides, on the director of public safety's application may issue an

order requiring such person to comply with the subpoena and to testify. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

C. Subpoenas shall be served and proof of such service made in the same manner as if issued by a district court. Witness fees and mileage if claimed shall be allowed the same as for testimony in a district court, and shall be paid from the explosives trust fund.

D. Any person wilfully testifying falsely under oath as to any matter material to any such hearing shall upon conviction thereof be guilty of perjury and shall be punished accordingly.

E. If any person asks to be excused from attending or testifying or from producing any books, papers, records, contracts, documents or other evidence in connection with any hearing being conducted by the director of public safety or his deputy on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty of forfeiture and shall notwithstanding be directed to give such testimony or produce such evidence, he must, if so directed by the director of public safety and the attorney general, nonetheless comply with such direction but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceedings; except, however, that no such person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in such testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury; nor shall he be exempt from the refusal, suspension or revocation of any license, permit or authority conferred or to be conferred pursuant to this Part.

F. Any such individual may execute, acknowledge and file in the office of the director of public safety a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement, and thereupon the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privileges on account of any

testimony he may so give or evidence so produced.

40:1471.16. Review of order of the director of public safety. A. All final orders or decisions of the director of public safety shall be subject to review by the district court of East Baton Rouge Parish. Such review shall be commenced within sixty days after the rendition of such order or decision and in compliance with the Louisiana appellate rules.

B. The cost of the record is to be paid by the person seeking review. Any record required to be filed in such review shall be certified by the director of public safety or his specially designated representative. No such appeal shall operate as an order of suspension of the director's decision unless so ordered by the court.

40:1471.17. Confiscation and disposal of confiscated explosives. A. Whenever the director of public safety shall have reason to believe that any person is or has been violating the provisions of this Part or any rules or regulations adopted and promulgated pursuant thereto, he shall issue to such person an official notice of violation. If such person fails to take immediate steps to comply with the provisions of this notice, and if the director of public safety deems the explosives involved to constitute a danger to the safety of the public, he may without further process of law confiscate the explosives in question and cause them to be stored in a safe manner.

B. If at a subsequent hearing the person so charged is found guilty of violating the provisions of this Part or any rules or regulations adopted and promulgated pursuant thereto with regard to the possession, handling or storage of explosives, the director of public safety is authorized to dispose of the confiscated materials in such a way as he shall deem equitable.

C. Costs incurred in the confiscation and disposal of such explosives shall be paid from the explosives trust fund.

40:1471.18. Penalties. Any person who manufactures, purchases, keeps, stores, possesses, distributes, or uses any explosive with the intent to harm life, limb or property, shall, upon conviction, be guilty of a felony and liable to a fine of not less than five thousand dollars nor more than ten thousand dollars or imprisonment in the state prison not less than five years nor more than ten years, or both. Any person who shall in an application for a license or permit as herein provided, knowingly make a false statement, or who shall obtain explosives under a false

statement, pretense or identification, or who shall knowingly otherwise violate any provisions of this Part, or regulation promulgated pursuant to this Part, shall, upon conviction, be guilty of a felony and liable to a fine of not less than two hundred fifty dollars nor more than one thousand dollars or imprisonment in the state prison not less than one year nor more than five years, or both. Possession of explosives under circumstances contrary to the provisions of this Part or such regulations shall be prima facie evidence of an intent to use the same for destruction of life, limb or property. Conviction under this section of any person holding a license or permit shall effect cancellation thereof.

40:1471.19. Injunction. In addition to the penalties and other enforcement provisions of this Part, in the event any person engaged in any of the businesses covered by this Part or any rule or regulation adopted or promulgated in pursuance thereto, the director of public safety is authorized to resort to proceedings for injunction in the district court of the parish where such person shall reside or have his or its principal place of business, and therein apply for such temporary and permanent orders as the director of public safety may deem necessary to restrain such person from engaging in any such businesses until such person shall have complied with the provisions of this Part and such rules and regulations.

40:1471.20. Exceptions. Nothing contained in this Part shall apply to the regular military or naval forces of the United States; or to the duly organized military force of any state or territory thereof; or to police or fire departments in this state, provided they are acting within their respective official capacities and in the performance of their duties.

40:1471.21. Municipal ordinances, rules and regulations. Nothing contained in this Part shall affect any existing ordinance, rule or regulation pertaining to explosives of any incorporated city or town in this state not less restrictive than the provisions of this Part and regulations promulgated pursuant thereto, or affect, modify or limit the power of such incorporated cities or towns to make ordinances, rules or regulations hereunder pertaining to explosives within their respective corporate limits.

40:1471.22. Administration of chapter; personnel. The director of public safety is authorized to employ such persons as he may deem qualified consistent with applicable Civil Service regulations, and incur such other expenses as may be required, in connection with the administration of this Part.

Maine

MAINE REVISED STATUTES ANNOTATED

Crimes

17-502. **Bombs. Construction, assembling or possession.** Except for lawful purposes in any instance, whoever knowingly constructs, assembles, or knowingly has in his possession any device, bomb or infernal machine capable of being exploded, or knowingly possesses materials appropriate for the construction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment of not more than 15 years, or by both.

Nuisances

17-2791. **Blasting; notice.** Persons engaged in blasting limerock or other rocks shall before each explosion give reasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion. No such explosion shall be made after sunset.

Whoever violates any provision of this section forfeits to the prosecutor \$5 for each offense, to be recovered in a civil action, and is liable for all damages caused by any explosion. If the persons engaged in blasting rocks are unable to pay or, after judgment and execution, avoid payment of the fine, damages and costs by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same.

17-2796. **Manufacture of powder.** If any person manufactures gunpowder, or mixes or grinds the composition therefor, in any building within 80 rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

Transport

25-2444. **Transportation of explosives.** As a condition to the granting of a permit or license to transport explosives, the Commissioner of Public Safety may require that the vehicle used in transportation of explosives may be accompanied by a representative of the commissioner, who shall be paid mileage by the person to whom the license is issued at the rate allowed to fire inspectors by the State for the use of his car. This condition is

not applicable to loads of 4,000 pounds or less. Explosives referred to herein shall not include petroleum products.

Labor and Industry

26-338. **Explosives.** Only experienced men who have been selected and regularly designated by the engineer or superintendent in charge and whose names have been posted in the field office or at the magazine shall handle, transport, prepare or use dynamite or other high explosives.

1. **Composition.** The composition of explosives shall be such as to cause the least amount of injurious gases.

2. **Storage.** All explosives shall be stored in a magazine provided for that purpose, and located far enough from the working shaft, tunnel, boiler house or engine room so that in case the whole quantity should be exploded there would be no danger, and all explosives in excess of what are needed for one shift shall be kept in the magazine. Such magazine should be fire-proof, and so constructed that a modern rifle or pistol bullet cannot penetrate it. A suitable place for thawing powder shall be provided and kept in condition for use. The thawing should be done by the hot water or steam bath method; the use of dry heat is absolutely prohibited. A receptacle for carrying explosives shall not be kept in the same room. A suitable place separated from tunnel or caisson, boilers or engine room shall be provided for preparing charges.

One man shall have full charge of the magazine. If the conditions under which the work is being performed make it necessary for the storage of explosives in tunnel or caisson, permission may be granted by the bureau or its representatives on application of the engineer in charge of the work with good and sufficient reasons; then only in quantities sufficient for one blast. This certificate shall prescribe the limits to the amount of explosives allowed in the tunnels or caissons at any one time and shall expire after being used. Explosives and detonators shall be taken separately into the caisson. After blasting is completed, all explosives and detonators shall be returned at once to the magazine, observing the same rules as when conveyed to the work.

3. **Detonators; lights.** Detonators shall be inserted in the explosives only as required for each round of blasting. Detonators shall not be inserted in the explosives without first making a hole in the cartridge with a sharpened stick. No holes shall be

loaded except those to be fired at the next round of blasting. All explosives remaining after loading a round must be removed from the caisson before any wires are connected. Blaster shall use only hard wood rods for tamping and he shall not tamp or load any hole with a metal bar, nor shall the wooden rod have any metal parts.

All lights used when loading shall be of an enclosed type. If electric flash lamps are used, they shall be so constructed that it will not be possible to obtain a difference of potential between any 2 points on the outside of the lamp casing.

4. **Blaster; switch.** There shall be one blaster in charge of blasting and he shall enforce his orders and directions and personally supervise the fixing of all charges and all other blasting operations and shall use every precaution to insure safety. When firing by electricity from power or lighting wires, a proper switch shall be furnished with lever down when "off." The switch shall be fixed in a locked box to which no person shall have access except the blaster. There shall be provided flexible leads or connecting wires not less than 5 feet in length with one end attached to the incoming lines and the other end provided with plugs that can be connected to an effective ground. After blasting, the switch lever shall be pulled out, the wires disconnected and the box locked before any person shall be allowed to return, and shall remain locked until again ready to blast.

In the working chamber all electric light wires shall be provided with a disconnecting switch, which must be thrown to disconnect all current from the wires in the working chamber before electric light wires are removed or the charge exploded. The blaster shall cause a sufficient warning to be sounded and shall be responsible that all persons retreat to safe shelter, before he sets off a blast, and shall also see that no one returns until he reports it safe for him to do so. He shall report to the foreman the names of all persons refusing to obey his caution.

5. **Scaling.** After the blast is fired, loosened pieces of rock shall be scaled from the sides of the excavation and after the blasting is completed, the entire working chamber shall be thoroughly scaled.

6. **Inspection by foreman.** The foreman in charge shall inspect the working chamber and have all loose rock or ground removed and the chamber made safe before proceeding with the work.

7. **Drilling.** Drilling must not be started until all remaining butts of old holes are examined for unexploded charges.

Maryland

THE ANNOTATED CODE OF MARYLAND

Article 38 A. Fires and Investigations

Explosives

Sec. 26. **Definitions.** As used in this subtitle: (a) "*Explosives*" means gunpowder, powders for blasting, high "explosives" blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powder and any chemical compound or any mechanical mixture containing any oxidizing and combustible units, or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion or detonation of any part thereof may and is intended to cause an explosion, but shall not include fixed ammunition for small arms, firecrackers or matches.

(b) "*Persons*" includes any natural person, partnership, association or corporation.

(c) "*Manufacturer*" means any person who is engaged in the manufacture of explosives or who otherwise produces any explosive.

(d) "*Dealer*" means any person, not a manufacturer, engaged in the business of buying or selling explosives.

(e) "*Local licensing authority*" shall mean the sheriff of the county or chief of police of the county or of the community in which the applicant resides.

Sec. 27. **Manufacture or dealing in explosives without license prohibited.** No person shall manufacture or deal in explosives unless he has obtained a license for such manufacture or dealing pursuant to the provisions of subsection (a) or (b) of Section 28 of this subtitle.

Sec. 27A. **Possession without license—Other than smokeless powder, etc.** No person shall possess any explosives other than smokeless powder and explosives necessary for the manufacture of ammunition for small arms unless he has obtained a license to manufacture, deal in or possess such explosives pursuant to the provisions of Section 28 of this subtitle.

Sec. 27B. **Same—Smokeless powder and other explosives necessary for manufacture of small arms ammunition.** No person shall possess any smokeless powder or other explosives necessary for the manufacture of ammunition for small arms unless he has obtained a license to possess such explosives pursuant to the provisions of Section 28 of this subtitle. No person who has

obtained a license pursuant to the provisions of subsection (d) of Section 28 of this subtitle for the purpose of hand manufacturing ammunition for small arms or for any other nonbusiness purpose shall possess more than 10 pounds of smokeless powder and other explosives necessary for the manufacture of ammunition for small arms at any one time unless the amounts and the place and conditions of storage of such explosives have been approved by the State Fire Marshal, and unless such explosives are stored in conformance with the terms of such approval.

Sec. 28. **Applications for licenses.** (a) **Manufacturing.** Application for a license to manufacture shall be made to the State Fire Marshal in such form as the State Fire Marshal shall prescribe and furnish, and shall state, among other things: (1) The name and address of the applicant, (2) the reason for desiring to manufacture explosives, (3) his citizenship, if the applicant is an individual, (4) if the applicant is a partnership, the names and addresses of the partners and their citizenship, and (5) if the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship. The State Fire Marshal shall issue the license applied for unless he finds that either the applicant, or an officer, agent or employee of the applicant who will be handling explosives, is not sufficiently experienced and will not work under satisfactory supervision in the manufacture of explosives, lacks suitable facilities therefor, has been convicted of a crime involving violence or of a felony, or is disloyal to the United States or will use the explosives for an illegal purpose, or that the application contains any false information or fails to provide any required information.

(b) **Dealing in.** Application for license to engage in the business of dealing in explosives shall be made to the State Fire Marshal in such form as the State Fire Marshal shall prescribe and furnish, and shall state, among other things: (1) The name and address of the applicant, (2) reason for desiring to engage in the business of dealing in such explosives, (3) citizenship, if an individual applicant, (4) if a partnership, the names and addresses of the partners and their citizenship, and (5) if an association or corporation, the names and addresses of the officers and directors thereof and their citizenship. The State Fire Marshal shall issue the license applied for unless he finds that either the applicant or an officer, agent or employee of the applicant who will be

handling explosives, is not sufficiently experienced and will not work under satisfactory supervision in the business of dealing in explosives, lacks suitable facilities therefor, has been convicted of a crime involving violence or of a felony, or is disloyal to the United States or will use the explosives for an illegal purpose, or that the application contains any false information or fails to provide any required information.

(c) **Possession of explosives other than smokeless powder, etc.** Application for license to possess any explosives other than smokeless powder and explosives necessary for the manufacture of ammunition for small arms shall be made in writing to the sheriff of the county, or chief of police of the county or of the community in which the applicant resides or has his regular place of business, or if the applicant is a nonresident and has no regular place of business in Maryland, to the State Fire Marshal, in such form as the State Fire Marshal shall prescribe and furnish, and shall state, among other things: (1) The name and address of the applicant, (2) the reason for desiring the license to possess explosives, (3) the place or places where the explosives will be stored, (4) the place or places where the explosives will be used and for what specific purpose, (5) his citizenship, if the applicant is an individual, (6) if the applicant is a partnership, the names and addresses of the partners and their citizenship, and (7) if the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship. The State Fire Marshal shall issue the license applied for without charge unless he finds that either the applicant, or an officer, agent or employee of the applicant who will be handling explosives, is not sufficiently experienced and will not work under satisfactory supervision in the handling of explosives, lacks suitable facilities therefor, has been convicted of a crime involving violence or of a felony, or is disloyal to the United States or will use the explosives for an illegal purpose, or that the application contains any false information or fails to provide any required information; provided, however, that if the explosives are to be used for agricultural purposes on the premises of the possessor, the license shall not be withheld either on the grounds of inexperience or lack of satisfactory supervision or suitable facilities.

(d) **Possession of smokeless powder or other explosives necessary for manufacture of small arms ammunition.** Application for license to possess smokeless powder or other explosives necessary for the manufacture of ammunition for small arms shall be made to the State Fire Marshal in such form as the State Fire Marshal shall pre-

scribe and furnish and shall state, among other things: (1) The name and address of the applicant, (2) the reason for desiring the license to possess such explosives, (3) citizenship, if an individual applicant, (4) if a partnership, the names and addresses of the partners and their citizenship, and (5) if an association or corporation, the names and addresses of the officers and directors thereof and their citizenship. The State Fire Marshal shall issue the license applied for without charge unless he finds that either the applicant or an officer, agent, or employee of the applicant who will be handling such explosives lacks suitable facilities therefor, has been convicted of a crime involving violence or of a felony, or is disloyal to the United States or will use the explosives for an illegal purpose, or that the application contains any false information or fails to provide any required information.

Sec. 29. Who must secure licenses. The owner or operator of a mine, quarry, or other operation or business in which explosives are used, or any contractor performing work in which explosives are used, shall secure a license to engage in the business of dealing in explosives, as provided in subsection (b) of Section 28 of this subtitle, and it shall be the duty of such owner, operator or contractor to issue or sell to any of his or its employees only such amount of explosives as may reasonably be required by that employee in the performance of his duties, and it shall not be necessary for any such employee to secure the license provided for in subsection (c) of Section 28 of this subtitle, in order to possess any such explosives so issued or sold to him by any such operator, owner or contractor, whether or not such operator, owner, or contractor has secured a license to engage in the business of dealing in explosives. Any such operator, owner or contractor who fails to secure the above-mentioned license shall be deemed to have violated the provisions of this subtitle, and it shall be the duty of such operator, owner or contractor selling or issuing explosives to any of his or its employees to see that no explosives are taken by any such employee to any point not necessary to the carrying out of his duties, and to further see that any unused explosives are returned to such operator, owner or contractor upon the termination of the work for which such explosives were issued or sold. Any such employee possessing explosives in any place where such explosives are not required for the performance of his duties, and not having an individual license to possess explosives, as provided in the aforesaid subsection (c) of Section 28 of this subtitle, shall be deemed to

have violated the provisions of Section 27A of this subtitle.

Sec. 30. Reports and records. (a) **Reports.** Upon request, not oftener than once in each calendar month, manufacturers shall file a report with the licensing officials in each state, other than Maryland, to which any explosive has been shipped by said manufacturer, giving in said report the names of all purchasers and the amount and description of all such explosives so sold or delivered, and shall, in like manner, report to the State Fire Marshal the names of all purchasers in Maryland and the amount and description of all such explosives so sold or delivered in Maryland.

(b) **Records.** Manufacturers and dealers shall keep a record of all explosives shipped, purchased or sold by them, which records shall include the name and address of each consignee, vendor or vendee, the date of each shipment, sale or purchase and the amount and kind of explosives shipped, sold or purchased. Such record shall be open for inspection by duly authorized agents of the licensing authority and by all federal, State and local law enforcement officers at all times. Upon request, not oftener than once in each calendar month, a copy of such record shall be furnished to the State Fire Marshal in such form as he shall prescribe.

Sec. 31. Sale to unlicensed persons—Explosives other than smokeless powder, etc. No dealer shall sell, barter, give or dispose of any explosives other than smokeless powder and explosives necessary for the manufacture of ammunition for small arms to any person unless such person holds a license to manufacture, deal in or possess such explosives issued under the provisions of Section 28 of this subtitle.

Sec. 31A. Same—Smokeless powder or other explosives necessary for manufacture of small arms ammunition. No dealer shall sell, barter, give or dispose of any smokeless powder or other explosives necessary for the manufacture of ammunition for small arms to any person unless such person holds a license to manufacture, deal in, or possess explosives issued under the provisions of Section 28 of this subtitle.

Sec. 32. Revocation; term of license; fees. (a) **Revocation.** Any license issued hereunder may be revoked by the official issuing the same on any ground specified herein as a ground for denying an application for such license or for violation of regulations promulgated by the State Fire Prevention Commission regulating the use, handling, and storage of explosives.

(b) **Term.** All licenses issued hereunder shall expire on the last day of each calendar year unless sooner revoked.

(c) **Fees.** Each application for a license hereunder shall be accompanied by the fee hereinafter prescribed, which fee shall be returned in the event such application is denied. The license fee shall be as follows: Manufacturer's license, ten dollars; Dealer's license, five dollars.

The fees for manufacturers' and dealers' licenses shall be paid over by the State Fire Marshal to the State treasury.

Sec. 33. Rules and regulations; exempting from licensing requirements small quantities of smokeless powder, etc. The State Fire Prevention Commission may prescribe such rules and regulations as it may deem necessary and proper for carrying out the provisions of this subtitle, and the State Fire Prevention Commission is hereby authorized to exempt from the licensing requirements of this subtitle the possession of small quantities of smokeless powder and other explosives necessary for the manufacture of ammunition for small arms under such terms and conditions as the Commission deems adequate to protect the health and safety of firemen. The State Fire Marshal is hereby authorized to investigate all explosions and fires which may occur in mines, quarries, factories, warehouses, magazines, houses, cars, boats, conveyances, and all other places in which explosives or ingredients are manufactured, transported, stored, or used. The State Fire Marshal is authorized to investigate all explosions, accidents, or fires, in which there is reason to believe that explosives were involved. The State Fire Marshal may in his discretion report his findings in such manner as he may deem fit to the proper federal or State authorities to the end that if such explosion has been brought about by a willful act, the person or persons causing such act may be proceeded against and brought to justice; or if the explosion has been brought about by accidental means, that precautions may be taken to prevent similar accidents from occurring. In the prosecution of such investigations the employees under the direction of the State Fire Marshal are hereby granted the authority to enter the premises where such explosion or fire has occurred, to examine plans, books and papers, to administer oaths to, and to examine all witnesses and persons concerned, without let or hindrance on the part of the owner, lessee, operator, or agent thereof.

Sec. 33A. Report of theft. Any theft or other unauthorized taking of explosives from any person holding a license under the provisions of Section 28 of this subtitle shall be reported by the licensee immediately upon discovery thereof to the office of the State Fire Marshal by telephone and be

supplemented by a written report in such form as the State Fire Marshal may require.

Sec. 34. Penalties—Violation of Sections 27, 29 and 32 or rule or regulation. Any person who violates any provision of Section 27 or 32 of this subtitle, or any rule or regulation made under the provisions of this subtitle, and any owner, operator or contractor who violates any provision of Section 29 of this subtitle shall, upon conviction, be imprisoned for a term of not more than five years, or shall be fined not more than five thousand dollars (\$5,000.00), or both, in the discretion of the court.

Sec. 34A. Same—Violation of Section 27A. Any person who violates Section 27A of this subtitle shall be guilty of a felony and, upon conviction, shall be imprisoned for a term of not more than twenty years, or fined not more than ten thousand dollars (\$10,000.00), or both, in the discretion of the court; provided, however, that this section shall not apply to any person who neither intended to use nor used the explosives involved in violation of any provision of Article 27 of this Code.

Sec. 34B. Same—Violation of Section 31 or aiding, etc., in violation of Section 27A. Any person who violates Section 31 of this subtitle, or who otherwise aids or counsels in a violation of Section 27A of this subtitle, or who commits any other act in furtherance of a violation of Section 27A of this subtitle, or who conspires to violate Section 27A of this subtitle shall be guilty of a felony and, upon conviction, shall be imprisoned for a term of not more than twenty years, or fined not more than ten thousand dollars (\$10,000.00), or both, in the discretion of the court; provided, however, that this section shall not apply to any person who had probable cause to believe that the explosives involved would be used for a purpose other than the violation of a provision of Article 27 of this Code.

Sec. 34C. Same—Violations of Sections 27A and 31. Any person who violates Section 27A or 31 of this subtitle, and who is not subject to the penalties otherwise provided in Section 34A or Section 34B, shall, upon conviction, be imprisoned for a term of not more than five years, or shall be fined not more than five thousand dollars (\$5,000.00), or both, in the discretion of the court.

Sec. 34D. Same—Violations of Sections 27B, 30, 31A and 33A. Any person who violates any provision of Sections 27B, 30, 31A or 33A of this subtitle shall, upon conviction, be imprisoned for a term of not more than 6 months or shall be fined not more than five hundred dollars (\$500.00) or both, in the discretion of the court.

Sec. 34E. Same—Merger of convictions; preemption among penalties. In any case where a person has been convicted of a violation of Sections 27 and 27A, or of a violation of Sections 27B and 27A, and such convictions arise out of the same transaction, the conviction under Section 27 or 27B shall merge into the conviction under Section 27A. In any case where a person has been convicted of a violation or violations under this subtitle for which penalties and/or fines have been imposed against such person pursuant to two or more of Sections 34, 34A, 34B, 34C or 34D, any penalty and/or fine imposed pursuant to Section 34A shall preempt the other penalties and/or fines imposed pursuant to any other of such sections as a result of such violation or violations, and any penalty and/or fine imposed pursuant to Section 34B shall preempt the other penalties and/or fines imposed pursuant to any other of such sections as a result of such violation or violations except any penalty and/or fine imposed pursuant to Section 34A hereof.

Sec. 34F. Forfeiture of vehicle, vessel or aircraft. In addition to any other fines or penalties provided for a violation of the provisions of this subtitle, any motor vehicle or other vehicle, vessel or aircraft used or employed in the concealment, conveying or transporting of any explosives during the course of any violation of this subtitle by any person or persons on whom a penalty and/or fine is imposed under the provisions of Section 34A or 34B, shall upon the conviction or convictions be declared by the court to be forfeited to the county or to Baltimore City, as the case may be; provided that no vehicle shall be forfeited hereunder unless the owner thereof authorized or permitted such use or employment, and provided further that the interest thereby transferred to the county or Baltimore City shall be subordinate to the interest of the holder of any perfected security interest in such vehicle, vessel, or aircraft. The county commissioners or the mayor and city council of Baltimore at their discretion, and after discharging any perfected security interest in such vehicle, vessel or aircraft, may use the same for public purposes or may exchange, sell or convey it to another person or persons; and any cash or moneys received therefor shall be added to the general funds of the county or City of Baltimore.

Sec. 34G. Burden of proof of exception, excuse, proviso or exemption. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this subtitle, it shall not be necessary to negative any exception, excuse, proviso or exemption, contained in

this subtitle, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant or upon the holder of any alleged security interest, as the case may be.

Sec. 35. Exceptions. The licensing provisions of this subtitle shall not apply to the armed forces of the United States, the National Guard, the State Guard, or to officers or employees of the United States or of this State or of any political subdivision thereof, who are authorized to handle explosives in the performance of their duties.

This subtitle shall apply to explosives while being transported upon vessels, vehicles or railroad cars, and while being held for delivery, unless such transportation or delivery is subject to and in conformity with the regulations prescribed by the United States Department of Transportation or United States Coast Guard; and provided, further, that nothing in this subtitle shall apply to the receipt, possession and use of signals required for the safe operation of vessels, motor vehicles, railroad cars or aircraft, by the operators of such vessels, motor vehicles, railroad cars and aircraft.

Sec. 36. Severability. If any provision of this subtitle or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the subtitle which can be given effect without the invalid provision or application, and to this end the provisions of this subtitle are declared to be severable.

Article 27 Carrying Weapons Aboard Aircraft

Sec. 36A-1. Prohibited; penalty. (a) Notwithstanding any other provisions of this Code, and except when authorized by State or federal law or regulation, it shall be unlawful for any individual, while aboard or with intent to board an aircraft engaged in certificated air commerce services, to have on or about his person, whether openly or concealed, any firearm or explosive.

(b) Any person who violates the provisions of this section shall be guilty of a felony, and upon conviction shall be punished by imprisonment for not more than ten (10) years.

(c) Nothing contained herein shall authorize or limit any action incompatible with provisions of federal law or regulations.

Molotov Cocktails

Sec. 139A. Molotov cocktail. (a) It is unlawful for any person to manufacture, assemble, use or possess in this State, any

device commonly known as a firebomb or a Molotov cocktail. Such a device is defined as any container which is filled with an incendiary mixture or flammable material or liquid, and is designed and intended to be used as a destructive device and whose ignition is caused by flame, friction, concussion, detona-

tion or other method which will produce destructive effects primarily through combustion rather than explosion. This provision shall not extend to those containers that contain and that are primarily designed and approved for the transportation or storage of a particular mixture, material or liquid.

Massachusetts

ANNOTATED LAWS OF MASSACHUSETTS

Chapter 148 Fire Protection

Sec. 13. License for Storing, etc., of Explosives; Removal of Hazardous Conditions upon Cessation of Use of Structure for Keeping, etc., Explosives; Revocation of Unexercised Licenses. No building or other structure shall, except as provided in section fourteen, be used for the keeping, storage, manufacture or sale of any of the articles named in section nine, unless the local licensing authority shall have granted a license to use the land on which such building or other structure is or is to be situated for the aforementioned uses, after a public hearing, notice of the time and place of which hearing shall have been given, at the expense of the applicant, by the clerk of the city or of the local licensing authority, by publication, not less than seven days prior thereto, in a newspaper published in the English language in the city or town wherein said land is situated, if there is any so published therein, otherwise in the county in which such city or town lies, and also by the applicant by registered mail, not less than seven days prior to such hearing, to all owners of real estate abutting on said land or directly opposite said land on any public or private street as they appear on the most recent local tax list at the time the application for such license is filed, and unless the application for such license shall have endorsed thereon the certificate of approval or disapproval of the head of the fire department. Such license shall be recorded in the office of the city or town clerk, and it shall, from the time of the granting thereof by the licensing authority, be deemed a grant attaching to the land described therein and as an incident of ownership thereof running with the land and shall not be deemed to be merely a personal privilege. Any license granted hereunder, or any license for the keeping, storage, manufacture or sale of any of the articles named in section nine, granted prior to July first, nineteen hundred and

thirty-six, including any license reinstated and continued by the marshal as herein provided, shall remain in force unless and until revoked as hereinafter provided. Any such license granted hereunder shall be subject to such conditions and restrictions as may be prescribed in the license by the local licensing authority, which may include a condition that the license be exercised to such extent and within such period as may be fixed by such authority.

The owner or occupant of said land licensed as herein provided, and the holder of any license for the keeping, storage, manufacture or sale of any of the articles named in section nine, granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, shall annually, on or before April thirtieth, file with the clerk of the city or town where such license is to be or has been exercised, or in Boston, with the fire commissioner, or in Cambridge, with the board of license commissioners, a certificate of registration setting forth the name and address of the holder of such license; provided, that no certificate of registration shall be required for any building used as a garage for storing not more than three vehicles, when once used under such a license. The board may by regulation prescribe the amount of any of the articles named in section nine that may be kept in a building or other structure without a license and registration, or either of them. Such fee as may be established from time to time by ordinance or by-law may be charged for any such license, registration or certificate of the head of the fire department, respectively; provided, that the fee for such registration shall be not more than one half of the amount of the fee for such a license.

Every license granted under this section, and every certificate of registration filed under this section, shall be deemed to be granted or filed upon condition that if the land described in the license ceases to be used for the aforementioned uses, the holder

of the license shall within three weeks after such cessation eliminate, in accordance with rules and regulations of the board, all hazardous conditions incident to such cessation. If the holder of the license fails so to eliminate such conditions, the local licensing authority may eliminate such conditions; and a claim for the expense incurred by the local licensing authority in so doing shall constitute a debt due the city or town upon the completion of the work and the rendering of an account therefor to the holder of the license, and shall be recoverable from such holder in an action of contract. Said debt, together with interest thereon at the rate of six per cent per annum from the date said debt becomes due, shall constitute a lien on said land if a statement of claim, signed by the local licensing authority, setting forth the amount claimed without interest is filed, within ninety days after the debt becomes due, with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies. Such lien shall take effect upon the filing of the statement aforesaid and shall continue for two years from the first day of October next following the date of such filing. Such lien may be dissolved by filing with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies, a certificate from the collector of the city or town that the debt for which such lien attached, together with interest and costs thereon, has been paid or legally abated. Such collector shall have the same powers and be subject to the same duties with respect to such claim as in the case of the annual taxes upon real estate; and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the non-payment thereof, and the redemption of land so sold or taken shall apply to such claim.

The marshal may, upon application and after a public hearing, reinstate and continue in force and effect any license granted prior to July first, nineteen hundred and thirty-six, for the keeping, storage, manufacture or sale of any of the articles named in said section nine, irrespective of the extent of the use and occupancy of buildings or other structures made or had under said license prior to the date of such reinstatement and continuance, anything in the provisions of this chapter to the contrary notwithstanding, unless prior to such reinstatement and continuance said license has been revoked for cause or the marshal shall have determined that a fire or explosion hazard would result from the exercise of such license. The

marshal shall give written notice of such application, and of the date of the hearing thereon, to the head of the fire department of the city or town wherein is situated the land to which such application relates and shall, after such hearing, notify in like manner the clerk of such city or town of the action taken on such application.

Any license granted hereunder between July first, nineteen hundred and thirty-six and August seventeenth, nineteen hundred and fifty-one, both dates inclusive, not exercised for a period of at least three years, may be revoked by the local licensing authority after notice and hearing given to the owner or occupant of the land licensed.

Any license granted hereunder or any license for the keeping, storage, manufacture or sale of any of the articles named in section nine, granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, may be revoked for cause, after notice and hearing given to such owner or occupant, by the local licensing authority or by the marshal. Any building or structure erected or maintained under any of the aforementioned licenses shall always be subject to such replacements and alterations in construction and to such regulations of its use in respect to protection against fire or explosion as the board may prescribe.

Any person aggrieved by the granting of a license hereunder on the ground that the exercise thereof would constitute a fire or explosion hazard may, within ten days after the granting thereof, appeal to the marshal who, after notice and hearing, shall finally determine whether such a hazard would result. If, in his opinion, such a hazard would result, he shall notify the authority granting the license, and such notice when received by such authority shall constitute a revocation of such license and no further license for the same or similar use of the same land shall be granted within one year after the receipt by such authority of such notice.

Sec. 15. Penalty for Violation of Regulation Relative to Transportation of Explosives or Inflammable Fluids, etc. Whoever knowingly violates or knowingly causes or permits the violation of any regulation adopted and prescribed for the transportation of gunpowder and other explosives or explosive or inflammable fluids or compounds shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

Sec. 16. Penalty for Violation of Regulation Relative to Storing, etc., Explosives. Whoever keeps, stores, uses, manufactures, sells, handles or otherwise disposes of any of the articles mentioned in section nine, in

violation of section twelve or thirteen or of any regulation, ordinance or by-law made under section nine, or whoever violates any regulation made under section thirteen, or whoever, not being exempt from the provisions of section thirteen relating to the filing of a certificate of registration, fails to file said certificate and to pay such fee as may be established under section thirteen, shall, except as provided in sections fifteen and thirty-five and in section one hundred and two A of chapter two hundred and sixty-six, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month, or both.

Sec. 17. Powers of Courts. The supreme judicial or superior court may restrain the erection, occupation or use of a building in violation of section thirteen or of any regulation made thereunder.

Sec. 19. Blasting Bond; Fee. Before the issue of a permit to use an explosive in the blasting of rock or any other substance as prescribed by the department, the applicant for the permit shall file with the clerk of the city or town where the blasting is to be done, a bond running to the city or town, with sureties approved by the treasurer thereof, for such penal sum, not exceeding ten thousand dollars as the marshal or the officer granting the permit shall determine to be necessary in order to cover the risk of damage that might ensue from the blasting or its keeping therefor; provided, that the marshal or the officer granting the permit may determine that a single and blanket bond in a penal sum not exceeding fifteen thousand dollars is sufficient to cover the risk of damage from all blasting operations of the applicant, either under the permit so issued or under future permits to use explosives in blasting operations. The bond shall be conditioned upon the payment of any loss, damage or injury resulting to persons or property by reason of such blasting or keeping. Such applicant shall pay to said clerk at the time of filing of the said bond the fee provided by clause (15) of section thirty-four of chapter two hundred and sixty-two.

Sec. 20. Actions on Bond. Action on a bond filed under the preceding section may be brought by any person to whom loss, damage or injury has resulted by reason of such blasting or keeping, and shall be brought in the name of, and for the use and at the cost and expense of, such person; but in no event shall action be brought on the bond for personal injury of an employee of the person receiving the permit. If claims on any bond are established to an amount greater than the penal sum thereof, such claims shall be paid pro rata to the amount of

the penal sum, and executions shall issue accordingly.

Sec. 20A. Bonds to Cover Blasting Operations Conducted in More Than One City or Town. If the applicant for a permit to use an explosive in the blasting of rock or any other substance desires to conduct blasting operations in more than one city or town in the commonwealth he may, instead of filing a bond with the clerk of each city or town in which such operations are to be conducted, file a bond with the state treasurer in the penal sum of twenty thousand dollars, running to the commonwealth, with sureties approved by the state treasurer, and for such additional penal sum as the marshal shall determine to be necessary to cover the losses, damages or injuries that might ensue to persons or property by reason thereof. The provisions of sections nineteen and twenty shall apply to said bond and actions thereon so far as applicable.

Sec. 20B. Examination and Certification of Competency to Conduct Blasting Operations. No person shall conduct blasting operations unless he holds a certificate of competency issued by the department. Any person desiring to obtain a certificate of competency to conduct blasting operations shall make application to the department. A fee of twenty dollars shall accompany each application, ten dollars of which shall be for the examination and ten dollars of which shall be for the certificate if issued. The application shall be in such form and contain such information as the state fire marshal may require. Within three months after the date of receipt of his application, the applicant shall be examined as to his experience and ability to conduct blasting operations, and if found by the examiner to be qualified, he shall forthwith be issued a certificate of competency. Said certificate shall be valid throughout the commonwealth until the date of birth of the licensee occurring more than twelve months but not more than twenty-four months after the effective date of such license and may be renewed after its expiration without examination upon the payment of a fee of ten dollars. If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-ninth shall, for the purposes of this section, expire on March first. If the applicant fails to qualify, five dollars of the fee paid with his application shall be refunded to him. A

holder of a certificate of competency to conduct blasting operations whose certificate is lost, misplaced or stolen may obtain a duplicate certificate from the state fire marshal upon the payment of one dollar.

Sec. 20C. Liability for Damages. Any person engaged in a blasting operation shall be liable for direct damages to the person or property of another without proof of negligence.

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Sec. 22. Damages for Illegal Use, etc., of Explosives. Whoever suffers injury by the explosion of an explosive which is being kept or transported contrary to the provisions of this chapter or of the regulations of the board may recover damages therefor in tort against the persons who so violate said provisions or regulations.

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Sec. 35. Possession of Bombs and Explosives; Penalty. No person shall have in his possession or under his control any bomb or other high explosive, as defined by the rules and regulations made under section nine, contrary to the provisions of this chapter or of any rule or regulation made thereunder. Whoever violates this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than two and one half years, or both, and any bomb or explosive found in his possession or under his control on such violation shall be forfeited to the commonwealth. Any officer qualified to serve criminal process may arrest without a warrant any person violating this section.

Sec. 39. Blank Cartridges, Toy Pistols, Fireworks, etc. No person shall sell, or keep or offer for sale, or have in his possession, or under his control, or use, or explode, or cause to explode, any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article, which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.

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Sec. 50. Search Warrant for Explosives Illegally Kept. Upon complaint made to a court or justice authorized to issue warrants in criminal cases that the complainant has probable cause to suspect and does suspect that gunpowder, dynamite or any other explosives, crude petroleum or any of its products, or explosive or inflammable fluids, or any of the articles named in section thirty-nine, are kept or are to be found in any place contrary to this chapter or regulations made hereunder, such court or justice may issue a

search warrant in conformity with chapter two hundred and seventy-six, so far as applicable, commanding the officer to whom the warrant is directed to enter any shop, building, manufactory, vehicle or vessel specified in the warrant, and there make diligent search for the articles specified in the warrant, and make return of his doings forthwith to the court or justice having jurisdiction thereof. Such warrants may be directed to an inspector or to the head of the fire department.

Sec. 51. Forfeiture of Such Explosives. Articles seized under the preceding section may, after due notice and hearing, be adjudged to be forfeited, and may be ordered to be sold or destroyed in such manner as the court or magistrate may direct, and the proceeds, if any, paid into the county treasury.

Chapter 149—Labor and Industries

Waterfront Operations

Sec. 18F. Handling of Explosives and Other Dangerous Articles, Regulated. Explosives and other dangerous articles and substances shall be loaded, unloaded, stored, transported or otherwise handled in accordance with United States Coast Guard regulations.

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Health and Safety

Sec. 130. Storage of Explosives. Explosive or inflammable compounds or materials shall not be so stored or used in any place of employment as to obstruct or render hazardous the egress of employees in case of fire.

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Chapter 159—Common Carriers

Sec. 102. Torpedo to Be Marked. No railroad corporation or railway company or any officer or employee thereof shall use or deposit a torpedo or other explosive upon or near the tracks of any railroad or railway for the purpose of signaling or otherwise, unless there is plainly and conspicuously stamped or otherwise permanently marked thereon in a manner approved by the department a word or words indicating that such torpedo or other explosive is dangerous.

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Chapter 266—Crimes Against Property

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Sec. 102B. Possession, etc., of Molotov Cocktail or Similar Device; Exceptions; Penalties. Whoever makes, sells, uses or has in his possession or under his control a bottle or other breakable container containing a flammable liquid into which has been fixed or placed a wick or similar device, and which bottle or container when ignited and thrown will cause a fire or explosion, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than two and one half years, or both.

The provisions of this section shall not apply to flares, lanterns, fireworks or other such devices used for signal or illumination purposes, or for any other lawful purpose.

Whoever violates any provision of this section may be arrested without a warrant and held in custody in jail or otherwise until a complaint be made against him for such offense unless previously admitted to bail, which complaint shall be made as soon as practicable and in any case within twenty-four hours, Sundays and legal holidays excepted.

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Acts of 1969, as amended, for carrying out the intent and purpose of this section.

Explosives Act of 1970

An act to regulate the possession, handling, storage, control, use, sale, purchase, transfer, transportation or other disposition of explosives; to provide for permits in connection therewith; and to provide penalties.

Sec. 4.559(12). Definitions. SEC. 2. As used in this act: (a) "Explosive" means blasting powder, nitroglycerine, dynamite, TNT and any other form of high explosive, blasting material, fuse other than an electric circuit breaker, detonator and other detonating agent, a chemical compound or mechanical mixture containing oxidizing or combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion or other means of detonation of the compound or mixture or any part thereof may result in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property. An explosive does not include gasoline, kerosene, naphtha, turpentine, butane, propane, wet nitrocellulose or wet nitrostarch containing moisture in excess of 20%, or wet picric acid containing moisture in excess of 10%; or manufactured article such as fixed ammunition for small arms, fire crackers, safety flares or matches containing an explosive in such limited quantity that the collective and simultaneous detonation thereof is incapable of resulting in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property.

(b) "Dealer" means a person, not a manufacturer, engaged in the business of buying and selling explosives.

(c) "Person" means an individual, firm, partnership, corporation, association other legal entity but does not include an officer of a law enforcement agency or of a fire department, while acting in his official capacity.

(d) "Director" means the director of the department of state police.

(e) "Issuing officer" means an officer of a local police or sheriff's department, or a designated officer of the state police.

Sec. 4.559(43). Permit; exception. SEC. 3. A person shall not handle, store, control, use, sell, purchase, transfer, transport or otherwise dispose of an explosive unless he has applied for, obtained and has on his person a valid permit as prescribed by this act, except that:

(a) This section does not apply to an employee, or agent other than an independent contractor, acting in the scope and course of his employment or agency and under the supervision of his employer or principal, where the employer or principal has applied for and obtained a valid permit.

(b) A person need not have the permit on his person where he is only storing explosives.

Sec. 4.559(44). Application, contents; fee. SEC. 4. A permit may be issued by an issuing officer upon the completion in writing by the applicant on forms prescribed and provided by the director, of an application, the content of which shall at least include the (a) name, (b) address, (c) date of birth, (d) social security number, and (e) signature of the applicant. The applicant shall also indicate in writing the intended use of the explosive for which the permit is to be issued, and whether he has been convicted of a felony within 5 years. A fee of \$1.00 shall accompany each application. All fees shall be retained by the local law enforcement office as full compensation for processing the permit.

Sec. 4.559(45). Conditions for issuance of permit. SEC. 5. A permit shall not be issued to an applicant who has not, on or before the date of application, attained the age of 18 years or who has been duly adjudged insane, unless subsequently restored by court order to full mental competency and capacity.

Sec. 4.559(46). Distribution of permit; period of validity. SEC. 6. A permit shall be issued in triplicate; the original shall be forwarded to the director, a copy shall be furnished to the applicant on the same day as the application is filed and approved and a copy shall remain on file with the issuing officer. Unless subsequently revoked, a permit is valid for 1 year after the date of issuance.

Sec. 4.559(47). Refusal of permit; notice. SEC. 7. A permit may be refused to an applicant where the issuing officer has reasonable cause to believe that granting the permit would constitute a substantial and immediate danger to the public health, safety and welfare. Notice of refusal to issue a permit shall be given the applicant on the same day his application is made. Within 3 days thereafter, the issuing officer shall send to the applicant, by certified mail, a copy of the notice of refusal together with a statement in writing of the reason for the refusal.

Sec. 4.559(48). Revocation; hearing; notice; judicial review. SEC. 8. Within 15 days after the notice of refusal, the applicant may request, in writing on a form prescribed and provided by the director, a review by the

director of the refusal. Within 30 days after receipt by the director of the application for review, he, or his duly authorized representative, shall conduct a hearing on the refusal and shall issue an order of determination on the review. The director shall send, by certified mail, to the applicant and to the issuing officer, a copy of his order of determination. The director's order of determination shall be reviewable, upon timely appeal, by the circuit court for the county of the applicant's residence or by the circuit court for the county of Ingham.

Sec. 4.559(49). Revocation of permit. SEC. 9. An issuing officer may revoke a permit when he has reasonable cause to believe that its possession by the holder constitutes a substantial and immediate danger to the public health, safety and welfare. The procedures set forth in this act applicable to the refusal of issuance of a permit shall apply to revocation.

Sec. 4.559(50). Permanent permit. SEC. 10. The director may in his discretion issue a permanent permit to persons of known moral character, who have constant legitimate use of explosives.

Sec. 4.559(51). Records of dealer; condition for sale. SEC. 11. (1) A dealer shall keep and maintain such records on such forms as are prescribed and provided by the director, which records shall include (a) an amount of each sale, transfer or other disposition of explosives by him, (b) the date thereof, the name, age, address and permit number of the purchaser or transferee, and (c) the amount and type of explosive sold or transferred. The records shall be forwarded to the director on the last day of each month.

(2) A dealer or person shall not sell or otherwise transfer an explosive without first ascertaining that the purchaser or transferee has on his person and displays a valid permit.

Sec. 4.559(52). Nonassignability of permit. SEC. 12. A person holding a valid permit shall not assign or transfer it to any other person.

Sec. 4.559(53). Storage of explosives; exception. SEC. 13. All explosives, other than those in use or transit as permitted by this act, shall be stored in a locked building or out building which shall be rigidly fixed to its base or foundation. Nothing in this section shall be construed to abrogate R28.131 through R28.200 of the Michigan administrative code.

Sec. 4.559(54). Restrictions on handling. SEC. 14. A person shall not handle an explosive while under the influence of intoxicating liquor or narcotic.

Sec. 4.559(55). Violation, misdemeanor. SEC. 15. A person who violates

Michigan

MICHIGAN STATUTES ANNOTATED

Definition, for Fire Prevention Purposes

Sec. 4.559(5). Inflammable or explosive substances, etc. SEC. 5. All inflammable or explosive liquids, fluids, compounds, materials, or other substances, including alcohol, gunpowder, dynamite, crude petroleum, or any of its products, fuel oils, pyroxylin, and combustible finishes, and other commodities

of a like nature or quality shall be manufactured, kept or stored, sold, transported, or otherwise handled or disposed of in such a manner and by a method as not to constitute a fire hazard within the meaning of this act or a menace to the public peace, health, or safety, or so as to endanger or cause loss, injury, or damage to persons or property. The director may adopt and promulgate rules pursuant to Act No. 306 of the Public

any provision of this act is guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned for not more than 1 year, or both.

Definition, For Transport Purposes

Sec. 9.1815. Explosives. SEC. 15. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

Construction

Sec. 22.190(3). Discharge of explosives; demolition of buildings; ascertaining location of utility facilities. SEC. 3. A person or public agency shall not discharge explosives, excavate, or tunnel in a street, highway, public place, a private easement of a public utility, or near the location of a public utility facility owned, maintained, or installed on a customer's premises, or demolish a building containing a public utility facility without having first ascertained in the manner prescribed in sections 5 or 7 the location of all underground facilities of a public utility in the proposed area of excavation, discharging of explosives, tunneling, or demolition.

Sec. 22.190(5). Notice of intent; time for service; contents. SEC. 5. Except as provided in sections 7 and 9, a person or public agency responsible for excavating or tunneling operations or discharge of explosives in a street, highway, other public place, a private easement for a public utility, or near the location of utility facilities on a customer's property, or demolition of a building containing a utility facility, shall serve a written notice of intent to excavate, tunnel, discharge explosives, or demolish at least 2 full working days, excluding Saturdays, Sundays, and holidays, but not more than 3 months, before commencing the excavating, demolishing, discharging of explosives or tunneling operations on the public utility having underground facilities located in the proposed area of excavation, discharging of explosives, tunneling, or demolition.

The written notice of intent shall contain the name, address, and telephone number of

the person or public agency filing the notice of intent, the name of the person or public agency performing the excavation, discharging of explosives, tunneling, or demolition, the date and type of excavating, discharging of explosives, demolishing, or tunneling operation to be conducted, and the location of the excavation, tunneling, discharging of explosives, or demolition.

Crimes

Sec. 28.397. Transportation of dynamite, etc., on common carriers for passengers; penalty; exceptions. SEC. 200. Any person who shall transport, carry or convey any dynamite, gunpowder or other explosive between any places within the state of Michigan on any vessel, car or vehicle of any description, operated by a common carrier, which vessel, car or vehicle is carrying passengers for hire, shall be guilty of a felony: Provided, That it shall be lawful to transport on any such vessel, car or vehicle small arms ammunition in any quantity, and such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation, and properly packed and marked samples for laboratory examination, not exceeding a net weight of one-half [1/2] pound each, and not exceeding twenty [20] samples at one time in a single vessel, car or vehicle; but such samples shall not be carried in that part of a vessel, car or vehicle which is intended for the transportation of passengers for hire: Provided further, That nothing in this section shall be construed to prevent the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels, cars or vehicles: Provided further, That this section shall not be construed to apply to the transportation of benzene, naphtha, gasoline or kerosene.

Sec. 28.398. Transportation, etc., of explosives which explode by concussion or friction on carriers for passengers; penalty; place offense shall be deemed to be committed. SEC. 201. No person shall order, send, take, transport, convey or carry, or attempt to order, send, take, transport, convey or carry dynamite, nitro-glycerine, fulminate in bulk in dry condition or any other explosive substance which explodes by concussion or friction, concealed in any bag, satchel, valise, trunk, box or in any other manner whatever, either as freight or baggage, on any passenger boat or vessel, or any railroad car or train of cars, street car, motor bus, stage or other vehicle used wholly or partly for carrying passengers or articles of commerce by land or water.

Any person who violates any of the provisions of this section and any consignee to

whom any such dynamite, nitro-glycerine, fulminate in bulk in dry condition or other explosive substance has been consigned by his procurement in violation of any of the provisions of this section, shall be guilty of a felony.

The offense shall be deemed to be committed in any county through which such person procures or attempts to procure the transportation of such dynamite, nitro-glycerine, fulminate in bulk in dry condition or other explosive substance.

Sec. 28.399. Marking of explosives intended for shipment; false marking; penalty. SEC. 202. Every package containing explosives or other dangerous articles when presented to a common carrier for shipment shall have plainly marked on the outside thereof the contents thereof, and it shall be unlawful for any person, partnership or corporation to deliver for transportation to any common carrier engaged in commerce by land or water, or to cause to be delivered or to carry any explosive or other dangerous article, under any false or deceptive marking, description, invoice, shipping order or other declaration, or without informing the agent of such carrier of the true character thereof, at or before the time such delivery or carriage is made. Any person violating any provision of this section shall be guilty of a felony.

Sec. 28.400. Regulations of interstate commerce commission. SEC. 203. The regulations formulated by the interstate commerce commission, pursuant to section two [2] of an act of congress, public numbered one seventy-four [174], approved May thirty [30], nineteen hundred eight [1908], shall be binding upon all common carriers engaged in intrastate commerce within the state of Michigan, which transport explosives by land.

Sec. 28.401(1). Sending or transporting devices representing explosives or bombs. SEC. 204a. A person who, with the intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy any other person, sends or transports a device which is so constructed as to represent, or is presented as, an explosive, incendiary device, or bomb, is guilty of a felony. An offense is committed under this section if the device is sent from or received in this state, and may be prosecuted in the jurisdiction from where it was sent or received.

Sec. 28.402(1). Delivering or placing devices representing explosives or bombs. SEC. 205a. A person who knowingly delivers or places a device with the intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy any other person, when the device is so constructed as to represent, or is

presented as, an explosive, incendiary device, or bomb, is guilty of a felony.

Sec. 28.407. Possession of bombs with intent to use unlawfully. SEC. 210. Any person who carries or possesses a bomb or bombshell or any article containing an explosive or combustible substance or fowl, offensive or injurious substance or compound, with intent to use the same unlawfully against the person or property of other [another], shall be guilty of a felony, punishable by imprisonment in the state prison for not less than two [2] nor more than five [5] years.

Sec. 28.408. Manufacture, etc., of explosives with intent to use unlawfully. SEC. 211. Any person who shall manufacture, buy, sell, furnish or cause to be furnished, or have in possession any nitroglycerine, dynamite, giant powder or any other dangerous explosive material, with the intent to use the same unlawfully against the person or property of another shall be guilty of a felony, punishable by imprisonment in the state prison for not less than two [2] years nor more than five [5] years.

Sec. 28.408(1). Explosive or incendiary devices; unlawful construction or possession; evidence. SEC. 211a. Any person who shall make, construct or have in his possession any device which is designed to explode or which will explode upon impact or with the application of heat or a flame, or which device is highly incendiary, with intent to use the device unlawfully against the person or property of another is guilty of a felony. For the purposes of prosecution under this section, possession of such a device is prima facie evidence of the possessor's intent to use the device unlawfully against the person or property of another.

Sec. 28.409. Marking of high explosives; sale of falsely marked or unmarked explosives. SEC. 212. No person shall within this state manufacture, sell, keep or offer for sale any high explosive, which is not marked, branded or stamped as in this section provided.

Every manufacturer of dynamite, or other high explosive, shall put a brand or mark on each case distinctly showing the percentage of disruptive force contained in each cartridge in said case, and the name or trade mark, and the address of said manufacturer.

No person by himself, agents or servants shall sell, keep or offer for sale, any dynamite or other high explosive not branded or marked as provided in this section.

Any person, who shall falsely brand, mark, or stamp any such explosive, or who shall sell, keep or offer for sale, any high explosive bearing any false brand or mark, shall be guilty of a misdemeanor.

Sec. 28.421. Selling, etc., machine guns, silencers, blackjacks, etc.; exceptions. SEC. 22. Any person who shall manufacture, sell, offer for sale or possess * * * * any bomb, or bomb shell, * * * * shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or a fine of not more than \$2,500.00.

The provisions of this section shall not apply to any person manufacturing firearms, explosives or munitions of war by virtue of any contracts with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof, or to any person duly licensed to manufacture, sell or possess any * * * * contrivance above mentioned.

Sec. 28.559. Explosives; bringing or placing on passenger carrier causing death; persons liable. SEC. 327. No person shall order, send, take or carry, or attempt to order, send, take or carry dynamite, nitroglycerine or any other explosive substance which explodes by concussion or friction, concealed in any bag, satchel, valise, trunk,

box or in any other manner, either as freight or baggage, on any passenger boat or vessel, or any railroad car or train of cars, street car, motor bus, stage or other vehicle used wholly or partly for carrying passengers.

In case any person violates any of the provisions of this section, he, and any consignee to whom any such dynamite, nitroglycerine, or other explosive substance has been consigned by his procurement in violation of any of the provisions hereof, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years, in case such dynamite, nitroglycerine or other explosive substance explodes and destroys human life while in possession of any carrier or on any boat, vessel, railroad car, street car, motor bus, stage or other vehicle contrary to any of the provisions hereof.

Sec. 28.559(1). Explosives; furnishing to minor. SEC. 327a. A person who sells or furnishes to a minor, without first having procured the written consent of the parent or guardian of the minor, any bulk gunpowder, dynamite, blasting caps or nitroglycerine is guilty of a misdemeanor.

Minnesota

MINNESOTA STATUTES ANNOTATED

Public Safety

Controls of Explosives

299F.71. Policy. The beneficial use of explosives has resulted in great savings of time, labor, and money in the development of the state. However, existing laws and regulations have not restricted explosives to those who would use or contribute to their use for beneficial purposes. The inattentive care, indiscriminate and unrecorded transfer and perverse use of explosives has resulted in death, grave personal injury, and substantial property damage in this state; in addition, the resulting bombings and bombing threats have terrorized and inconvenienced the public.

It is the policy of this state to require such controls of explosives and their component parts from the time prior to manufacture through ultimate use as are necessary to protect the safety and welfare of the public, without unduly restricting the legitimate manufacture, sale, transport, and use of explosives.

299F.72. Definitions. Subdivision 1. For the purposes of Laws 1971, Chapter 845

the terms defined in this section have the meanings given them.

Subd. 2. "Explosive" means any compound or mixture, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat; but shall not mean or include the components for handloading rifle, pistol, and shotgun ammunition, and/or rifle, pistol and shotgun ammunition, black powder, primers and fuses when used for ammunition and components for antique or replica muzzleloading rifles, pistols, muskets, shotguns and cannons, or fireworks as defined in section 624.20, nor shall it include any fertilizer product possessed, used or sold solely for a legitimate agricultural, forestry, conservation, or horticultural purpose.

Subd. 3. "Explosive device" means any device so articulated that an ignition by fire, by friction, by concussion, or by detonation of any part thereof may cause such sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects, but shall not mean or include the components for handloading rifle, pistol and shotgun ammunition and/or rifle, pistol and shotgun ammunition,

black powder, primers and fuses when used for ammunition and components for antique or replica muzzleloading rifles, pistols, muskets, shotguns and cannons, or fireworks as defined in section 624.20, nor shall it include any fertilizer product possessed, used or sold solely for legitimate agricultural, forestry, conservation, or horticultural purpose.

Subd. 4. "Incendiary device" means any device so articulated that ignition by fire, friction, concussion, detonation, or other method may produce destructive effects primarily through combustion rather than explosion, but shall not mean or include a manufactured device or article in common use by the general public which is designed to produce combustion for a lawful purpose, including but not limited to matches, lighters, flares, and petroleum derivatives, nor shall it include any fertilizer product possessed, used or sold solely for legitimate agricultural, forestry, conservation, or horticultural purpose.

299F.73. License required. Subdivision 1. No person shall manufacture, assemble, warehouse or store explosives for purposes of wholesale or retail sale, or for any other purpose other than for ultimate consumption without being licensed to do so by the state fire marshal.

Subd. 2. In order to obtain the license herein required such person shall make application to the state fire marshal. The application shall be on forms provided by the state fire marshal and shall require such information as he deems necessary including but not limited to the name, address, age, experience and knowledge of the applicant in the use, handling, and storage of explosives and explosive devices, and whether the applicant is a person to whom no such license may be issued pursuant to section 299F.77. The state fire marshal may refuse to issue a license to any person who does not have sufficient knowledge of the use, handling, or storage of explosives to protect the public safety. Any person aggrieved by the denial of a license may request a hearing before the state fire marshal. The provisions of sections 15.0418 to 15.0426 shall apply to such hearing and subsequent proceedings, if any.

299F.74. Permit required. No person shall have in his possession explosives, unless said person shall have obtained a valid license as provided in section 299F.73, or unless said person shall have obtained a valid permit for the use of explosives as hereinafter provided. The transportation of an explosive by a common carrier for hire shall not be deemed to be possession of an explosive for purposes of this section.

299F.75. Permit application. Subd. 1. Any person desiring to possess explosives,

other than a person licensed as provided in section 299F.73, shall make application for a permit for the use of explosives to the appropriate local fire official designated in section 299F.19, subdivision 4, or such other person as is designated by the local governing body to act for the local fire official on a standardized form provided by the commissioner of public safety except that a dealer in explosives licensed under section 299F.73 may receive an application for a permit and issue a permit to a purchaser whose residence or intended place of use is outside the dealer's local community provided that the dealer first verifies the identity of the purchaser and the propriety of the sale by a phone call to the appropriate local fire official designated in section 299F.19, subdivision 4 or such other person as is designated by the local governing body to act for the local fire official.

Subd. 2. The application shall require the applicant's name, address, purpose for acquiring explosives, place of intended acquisition, quantity required, place and time of intended use, place and means of storage until such use and whether the applicant is a person to whom no such permit may be issued pursuant to section 299F.77. Any person aggrieved by the denial of a permit may request a hearing before the state fire marshal. The provisions of sections 15.0418 to 15.0426 shall apply to such hearings and subsequent proceedings, if any.

299F.76. Affirmation. Subd. 1. A license or an explosives use permit shall have printed thereon a statement underlined that the applicant affirms under penalty of perjury that the information provided thereon is true to the best of his knowledge and belief. No license or permit shall be issued unless the applicant signs the application.

Subd. 2. Each license or permit issued pursuant to this act shall be designated by number and shall otherwise be sufficient to identify a licensee or permittee. A duplicate of the license or permit shall be retained by the issuing authority. A license or permit shall not be issued for a period of time greater than one year, but may be issued for shorter periods.

299F.77. Issuance of a license or permit to certain persons prohibited. The following persons shall not be entitled to receive an explosives license or permit:

(a) Any person who within the past five years has been convicted of a felony or gross misdemeanor involving moral turpitude, is on parole or probation therefor, or is currently under indictment for any such crime;

(b) Any mentally ill person or any mentally deficient person as defined in section 253A.02 who has been confined or committed

in Minnesota or elsewhere for a mental disorder or defect to any hospital, mental institution or sanitarium, or who has been certified by a medical doctor as being mentally ill or mentally deficient, unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that he is no longer suffering from this disability;

(c) Any person who is or has been hospitalized or committed for treatment for the habitual use of a narcotic drug, as defined in section 618.01, or a depressant or stimulant drug, as defined in section 152.01, or who has been certified by a medical doctor as being addicted to narcotic drugs or depressant or stimulant drugs, unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that he is no longer suffering from this disability;

(d) Any person who by reason of the habitual and excessive use of intoxicating liquors is incapable of managing himself or his affairs and who has been confined or committed to any hospital, mental institution or sanitarium in this state or elsewhere as an "inebriate person" as defined in section 253A.02, or who has been certified by a medical doctor as being addicted to alcohol, unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that he is no longer suffering from this disability;

(e) Any person under the age of 18 years.

299F.78. Transfer. Subd. 1. No person shall transfer explosives to another unless the transferee shall display to the transferor a copy of a valid license or use permit and proper identification, and unless said transferee shall present to the transferor a signed standardized form provided by the commissioner of public safety, acknowledging receipt of the quantity of explosives transferred, the identifying numbers of the same explosives, or if none, the identifying numbers of the primary container from which the same explosives were distributed, and the serial number of the use permit displayed, which receipt shall be kept among the transferor's records until authorized to dispose of it by the state fire marshal.

Subd. 2. No person shall purchase more than five pounds of black powder without providing suitable identification and such other information as the commissioner may require. The records shall be submitted to the local fire marshal designated in section 299F.19, subdivision 4 at such times as the commissioner may by rule prescribe and such records shall be open to the inspection of any peace officer acting in the normal course of his duties as such.

299F.79. Possession with intent. Whoever has in his possession one or more of the components necessary to manufacture or assemble explosives, with the intent to manufacture or assemble explosives, unless said person shall have a valid license or permit as provided by sections 299F.73 and 299F.75, may be sentenced to imprisonment for not more than five years.

299F.80. Possession without a permit. Subd. 1. Except as provided in subdivision 2, whoever has in his possession explosives without a valid license or permit may be sentenced to imprisonment for not more than three years.

Subd. 2. Whoever has in his possession, dynamite or other explosives commonly used for agricultural, forestry, conservation, industry or mining purposes, without a valid license or permit, with intent to use the same for legitimate agricultural, forestry, conservation, industry or mining purposes, and in only such quantities as are reasonably necessary for such intended use, may be sentenced to imprisonment for not more than 90 days or to a payment of a fine of not more than \$300 or both.

299F.81. Possession of an explosive or incendiary device. Whoever has in his possession any explosive device or incendiary device with intent to use the same for any unlawful purpose, may be sentenced to imprisonment for not more than ten years.

299F.82. Illegal transfer. Subd. 1. Except as provided in subdivision 2, whoever illegally transfers an explosive to another may be sentenced to imprisonment for not more than five years.

Subd. 2. Whoever illegally transfers dynamite or other explosives commonly used for agricultural, forestry, conservation, industry or mining purposes to another, personally known to the transferor, in the belief that the same shall be used for legitimate agricultural, forestry, conservation, industry or mining purposes, and in only such quantities as are reasonably necessary for such believed use, may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300 or both.

299F.83. Negligent discharge. Whoever, acting with gross disregard for human life or property, negligently causes an explosive, explosive device, or incendiary device, to be discharged may be sentenced to imprisonment for not more than ten years.

Crimes

609.60. Dangerous trespasses and other acts. Whoever intentionally does any of the following is guilty of a misdemeanor; except, if to his knowledge a risk of death or

bodily harm or serious property damage is thereby created, he may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both:

(1) Smokes in the presence of explosives or inflammable materials; or

(2) Interferes with or obstructs the prevention or extinguishing of any fire, or disobeys the lawful orders of a law enforcement officer or fireman present at the fire; or

(3) Shows a false light or signal or interferes with any light, signal, or sign controlling or guiding traffic upon a highway, railway track, navigable waters, or in the air; or

(4) Places an obstruction upon a railroad track; or

(5) Exposes another or his property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest, or coerce.

Public Rights and Privileges

Airport Zoning

360.075. Violations, penalties. Subd. 1. Misdemeanor. Every person who: * * *

(10) Carries on or over land or water in this state in an aircraft other than a public aircraft any explosive substance except as permitted by the Federal Explosives Act, being the Act of October 6, 1917, as amended by P.L. 775, 77th Congress, approved November 24, 1942;

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Chapter 169—Highway Traffic

Definition for transport purposes

169.01. Definitions. * * * * *

Subd. 19. **Explosives.** "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

Mississippi MISSISSIPPI CODE

Public Lands, Buildings, etc.

Sec. 29-5-43. Discharge of firearms or explosives, setting fires, uttering threatening or abusive language. It is forbidden to discharge any firearm, firework, or explosive, set fire to any combustible, make any harangue or oration, or utter loud, threatening or abusive language in the State Capitol grounds, Executive Mansion grounds, State Office Building grounds, and Old State Capitol grounds.

gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives, shall keep an accurate record of the name of the purchaser, his address, quantity, and the general purpose of its intended use. It shall be unlawful to sell dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives unless the person making the sale knows the purchaser and the general purpose for which such explosive or its counterpart will be used.

Sec. 45-13-103. Sales of explosives to be reported—regulation by municipalities. Every seller of dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives shall report any sale, transfer of title, or removal to the sheriff of the county where such transfer or removal took place within twenty-four (24) hours on forms to be provided. Should the sale, transfer of title or removal of explosives be within a municipality, then a report shall also be

Public Safety

Article 3

Explosives * * * * *

Sec. 45-13-101. Seller to keep records—when sale of explosives unlawful. Every person who sells or otherwise disposes of dynamite, nitroglycerine, explosives,

made within twenty-four (24) hours to the chief of police on forms to be provided. The governing authorities of municipalities shall have the power to adopt ordinances for the further regulation and control of dynamite, nitroglycerine and similar explosives.

Sec. 45-13-105. Penalties for failure to report sale of explosives. Any seller of dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators, or other similar explosives who does not report to proper authorities as required by this article shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding five (5) years, or in the county jail not exceeding one (1) year.

Sec. 45-13-107. Safekeeping of explosives. Any person who has dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives in his possession and being engaged in a lawful business which ordinarily requires the use thereof in the ordinary and usual conduct of such business, and who possesses said articles for the purpose of use in said business, or any seller, dealer, or person transporting said articles, shall keep said articles under his control and secure from theft or pilferage at all times.

Sec. 45-13-109. Reports of importation of explosives—fees—penalties. Every person transporting or bringing dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives into the State of Mississippi shall immediately report to the sheriff of the county of original entry, identify himself, give his destination and an inventory which shall be filed in a register to be kept by the sheriff. The sheriff shall, within twenty-four (24) hours, after receiving the name, destination and inventory, report same to the commissioner of public safety. For such registering and reporting, the sheriff shall be paid a fee of three dollars (\$3.00) by the person transporting the explosives. A person transporting dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives who fails to report his name, destination and inventory shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding twenty (20) years.

Crimes

Sec. 97-3-89. Timber, trees and saw logs—tampering with to injure or harass the owner prohibited. Any person who shall maliciously and knowingly drive, force, place, or otherwise insert, or cause to be driven, forced, placed or otherwise inserted any piece or kind of iron, steel, or metallic

spike, nail, bar, rod, explosive, or other substance of any kind whatsoever into any kind of saw timber, trees, logs, or timber or logs, standing or fallen, which are not his own, and which are, or may be classed as commercial, or merchantable timber, logs or trees, from which lumber may be produced, with the intent and purpose of annoying, harassing, injuring or damaging the owner of same, in his person or property, or any other person, or for any other unauthorized purpose whatsoever, without the consent of the owner of such timber, logs, or trees, shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail not less than three months nor more than six months, or by a fine not exceeding five hundred dollars, or both.

Sec. 97-3-91. Timber, trees and saw logs—penalty for tampering when injury occurs. When any person shall be physically injured in handling, sawing, squaring or otherwise manufacturing such trees, logs, or timber into lumber, or other sawmill products, by reason of such metallic or explosive substances having been driven, inserted or placed in such timber, trees, or logs, the person so offending shall be guilty of a felony and on conviction shall be imprisoned in the penitentiary for a period of not more than ten years.

Sec. 97-3-93. Timber, trees and saw logs—penalty for tampering when death results. Whenever the death of any person shall be caused by reason of such metallic or explosive substances having been driven, placed or inserted in such merchantable timber as provided in Sec. 97-3-89, the person so offending shall be guilty of manslaughter, and upon conviction shall be punished as the law directs.

Sec. 97-17-95. Trespass—entry on premises where atomic machinery, rockets and other dangerous devices are manufactured, etc. It shall be unlawful for any person to wilfully enter or trespass within the premises of any person, firm or corporation manufacturing or constructing or erecting or assembling or maintaining or repairing or operating any nuclear powered machinery, equipment or vessels, or rockets, missiles, propulsion systems, explosives or other dangerous devices, or parts thereof, with the intent to commit any crime under the laws of this state, or of the United States, or pursuant to a conspiracy to commit any such crime or in an attempt to commit any such crime. Any person convicted of a violation of this section shall be adjudged guilty of a felony, and punished by a fine not to exceed five thousand dollars (\$5,000.00) or by imprisonment in the state penitentiary not to exceed five (5) years, or both such fine and

imprisonment, in the discretion of the court. Any person wilfully entering or trespassing within such premises, if found within any area designated as a restricted area therein, shall be guilty of a violation of this section.

Sec. 97-35-9. Disturbance of family—explosions, noises and offensive conduct.

A person who wilfully disturbs the peace of any family or person by an explosion of gunpowder or other explosive substance, or by loud or unusual noise, or by any tumultuous or offensive conduct, shall be punished by fine or imprisonment, or both; the fine not to exceed one hundred dollars, and the imprisonment not to exceed six months in the county jail.

Sec. 97-37-23. Explosives—unlawful possession—duty of officers to make search and seize explosives. (1) It is unlawful for any person to have in his possession dynamite caps, nitro glycerine caps, fuses, detonators, dynamite, nitro glycerine, explosives, gas or stink bombs, or other similar explosives peculiarly possessed and adapted to aid in the commission of a crime; except such person or persons who are engaged in a lawful business which ordinarily requires the use thereof in the ordinary and usual conduct of such business, and who possess said articles for the purpose of use in said business; and upon conviction of any person thereof, he shall be punished by imprisonment in the penitentiary not exceeding five years, or in the county jail not exceeding one year. The possession of such explosives by one who does not customarily use same in his regular and ordinary occupational activities shall be prima facie evidence of an intention to use same for such unlawful purposes.

(2) It shall be the duty of any sheriff, constable, marshal, or policeman in a municipality, or any person vested with general police authority, who has reason to believe and does believe that the above described explosives are being transported or possessed for aid in the commission of a crime, forthwith to make a reasonable search of such person or vehicle, and to seize such explosives and to at once arrest the person or persons having possession or control thereof. Such officer or officers proceeding in good faith shall not be liable either civilly or criminally for such a search and seizure without a warrant, so long as said search and seizure is conducted in a reasonable manner, it appearing that the officer or officers had reason to believe and did believe that the law was being violated at the time such search was instituted. And the officer or officers making such search shall be competent to testify as a witness or witnesses as to all facts ascertained by means of said reason-

able search or seizure, and all such explosives seized shall be admitted in evidence. But this section shall not authorize the search of a residence or home, or room, or building, or the premises belonging to or in the possession lawfully of the party suspected, without a search warrant.

Sec. 97-37-25. Explosives—unlawful use. It shall be unlawful for any person at any time to bomb or to plant or place any bomb or other explosive matter or thing in, upon or near any building, ship, vessel, boat, railroad station, railroad car or coach, bus station or depot, bus, truck, or other vehicle, gas and oil stations and pipe lines, radio station or radio equipment or other means of communication, warehouse or any electric plant or water plant, telephone exchange or any of the lines belonging thereto, wherein a person or persons are located or being transported, or where there is being manufactured, stored, assembled or shipped or in the preparation of shipment any goods, wares, merchandise or anything of value, with the felonious intent to hurt or harm any person or property, and upon the conviction thereof shall be punished by death if the penalty is so fixed by the jury; and in cases where the jury fails to fix the penalty at death, the court shall fix the penalty at imprisonment in the penitentiary for any term as the court, in its discretion, may determine.

Missouri

ANNOTATED MISSOURI STATUTES (VERNON'S)

Crimes

564.380. Explosives not to be transported on passenger trains. It shall not be lawful to transport, carry or convey, or deliver to be transported, carried or conveyed, or to cause to be delivered to be transported, carried or conveyed, any of the substances or articles known as dynamite, dualine, hercules or giant powder, nitroglycerine or glycerine oil, nitroleum or blasting oil or nitrated oil, or powder mixed with any such oil, or fiber saturated with any such article or substance, in any vehicle used or employed in transporting passengers, or in any train or cars used in transporting passengers; provided, that an ordinary freight train, with a caboose or passenger car used as a caboose, shall not be construed as a train of cars used in transporting passengers within the meaning of this section.

564.390. Nitroglycerine and explosives, how transported. It shall not be lawful to transport or cause to be transported, on any railroad in this state, nitroglycerine in a liquid form except in carload lots and in a congealed state, and accompanied by the shipper; nor shall it be lawful to transport or cause to be transported, on any railroad in this state, any of the substances known as atlas, hercules or giant powder, or dynamite, or any of the substances named in section 564.380, except upon the following conditions, to wit: It may be shipped in wooden packages of not over fifty pounds each, in a powder magazine car, when the quantity to be shipped is less than ten thousand pounds; and in common box cars, with zinc roof, when the quantity to be shipped is ten thousand pounds or over; provided, however, that on the outside of said packages there shall be truly labeled or marked the name of the contents in a conspicuous manner, with the additional words added thereto, explosive—dangerous.

564.410. Person placing explosives on carrier in violation of law guilty of felony, when. When the death of any person is caused by the explosion of any of the articles or substances named in section 564.380, while the same is being delivered to any carrier, or while the same is being transported, or is being removed from the vehicle on which it has been transported or conveyed, or on which it has been placed for transportation, every person who knowingly and unlawfully placed or aided or permitted the placing of such article or substance on such vehicle, or delivered the same or caused the same to be delivered contrary to the provisions of sections 564.380 to 564.400, shall be deemed guilty of manslaughter, and, upon conviction, shall suffer imprisonment in the penitentiary for a period of not less than two years and not more than ten years.

564.580. Possession or control of bomb prohibited—penalty. Every person who has in his possession or under his control a bomb or bombshell, or who carries or possesses any explosive substance with intent to use the same unlawfully against the person or property of another, is guilty of a felony, and upon conviction therefor, shall be punished by imprisonment in the penitentiary for a term of not less than two nor more than ten years. The terms "bomb" and "bombshell" as used in this section shall be held to mean any device or object containing dynamite or any other explosive or highly combustible substance or chemical connected with a fuse, dynamite cap or other device or substance whereby such explosive or highly combustible substance or chemical may be ignited or exploded, and capable of causing bodily injury or death to persons, or damage or destruction to property; provided, that this section shall not apply to the lawful possession of bombs or bombshells by peace officers or by members of military forces in the regular discharge of their duties as such.

Montana

REVISED CODES OF MONTANA

Public Health and Safety Chapter 19

69-1901. Definitions. The term "explosive" or "explosives" whenever used in this act shall be held to mean and include any

chemical compound or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases

that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

The word "magazine" as used herein means any building or other structure, other than a factory building, used for the storage of explosives.

The term "building" or "buildings" as used herein shall be held to mean and include only a building or buildings occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble.

The term "factory building" as used herein shall be held to mean any building or other structure containing explosives in which the manufacture of explosives or any part of the manufacture is carried on.

The term "railroad" as used herein shall be held to mean and include any steam, electric or other railroad which carries passengers for hire.

The term "highway" as used herein shall be held to mean and include any public street, public alley or public road.

The term "efficient artificial barricade" as used herein shall be held to mean an artificial mound or properly riveted wall of earth of a minimum thickness of not less than three feet.

The term "person" as used herein shall be held to mean and include firms and corporations, as well as natural persons.

Words used in the singular number shall include the plural, and the plural the singular.

69-1902. Prohibitions and exceptions. No person shall manufacture, have, keep, or store explosives in this state, except in compliance with this act, except that explosives may be manufactured without compliance with this act in the laboratories of schools, colleges and similar institutions, for the purpose of investigation and instruction.

It shall be unlawful to sell, give away, or otherwise dispose of, or deliver to any person under eighteen (18) years of age any explosives, whether said person is acting for himself or for any other person.

* * * * *

69-1903 Quantity and distance table deleted

69-1904. Maximum allowed for storage or keeping in building or magazine. No quantity in excess of three hundred thousand pounds, or in case of blasting caps no number in excess of twenty million caps, shall be had, kept or stored in any factory building or magazine in this state.

69-1905. Reduction of distances. Whenever the building, railroad or highway

to be protected is effectually screened from the factory, building or magazine, where explosives are had, kept or stored, either by natural features of the ground or by an efficient artificial barricade of such height that any straight line drawn from the top of any side wall of the factory building or magazine to any part of the building to be protected, will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the factory building or magazine to any point twelve feet above the center of the railroad or highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distances given in columns 2, 3 and 4 of the quantity and distance table may be reduced one-half.

69-1906. Containers. Except only at a factory building, and except while being used, no person shall have, keep or store explosives at any place within this state unless such explosives are completely enclosed or encased in tight metallic, wooden or fibre containers, and, except while being transported or used or in the custody of a common carrier awaiting shipment or pending delivery to consignee during the time permitted by federal law, explosives shall be kept and stored in a magazine constructed and operated as provided in the following section, and no person having explosives in his possession or control shall, under any circumstances, permit or allow any grains or particles to be or remain on the outside or about the containers in which such explosives are held. All containers in which explosives are held shall be plainly marked with the name of the explosive contained therein.

69-1907. Magazines—classes and specifications. Magazines in which explosives may lawfully be kept or stored shall be of two classes, as follows: (a) Magazines of the first class shall consist of those containing explosives exceeding fifty pounds, and shall be constructed of brick, concrete, iron, or wood, covered with iron, and shall have no openings except for ventilation and entrance. The doors of such magazine must at all times be kept closed and locked except when necessarily open for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks of fire through the same. Upon each end of such magazine, above the side walls thereof, or upon its barricade, there shall at all times be conspicuously posted a sign with the words "Magazine—Explosives—Danger-

ous" legibly printed thereon in letters not less than six inches high. No matches or fire of any kind shall at any time be permitted at any such magazine. No package of explosives shall at any time be opened within fifty feet of any magazine, nor shall any explosives be kept therein except in the original containers. Magazines in which more than fifty pounds of explosives are kept and stored must be detached from other structures, and magazines where more than five thousand pounds of explosives are kept and stored must be located at least two hundred feet from any other magazine, and magazines where quantities of explosives over twenty-five thousand pounds are kept and stored must have an increase over two hundred feet of two and two-thirds feet for each one thousand pounds of explosives in excess of twenty-five thousand pounds stored therein; provided, that where magazines are protected one from the other by natural or efficient artificial barricade, the distance above specified may be reduced one-half.

(b) Magazines of the second class shall be made of fire-proof material or wood, covered with sheet iron, and no more than fifty pounds of explosives shall at any time be kept or stored therein, and except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each magazine there shall at all times be kept conspicuously posted a sign with the words "Magazine—Explosives—Dangerous" legibly printed thereon, and not more than two such magazines shall be had or kept in any building.

69-1908. Blasting caps, storage of. No blasting caps, or other detonating or fulminating caps, or detonators shall be kept or stored in any magazines in which other explosives are kept or stored.

69-1909. Certificate of compliance. All persons engaged in keeping or storing explosives on the date when this act takes effect shall within sixty days thereafter, and all persons engaging in keeping or storing explosives after this act takes effect shall, before engaging in the keeping or storing of explosives, make a report in writing, subscribed to by such persons, or his agent, to the state fire marshal stating:

(1) The location of the magazine, if then existing or in case of a new magazine, the proposed location of such magazine.

(2) The kind of explosives that are kept or stored or intended to be kept or stored, and the maximum quantity that is intended to be kept or stored thereat.

(3) The distance that such magazine is located or intended to be located from the nearest buildings, railroads, and highways.

The state fire marshal shall, as soon as may

be after receiving such report cause an inspection to be made of the magazine, if then constructed, and in the case of a new magazine as soon as may be after same is found to be constructed in accordance with the specifications provided in section 69-1907, the state fire marshal shall determine the amount of explosives that may be kept and stored in such magazine by reference to the quantity and distance table set forth in section 69-1903, and shall issue a certificate to the person applying therefor, showing compliance with the provisions of this act, which certificate shall set forth the maximum quantity of explosives that may be had, kept or stored in said magazine. Such certificate of compliance shall be valid until canceled for one or more of the causes hereinafter provided. Whenever by reason of change in the physical condition surrounding said magazine at the time of the issuance of the certificate of compliance therefor, such as

(a) The erection of buildings nearer said magazine,

(b) The construction of railroads nearer said magazine, or

(c) The opening for public travel of highways nearer said magazine, then the amounts of explosives which may be lawfully had, kept or stored in said factory or magazine must be reduced to conform to such changed conditions in accordance with the certificate of compliance, and the state fire marshal shall modify or cancel such certificate in accordance with the changed conditions. Whenever any person to whom a certificate of compliance has been issued, keeps or stores in the magazine covered by such certificate of compliance, any quantity of explosives in excess of the maximum amount set forth in said certificate of compliance, or whenever any person fails for thirty days to pay the annual license fee hereinafter provided after the same becomes due, the state fire marshal is authorized to cancel such certificate of compliance. Whenever a certificate of compliance is canceled by the state fire marshal for any cause hereinbefore specified, the state fire marshal shall notify the person to whom such certificate of compliance is issued of the fact of such cancellation and shall in said notice direct the removal of all explosives stored in said magazine within ten days from the giving of said notice. Failure to remove the explosives stored in said magazine within the time specified in said notice shall constitute a violation of this act.

69-1912. Who may enter. No person, except an official as authorized herein or a person authorized to do so by the owner

thereof, or his agent, shall enter any factory, building, magazine, or car containing explosives in this state.

69-1914. Firearms not to be discharged, when. No person shall discharge any firearms at or against any magazine or factory building.

69-1916. Possession of shells or bombs for unlawful use. Any person who shall have in his possession or control any shell, bomb or similar device, charged or filled with one or more explosives, intending to use the same or cause the same to be used for an unlawful purpose, shall be deemed guilty of a felony, and upon conviction, shall be punished by imprisonment in a state prison for a term of not less than five years nor more than twenty-five years. The possession or control by any person, of any such device, so charged or filled, shall be deemed prima facie evidence of an intent to use the same, or cause the same to be used for an unlawful purpose.

69-1917. Effect of unconstitutionality of act. In case any provision of this act shall be adjudged unconstitutional, or void for any other reason, such adjudication shall not affect any of the other provisions of this act.

69-1918. Exemptions. Nothing contained in this act shall apply to the regular military or naval forces of the United States, nor the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this state, or of any municipality or county within this state, providing the same are acting in their official capacity, and in the proper performance of their duties.

Nothing contained in this act shall apply to explosives while being transported upon vessels or railroad cars in conformity with the regulations adopted by the interstate commerce commission; nor to transportation or use of blasting explosives for agricultural or prospecting purposes in quantity not exceeding two hundred pounds at any one time; nor to any explosives in quantities not exceeding five pounds at any one time; nor to any person or persons carrying ammunition in reasonable amounts.

69-1919. Existing ordinances not affected. Nothing contained in this act shall affect any existing ordinance, rule or regulation of any city or municipality not less restrictive than this act governing the manufacture, storage, and sale of explosives, or affect, modify, or limit the power of cities or municipalities in this state to make ordinances, rules, or regulations not less restrictive than this act, governing the manufacture, storage, sale, use, or transportation of

explosives within their respective corporate limits.

69-1920. Explosives, misrepresentations concerning percentage of nitroglycerine. Any person or corporation engaged in the business of selling blasting or giant powder by whatever name the same shall be known containing nitroglycerine, or equivalent explosive compound in any form, who shall sell or vend any such blasting powder upon the representation that the same contains a certain percentage of proportion of nitroglycerine, or equivalent explosive compound, or who being applied to for blasting powder containing a certain percentage or proportion of nitroglycerine or equivalent explosive compound shall sell or deliver any such blasting powder, containing a less percentage or proportion of nitroglycerine, or equivalent explosive compound, than represented or than such powder as was applied for, shall be deemed guilty of a misdemeanor and, on conviction, shall be punished by a fine of not more than one thousand dollars nor less than one hundred dollars.

69-1921. Regulating sales of explosives. That every person, company or corporation, manufacturing, storing, sealing, transferring, dealing in, or in any manner disposing of any powder, gunpowder, giant or Hercules powder, giant caps, or other highly explosive substances, shall keep in a book for that purpose an accurate record of all transactions, with the date thereof, relating to the receiving and disposing of the same, which record shall show the amount of each such explosive received, by whom transported or conveyed, and each and every sale or other disposition made of such explosive, with the amount thereof, and the name of the person to whom delivery of the same was made, who shall be required to receipt therefor. Such record shall at all times be open to the inspection of the state inspector of mines, or any peace officer.

69-1923. Storage of explosives in cities, etc. No person, company, or corporation shall store, deposit, or keep within one mile of the limits of any city, town, or village any powder, gunpowder, giant or Hercules powder, or other highly explosive substance, in greater quantities than one hundred pounds, or more than one thousand giant caps, at any one time, nor shall such explosives be stored, deposited or kept in any quantities whatever within one mile of such city, town, or village, except in a magazine constructed as hereinafter described; provided, that this section shall not be construed to prevent any person, company or corporation, operating a mine within one mile of the limits of such city, town, or village, from storing powder for use in such mine in the manner prescribed in

sections 69-1922 and 69-1924; provided also, that this section shall not prevent the keeping of a reasonable amount of gunpowder, not exceeding fifty pounds, in a safe place for sale.

69-1924. Construction and location of magazines. It shall be unlawful to store, deposit, or keep any powder, gunpowder, giant or Hercules powder, giant caps, or other highly explosive substance, in amounts exceeding one hundred pounds, elsewhere than in storehouses or magazines constructed as follows: The walls of such storehouses and magazines shall be constructed entirely of stone or brick. There shall be no opening in such magazine except necessary ventilation, and one entrance not exceeding thirty inches in width. There shall be two doors to such entrance, an outer door opening outward and an inner door opening inward. The said door shall be of plank not less than two inches in thickness, and both doors shall be entirely covered with one-eighth inch iron, and shall be hinged upon two or more iron hooks securely anchored in the walls of such magazine. Both said doors shall be kept securely locked at all times when powder is stored therein, except when it is necessary to store therein or remove therefrom such powder or other explosives. Such storage room or magazine shall be well and securely roofed with fireproof and bulletproof material. Such magazine shall not be constructed within less than one-fourth of a mile of any human habitation except by the permission of the county commissioners, nor shall any magazine constructed within one mile of the limits of any city, town, or village be constructed within one hundred feet of any building owned by any other person.

69-1925. Magazines, etc., to bear warning signs. Every storehouse or magazine constructed as provided in the foregoing section, in which shall be stored, deposited, or kept any powder, gunpowder, giant or Hercules powder, giant caps, or other highly explosive substance, shall at all times have posted above the entrance thereof a signboard on which shall be painted in conspicuous letters not less than four inches in length the words "explosives—dangerous." Every dray, wagon, freight car, or other vehicle in which shall be transported, transferred, or delivered any of the said explosives, shall bear on each side thereof a similar sign with conspicuous letters not less than two inches in length.

69-1926. Transportation of explosives with passengers forbidden, when. It shall be unlawful to knowingly transport or deliver or cause to be delivered giant or Hercules powder, giant caps, nitroglycerine, nitroleum, blasting or nitrated oil, or powder

mixed therewith or fibre saturated therewith, or any other highly explosive substance in any quantities whatever on any vessel or vehicle whatever carrying passengers by land or water between any points within the state of Montana; provided, that on mixed trains intended for service on railroad lines leading to mining localities or camps the aforesaid explosive substances or any of them may be lawfully carried, by hanging a placard on each side of the car or cars carrying the explosives, reading thus: "This car is loaded with powder"—each letter of said placard to be at least two inches long, but this proviso shall not permit the carrying of any of said explosive substances in the same car or coach in which the passengers are carried.

69-1927. Careless use of explosives a misdemeanor. Every person who shall recklessly or maliciously use, handle, or have in his or her possession any blasting powder, giant or Hercules powder, giant caps, or other highly explosive substance, whereby any human being is intimidated, terrified, or endangered, shall be guilty of a misdemeanor.

69-1928. Penalties. Any person, or association of persons, violating any of the provisions of this act, shall be punished by imprisonment in the penitentiary not exceeding five years, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment.

69-1929. Penalty when death caused by violation of this act. When the death of any person is caused by the explosion of any powder, gunpowder, giant or Hercules powder, giant caps, or other highly explosive substance that has been stored, kept, handled, or transported, contrary to the provisions of the foregoing sections, the person or persons who have so unlawfully stored, kept, handled, or transported such explosives, or who may have knowingly or negligently permitted their agents, servants, or employees to so unlawfully store, keep, handle, or transport the same, shall be guilty of manslaughter, and, on conviction, shall be punished by imprisonment in the state penitentiary for a period not exceeding ten years.

69-1931. Destructive device—explosive defined. (1) "Destructive device" as used in this chapter, shall include, but is not limited to, the following weapons:

(a) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(b) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(c) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.

(d) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(e) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(2) "Explosive" as used in this chapter, shall mean any explosive defined in section 69-1901, R.C.M., 1947.

69-1932. Possession of destructive device or explosive with felonious intent—penalty. (1) Every person who, with intent to commit a felony, has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of not more than ten (10) years.

Criminal Code

94-6-205. Possession of burglary tools.

(1) A person commits the offense of possession of burglary tools when he knowingly possesses any key, tool, instrument, device, or any explosive, suitable for breaking into an occupied structure or vehicle or any depository designed for the safekeeping of property, or any part thereof with the purpose to commit an offense therewith.

(2) A person convicted of possession of burglary tools shall be fined not to exceed five hundred dollars (\$500) or be imprisoned in the county jail for any term not to exceed six (6) months, or both.

94-8-223. Sale or manufacture of Maxim silencers and various explosives for wrongful use a felony. Any person who shall make, manufacture, compound, buy, sell, give away, offer for sale or to give away,

transport, or have in possession any Maxim silencer, bomb, nitroglycerin, giant, oriental, or thunderbolt powder, dynamite, ballistite, fulgarite, detonite, or any other explosive compound, or any inflammable material, or any instrument or agency, with intent that the same shall be used in this state or anywhere else for the injury or destruction of public or private property, or the assassination, murder, injury, or destruction of any person or persons, either within this state or elsewhere, or knowing that such explosive compounds or such materials, instruments, or agencies are intended to be used by any other person or persons for any such purpose, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for not less than five years nor more than thirty years, or by a fine of not less than one thousand dollars nor more than twenty thousand dollars, or by both such fine and imprisonment.

94-8-224. Sale and manufacture of Maxim silencers and various explosives for wrongful use a felony—who are principals. All persons aiding, abetting, or in any manner assisting in the manufacture, compounding, buying, selling, offering for sale, or transporting any explosive compounds, or any inflammable material, or any instrument or agency, either by furnishing material or ingredients, or soliciting or contributing money or other property with which to purchase said materials or ingredients, or by assisting by skill or labor, or by acting as agents for the principal, or in any manner aiding as accessories before the fact, knowing that any of such explosive compounds, or such materials, instruments, or agencies are intended to be used by the principals or any

other person or persons for any of the purposes mentioned in the preceding section, shall be deemed principals and may be convicted and punished in the same manner and to the same extent as such principal or principals.

94-8-225. Sale and manufacture of Maxim silencers and various explosives for wrongful use a felony—possession presumptive evidence of what. The possession of any Maxim silencer or bomb of any kind, or chemical compounds intended only for the destruction of life or property, shall be presumptive evidence that the same are intended to be used in the destruction of or injury to property or life, within the meaning of this act.

94-6-105. Possession of explosives.

(1) A person commits the offense of possession of explosives if he possesses, manufactures or transports any explosive compound or timing or detonating device for use with any explosive compound or incendiary device, and:

(a) has the purpose to use such explosive or device to commit any offense; or

(b) knows that another has the purpose to use such explosive or device to commit any offense.

(2) A person convicted of the offense of possession of explosives shall be imprisoned in the state prison for any term not to exceed twenty (20) years.

94-5-609. Unlawful transactions with children. (1) A person commits the offense of unlawful transactions with children if he knowingly:

(a) sells or gives explosives to a child under the age of majority except as authorized under appropriate city ordinances

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Nebraska

REVISED STATUTES OF NEBRASKA

28-415. Train robbery, defined; penalty. Whoever shall stop any railway train carrying passengers or mail, or both passengers and mail, with intent to rob any person thereon, or to rob any car attached thereto, or to rob any mail pouch, express safe, or box on such train; or shall wreck or attempt to wreck, derail or attempt to derail, any such train, by any means whatever, with intent to commit such robbery; or shall obstruct or detain such train, or any locomotive, tender, coach, or car attached thereto, with such intent, or shall place upon any railway track, or under or about any engine, tender, coach or car any explosive substance, with intent to

obstruct, stop, detain, break open, or wreck such train, for the purpose of committing such robbery, * * * * * shall be deemed guilty of train robbery, and shall upon conviction thereof be imprisoned in the Nebraska Penal and Correctional Complex for life, or for any term not less than ten years. If death shall ensue from or on account of such act or acts such person committing the same shall be deemed guilty of murder in the first degree.

28-1003. Toy revolvers and blank cartridges; sale prohibited, when; penalty; exceptions. Whoever shall use, sell, offer for sale, or keep for sale in this state any toy

revolvers for shooting blank cartridges, or blank cartridges for toy revolvers, shall be fined not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding thirty days; *Provided*, caps containing dynamite may be used, kept for sale or sold when needed for mining purposes, or for danger signals or for other necessary uses; and *provided further*, blank cartridges may be sold or used for ceremonial purposes, athletic or sporting events.

28-1004. Nitroglycerine; transportation; requirements; when unlawful. It shall be unlawful to transport or carry the substance or material generally known and called nitroglycerine into, out of, within, through or across this state, except as herein provided. Every wagon, cart or other vehicle used in carrying nitroglycerine shall have printed upon both sides and ends thereof in plain and distinct letters, large enough to occupy a space of two inches wide by eighteen inches long, the words nitroglycerine—dangerous; and every package, can, cask, barrel or box, containing nitroglycerine, shall have written or printed thereon upon two sides thereof, in plain and distinct letters the words nitroglycerine—dangerous.

28-1005. Nitroglycerine; transportation by passenger carrier, unlawful. Every railroad, stage coach, steamship, vessel or other watercraft within this state, whose business it is to carry passengers, or who shall at the time be engaged in carrying passengers, is hereby prohibited from carrying or having on board thereof nitroglycerine; and it shall be unlawful for any person, persons or company to permit any passenger to ride on any conveyance as aforesaid that has on board thereof any of the substance or material aforesaid.

28-1006. Nitroglycerine; manufacture and storage; conditions. It shall be unlawful for any person or persons to manufacture nitroglycerine within this state within a distance of one hundred and sixty rods of any occupied dwelling or public building, or to store the same in any quantity exceeding one hundred pounds within the limits of any city or incorporated village, or in any other place within one hundred and sixty rods of any occupied dwelling or public building.

28-1011.18. Firearms, knuckles, bombs, explosive substance; possess; receive; sell; manufacture; penalty. Any person violating any of the provisions of sections 28-1011.14 to 28-1011.16 shall be guilty of a felony and shall, upon conviction thereof, be punished by a fine of not more than two thousand dollars or by imprisonment in the Nebraska Penal and Correctional Complex for not more than five years, or by both such fine and imprisonment, or by

imprisonment in the county jail not more than six months.

28-1011.19. Motor vehicle; weapon; explosive substance; presence in; prima facie evidence; exception. The presence in an automobile other than a public vehicle of any weapon, instrument or substance referred to in sections 28-1011.14 to 28-1011.16 shall be prima facie evidence that it is in the possession of, and is being carried by, all persons occupying such automobile at the time such weapon, instrument or substance is found, except: (1) If such weapon, instrument or instrumentality is found upon the person of one of the occupants therein, or (2) if such weapon, instrument or substance is found in an automobile operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver.

28-1011.22. Explosives control; terms, defined. As used in sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34, unless the context otherwise requires:

(1) Person shall mean any individual, corporation, company, association, firm, partnership, society, or joint stock company;

(2) Business enterprise shall mean any corporation, partnership, company, or joint stock company;

(3) Explosive materials shall mean explosives, blasting agents, and detonators;

(4) Explosives shall mean any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, including but not limited to dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters, but shall not include permissible fireworks as defined in section 28-1003.07, gasoline, kerosene, naphtha, turpentine, benzene, acetone, ethyl ether, benzol, fixed ammunition and primers for small arms, safety fuses, or matches;

(5) **Blasting agent** shall mean any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive, but shall not include a finished product, ready for use or shipment, which cannot be detonated by means of a number eight test blasting cap when unconfined;

(6) **Detonator** shall mean any device containing a detonating charge that is used for initiating detonation in an explosive, including but not limited to electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating cord delay connectors;

(7) **Destructive devices** shall mean:

(a) Any explosive, incendiary, or poison gas (i) bomb, (ii) grenade, (iii) rocket having

a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, (vi) booby trap, (vii) Molotov cocktail, or (viii) any similar device, the primary or common purpose of which is to explode and to be used as a weapon against any person or property; or

(b) Any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subdivision (7)(a) of this section and from which a destructive device may be readily assembled. The term destructive device shall not include any device which is neither designed nor redesigned for use as a weapon to be used against persons or property; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of Section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the State Fire Marshal finds is not likely to be used as a weapon, or is an antique; or any other device possessed under circumstances negating an intent that the device be used as a weapon against any person or property;

(8) **Federal permittee** shall mean any lawful user of explosive materials who has obtained a federal user permit under the provisions of Chapter 40, Title 18, United States Code;

(9) **Federal licensee** shall mean any importer, manufacturer, or dealer in explosive materials who has obtained a federal importers, manufacturers or dealers license under the provisions of Chapter 40, Title 18, United States Code; and

(10) **Smokeless propellants** shall mean solid propellants commonly called smokeless powders in the trade and used in small arms ammunition.

28-1011.23. Explosives control; applicability of act. (1) Sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 shall apply to persons engaged in the manufacture, ownership, possession, storage, use, transportation, purchase, sale or gift of explosive materials, except as may be otherwise indicated herein.

(2) Sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 shall not apply to explosive materials while being transported in conformity with federal law or regulations, nor, except as may be otherwise provided in sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34, to the ownership, possession, storage, use, transportation, purchase, or sale of explosive materials by the armed forces of the United States, the

National Guard, other reserve components of the armed forces of the United States, and the duly constituted police and firefighting forces of the United States and of the state and its political subdivisions in the lawful discharge of their official duties.

28-1011.24. Explosives control; permit required; exceptions; violations; penalty.

(1) Excepting a federal licensee or permittee, any person who shall possess or store explosive materials unless such person has obtained a permit from the State Fire Marshal to store or use such explosive materials or, in the case of a business enterprise, a permit to purchase such explosive materials, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment; *Provided*, that upon a showing that such person was eligible under existing regulations to receive a permit, or had a valid educational, industrial, commercial, agricultural or other legitimate need for a permit, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

(2) Whoever shall knowingly and intentionally sell, transfer, issue or give any explosive materials to any person who does not display a valid permit issued by the State Fire Marshal authorizing the storage or use of such explosive materials, or in the case of a business enterprise a permit to purchase such explosive materials or a federal license or permit, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.

(3) Whoever uses any explosive materials for any purpose whatsoever, unless such person has obtained a permit from the State Fire Marshal to use such explosive materials, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment; *Provided*, that upon a showing that such person was eligible under existing regulations to receive a permit or had a valid educational, industrial, commercial, agricultural, or other legitimate

need for a permit, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment. Any person under the direct and proximate supervision of a person possessing a permit to use explosive materials may also use explosive materials under such safety provisions as the State Fire Marshal may promulgate. Federal licensees and permittees shall obtain permits from the State Fire Marshal to use explosive materials.

(4) Whoever knowingly withholds information or makes any false, fictitious, or misrepresented statement or furnishes or exhibits any false, fictitious, or misrepresented identification for the purpose of obtaining a permit or relief from disability under the provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34, or knowingly makes any false entry in a record which such person is required to keep pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.

(5) Whoever has in his possession a destructive device shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than one year nor more than ten years, or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment. A permit or license issued under any state or federal law to possess, own, use, distribute, sell, manufacture, store, or handle in any manner explosive materials shall not be a defense to the crime of possession of a destructive device as defined in this subsection.

(6) Whoever conveys any threat or maliciously conveys to any other person false information knowing the same to be false, concerning an attempt or alleged attempt being made or to be made to kill, injure or intimidate any individual or unlawfully to damage or destroy any building, vehicle or other real or personal property by means of any explosive material or destructive device shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than one year nor

more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.

(7) Whoever uses an explosive material or destructive device to commit any felony which may be prosecuted in this state or whoever possesses an explosive during the commission of any felony which may be prosecuted in this state shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than five years nor more than fifteen years, or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment. In case of his second or subsequent conviction under this subsection, such person shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than ten years nor more than twenty-five years, or by a fine of twenty thousand dollars, or by both such fine and imprisonment.

(8) Whoever, by means of an explosive material or destructive device, maliciously attempts to damage or destroy or does damage or destroy any building, structure, vehicle, or other real or personal property shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than five years nor more than fifteen years, or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment, and if personal injury results shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than ten years nor more than twenty-five years, or by a fine of not more than twenty thousand dollars, or by both such fine and imprisonment; and if death results shall be punished as provided in section 28-401 for conviction of murder in the first degree.

(9) Whoever uses explosive materials or destructive devices to intentionally kill, injure or intimidate any individual shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than five years nor more than fifteen years, or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment; and if, in fact, personal injury does result, shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than ten years nor more than twenty-five years, or by a fine of not more than twenty thousand dollars, or by both such fine and imprisonment; and if death results shall be punished as provided in section 28-401 for conviction of murder in the first degree.

(10) Whoever stores any explosive materials or uses in legitimate blasting operations any explosive materials in a manner not in conformity with safety regulations promulgated by the State Fire Marshal or the Secretary of the Treasury of the United States, or whoever stores any explosive materials at a place not designated in a permit to store such explosive materials issued to such person by the State Fire Marshal shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

(11) Any person who has knowledge of the theft or loss of explosive materials from his stock who fails to report such theft or loss within twenty-four hours of discovery to the State Fire Marshal shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

(12) Excepting subsections (1) to (11) of this section, any person who violates any other provision of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or rules promulgated pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

(13) The presence in a vehicle other than a public conveyance of any explosive material or destructive device shall be prima facie evidence that it is in the possession of all persons occupying such vehicle at the time such explosive material or destructive device is found, except: (a) If such explosive material or destructive device is found upon the person of one of the occupants therein; or (b) if such explosive material or destructive device is found in a vehicle operated for hire by a driver in the due, lawful, and proper pursuit of his trade, then such presumption shall not apply to the driver. The presumption shall not apply to the occupants of a vehicle being operated in compliance with the requirements of section 28-1011.29, if explosive material as opposed to a destructive device is found therein.

28-1011.25. Explosives control; State Fire Marshal; permits; issuance; conditions. (1) The State Fire Marshal shall have the authority to issue permits for:

(a) The storage of explosive materials;

(b) The use of explosive materials; and
 (c) The purchase of explosive materials by business enterprises.

(2) The State Fire Marshal shall not issue a permit to store or use explosive materials to any person who:

- (a) Is under twenty-one years of age;
- (b) Has been convicted in any court of a felony;
- (c) Is charged with a felony;
- (d) Is a fugitive from justice;
- (e) Is an unlawful user of any depressant, stimulant, or narcotic drug;
- (f) Has been admitted as a patient or inmate in a public or private institution for the treatment of mental or emotional disease or disorder within five years preceding the date of application; or

(g) Has no reasonable educational, industrial, commercial, agricultural, recreational, or other legitimate need for a permit to store or use explosive materials.

(3) Upon filing of a proper application and payment of the prescribed fee, and subject to the provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 and other applicable laws, the State Fire Marshal shall issue to such applicant a permit to store explosive materials if:

(a) The applicant, including in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association, is not a person to whom the State Fire Marshal is prohibited to issue a permit under subsection (2) of this section;

(b) The applicant has not willfully violated any of the provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or of Chapter 40, Title 18, United States Code; and

(c) The applicant has a place of storage for explosive materials which meets such standards of public safety, based on the class, type, and quantity of explosive materials to be stored, and security against theft as prescribed in regulations issued by the State Fire Marshal pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 and by the Secretary of the Treasury of the United States pursuant to Chapter 40, Title 18, United States Code.

(4) A permit for the storage of explosive materials shall specify the class, type, and quantity of explosive materials which are authorized to be stored. It shall also specify the type of security required. A permit for the storage of explosive materials shall be valid for a period of one year unless a shorter period is specified in the permit.

(5) Upon filing of a proper application and payment of the prescribed fee, and subject to

the provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 and other applicable laws, the State Fire Marshal shall issue to such applicant a permit to use explosive materials if:

(a) The applicant is an individual to whom the State Fire Marshal is not prohibited to issue a permit under subsection (2) of this section;

(b) The applicant has not willfully violated any of the provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or of Chapter 40, Title 18, United States Code;

(c) The applicant has demonstrated and certified in writing that he is familiar with all published laws of this state and published local ordinances relating to the use of explosive materials applicable at the place or places he intends to use such explosive materials; and

(d) The applicant has demonstrated that he has adequate knowledge, training and experience in the use of explosive materials of the class and type for which he seeks a users permit and has passed a qualifying examination, as prescribed by the State Fire Marshal, concerning the use of such explosive materials.

(6) A permit for the use of explosive materials shall specify the class and type of explosive materials the permit holder is qualified to use. It shall be applicable to the permit holder and to any individual acting under his direct personal supervision. A permit may be issued for a single use of explosive materials, or, where the applicant is engaged or employed in a business requiring the frequent use of explosive materials, for a period of not more than two years.

(7) Upon filing of a proper application and payment of the prescribed fees and subject to the provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 and other applicable laws, the State Fire Marshal shall issue to a business enterprise a permit to purchase explosive materials if:

(a) The business enterprise has a place of business in this state;

(b) No individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the business enterprise is a person to whom the State Fire Marshal is prohibited to issue a permit under subsection (2) of this section;

(c) An authorized officer of the business enterprise certifies that all explosive materials will be used on the date of purchase of such materials unless such business enterprise is in possession of a valid storage permit; and

(d) The business enterprise employs at least one employee having a valid use permit issued under this section.

(8) A permit for a business enterprise to purchase explosive materials shall specify the class and type of explosive materials which are authorized to be purchased. The class and type of explosive materials covered by such permit shall be the same as those specified in the use permit or permits issued to an employee or employees of the business enterprise. The permit may be issued for a period of up to two years, but shall become void if the business enterprise ceases to employ an individual having a valid use permit issued under this section for the class and type of explosive materials covered by the purchase permit of the business enterprise.

28-1011.26. Explosives control; State Fire Marshal; permit; denial; grounds; notice; reason. (1) Whenever the State Fire Marshal denies an application for a permit or the renewal thereof, the State Fire Marshal or his designated agent shall, within twenty days of such denial, give notice thereof and the reasons therefor in writing to the applicant, personally or by mail, to the address given in the application. The notice of denial shall also advise the applicant of his right to appeal, and set forth the steps necessary to undertake an appeal and the time limits pertaining thereto. Such denial may be appealed to the State Fire Marshal who shall follow the procedures for contested cases required by Chapter 84, article 9.

(2) The State Fire Marshal may revoke any permit on any ground authorized in subsection (2) of section 28-1011.25 for the denial of a permit or for a violation of the terms of such permit, or for a violation of any provision of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or of the rules of the State Fire Marshal, or for noncompliance with any order issued by the State Fire Marshal within the time specified in such order.

(3) Revocation of a permit for any ground authorized may be ordered only after giving written notice and an opportunity to be heard to the holder thereof. Revocation proceedings shall be in accordance with the procedure required for contested cases, set forth in Chapter 84, article 9. Such notice may be given to the holder personally or by mail and shall specify the ground or grounds on which it is proposed to revoke the permit. When a permit is revoked, the State Fire Marshal may direct the disposition of the explosives held by such permittee. Upon revocation of a permit by the State Fire Marshal, the holder thereof shall surrender his permit to the State Fire Marshal at once or be subject to penalties as provided for

elsewhere in sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34.

28-1011.27. Explosives control; permit; application; form; fees. An application for a storage, use, or business enterprise purchase permit for explosive materials shall be in such form and contain such information as the State Fire Marshal shall by regulation prescribe. Each applicant for a permit shall pay a fee to be charged as set by the State Fire Marshal, but such fee shall not exceed twenty-five dollars in the case of a storage permit, five dollars in the case of a use permit, and five dollars in the case of a business enterprise purchase permit.

28-1011.28. Explosives control; permit holder; requirements. (1) Every holder of any permit required under sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 shall maintain an accurate inventory of all explosives in his possession and maintain records of transfers to other persons of explosive materials, such records to include a statement of intended use by the transferee, the name, date, place of birth, and social security number or taxpayer identification number, and place of residence of any natural person to whom the explosives are transferred. If the explosive materials are transferred to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as the agent of the corporation or acting as the agent of the corporation or other business entity in arranging the transfer. In the case of a federal licensee or permittee also a permit holder under the terms of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34, the maintenance of one set of records for the fulfilling of the record-keeping requirements of Chapter 40, Title 18, United States Code, shall be deemed compliance with the record-keeping requirements of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34.

(2) Every holder of any storage or business enterprise permit required under sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 shall maintain a log describing the time, place, amount, and type of explosive used in any blasting operations performed by him or at his direction.

(3) Permit holders shall make available for inspection at all reasonable times their records kept pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 and the regulations issued pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34. The State Fire Marshal may enter during business hours the premises, including places of storage, of any permit-

holder for the purpose of inspecting and examining (a) any records or documents required to be kept by such permit holder under the provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or the regulations issued pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34, and (b) any explosive materials kept or stored by such permit holder at such premises.

(4) Holders of use permits and business enterprise purchase permits shall retain such permits and make them available to the State Fire Marshal on request. Storage permits shall be posted and kept available for inspection at all places of storage of explosive materials.

28-1011.29. Explosives control; transportation of explosive materials; permit required. No person shall transport any explosive materials into this state or within the boundaries of this state unless such person holds a permit as required by sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or a permit or license issued pursuant to Chapter 40, Title 18, United States Code; *Provided*, there is excepted from the provisions of this section common, contract, and private carriers transporting explosive materials in the lawful, ordinary course of business. Common carriers by air, highway, railway, or water transporting explosive materials into this state or within the boundaries of this state, and contract or private carriers by motor vehicle transporting explosive materials into this state or within the boundaries of this state, and which contract or private carriers are engaged in such business pursuant to certificate or permit by whatever name issued to them by any federal or state officer, agency, bureau, commission, or department and operating within the regulations prescribed by such federal or state officer, agency, bureau, commission, or department shall be excepted from the provisions of this section, except as the State Fire Marshal by rule and regulation may otherwise provide. All transportation of explosive materials subject to the provisions of this section shall be in conformity with such safety regulations as the State Fire Marshal may promulgate.

28-1011.30. Explosives control; State Fire Marshal; rules and regulations; prescribe. The State Fire Marshal may make rules supplemental to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 as he shall deem necessary or desirable to assure the public safety as well as to provide reasonable and adequate protection of the lives, health and safety of persons employed in the manufacture, storage, transportation, handling and use of explosives. The State

Fire Marshal may prescribe such regulations as he may deem necessary and proper for the administration of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34.

28-1011.31. Explosives control; local ordinance; requirements. The provisions of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 and the rules adopted pursuant thereto shall be the minimum standard required and shall supersede any special law or local ordinance inconsistent therewith, and no local ordinance inconsistent therewith shall be adopted, but nothing herein contained shall prevent the enactment by local law or ordinance of additional requirements and restrictions.

28-1011.32. Explosives control; violations; penalty. Any explosive materials or destructive devices involved in any violation of sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or any rule or regulation promulgated pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 or in any violation of any other criminal law of this state shall be subject to seizure and disposition may be made in accordance with the method of disposition directed for contraband in section 29-820, whenever the seized matter results in a judicial civil or criminal action by or against any person or as the State Fire Marshal directs in the absence of such judicial action.

28-1011.33. Explosives control; exceptions to act. In addition to the exceptions provided in sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34, such sections shall not apply to:

(1) The use of explosive materials in medicines and medicinal agents in forms prescribed by the official United States Pharmacopoeia, or the National Formulary;

(2) The sale, transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any state or political subdivision thereof;

(3) Small arms ammunition and components thereof;

(4) The storage or possession of or dealing in black powder used for recreation purposes by sportsmen;

(5) The storage or possession of or dealing in smokeless propellants, percussion caps, primers, and other components used by sportsmen in the reloading of small arms ammunition;

(6) Bona fide war trophies capable of exploding and innocently found explosive materials possessed under circumstances negating an intent to use the same unlawfully, but the owner thereof shall surrender such items forthwith to any law enforcement officer or agency upon demand; and

(7) The storage in minimum amounts necessary for lawful educational purposes of explosive materials to be used in the natural science laboratories of any state accredited school system.

28-1011.34. Explosives control; permits; when required. All persons required to obtain permits from the State Fire Mar-

shal pursuant to sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34 shall have ninety days from April 7, 1971 to obtain such permits. Thereafter, such permits shall be obtained prior to performing any of the acts for which permits are required by sections 28-1011.18, 28-1011.19 and 28-1011.22 to 28-1011.34.

Nevada

NEVADA REVISED STATUTES

476.010. Sales and records of dealers in explosives; penalty. 1. Except in the due course of trade, it is unlawful for any dealer in dynamite, nitroglycerine, gunpowder or other high explosive to dispose of, transfer or sell to any person, in any unusual manner, an excessive amount of such commodities.

2. A record shall be kept by all dealers in such commodities of all such sales of the same made by them, showing the purpose for which the same is to be used and to whom sold.

3. No such sale of such commodities shall be made to any person except upon a signed order delivered to the merchant dealing in the same, stating the purpose and use to which the same is to be put.

4. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

476.020. Making, keeping explosive, combustible substance in city or town. Every person who shall make or keep any explosive or combustible substance in any city or town, or carry it through the streets thereof in a quantity or manner prohibited by law or by ordinance of such municipality, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10.

476.030. Injuries to persons or property by negligent use of explosives; penalty. Every person who, by careless, negligent or unauthorized use or management of any explosive or combustible substance, shall injure or cause injury to the person or property of another shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10.

476.040. Sale, transportation of explosives; Marking; penalty. Every person who shall put up for sale, or who shall deliver to any warehouseman, dock, depot or common carrier any package, cask or can containing benzene, gasoline, naphtha, nitroglycerine, dynamite, powder or other explosive or

combustible substance, without having printed thereon in a conspicuous place in large letters the word "Explosive," shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10.

476.050. Endangering property by explosives; penalty. Every person who shall maliciously place any explosive substance or material in, upon, under, against or near any building, car, vessel, railroad track or structure, in such manner or under such circumstances as to destroy or injure the same if exploded, shall be guilty of a felony, and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 20 years.

476.060. Procedure for prohibition of storage of explosives, combustible materials in city or town; Petition; order; publication; penalties. 1. Whenever there shall be filed with the board of county commissioners of any county a petition signed by 10 percent of the residents of any town or incorporated city within the county, the 10 percent to be computed from the number of persons paying taxes in the town or incorporated city according to the last preceding assessment roll, praying that the storage of gunpowder, explosive or combustible materials be prohibited within the limits of such town or city, the board shall, at the meeting of such board when the petition is filed, make and enter on the minutes of its proceedings an order prohibiting the storage of explosives or combustible materials within such distance of the town or city as the board may deem safe and proper, but the distance named in the order for such storage shall not be less than one-fourth of a mile from the limits of the town or city.

2. The order mentioned in subsection 1 to be made by the board may be published by the clerk of the board of county commissioners for 2 weeks successively in some newspaper published and printed in the town or city to which the order applies, or a copy of the

order shall be posted conspicuously in three public places in the town or city. The publication or posting shall constitute due notice to all concerned.

3. Nothing contained in this section shall be so construed as to prohibit or prevent:

(a) The storage by any person, firm or corporation within the limit prescribed by the order of any board, of not more than 100 pounds of black and smokeless gunpowder or rifle powder, and not more than 500 gallons of kerosene oil.

(b) The keeping within such limit of shotgun or rifle shells and cartridges and cartridge percussion caps by any business firm or individual.

(c) The storing of powder underground in mines.

4. Any board of county commissioners, or any member thereof, failing, neglecting or refusing to comply with all of the provisions of subsection 1 shall be guilty of a misdemeanor, punishable by a fine of not less than \$10, and proceedings shall at once be instituted by the district attorney, or may be instituted by any citizen of the county against such board, or against any member thereof. Such conviction shall ipso facto remove such board, or any member thereof so convicted, from office. Notice of the vacancy thereby created shall be certified by the district attorney to the governor. Within 20 days from the receipt of such notice, the governor shall make appointments to fill such vacancy as may be created.

5. Any person, firm, company or corporation continuing to store any explosive or combustible materials within the limit prescribed by such order and notice, after 2 weeks subsequent to the giving of notice, or after 3 weeks subsequent to the making of such order, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10.

476.070. Discharge of tracer, incendiary ammunition within certain areas unlawful; exceptions. 1. Any person who discharges any bullet, projectile or ammunition of any kind which is tracer or incendiary in nature on any grass, brush, forest or crop-covered land is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10.

2. This section does not apply to:

(a) Any member of the Armed Forces of the United States or the Nevada National Guard while such member is on active duty;

(b) Any law enforcement officer of this state or the United States; or

(c) The possession or use of such ammunition on land owned or leased by the United

States when possessed or used at the direction of an authorized official of the United States.

Explosives; Bomb Threats; False Fire Alarms

202.750. "Explosive" defined. As used in NRS 202.760 to 202.850, inclusive, the term "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compounds, mechanical mixtures or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture or device or any part thereof may cause an explosion.

202.760. Explosives: Shipment, receipt by certain persons unlawful. It is unlawful for any person:

1. Who is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year; or

2. Who is a fugitive from justice; or

3. Who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug or any controlled substance as defined by chapter 453 of NRS; or

4. Who has been judicially declared mentally ill or who has been committed to a hospital as mentally ill, to ship or transport any explosive within the state, or to receive any explosive which has been shipped or transported within the state.

202.770. Explosives: Seizure; forfeiture. Any explosive involved or used or intended to be used in any violation of NRS 202.750 to 202.850, inclusive, or any other law or ordinance shall be subject to seizure or forfeiture of those materials.

202.780. Explosives: Transportation, receipt for unlawful purpose; penalties. Any person who transports or receives, or attempts to transport or receive within the state, any explosive with the knowledge or intent that it will be used to kill, injure or intimidate any person or unlawfully to damage or destroy any building, vehicle or real property:

1. If no substantial bodily harm results, shall be punished by imprisonment in the

state prison for not less than 2 years nor more than 10 years, or by a fine of not less than \$2,000 nor more than \$10,000, or by both fine and imprisonment.

2. If substantial bodily harm results, shall be punished by imprisonment in the state prison for not less than 2 years nor more than 20 years, or by a fine of not less than \$2,000 nor more than \$20,000, or by both fine and imprisonment.

202.790. Explosives: Authorized transportation, receipt for lawful purpose not prohibited. Nothing in NRS 202.760 to 202.790, inclusive, shall be construed to prevent any person from transporting or receiving any explosive pursuant to any authority granted by the Federal Government or this state or for any lawful purpose.

202.800. Explosives: Use to damage, destroy state property prohibited; penalties. Any person who maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle or other personal or real property in whole or in part owned, possessed or used by or leased to the State of Nevada, or any department or agency thereof, or any institution or organization receiving financial assistance from the State of Nevada:

1. If no substantial bodily harm results, shall be punished by imprisonment in the state prison for not less than 2 years nor more than 10 years, or by a fine of not less than \$2,000 nor more than \$10,000, or by both fine and imprisonment.

2. If substantial bodily harm results, shall be punished by imprisonment in the state prison for not less than 2 years nor more than 20 years, or by a fine of not less than \$2,000 nor more than \$20,000, or by both fine and imprisonment.

202.810. Explosives: Unlawful possession in state buildings; penalties. Any person who possesses an explosive in any building in whole or in part owned, possessed or used by or leased to the State of Nevada, or any department or agency thereof, except with the written consent of the agency, department or other person responsible for the management of such building, shall be imprisoned for no more than 1 year, or fined no more than \$1,000, or both. In no instance shall imprisonment be less than 6 months, or the fine less than \$500.

202.820. Explosives: Use, possession during commission of felony; penalties. Any person who: 1. Uses an explosive to commit any felony; or 2. Carries an explosive unlawfully during the commission of any

felony, shall be sentenced to a term of imprisonment for no less than 1 year, nor more than 10 years. In the case of his second or subsequent conviction under this section, such person shall be sentenced to a term of imprisonment for no less than 5 years, nor more than 25 years, and, notwithstanding any other provisions of law, the court shall not suspend the sentence of such person or give him a probationary sentence.

202.350. Manufacture, importation of dangerous weapons; carrying concealed weapon without permit; permits issued by sheriff; penalties.

1. It is unlawful for any person within the State of Nevada to: * * * * *

(b) Carry concealed upon his person any explosive substance, other than fixed ammunition; * * * * *

200.260. Death resulting from unlawful manufacture, storage of explosives is manslaughter; penalty. Every person who shall make or keep gunpowder or any other explosive substance in a city or village in any quantity or manner prohibited by law or by ordinance of such municipality commits manslaughter if an explosion thereof shall occur whereby the death of a human being is occasioned, and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Traffic Laws

484.057. "Explosives" defined. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

528.080. Fire prevention and suppression practices during fire season. 1. Every timber owner or operator operating during the fire season shall * * * * * (b) Obtain permits for blasting from the local forest officer, as required by law. A workman shall remain on the scene for at least 1 hour following any blasting.

New Hampshire

NEW HAMPSHIRE REVISED STATUTES ANNOTATED

Public Safety and Welfare

Chapter 158

* * * * *

Keeping

158:9. Possession of Explosives. No person shall leave, deposit or have in his custody or possession in any building used in whole or in part as a dwelling house, tenement house, apartment building, office building, shop or store, or in or within five hundred feet of any building used in whole or in part as a school, theater, church, public building or other place of public assembly, any high explosive, such as and including dynamite, any explosive compound of which nitroglycerin forms a part, fulminate in bulk or dry condition, blasting caps, detonating fuses, black powder or other similar explosive, except as may be permitted by regulations issued pursuant to RSA 153. Whoever violates the provisions of this section shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

License to Purchase, Store, and Transport

158:9. Acts Unlawful. I. No person shall purchase, store, or transport or attempt to purchase, store or transport any high explosive without first obtaining a license therefor as provided in RSA 158:9-b.

II. No person shall sell any high explosive to another unless the purchaser exhibits a license to purchase obtained as provided in RSA 158:9-b. In such case, the seller shall record the name and address of the purchaser, the license number, the date of the sale, the type and quantity of explosive sold, the serial number of said explosive, if any, and the purpose for which it is to be used. Said record shall be kept by the seller for a period of two years.

III. No person shall store or keep any high explosive unless such explosive is stored or kept under lock and key or in a safe, secure place.

IV. Notwithstanding the provisions of paragraph I, any employee of any person, firm, corporation or association whose usual business requires the use of any high explosive may transport the same in the course of his employment if the employer has obtained a license in its name as provided in RSA 158:9-b.

V. Notwithstanding the provisions of paragraph II, any employee of any person, firm, corporation or association whose usual business requires the use of any high explosive may purchase the same in the name of his employer if said employer has obtained a license in its name as provided in RSA 158:9-b. In such case, the seller shall record the name, address and license number of the employer, the name and address of the employee, the date of the sale, the type and quantity of explosive, the serial number of the explosive sold, if any, and the purpose for which it is to be used. Said record shall be kept by the seller for a period of two years.

VI. For the purposes of this section, the term "high explosive" shall mean and include dynamite, any explosive compound of which nitroglycerin forms a part, fulminate in bulk or dry condition, blasting caps, detonating fuses, blasting powder or other similar explosive but shall not include black powder used in sporting rifles.

158:9.-b. Application. The selectmen of a town or the mayor or chief of police of a city, or some full-time police officer designated by them respectively, upon application of any resident of said town or city, or the director of state police, or some person designated by him, upon application of a nonresident, shall issue a license to such applicant authorizing him to store, purchase and transport explosives in this state for not more than one year from the date of issue, if it appears that the applicant has any proper purpose and that the applicant is a suitable person to be licensed. The license shall be in duplicate and shall bear the name, address, description and signature of the licensee. The original thereof shall be delivered to the licensee and the duplicate shall be preserved by the person issuing the same for three years. The license shall be issued within seven days after application therefor, and, if such application is denied, the reasons for such denial shall be stated in writing, in duplicate, the original of which shall be delivered to the applicant, and the copy thereof kept in the office of the person to whom application was made.

158:9.-c. Fees and Disposition. I. The fee for licenses issued to residents of this state shall be two dollars, which fee shall be for the use of the law enforcement department of the town or city granting such licenses.

II. The fee for licenses issued to nonresidents shall be four dollars which fee shall be

deposited as unrestricted general fund revenue.

158:9.-d. License Forms. The director of state police is hereby authorized and directed to prepare forms for the licenses required by RSA 158:9-a and to supply the same to the officials of the cities and towns authorized to issue said licenses. The cost of said forms shall be paid out of the fees received from nonresident licenses.

158:9.-e. Penalties. I. Any person convicted of violating the provisions of RSA 158:9-a, I and II shall be guilty of a class B felony if a natural person, or guilty of a felony if any other person.

II. Any person convicted of violating the provisions of RSA 158:9-a, III shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

III. Any person convicted of larceny of any high explosive as defined in RSA 158:9-a, VI, shall be guilty of a class B felony.

Transportation

158:11. With Passengers. It shall be unlawful to transport, carry or convey, from one place to another in this state, any dynamite, gunpowder or other explosive on any vessel or vehicle of any description operated by a common carrier, which vessel or vehicle is carrying passengers for hire by railroad or on the public waters of the state; provided, that it shall be lawful to transport on any such vessel or vehicle small arms ammunition in any quantity, and such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation, and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of one-half pound each, and not exceeding twenty samples at one time in a single vessel or vehicle, but such samples shall not be carried in that part of a vessel or vehicle which is intended for transportation of passengers for hire. Nothing in this section shall prevent the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels or vehicles.

158:12. Regulations. The public utilities commission shall formulate regulations for the safe transportation of explosives in accordance with the best known practicable means for securing safety in transit, covering the packing, marking, loading, handling while in transit and the precautions necessary to determine whether the material when offered is in proper condition to transport. Such regulations, and all changes or modifications thereof, shall take effect ninety days after their publication by said commission, and shall then be binding upon

all common carriers by rail and water engaged in intrastate commerce.

* * * * *

158:16. Marking. Every package containing explosives or other dangerous articles, when presented to a common carrier for shipment, shall have the contents plainly marked on the outside thereof; and it shall be unlawful for any person to deliver, or cause to be delivered, to any common carrier any explosive or other dangerous article under any false or deceptive marking, description, invoice, shipping order or other declaration, or without informing the agent of such carrier of the true character thereof, at or before the time such delivery or carriage is made.

158:17. Penalty. Any person who shall knowingly violate, or cause to be violated, any provision of this subdivision, or any regulation made by the public utilities commission in pursuance thereof, shall, except as otherwise provided, be guilty of a class B felony if a natural person, or guilty of a felony if any other person.

158:18. Personal Injury. When the death or bodily injury of any person is caused by the explosion of any article named in this subdivision, while the same is being placed upon any vessel or vehicle to be transported in violation hereof, or while the same is being so transported, or while the same is being removed from such vessel or vehicle, the person knowingly placing, or aiding or permitting the placing, of such articles upon any such vessel or vehicle, to be so transported, shall be guilty of a class A felony.

Control of Storage, Sale, and Use

158:19. Control of Explosives. Whenever in his judgment the common defense of public safety of the state requires such action, the governor is hereby authorized to direct the adjutant general of this state to control the storage, sale, and use of explosives, except small arms ammunition, for the purpose of preventing such explosives from endangering the public safety by coming into the possession of unfriendly forces, domestic or foreign, and for the purpose of advising the military, naval, and civil defense authorities of this state of the quantities and location of such explosives for use in the common defense of this state. Upon the governor so directing, the adjutant general is hereby authorized to promulgate regulations requiring dealers to register their stocks and sales of such explosives, and requiring boards of firewards, police officers, or selectmen, as the case may be, to assist in such control measures as he shall institute in the exercise of this authority. No records of the location and amounts of explosives compiled

by the adjutant general hereunder shall be deemed public records, but shall be subject to such security classification and restricted to such military, naval, and civil defense uses as the adjutant general, with the approval of the governor and council, may prescribe.

* * * * *

Unlawful Use of Explosives

158:29. Definitions. For the purpose of this subdivision: I. "Detonators" shall mean any devices for the purpose of exploding an explosive charge and shall include blasting caps, blasting caps with safety fuse, electric blasting caps, detonating fuses, primers, boosters and igniters.

II. "Primers, percussion fuses, combination fuses and time fuses" shall mean devices used to ignite powder charges of ammunition or the black powder bursting charges of projectiles.

III. "Explosive bombs" shall mean containers filled with explosives and provided with a detonating device.

IV. "Detonating fuse" shall mean a fuse containing high explosives of sufficient strength to detonate other high explosives lying alongside and explode the entire charge almost instantaneously through its whole length.

V. "Boosters" shall mean casings containing several ounces of a high explosive used to increase the intensity of explosion of the detonator of a detonating fuse.

VI. "Delay electric igniters" shall mean small metal tubes containing a wire bridge in contact with a small quantity of ignition compound.

VII. "Fuse lighters" shall mean small cylindrical hollow pasteboard or metal tubes containing an igniting composition in one end, the other being open.

VIII. "Blasting caps" shall mean thin metal shells containing dry fulminate of mercury or other similar substance either alone or in combination with fulminate of mercury and fired by a slow-burning safety fuse, or arranged to be fired by an electric current.

IX. "Tracer fuses" shall mean devices attached to projectiles and containing a slow-burning composition.

X. "Electric squibs" shall mean small tubes or blocks containing a small quantity of ignition compound in contact with a wire bridge.

XI. "Explosives" shall mean any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion; i.e., with substantially instantaneous release of gas and heat.

XII. "Infernal Machine" shall mean any device which would endanger life or do damage to property, or both, by fire or

explosion, whether or not contrived to ignite or explode automatically and whether or not disguised so as to appear harmless.

158:30. Classes of Explosives. I. Class A explosives or so-called dangerous explosives shall include: ammunition for cannon with explosive projectile; explosive projectiles; explosive grenades; explosive bombs; explosive mines; explosive torpedoes; rocket ammunition; chemical ammunition; explosive boosters; jet thrust units (JATO), class A; detonating primers; detonating fuses, boosters, or other detonating fuse parts containing an explosive; cartridge bags empty with black powder igniters; percussion, tracer, combination time fuses and tracers; nitroglycerine blasting caps and electric blasting caps in quantity exceeding one thousand caps in the aggregate; dynamite; T.N.T. (trinitrotoluene); fulminate of mercury; ammonia nitrate, when stored with, transported with, or used with explosives, or with any substance which, when mixed with ammonium nitrate, creates an explosive; or any substance highly susceptible to detonation or otherwise of a maximum hazard.

II. Class B explosives or so-called flammable hazards shall include: ammunition for cannon with empty projectiles, inert loaded projectiles, solid projectiles, or without projectiles or shell; rocket ammunition; jet thrust units (JATO), Class B; or any other substance highly susceptible to detonation.

III. Class C explosives or so-called minimum hazards shall include: explosives cable cutters; empty grenades, primed; explosive rivets; blasting caps and electric blasting caps, not exceeding one thousand caps; smokeless powder; small arms ammunition; igniters; delay igniters or fuse lighters; ammunition for cannon; ammunition for small arms with explosive bullets or explosive projectiles; black powder; primers.

158:31. Duties of Certain Officials. Heads of police and fire departments in cities and towns shall investigate the cause and circumstances of every explosion in their respective jurisdictions by which property has been destroyed or damaged, especially to ascertain whether it was caused by carelessness or design. They shall begin such investigation forthwith after such explosion, and if it appears to the official making such investigation that the explosion is of suspicious origin or is the result of a violation of law, or if he is unable to determine the cause, he shall immediately notify the director of state police.

158:32. Possession of Bomb or Explosive; Penalty. No person shall have in his possession or under his control any high explosive Class A as defined in RSA 158:30,

I, or any bomb manufactured from any substance or device as defined in RSA 158:30, I-III, contrary to the provisions of this chapter or any rule or regulation made thereunder. Whoever violates the provisions of this section shall be subject to the following penalty:

I. If the offense occurs prior to November 1, 1973, he shall be fined not more than one thousand dollars or imprisoned for not more than two and one half years, or both.

II. If the offense occurs on or after November 1, 1973, he shall, if a natural person be guilty of a Class B felony, and any other person shall be guilty of a felony.

III. Any bomb or explosive found in possession or under the control of a person violating the provisions hereof shall be forfeited to the state.

158:33. Notice of Seizure. Notice of the seizure of any bomb or explosive found in the possession or under the control of any person in violation of RSA 158:32 shall immediately be sent to the director of state police by the officer making the seizure, and upon final conviction of such person, such bomb or explosive shall be adjudged forfeited to the state and safely delivered to the director of state police or his authorized representative and disposed of at his discretion.

158:34. Malicious Explosion; Penalty. Whoever wilfully, intentionally and without right, by the explosion of gunpowder or of any other explosive, unlawfully damages or destroys property or injures a person, shall be subject to the following penalty:

I. If the offense occurs prior to November 1, 1973, he shall be fined not more than one thousand dollars or imprisoned in the state prison for not more than twenty years, or both.

II. If the offense occurs on or after November 1, 1973, he shall, if a natural person, be guilty of a Class A felony, and any other person shall be guilty of a felony.

158:35. Possession of Infernal Machine; Penalty. Whoever, other than a police or other law enforcement officer acting in the discharge of his official duties, or fire or military personnel while in performance of their duties, has in his possession or under his control an infernal machine or a similar instrument, contrivance, or device shall be subject to the following penalty:

I. If the offense occurs prior to November 1, 1973, he shall be fined not more than one thousand dollars or imprisoned in the state prison for not more than ten years, or both.

II. If the offense occurs on or after November 1, 1973, he shall, if a natural person,

be guilty of a Class A felony, and any other person shall be guilty of a felony.

III. The said machine, instrument, contrivance, or device shall be forfeited to the state. Notice of the seizure of any such machine, instrument, contrivance or device shall be sent forthwith to the director of state police and the article seized shall be subject to his order.

158:36. Throwing or Placing of Explosives; Penalty. Whoever wilfully and intentionally throws at or near any person and whoever wilfully, intentionally and without right throws into, against or upon, any property real or personal, or puts, places or explodes or causes to be exploded in, upon or near such property, or near any person, the following: gunpowder or other explosive, or a bombshell, torpedo or other instrument filled or loaded with an explosive; with an intent unlawfully to destroy or damage property or to injure any person, or whoever has in his possession or under his control such an article or instrument with such intent, shall be subject to the following penalty: * * * * he shall, if a natural person, be guilty of a Class A felony, and any other person shall be guilty of a felony.

158:37. Use of Molotov Cocktail; Penalty. Whoever makes, sells, uses or has in his possession or under his control a bottle or other breakable container containing a flammable liquid into which has been fixed or placed a wick or similar device, and which bottle or container when ignited and thrown will cause a fire or explosion, shall be subject to the following penalty:

I. If the offense occurs prior to November 1, 1973, he shall be fined not more than one thousand dollars or imprisoned for not more than two and one-half years, or both.

II. If the offense occurs on or after November 1, 1973, he shall, if a natural person,

be guilty of a Class B felony, and any other person shall be guilty of a felony.

The provisions of this section shall not apply to flares, lanterns, fireworks or other such devices used for signal or illumination purposes, or items used for any other lawful purpose.

158:38. False Reports as to Explosives; Penalty. Whoever, knowing the same to be false, transmits or causes to be transmitted to any person by telephone or other means a communication falsely reporting the location of any explosive or other dangerous substance or contrivance thereby causing anxiety, unrest, fear, or personal discomfort to any person or group of persons, shall be subject to the following penalty:

I. If the offense occurs prior to November 1, 1973, he shall be fined not more than ten thousand dollars or imprisoned in the state prison for not more than twenty years, or both.

II. If the offense occurs on or after November 1, 1973, he shall, if a natural person be guilty of a Class A felony, and any other person shall be guilty of a felony.

158:39. Exceptions. Nothing contained in this subdivision shall apply to the regular military or naval forces or coast guard of the United States, or any federal agency, or the duly authorized militia of this state, nor to the police or fire departments of this state, provided they are acting within their official capacity and in the proper performance of their duties. Nothing contained in this subdivision shall apply to explosives while being transported by certified carriers in motor vehicles, railroad cars or vessels in conformity with the regulations adopted by the interstate commerce commissioner or the United States Coast Guard.

to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.

(d) "Artificial barricade" means an artificial mound or properly revetted wall of earth of a minimum thickness of 3 feet.

(e) "Natural barricade" means natural features of the ground including but not limited to hills, or timber of sufficient density so that the surrounding exposures which require protection cannot be seen from the magazine containing explosives when the trees are bare of leaves.

(f) "Explosives" means any chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible materials or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term "explosives" shall include, but is not limited to commercial explosives, propellants and nitro-carbonitrates. The term "explosives", except as specifically stated in this act, shall not include small arms ammunition, explosives in the forms prescribed by the official United States Pharmacopoeia, or fireworks regulated under Revised Statutes sections 21:2-1 through 21:2-7.

(g) "Commercial explosives" means all explosives except propellants and nitro-carbonitrates, including, but not limited to, dynamite, black blasting powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, fuse lighters, squibs, cordeau detonant fuses, instantaneous fuses, igniter cord and igniters.

(h) "Propellants" means solid chemicals or solid chemical mixtures which function by rapid combustion of successive layers and include, but are not limited to, smokeless powder for small arms, smokeless powder for cannon, smokeless powder or solid propellants for rockets, jet thrust units, or other devices.

(i) "Nitro-carbo-nitrate" means a mixture intended for blasting consisting substantially of inorganic nitrates and carbonaceous combustibles in which none of the ingredients is a commercial explosive and the finished product, as mixed and packaged for use or shipment, cannot be detonated by the test procedure established by rules and regulations promulgated under this act.

(j) "Explosives manufacturing establishment" means all lands, and buildings situated

thereon, used in connection with the manufacture of explosives.

(k) "Explosives manufacturing building" means any building or other structure, except magazines, in which the manufacture of explosives is carried on.

(l) "Magazine" means any building or structure used for the storage of explosives but shall not mean an explosives manufacturing building.

(m) "Inhabited building" means a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosives.

(n) "Highway" means any public street, road, highway, alley or those parts of navigable streams which are used as highways of commerce.

(o) "Public conveyance" means any transportation facility which is carrying passengers for hire.

(p) "Person" means any natural person, partnership, firm, association or corporation.

(q) "Railway" shall mean and include any steam, electric or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity where explosives storage magazines or explosives manufacturing buildings are situated, but shall not include auxiliary tracks, spurs and sidings installed and primarily used for transporting freight.

21:1A-130. Enforcement. The commissioner shall enforce the provisions of this act, make complaints against persons violating its provisions, and prosecute violations of the same. The commissioner and any authorized person acting under him shall have authority to enter and inspect any place or establishment covered by this act. If upon inspection the commissioner discovers a condition which exists in violation of the provision of this act or if the commissioner determines that certain precautions are reasonably necessary for the safety of workers and the public and the protection of property, he shall be authorized to order such violation to cease or such precaution to be taken. The order shall state the items which are in violation of the provisions of the act or the precautions which he deems reasonably necessary to be taken, and shall provide a reasonable specified time within which the required action must be taken by the person responsible. If the violation or the lack of certain precautions constitutes an imminent hazard and the commissioner's order is not obeyed, the commissioner may

apply for an injunction in the Superior Court of New Jersey. Nothing herein shall be deemed to prevent the commissioner from prosecuting any violation of this act, notwithstanding that such violations are corrected in accordance with his order.

The Division of State Police, Department of Law and Public Safety shall have concurrent enforcement power with regard to the transportation of explosives on any highway as defined in this act.

Any person aggrieved by an order or act of the commission under this act may, upon application made within 15 days after notice thereof, be entitled to a hearing before the commissioner who shall within 30 days after submission of the application hold a hearing of which at least 15 days written notice shall be given to all interested parties. The commissioner, upon application therefor, may stay the operation of the order complained of pending his final determination upon such terms and conditions as he may deem proper. Within 30 days after the said hearing the commissioner shall issue an appropriate order modifying, approving or disapproving his prior order or act. A copy of such order shall be served upon all interested parties.

21:1A-131. Rules and regulations. The commissioner may make and promulgate rules and regulations necessary to further the purposes of this act. The rules and regulations may include requirements that are not mentioned specifically in this act but which are reasonably necessary for the safety of workers and the public and the protection of property. Such rules and regulations shall have the force and effect of law and shall be enforced in the same manner. The procedure for the promulgation of rules and regulations under this section shall be as follows:

(a) Upon the completion of proposed rules and regulations by the commissioner notice of the proposed promulgation shall be given to all holders of explosive permits. This notice shall be in writing, shall state briefly the purpose of the proposed rules and regulations, shall state that a copy of the proposed rules and regulations may be obtained upon written request to the Department of Labor and Industry and shall state that upon written request to the Commissioner of Labor and Industry, a hearing will be held by the commissioner or his authorized representative for the purpose of hearing recommendations concerning the proposed rules and regulations;

(b) If no hearing is requested, the commissioner shall promulgate the rules and regulations within 60 days of the notice required by section 4(a) of this act.

New Jersey

NEW JERSEY STATUTES ANNOTATED

Explosives Act

21:1A-128. Short title. This act shall be known and may be cited as the "Explosives Act."

21:1A-129. Definitions. As used in this act unless the context clearly indicates otherwise:

(a) "Act" means this act and rules and regulations promulgated hereunder.

(b) "Commissioner" means the Commis-

sioner of the Department of Labor and Industry or his authorized representative.

(c) "Barricaded" means that a building containing explosives is effectively screened from a magazine, inhabited building, railway or highway, either by a natural barricade or by an artificial barricade of such height that a straight line from the top of any sidewall of a building containing explosives to the eave line of any magazine or inhabited building or

(c) If a hearing is requested, notice of the hearing shall be sent to all holders of permits. The notice shall state the date, time and place of the hearing.

(d) Within 60 days after the hearing, the commissioner shall promulgate the rules and regulations as originally proposed or with such changes that he, in his discretion, decides to make in view of the recommendations offered at the hearing. No further hearings are required.

21:1A-132. Prohibited acts; exceptions; permit required; records and reports of permittees; disposal of deteriorated or leaking explosives. It is prohibited for any person to manufacture, store, sell, transport, use, dispose of, or possess explosives in any manner except as permitted under this act. Any person who is not engaged primarily in the manufacture, sale, storage, transportation, or use of explosives but who in the course of activities engages in any of the above or uses explosives in any manufacturing process shall be required to comply with the provisions of this act.

A. No person shall sell, deliver, give away or otherwise dispose of any explosives to any persons not in possession of a permit as required by the provisions of this act. No person shall have any explosives in his possession or control without a permit required by this act.

B. Every person holding a permit to manufacture, sell, store or use explosives shall keep such records as may be required by the commissioner, and shall file reports monthly with the commissioner, on a date and in a form to be prescribed by the commissioner, listing amounts of explosives used, sold or otherwise disposed of, during the preceding month and showing inventories on hand, and shall be required to report immediately any loss, by theft or otherwise, of explosives in his possession to the commissioner, who shall immediately forward such information to the Attorney General of the State, provided, however, that where an employer is maintaining such records, his employees holding permits to use explosives, at the discretion of and with the written approval of the commissioner, shall not be required to maintain individual records. Records shall be retained at least until the end of the calendar year next following the year in which the record is made. All such records shall be open to inspection by the commissioner.

C. No person shall handle explosives while under the influence of narcotics or intoxicating liquors.

D. No person shall smoke or have open

lights or fire or flame-producing devices while handling or using explosives or when within 100 feet of any magazine or vehicle containing explosives; provided, however, that this prohibition shall not apply to the use of igniters when preparing to detonate an explosive charge.

E. When deteriorated or leaking explosives are found by the commissioner, he may order them disposed of in the manner he shall direct, at the expense of the possessor.

21:1A-133. Permits for manufacture, sale, storage, transportations or use of explosives. Any person who shall manufacture, sell, store, transport or use explosives first shall obtain a written or printed permit from the commissioner, which permit shall state specifically the use or uses authorized:

(a) To manufacture—authorizing the manufacture of explosives and storage of materials in process, developmental materials and finished products.

(b) To sell—authorizing the sale of explosives.

(c) To transport—authorizing the transportation of explosives; provided, however, that no permit will be required where such transportation is not on the highways nor where the articles being transported are of laboratory samples; however, such transportation shall otherwise be in conformity with the provisions of this act.

(d) To store—authorizing the purchase and storage of explosives in a specified magazine;

(e) To use—authorizing a person to use explosives for such purposes and under such conditions as are specified on the permit. The commissioner may establish classifications of use of explosives for blasting and other purposes, specifying the privileges and requirements of each classification. Persons holding, or employed by a person holding, a permit to manufacture explosives, and who are engaged in the testing of explosives incident to the manufacture or development thereof shall not be required to obtain a permit to use explosives.

A. No permit shall be required for the storage, transportation or use of smokeless powder which is used by private persons for the hand loading of small arms ammunition and which is not for resale. For this purpose not more than 36 lbs. of smokeless powder and not more than 5 pounds of black powder shall be stored or transported without a permit.

B. Permits shall at all times be readily available to inspection by the commissioner,

State Police or local police and fire departments and shall be posted as directed by the commissioner.

C. Permits shall not be transferable.

D. Whenever a permanent storage magazine for which a permit has been issued is moved to a new location, or its physical surroundings are so changed that the magazine comes within the prohibited distances to a highway, railroad or inhabited building, the permit for said magazine shall become invalid and a new permit required.

E. No permittee shall manufacture, sell, transport, store or use explosives except in compliance with the limitations expressed on the permit.

21:1A-134. Investigation of applicants; qualifications, denial or revocation of permit; duration of permits; renewal; fee. Upon receipt of an application for a permit to manufacture, store, sell, transport or use explosives, and before the permit is issued, the commissioner shall make or cause to be made an investigation for the purpose of ascertaining if all applicable requirements of this act have been met. The commissioner shall not issue a permit to manufacture, sell, store, transport or use explosives unless all the requirements of this act have been met. All permits issued in accordance with the provisions of this act shall be subject to any amendments hereafter made to this act.

A. An applicant for a permit shall, at his own expense, furnish whatever pertinent information the commissioner may require in addition to that specified herein. Application forms shall be furnished by the Department of Labor and Industry.

B. An applicant for a permit to manufacture, sell, transport, store or use explosives must:

(a) be at least 21 years of age;

(b) have a reasonable understanding of the English language;

(c) present satisfactory evidence of experience in the manufacture, sale, transportation, storage or use of explosives;

(d) demonstrate by written, oral or field examination, as the commissioner may direct, adequate knowledge of the safe manufacture, sale, transportation, storage or use of explosives and of the provisions of this act; and

(e) be of good moral character and must never have been disloyal to the United States; and it shall be within the sole discretion of the commissioner to determine whether an applicant who has been convicted of a crime involving moral turpitude has the good moral character necessary for a permit. It shall also be within the reasonable discre-

tion of the commissioner to deny the issuance of a permit where he concludes, after a full examination of the qualifications of an applicant, that to grant a permit would be dangerous to the health, safety and welfare of the people of the State of New Jersey. The failure of a holder of a permit to maintain the qualifications stated herein shall be good cause for the revocation of the permit.

C. When the applicant for a permit to manufacture, sell, transport, store or use explosives is a firm, association or corporation, the applicant must demonstrate that such activities with regard to explosives will be under the direct supervision of a person who meets the qualifications stated above.

D. Permits shall be valid for 1 year unless sooner revoked. Permits which expire on July 1, 1960 may be renewed by the commissioner at his discretion for a period of not less than 3 months nor more than 15 months, and permits renewed after such a period shall thereafter be valid for 1 year unless sooner revoked. The fee for all permits shall be fixed by the commissioner on a yearly basis or, for periods of less than a year, in amounts proportionately less than the annual fee. E. The application for any permit must be accompanied by a fee established by regulation in accordance with the following schedule:

(a) To manufacture—not less than \$50.00 nor more than \$500.00;

(b) To sell—not less than \$25.00 nor more than \$200.00;

(c) To transport—not less than \$5.00 nor more than \$20.00;

(d) To store—not less than \$25.00 nor more than \$150.00; but if the explosives are in excess of 30,000 pounds, then the fee shall be not less than \$150.00 nor more than \$300.00;

(e) To use—not more than \$100.00;

(f) For storage, transportation, and use of smokeless powder in amounts in excess of 36 pounds, but not in excess of 100 pounds and black powder in amounts in excess of 5 pounds but not in excess of 100 pounds which is used by private persons for the hand loading of small arms ammunition and which is not for resale—not less than \$2.00 nor more than \$10.00; where any such smokeless and black powder is in excess of 100 pounds, the fee shall be increased \$10.00 for each additional 100 pounds, or fraction thereof.

21:1A-135. Explosives manufacturing establishments; plan; intra-explosives plant quantity and distance table; distances for storage of explosives. All explosives manufacturing establishments shall come under the jurisdiction of the commis-

sioner in accordance with the provisions of Title 34 of the Revised Statutes of the State of New Jersey.

A. A copy of the plan of the explosives manufacturing establishment shall be kept in the main office of the premises of every such establishment and shall be open to inspection by the commissioner. The said plan shall show the location of all explosives manufacturing buildings, the distance they are located from other buildings on the premises and from magazines. Before a permit to manufacture is issued by the commissioner, he may require that such a plan be submitted to him in triplicate for approval.

B. All commercial explosives manufacturing buildings shall be located one from the other and from other buildings of the explosives manufacturing establishment in which persons are regularly employed, and all commercial explosives magazines shall be located from explosives manufacturing buildings and other buildings of the explosives manufacturing establishment in which persons are regularly employed, in conformity with the Intra-Explosives Plant Quantity and Distance Table for commercial explosives set forth below. * * * *

Quantity and distance table deleted

21:1A-136. Magazines; requirements. All explosives, except those in the process of manufacture or being transported or used as permitted by this act, shall be stored in a magazine complying with the requirements of this act.

A. All magazines shall be in charge of a competent person who shall be at least 21 years of age. The holder of the storage permit shall be held responsible for compliance with all safety precautions.

B. All magazines shall be well ventilated, clean, dry and free of grit, paper, rubbish and any combustible material other than explosives or the cases containing them.

C. All magazines shall be kept closed and locked except when necessarily opened for the lawful purpose of storing or removing explosives, for inspections, or by persons lawfully entitled to enter same.

D. No container of explosives shall at any time be opened in or within 50 feet of any magazine, nor shall any explosives be kept in any magazine except in closed containers.

E. The commissioner is hereby authorized to deny a permit for a magazine which in his judgment is unsuited for the storage of explosives. The commissioner may require

plans for magazines to be submitted for approval before the magazines are constructed and used.

F. Magazines shall not be provided with artificial heat or internal lighting except by approved portable electric safety battery lamps. Underground magazines may be provided with explosion proof lights where all wiring is in conduits and the switch is located outside of the magazine.

G. All magazines in which explosives are stored, except those in explosives manufacturing establishments, shall conform with the Tables of Distance for storage of explosives established by regulations promulgated under this act.

H. The commissioner shall state on each storage permit the maximum amount of explosives that may be stored under that permit. No quantity of explosives in excess of that amount shall be stored under the permit. In any event no quantity in excess of 300,000 pounds of commercial explosives and no quantity in excess of 20,000,000 blasting caps shall be kept or stored in any magazine.

I. Nitro-carbo-nitrates or propellants, or both, may be stored with commercial explosives in the same magazine, but when so stored, all commercial explosives magazine regulations apply, and the quantity of nitro-carbo-nitrate or propellant shall be taken into consideration in computing the total quantity in the magazine for compliance with the quantity and distance tables for commercial explosives established by regulation.

21:1A-137. Transportation of explosives. A. The person using any vehicle for the transportation of explosives, whether he be the owner or lessee, shall be responsible for the keeping of inspection records required by the commissioner.

B. It is prohibited for any person to transport or carry explosives upon any public conveyance.

C. No explosives shall be transported in any form of full trailer, nor shall any trailer be attached to a vehicle transporting explosives.

D. Vehicles in which explosives are being transported shall be driven by and be under the control of a driver at least 21 years of age. Such a person shall be familiar with the New Jersey laws and rules and regulations pertaining to the transportation of explosives.

E. No quantity of explosives in excess of the quantity indicated upon the transportation permit shall be transported in a vehicle.

F. Blasting caps or electric blasting caps, or both, may be transported in the same vehicle with other commercial explosives only when the net weight of the other

commercial explosives does not exceed 5,000 pounds.

G. When nitro-carbo-nitrates or propellants, or both, are transported in the same vehicle with commercial explosives, all requirements governing the transportation of commercial explosives must be followed.

21:1A-138. Blasting operations. A. Persons authorized to conduct blasting operations and their employers or persons in charge of the operation shall comply with all provisions of this act and rules and regulations promulgated hereunder. No employer shall employ any person to prepare explosive charges or conduct blasting operations unless such person holds a valid permit to use explosives issued by the commissioner, provided however, that

(a) explosives may be used by a miner in underground mining operations without a permit to use explosives if the blasting operations are under the direct supervision of a person in possession of a valid permit.

(b) explosive charges may be prepared by a person at least 18 years of age without a permit to use explosives if such work is done under the direct supervision of a person in possession of a valid permit.

(c) persons not less than 15 years of age shall be permitted to assist in the preparation or use of propellants in amateur rocket experimentation when such work is done under the actual control and supervision of a person in possession of a valid permit to use explosives, and in such a manner and place as to insure the safety of persons and property where such work is performed, and in conformity with rules and regulations promulgated under this act.

B. The amount of explosives taken into a blast area shall never exceed the amount estimated by the blaster as necessary for the blast.

C. When commercial explosives are used in conjunction with nitro-carbo-nitrates, all safety precautions and rules and regulations for commercial explosives shall be observed.

D. Except when nitro-carbo-nitrates are mixed at the site of the blast for immediate use, any such mixing shall be deemed to be manufacturing of explosives and shall be subject to all applicable provisions relating thereto.

21:1A-139. Jurisdiction of commissioner; law governing manufacture, sale, transportation, storage or use of explosives. The commissioner shall have exclusive jurisdiction over the regulation of the manufacture, sale, transportation, storage and use of explosives. This act shall supersede any existing ordinance, by-law or reso-

lution of any municipality or other governmental subdivision pertaining to the manufacture, sale, transportation, storage or use of explosives.

21:1A-140. Violations; penalties; revocation of permits; existing buildings and magazines. It shall be unlawful for any person, partnership, firm, association or corporation, and any officer, agent or employee thereof, to violate or proximately contribute to the violation of any of the provisions of this act or of the regulations made hereunder. The violation of this act by an employee, acting within the scope of his authority, of any person, partnership, firm, association, or corporation shall be deemed also to be the violation of such person, partnership, firm, association or corporation. Violations of the provisions of this act or rules and regulations made hereunder shall be punishable for the first offense by a penalty of not less than \$25.00 nor more than \$500.00, for the second offense by a penalty of not less than \$150.00 nor more than \$500.00 and for the third and each succeeding offense by a penalty of not less than \$250.00 nor more than \$1,000.00. The penalties shall be collected by a civil action in the name of the commissioner, to be instituted in the county district court of the county, or in municipal court of the municipality, where the offense was committed. Where the violation consists of a refusal to obey an order of the commissioner made under this act, each day during which the violation continues shall constitute a separate and distinct offense except during the time an appeal from said order may be taken or is pending.

A. The Commissioner of Labor and Industry, in his discretion, is hereby authorized and empowered to compromise and settle any claim for a penalty under this section for an amount that appears appropriate and equitable under all of the circumstances.

B. Permits to sell, transport, store or use explosives are revocable for cause by the commissioner. In any case where the commissioner revokes a permit, he shall notify the permittee of the revocation and shall provide, upon written request, for a hearing within 10 days of the date of the revocation. Within 30 days from the termination of the hearing, the commissioner shall issue an order approving, disapproving or modifying the revocation. Permits to manufacture are exempt from revocation, but the holders of such permits shall be subject in every other respect to the provisions of this act and the rules and regulations promulgated hereunder.

C. The requirements of this act concerning the distances of explosives manufactur-

ing buildings and magazines from each other shall not be construed to apply to permanent buildings or magazines that exist at the time that this act becomes effective and which buildings and magazines have been used under authority of the laws formerly governing the manufacture and storage of explosives. This provision designating such explosives manufacturing buildings and magazines already existing at the effective date of this act as nonconforming uses shall not apply to any explosives manufacturing buildings or magazines constructed subsequent to the passage of this act nor to extensions or additions to such buildings and magazines that are made subsequent to the passage of this act.

21:1A-141. Exemptions. Nothing contained in this act shall be construed as applying to the military or naval forces of the United States or its allies, or the duly authorized militia of any State, nor to the police or fire departments of this State, providing the same are acting in their official capacity and in the performance of their public duties.

A. Nothing contained in this act shall be construed as applying to explosives which are in transit upon vessels, railroad cars or vehicles or while being held for delivery, when such transportation and delivery are under the jurisdiction of and in conformity with regulations adopted by the Interstate Commerce Commission, the United States Coast Guard or the Civil Aeronautics Board, and provided, further, that nothing in this act shall be construed as applying to the receipt, possession, and use of signals required for the safe operation of vessels, motor vehicles, railroad cars, or aircraft by the operators of such vessels, motor vehicles, railroad cars or aircraft.

21:1A-142. Possession of explosives or bombs for unlawful purpose. Any person who shall have in his possession or control any explosives, including any bomb, shell or similar device filled with one or more explosives, intending to use the same or cause the same to be used or who has used the same for an unlawful purpose shall be guilty of a high misdemeanor, and upon conviction shall be punished by imprisonment in a State prison for a term of not more than 25 years. The possession of explosives or any bomb, shell or similar device filled with explosives, without a permit as required by this act, shall be evidence of an intent to use the same or cause the same to be used for an unlawful purpose. Unlawful purpose shall mean a purpose that cannot be authorized under the provisions of this act.

21:1A-143. Partial invalidity. If any provision of this act is adjudged unconstitutional or invalid for any reason, such adjudication shall not affect any of the other provisions of this act.

34:6-21. Explosives; keeping and storing; penalty. Every person having or keeping in a place or manufactory * * * * any explosive or inflammable compound, shall keep or store such explosive or inflammable compound in such way as not to obstruct or render hazardous the egress of employees or operatives in case of fire.

Any corporation, firm or person violating any of the provisions of this section shall, for each offense, be liable to a penalty of fifty dollars.

2A:170-17. Persons possessing ammunition, explosive missiles, fuses, etc., to notify police; presentation for inspection. Any person who has or becomes the possessor of any ammunition, explosive missile, shell, projectile, fuse designed for use with any weapon, or other explosive weapon, which is loaded or as to which it cannot be determined by casual inspection whether or not it is loaded, except such as is possessed for any lawful commercial or other purpose in connection with which the use of explosives is authorized, or is suitable for use in a pistol, revolver, shotgun or rifle, shall notify the police authorities of the municipality in which he resides or the state police that the same is in his possession and shall present the same to them: for inspection.

When any such ammunition, explosive missile, shell, projectile, fuse or other explosive weapon is presented for inspection, it shall be inspected to ascertain whether or not it is loaded or is of a dangerous character, and if it is found to be loaded or of a dangerous character, it shall be unloaded or be so processed as to remove its dangerous character before being returned to the possessor, and if it is not possible to unload or remove the dangerous character of the same, it shall be destroyed.

Any police officer knowing or having reasonable cause to believe that any person is possessed of any such ammunition, explosive missile, shell, projectile, fuse or other explosive weapon, shall investigate, under a proper search warrant when necessary and which it shall be his further duty to apply for, and shall seize the same for the purpose of inspection, unloading, processing or destruction, as provided in this section, and the same shall not be returned to the possessor thereof until it has been unloaded or so processed.

Any person who has or becomes the possessor of any such ammunition, explosive

missile, shell, projectile, fuse or other explosive weapon, and does not within 30 days after becoming the possessor thereof notify the police authorities of the municipality in which he resides or the state police that the same is in his possession, and present it to them for inspection, is a disorderly person.

32:1-154.8 Explosives; inflammable materials; poisonous substances; radioactive materials; transportation of. No person shall transport in or upon a vehicular crossing, any dynamite, nitroglycerin, black powder, fireworks, blasting caps or other explosives, gasoline, alcohol, ether, liquid shellac, kerosene, turpentine, formaldehyde or other inflammable or combustible liquids, ammonium nitrate, sodium chlorate, wet hemp, powdered metallic magnesium, nitro-cellulose film, peroxides or other readily inflammable solids or oxidizing materials, hydrochloric acid, sulfuric acid or other corrosive liquids, prussic acid, phosgene, arsenic, carbolic acid, potassium cyanide, tear gas, lewisite or any other poisonous substances, liquids or gases, or any compressed gas, or any radioactive article, substance or material, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably persons or property.

2A:151-1. Definitions. The following definitions apply to this chapter: * * * * d. Person includes any individual, corporation, partnership, firm or association of any kind or nature whatsoever; any public entity of any kind or nature; the plural as well as the singular and any gender.

e. Superintendent means the Superintendent of State Police. * * * * i. Explosive includes any chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible materials or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.

2A:151-2. Pawnbrokers not to deal in weapons. Any pawnbroker who sells or possesses for sale or to lend or give away, any firearm or dangerous instrument of any kind usually known as a blackjack, sling shot, slung shot, billy, sandclub, sandbag, blud-

geon, metal knuckles, dagger, dirk, dangerous knife or knife as defined in chapter 5, laws of 1952 (C. 2A:151-62), stiletto, cestus, or similar band studded with metal for fitting on the knuckles, loose wool imbedded with metal filings, razor blades imbedded in wood slivers, handcuffs, iron claws, grenade, bomb or other explosive is guilty of a high misdemeanor.

2A:151-5. Additional sentence for armed criminals. Any person who commits or attempts to commit an assault, robbery, larceny, burglary, breaking and entering, rape, murder, mayhem, arson, abduction, extortion, kidnapping, sodomy or treason, or who is a fugitive from justice, when armed with or having in his possession any firearm, whether or not capable of being discharged or dangerous instrument of any kind, usually known as a blackjack, sling shot, slung shot, billy, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife or knife as defined in chapter 5 of the laws of 1952 (C. 2A:151-62), razor, stiletto, cestus, or similar band studded with metal for fitting on the knuckles, loose wool imbedded with metal filings, razor blades imbedded in wood slivers, handcuffs, iron claws, grenade, bomb or other explosive or any object or device, whether toy or imitation, having an appearance similar to or capable of being mistaken for any of the foregoing, shall, in addition to the punishment provided for the crime, be punished on a first conviction by imprisonment for not less than one nor more than 10 years; upon a second conviction by imprisonment for not less than 3 nor more than 15 years; upon a third conviction by imprisonment for not less than 5 nor more than 20 years; and upon a fourth or subsequent conviction, by imprisonment for not less than 10 years nor more than for life, in the discretion of the court. No such additional punishment shall be imposed unless the indictment shall have averred that the person was armed with or had in his possession any such instrument and conviction was had thereon.

2A:151-6. Arms as evidence of intent. In the trial of any person for committing or attempting to commit any crime enumerated in section 2A:151-5, the fact that he was armed with or had in his possession any firearms or any dangerous instrument enumerated in section 2A:151-5 is prima facie evidence of his intention to commit said crime with said firearm or dangerous instrument.

2A:151-7. Firearms in vehicles. The presence of a firearm or any grenade, bomb or other explosive in a vehicle is presumptive

evidence of possession by all persons occupying the vehicle at the time.

2A:151-8. Certain persons not to have weapons; penalty. Any person, having been convicted in this State or elsewhere of any crime enumerated in section 2A:151-5, whether or not armed with or having in his possession any firearms or dangerous instruments enumerated in section 2A:151-5, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium unless he possesses a certificate of a medical doctor or psychiatrist licensed in New Jersey or other satisfactory proof that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm, or any person who has been convicted for the unlawful use, possession or sale of a narcotic or nonnarcotic drug or who is registered as a narcotic drug offender under chapter 230 of the laws of 1952, who purchases, owns, possesses or controls any firearms or any of the said dangerous instruments, is guilty of a misdemeanor.

Whenever any person shall have been convicted in another State, territory, commonwealth or other jurisdiction of the United States, or of any country in the world, in a court of competent jurisdiction, of a crime which in said State, jurisdiction or country shall be equal to or comparable or the same as one of the crimes designated in 2A:151-5, then that person shall be subject to the provisions of this section.

2A:151-9. Right to refuse to sell weapons; sales to persons without permit or to persons of unsound mind or with physical defect; penalty. Any person shall have the right to refuse to sell any firearm or dangerous instrument to any other person, provided however that any person who knowingly sells any firearm to a person who does not possess and exhibit to the seller a permit to purchase in the case of a pistol or revolver or a firearms purchaser identification card in the case of a rifle or shotgun; or where the seller has reason to believe that the person is of unsound mind or suffers from a physical defect or sickness which would make it unsafe for him to handle firearms, is guilty of a misdemeanor. The presentation of a permit for the purchase of a pistol or revolver, or the signing of a certification and presentation of a firearms purchaser identification card for the purchase of a rifle or shotgun as set forth in section 2A:151-32, shall be prima facie evidence of compliance with the requirements of this chapter.

2A:151-10. Sale of weapons or loaded or blank cartridges to minors. Any per-

son who knowingly offers, sells, lends, leases or gives to any person under the age of 18 years, any firearm, grenade, bomb or other explosive or any chemical compounds or ingredients for explosives or instructions for the use of such chemical compounds or ingredients as explosives, or a toy pistol or other instrument from which a loaded or blank cartridge may be fired, or any loaded or blank cartridge therefor, is guilty of a misdemeanor; provided however that a person may lend a firearm to a minor who may borrow same for the purpose of carrying, firing or using said firearm under section 2A:151-11, and provided further said minor furnishes the owner with written consent to his use thereof by his parent or legal guardian.

2A:151-10.1 Liability for sale of explosives to minors; defenses; use in schools. Any person who knowingly offers, sells, lends, leases or gives such explosives, chemical compounds, ingredients or instructions in violation of this act shall be liable for personal injury and property damage resulting from such violation, if the injury or damage is caused by an explosion for which a person under 18 years of age is directly responsible. In a suit for damages under this act, the doctrines of assumption of the risk and contributory negligence shall not be a defense to bar recovery by any person.

Nothing in this act shall be construed so as to prevent the use of materials in the teaching of science or related subjects in public or private elementary or secondary schools or institutions of higher education or the free circulation of books and materials from public libraries, reading rooms or the libraries of duly incorporated educational or scientific foundations.

2A:151-11. Acquisition of weapons or explosives by minors; exceptions. Any person under the age of 18 years who purchases, barter, borrows, acquires or exchanges any firearm, grenade, bomb or other explosive or any chemical compounds or ingredients for explosives or instructions for the use of such chemical compounds or ingredients as explosives, is guilty of a misdemeanor or an act of juvenile delinquency as may be provided otherwise in the statutes; * * *

2A:151-12. Manufacture or sale of dangerous instruments prohibited. a. Any person who manufactures or causes to be manufactured, or sells or keeps for sale, or offers, gives or disposes of any dangerous instrument of the kinds usually known as * * * grenade, bomb, or other explosive, * * * to any person, except in accordance

with Federal or State law is guilty of a misdemeanor. * * * *

2A:151-56. Unlawful use of dangerous weapons. Any person who attempts to use unlawfully against another, or who carries or possesses with intent to use unlawfully against another, any instrument or weapon enumerated in section 2A:151-5 of this Title, or any other dangerous or deadly instrument or weapon, is guilty of a high misdemeanor, and shall be punished by a fine of not more than \$5,000.00, or by imprisonment for not more than 10 years, or both.

2A:151-57. Possession as presumption of unlawful use. The possession by any person other than a public officer or one having a permit for the same, of any weapon specified in section 2A:151-56 of this title, concealed or furtively carried on the person, is presumptive evidence of carrying, or concealing, or possessing, with intent to use the same in violation of that section.

2A:151-58. Possession or carrying of bombs. Any person, except a duly appointed law enforcement officer, or a member of the armed forces of the United States, or of the national guard or organized reserves when on duty, who possesses or carries on or about his person or in a vehicle, any bomb or bombshell, except for blasting or other commercial use, is guilty of a high misdemeanor.

2A:151-59. Possession of bombs with intent to use unlawfully; molotov cocktail; evidence of intent; exceptions. Any person who has in his possession or control any shell, bomb or similar device charged or filled with one or more explosives or any bomb or device commonly known as a fire bomb, "molotov cocktail," or any container charged or filled with an explosive, combustible or incendiary substance, with intent to use the same or cause the same to be used for an unlawful purpose, is guilty of a high misdemeanor, and shall be punished by imprisonment in the State Prison for not more than 25 years.

"Molotov cocktail" as used in this amendment means a breakable container containing flammable liquid and having a wick or similar device capable of being ignited, but is not intended to mean a device commercially manufactured primarily for the purpose of illumination, or other such uses.

The possession, sale or control by a person or persons of any such device or container so charged or filled, is prima facie evidence of an intent to use the same or to cause the same to be used for an unlawful purpose.

This section does not apply to the regular Armed Forces of the United States or its

Allies, or to the duly authorized militia of any State or territory thereof, or to the police or fire departments of this State or any municipality or county thereof, provided they are acting in their official capacity and in the performance of their duties; nor does this section apply to explosives or combustibles or incendiary substances while the same are being transported in conformity with the regulations adopted by the interstate commerce commission.

2A:151-60. Possession or carrying of explosives with intent to use unlawfully. Any person who, with intent to use the same

unlawfully against the person or property of another, possesses or carries any explosive substance, or any explosive liquid, gas or like substance, is guilty of a high misdemeanor.

2A:151-61. Causing explosion with intent to injure. Any person who in any manner causes or attempts to cause any explosion of dynamite, nitroglycerine, gun-cotton or other explosive of whatever nature, with intent unlawfully to injure the person or property of another, is guilty of a misdemeanor, and shall be punished by imprisonment in the state prison for not less than 5 years nor more than 20 years.

New Mexico

NEW MEXICO STATUTES ANNOTATED

40A-7-5. Negligent use of explosives. Negligent use of explosives consists of negligently exploding, attempting to explode or placing any explosive in such a manner as to result in injury to another or to property of another, or in the probability of such injury.

Whoever commits negligent use of explosives is guilty of a petty misdemeanor.

40A-7-6. Unlawful sale, possession or transportation of explosives. Unlawful sale, possession or transportation of explosives consists of:

A. knowingly selling or possessing any explosive or causing such explosive to be transported without having plainly marked in large letters in a conspicuous place on the box or package containing such explosive,

the name and explosive character thereof and the date of manufacture;

B. knowingly transporting or taking any explosive other than small arms ammunition, upon or into any vehicle belonging to a common carrier transporting passengers; or

C. knowingly making, buying, transporting or transferring any explosive either with intent to use such explosive to commit a crime or knowing that another intends to use it to commit a crime.

Whoever commits unlawful sale, possession or transportation of explosives as set forth in subsection A. herein is guilty of a petty misdemeanor.

Whoever commits unlawful sale, possession or transportation of explosives as set forth in subsections B. and C. is guilty of a fourth degree felony.

New York

THE CONSOLIDATED LAWS OF NEW YORK ANNOTATED

Labor Law

Article 16—Explosives

Sec. 450. Application of Article. 1. This article shall apply to persons engaged in the manufacture, ownership, possession, storage, use, transportation, purchase, sale or gift of explosives as defined in subdivision one of section four hundred fifty-one.

2. This article shall not apply to explosives while being transported in conformity with federal law or regulations, nor except as may be herein otherwise provided to persons who

manufacture, own, possess, store, use, transport, purchase, sell or give explosives within the territorial boundaries of cities having more than one million inhabitants, nor to the armed forces of the United States, the national guard, the state guard and duly constituted police and firefighting forces of the state and its civil and political subdivisions.

3. For all purposes of this article, explosives in the possession of an employee within the scope of his duties, shall be considered to be in the possession of the employer.

Sec. 451. Definitions. Whenever used in this article: 1. "Explosives" means gunpowder, powders used for blasting, high explosives, blasting materials, detonating fuses, detonators and other detonating agents, smokeless powder and any chemical compound or any mechanical mixture containing any oxidizing and combustible units, or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion or detonation of any part thereof may and is intended to cause an explosion, but shall not include gasoline, kerosene, naphtha, turpentine, benzene, acetone, ethyl ether, benzol and all quantities of black powder not exceeding five pounds for use in firing of antique firearms or artifacts or replicas thereof. Fixed ammunition and primers for small arms, fire-crackers, safety fuses and matches shall not be deemed to be explosives when, as may be determined by the board in its rules, the individual units contain any of the above-mentioned articles or substances in such limited quantity, of such nature and so packed that it is impossible to produce an explosion of such units to the injury of life, limb or property.

2. "Highway" means any public street, public highway, public alley or navigable stream, which is open for traffic. Navigable streams shall be considered as only those streams susceptible of being used, in their ordinary condition, as highways of commerce.

3. "Railroad" or "railway" means any railroad which carries passengers for hire, but shall not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine, quarry or plant.

4. "Building" means any building regularly occupied in whole or in part as a habitation for human beings, and any church, school house, railway station or other building or place where people are accustomed to live, work or assemble, but does not mean or include any of the buildings of a manufacturing plant where the business of manufacturing explosives is carried on.

5. "Explosives factory" means any building or other structure in which the manufacture of explosives or any part of the manufacture thereof is carried on.

6. "Magazine" means any building or other structure, other than an explosives factory, used to store explosives.

7. "Efficient barricade" means natural features of the ground, a dense woods, an artificial mound or a properly revetted wall of earth not less than three feet thick at the top, spaced at least three feet at the bottom from any explosives factory or magazine, the

height of which is such that any straight line drawn from the top of any side wall of the explosives factory or magazine to the top of a building or to a point twelve feet above the center of a railroad or highway to be protected will pass through such intervening barricade.

8. "Person" includes any natural person, partnership, association or corporation.

9. "Manufacturer" means any person who is engaged in the manufacture or production of explosives.

10. "Dealer" means any person engaged in the business of buying and selling explosives.

11. A "farmer" is a person who occupies and cultivates land.

Sec. 452. Packing and labeling. No person shall own, possess, store, deal in, sell, give, purchase or transport explosives unless the packing, or encasement, and the marking and labeling of such explosives shall comply with the rules of the board.

Sec. 453. Storage. No person shall store explosives except in a magazine constructed and located in accordance with the provisions of this article and the rules of the board and unless a certificate, which shall be attached to the magazine on the inside thereof, has been issued for such magazine. No person shall store more than three hundred thousand pounds of explosives in any one magazine at any time.

This section shall not apply to explosives while being legally transported or blasted or while legally in the custody of a common carrier awaiting shipment or delivery to a consignee during the time permitted by federal law; nor to the storage of such limited amount of sporting or smokeless powders as may be permitted by the rules of the board.

Sec. 454. Construction of magazines. Unless otherwise prescribed by the board in its rules, magazines in which explosives shall be lawfully kept or stored shall be constructed of brick, concrete, iron or wood covered with iron, and shall have no openings except for ventilation and entrance. All magazines, except those in mines and tunnels, shall be located above ground. All magazines shall be kept clean and dry at all times.

Sec. 455. Magazine precautions. No person shall unlock or open the doors of magazines, except for the lawful storage or removal of explosives. No person shall have matches or fire of any kind in any magazine. No person shall store or keep blasting caps, detonating or fulminating caps, or detonators in a magazine in which any other type of explosive is stored or kept. No person shall open any package of explosives within fifty feet of any magazine, nor shall any explosives be kept in a magazine except in the

original containers. No person shall discharge firearms within five hundred feet of a magazine or explosives factory, or at or against any such building or magazine. Any theft or loss of explosives from a storage magazine or otherwise, shall immediately be reported to the industrial commissioner and the state or local police or county sheriff.

Sec. 456. Location of magazines. The quantity of explosives that may be stored in any explosives factory or magazine shall depend upon its distances from the nearest building, railroad or highway or other magazine. The distances that a quantity of explosives may be stored from the nearest magazine, building, railroad or highway, shall be as determined by the rules of the board. All such distances may be reduced one-half when the magazine, building, railroad or highway to be protected is adequately screened from the explosives factory or magazine by an efficient barricade as defined in subdivision seven of section four hundred fifty-one.

Sec. 457. Transportation. No person shall load or transport, or cause or permit the loading or transportation of, explosives on any motor or horse-drawn vehicle unless such vehicle, its loading, equipment and the person in charge thereof shall be in compliance with the provisions of this article and the rules of the board.

Sec. 458. Licenses and certificates. 1. No person shall purchase, own, possess, transport or use explosives unless a license therefor shall have been issued as provided in this article.

Application for such a license shall be made to the commissioner on forms provided by him and shall contain such information as the commissioner may require. Where the commissioner finds that the applicant has complied with the requirements of this article and the rules of the board, the commissioner shall issue a license or renewal thereof which shall be valid for one year from the date of issuance. Such application and each renewal thereof shall be accompanied by a fee of ten dollars non-refundable to be payable to the commissioner.

2. No person shall manufacture, deal in, sell, give or dispose of explosives unless a license therefor shall have been issued to him for that purpose by the commissioner as provided in this article, nor shall any person sell, give or dispose of explosives to, or manufacture explosives for any person who does not hold a license as provided by subdivision one of this section.

Application for such a license, which shall be renewed annually, shall be made to the commissioner on forms provided by him and

shall contain such information as the commissioner may require. The commissioner after investigation of the application, shall issue a license or renewal thereof, which shall be valid for one year from the date of issuance, where he finds that the applicant has complied with the requirements of this article and the rules of the board. Each application for such a license, or for its renewal, shall be accompanied by a fee of twenty-five dollars non-refundable to be payable to the commissioner.

3. No person shall keep or store explosives unless a certificate therefor shall have been issued by the commissioner as herein provided, but this requirement shall not apply to the storage at any one time by farmers of two hundred pounds or less of blasting explosives for agricultural purposes.

Application for such a certificate shall be made to the commissioner on forms provided by him and shall contain such information as the commissioner may require. The commissioner, where he finds that the applicant has complied with the requirements of this article and the rules of the board, shall issue a certificate or a renewal thereof, which shall be valid for one year from the date of issuance. In addition to any other causes for revocation of a certificate hereinafter provided, the commissioner may revoke or modify such certificate because of any change in the conditions under which it was granted, or for failure to pay the annual fee hereinafter provided. The owner or user of a magazine shall annually pay to the commissioner in advance a fee, not exceeding twenty-five dollars, which shall be proportioned according to the quantity of explosives authorized by the certificate to be stored in the magazine.

4. An application for a license or a certificate pursuant to subdivision one, two or three of this section shall be sworn to under oath and shall contain information sufficient to identify the applicant, and the purpose for which and the place where the explosives are to be used, manufactured, dealt in, given, disposed of or stored, as the case may be, and to demonstrate the eligibility of such applicant for the license or certificate requested. The commissioner may require that the application include, among other things, photographs, fingerprints and personal references.

5. Before a license or certificate is issued, the commissioner shall investigate the eligibility of the applicant. The commissioner shall have the authority to request and receive from any department, division, board, bureau, commission or agency of the

state or local government thereof such assistance and information as will enable him properly and effectively to carry out his powers and duties under this article.

6. (a) The investigation prescribed in subdivision five of this section may include, but is not limited to the following:

(1) a personal interview of the applicant by a designated agent of the commissioner if the commissioner is unable to make a determination on the basis of the factors contained in the application;

(2) an examination as to the applicant's knowledge and ability with respect to basic safety precautions in the possession, handling, storage, and transportation of explosives, and for such purpose the commissioner may prescribe tests which the applicant shall be required to pass as a prerequisite to the issuance of the license or certificate. The test may be administered by any person or agency designated by the commissioner.

(b) The investigation prescribed in subdivision five of this section shall include a report from the New York state identification and intelligence system, and such other identification services of the state or federal government as may be necessary or appropriate for this purpose.

7. The commissioner may waive any of the procedures set forth in subdivision six (a) of this section with respect to any applicant who has a license or certificate which was issued pursuant to this section at any time prior to March first, nineteen hundred seventy, and which was legally valid and effective on such date. The commissioner also may waive fingerprinting of an applicant who has a valid license for a pistol or revolver in accordance with section 400.00 of the penal law.

8. Exceptions. Except for the provisions of subdivision eleven, this section shall not apply to smokeless powder.

9. Within thirty days after the issuance of a license or certificate under this section, the commissioner shall notify the chief executive officer of the municipality where the licensee resides or where the certificate holder has his place of business of the issuance of such license or certificate, and provide such officer with such other information pertaining thereto as the board may from time to time prescribe.

10. Agencies of the United States, the state and its political and civil subdivisions which are subject to the requirements of this article and which, in the exercise of their functions, are required to purchase, own, store, use or transport explosives shall not be liable for the payment of any fee required by this section.

11. No explosives shall be sold, given or delivered to any person under eighteen years of age, whether such person is acting for himself or for another person, nor shall any such person be eligible to obtain any license or certificate required under this section.

Sec. 459. Denial or revocation of license or certificate. 1. A license or certificate, its renewal or continuation may be denied where the commissioner has probable reason to believe, based on knowledge or reliable information, or finds, after due investigation that the applicant or any officer, servant, agent or employee of the applicant is not sufficiently reliable and experienced to be authorized to own, possess, store, transport, use, manufacture, deal in, sell, purchase or otherwise handle, as the case may be, explosives, lacks suitable facilities therefor, has been convicted of a crime for which he has been sentenced to serve one or more years in prison, is disloyal or hostile to the United States or has been confined as a patient or inmate in a public or private institution for the treatment of mental diseases. Whenever the commissioner denies an application for a license or certificate or the renewal thereof, he shall, within five days of such denial, give notice thereof and the reasons therefor in writing to the applicant personally or by mail to the address given in the application. Such denial may be appealed to the commissioner who shall follow the procedure provided by subdivision three of this section.

2. The commissioner may revoke any certificate or license on any ground or grounds authorized in subdivision one of this section for the denial of a license or certificate, or for a violation of the terms of such license or certificate, or for a violation of any provision of this article or of the rules of the board, or for non-compliance with any order issued by the commissioner within the time specified in such order.

Where the commissioner has probable reason to believe, based on knowledge or reliable information, that a licensee or certificate holder is disloyal to the United States, he may summarily revoke the license or certificate or may, in his discretion, give such licensee or certificate holder notice and opportunity to be heard as provided in subdivision three of this section. Revocation of a license or certificate for any other ground may be ordered only after giving written notice and an opportunity to be heard to the holder thereof. Such notice may be given to the holder personally or by mail and shall specify the ground or grounds on which it is proposed to revoke the license or certificate. When a license or certificate is

revoked, the commissioner may direct the disposition of explosives held by such licensee or certificate holder. Upon revocation of a license or certificate by the commissioner, the holder thereof shall surrender his license or certificate to the commissioner at once.

3. Hearings. Unless, within fifteen days from the date of notice, the applicant for a license or certificate or the recipient of a notice stating that the commissioner proposes to revoke a license or certificate held by him, shall file a written answer with the commissioner denying the ground or grounds on which a license or certificate has been denied or ground or grounds on which revocation of a license or certificate is sought, and shall request a hearing, the commissioner may make a final determination respecting the application for a license or certificate, or may revoke a license or certificate forthwith. If, within such fifteen days, the applicant, licensee or certificate holder files such answer and request for hearing, the commissioner shall schedule a hearing. The notice of hearing shall state the time, place, and subject of the hearing, and shall be mailed to the applicant, certificate holder or licensee at his last known address at least five days before the date of hearing. Hearings shall be held by the commissioner or his representative, and the applicant, certificate holder or licensee may appear in person or may be represented by an agent. After such hearing, the commissioner shall render his decision in writing.

Sec. 460. Seizure, impounding, destruction or disposition of explosives. 1. The commissioner is hereby authorized and empowered, without application to any court, to seize and impound any explosives found within this state, except in cities having a population of more than one million inhabitants, which are in apparent violation of any of the provisions of this article, rules of the board or laws or regulations of the federal government, or which have been abandoned or lost, or where the commissioner has reason to believe that public safety is endangered by such explosives. Such explosives may be removed and transported by the commissioner and stored in magazines provided or obtained for that purpose by the state or by the commissioner.

2. The owner of such explosives may, within five days of such seizure, make written demand upon the commissioner for a hearing. Upon such demand, the commissioner shall give the owner written notice in person or by mail, of the time and place of such hearing to be held not less than ten days thereafter.

3. Where no hearing is demanded within the time herein prescribed or where, after hearing, the commissioner finds that there has been a violation of the provisions of this article, rules of the board or laws or regulations of the federal government, or that public safety is endangered, he may destroy or order the destruction of such explosives, or direct such other disposition of the explosives as he deems proper. If the commissioner finds there has been no such violation and that public safety has not been endangered, he shall return such explosives to the owner thereof.

4. Where such explosives have been abandoned or lost, and no claimant has appeared within thirty days, demanded the return of the explosives and proved, to the satisfaction of the commissioner, his title to and right of possession of such explosives, the commissioner may destroy or direct the destruction thereof, or direct such other disposition thereof as he deems proper.

5. Any provision herein to the contrary notwithstanding, where, in the opinion of the commissioner, the manufacture, condition, packing or location of explosives is such that its continued existence or transportation is a danger to public safety, he may, without hearing and without liability therefor to the owner thereof, seize and destroy or direct the seizure and destruction of such explosives.

Sec. 461. Record and notice of sales, deliveries or gifts. 1. Every person selling, delivering or giving away an explosive shall keep at his principal office or place of business within the state, a record of the transaction, including the name or type and quantity of the explosive, such identification of the explosive as may be required by rules of the board, the date of each sale, delivery or gift, the name and business address of the purchaser, donee or person to whom delivered, the number of the license to own or possess explosives, if such license is required by section four hundred fifty-eight of this article, and the name and address of the person taking the explosives away. A report of all such transactions, when requested by him, shall be submitted to the commissioner. Such record shall be open to inspection by the commissioner or by federal, state and local enforcement officers at all times. No person shall have in his possession any explosives unless he has a bill of sale or other evidence of title thereto.

2. Any provision in this article to the contrary notwithstanding, no person in a city having more than one million inhabitants shall ship or transport or cause to be shipped

or transported explosives from such city to any other place within the state, unless such person shall, at least twenty-four hours prior to such shipment, transmit to the commissioner a statement in writing giving the weight, name or brand and type of explosives, the name and address of the person to whom such explosives are to be sold, shipped, transported or delivered and the date thereof. No person shall make any such shipment except to a holder of a license issued hereunder.

3. No person within the state shall purchase, receive or accept delivery of explosives from any place outside the state, and no person shall bring explosives into the state from any place outside the state, unless, in addition to holding a license issued hereunder, such person shall, not more than twenty-four hours thereafter, transmit to the commissioner by mail a written statement giving weight, name or brand and type of the explosives, the name and address of the shipper and the date of shipment.

Sec. 462. Rules and regulations. The board of standards and appeals may make rules supplemental to this article as it shall deem necessary or desirable to assure the public safety as well as to provide reasonable and adequate protection of the lives, health and safety of persons employed in the manufacture, storage, transportation, handling and use of explosives. The commissioner may prescribe such regulations as he may deem necessary and proper for the administration of this article.

Sec. 463. Review. All questions of fact arising under this article shall be decided by the commissioner and there shall be no appeal from his decision on any such question of fact, but there shall be a right of review by the board of standards and appeals of any decision of the commissioner denying an application for a license or certificate, or denying the renewal thereof, or revoking a license or certificate, as provided in section one hundred ten, article three of the labor law.

Sec. 464. Penalties. Any person violating any provision of this article, or any rule or regulation made hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for a term of not more than one year, or by a fine of not more than twenty-five hundred dollars, or by both such fine and imprisonment; provided, however, that any person who possesses an explosive without being duly licensed or otherwise authorized to do so under the provisions of this article shall be guilty of a class D felony.

Sec. 464-a. Local laws. Except with regard to cities having a population of over one million, the provisions of this article and the rules adopted pursuant thereto shall be the minimum standard required and shall supersede any special law or local ordinance inconsistent therewith, and no local ordinance inconsistent therewith shall be adopted, but nothing herein contained shall prevent the enactment by local law or ordinance of additional requirements and restrictions.

Sec. 465. Separability. If any provision of this article or the application thereof to any person or circumstances is held invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

General Business Law

Sec. 322-b. Explosives and combustibles. 1. A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village, is guilty of a misdemeanor.

2. A person who manufactures gunpowder, dynamite, nitro-glycerine, liquid or compressed air or gases, except acetylene gas and other gases used for illuminating purposes, naphtha, gasoline, benzine or any explosive articles or compounds, or manufactures ammunition, fireworks or other articles of which such substances are component parts in a cellar, room, or apartment of a tenement or dwelling-house or any building occupied in whole or in part by persons or families for living purposes, is guilty of a misdemeanor.

3. And a person who, by the careless, negligent, or unauthorized use or management of gunpowder or other explosive substances, injures or occasions the injury of the person or property of another, is guilty of a misdemeanor.

4. Any person or persons who shall knowingly present, attempt to present, to cause to be presented or offered for shipment to any railroad, steamboat, steamship, express or other company engaged as common carrier of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosives or substance so offered or attempted to be offered to the company or carrier to which it shall be presented, shall be guilty of a misdemeanor.

* * * * *

Penal Law

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Sec. 265.02 Criminal possession of a weapon in the third degree. A person is guilty of criminal possession in the third degree when: * * * * * (2) He possesses any explosive or incendiary bomb * * * .

Criminal possession of a weapon in the third degree is a class D felony.

* * * * *

Sec. 265.04 Criminal possession of a dangerous weapon in the first degree. A person is guilty of criminal possession of a dangerous weapon in the first degree when he possesses any explosive substance with intent to use the same unlawfully against the person or property of another.

Criminal possession of a weapon in the first degree is a class B felony.

Sec. 265.15 Presumptions of possession, unlawful intent and defacement. * * * * * 2. The presence in any stolen vehicle of any weapon, instrument, appliance or substance specified in sections 265.01, 265.02, 265.03, 265.04 and 265.05 is presumptive evidence of its possession by all persons occupying such vehicle at the time of such weapon, instrument, appliance or substance is found.

3. The presence in an automobile, other than a stolen one or an omnibus, of any * * * explosive or incendiary bomb * * * is presumptive evidence of its possession by all persons occupying such automobile at the

time such weapon, instrument or appliance is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his possession a valid license to have and carry concealed the same.

4. The possession by any person of the substance as specified in section 265.04 is presumptive evidence of possessing such substance with intent to use the same unlawfully against the person or property of another if such person is not licensed or otherwise authorized to possess such substance. The possession by any person of any dagger, dirk, stiletto, dangerous knife or any other weapon, instrument, appliance or substance designed, made or adapted for use primarily as a weapon, is presumptive evidence of intent to use the same unlawfully against another.

5. The possession by any person of a defaced machine-gun or firearm is presumptive evidence that such person defaced the same.

North Carolina

THE GENERAL STATUTES OF NORTH CAROLINA

Sec. 14-50. Conspiracy to injure or damage by use of explosive or incendiary; punishment. (a) Any person who conspires with another wilfully and maliciously to injure another by the use of any explosive or incendiary device or material is guilty of a felony.

(b) Any person who conspires with another wilfully and maliciously to damage any real or personal property of any kind or nature belonging to another by the use of any explosive or incendiary device or material is guilty of a felony.

(c) Any person who violates any provision of this section is punishable by imprisonment in the State's prison for not more than fifteen years.

Sec. 14-50.1. Explosive or incendiary device or material defined. As used in this article, "explosive or incendiary device or

material" means nitroglycerine, dynamite, gunpowder, other high explosive, incendiary bomb or grenade, other destructive incendiary device, or any other destructive incendiary or explosive device, compound, or formulation; any instrument or substance capable of being used for destructive explosive or incendiary purposes against persons or property, when the circumstances indicate some probability that such instrument or substance will be so used; or any explosive or incendiary part or ingredient in any instrument or substance included above, when the circumstances indicate some probability that such part or ingredient will be so used.

Sec. 14-283. Exploding dynamite cartridges and bombs. If any person shall fire off or explode, or cause to be fired off or exploded, except for mechanical purposes in a legitimate business, any dynamite car-

tridge, bomb or other explosive of a like nature, he shall be guilty of a misdemeanor.

Sec. 14-284. Keeping for sale or selling explosives without a license. If any dealer or other person shall sell or keep for sale any dynamite cartridges, bombs or other combustibles of a like kind, without first having obtained from the board of commissioners of the county where such person or dealer resides a license for that purpose, he shall be guilty of a misdemeanor.

Sec. 14-284.1. Regulation of sale of explosives; reports; storage. (a) No person shall sell or deliver any dynamite or other powerful explosives as hereinafter defined without being satisfied as to the identity of the purchaser or the one to receive such explosives and then only upon the written application signed by the person or agent of the person purchasing or receiving such explosive, which application must contain a statement of the purpose for which such explosive is to be used.

(b) All persons delivering or selling such explosives shall keep a complete record of all sales or deliveries made, including the amounts sold and delivered, the names of the purchasers or the one to whom the deliveries were made, the dates of all such sales or such deliveries and the use to be made of such explosive, and shall preserve such record and make the same available to any law enforcement officer during business hours for a period of 12 months thereafter.

(c) All persons having dynamite or other powerful explosives in their possession or under their control shall at all times keep such explosives in a safe and secure manner, and when such explosives are not in the course of being used they shall be stored and protected against theft or other unauthorized possession.

(d) As used in this section, the term "powerful explosives" includes, but shall not be limited to, nitroglycerin, trinitrotoluene, and blasting caps, detonators and fuses for the explosion thereof.

(e) Any person violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00), imprisonment for not more than six months, or both.

(f) The provisions of this section are intended to apply only to sales to those who purchase for use. Nothing herein contained is intended to apply to a sale made by a manufacturer, jobber, or wholesaler to a retail merchant for resale by said merchant.

(g) Nothing herein contained shall be construed as repealing any law now prohibiting the sale of fire crackers or other explosives; nor shall this section be con-

strued as authorizing the sale of explosives now prohibited by law.

Sec. 14-288.8 Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction; exceptions. (a) Except as otherwise provided in this section, it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any weapon of mass death and destruction.

(b) This section does not apply to:

(1) Persons exempted from the provisions of section 14-269 with respect to any activities lawfully engaged in while carrying out their duties.

(2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or destructive devices validly licensed under the laws of the United States or the State of North Carolina, while lawfully engaged in activities authorized under their licenses.

(3) Persons under contract with the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts.

(4) Inventors, designers, ordnance consultants and researchers, chemists, physicists, and other persons lawfully engaged in pursuits designed to enlarge knowledge or to facilitate the creation, development, or manufacture of weapons of mass death and destruction intended for use in a manner consistent with the laws of the United States and the State of North Carolina.

(c) The term "weapon of mass death and destruction" includes:

(1) Any explosive, incendiary, or poison gas: a. Bomb; or b. Grenade; or c. Rocket having a propellant charge of more than four ounces; or d. Missile having an explosive or incendiary charge of more than one-quarter ounce; or e. Mine; or f. Device similar to any of the devices described above; or

(2) Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; or

(3) Any machine gun, sawed-off shotgun, or other weapon designed for rapid fire or inflicting widely dispersed injury or damage (other than a weapon of a type particularly suitable for sporting purposes); or

(4) Any combination of parts either designed or intended for use in converting any device into any weapon described above and

from which a weapon of mass death and destruction may readily be assembled.

The term "weapon of mass death and destruction" does not include any device which it neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the

provisions of section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes, in accordance with chapter 44 of Title 18 of the United States Code.

(d) Any person who violates any provision of this section is guilty of a misdemeanor punishable as provided in Section 14-3(a).

North Dakota

NORTH DAKOTA CENTURY CODE

Fire Marshal Department

18-01-02. Duties of fire marshal and deputy fire marshal. The state fire marshal and his deputy or deputies shall enforce all the laws of the state providing for:

* * * * *

2. The storage, sale, and use of combustibles and explosives;

* * * * *

Weapons

62-03-02. Carrying concealed explosives prohibited. No person shall have in his custody, possession, or control, any nitroglycerin, dynamite, or any other dangerous

or violent explosive unless such explosive is carried in the prosecution of or to effect a lawful and legitimate purpose.

62-03-03. Penalty. Any person who violates any provision of this chapter is guilty of a felony and shall be punished by imprisonment in the penitentiary for not more than two years or in the county jail for not more than one year or by a fine of not more than one hundred dollars, or by both such fine and imprisonment.

62-03-04. Possession presumptive evidence of intent to use weapon for unlawful purpose. The fact that any instrument, weapon, or explosive is carried concealed shall be evidence that the person so carrying the same intended to use the same for an unlawful purpose.

Ohio

OHIO REVISED CODE

Sec. 3743.01 Definitions. As used in sections 3743.01 to 3743.26, inclusive, of the Revised Code:

(A) "Explosive" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion; that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

(B) "Manufactured articles" shall not be explosives when the individual units contain explosives in such limited quantities, of such nature, or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb, or property by fire, by friction, by concussion, by percussion, or by detonator, such as fixed ammunition for small arms, firecrackers, or safety fuse matches.

(C) "Magazine" means any building or other structure used for the storage of explosives.

(D) "Building" means a building occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railway station, or other building where people are

accustomed to assemble, but not including the buildings of a manufacturing plant where the business of manufacturing explosives is carried on.

(E) "Factory building" means any building or other structure, including rest and blending houses, in which explosives are manufactured or handled, excepting magazines.

(F) "Railway" or "railroad" means any steam, electric, or other railroad which carries passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving any mine, quarry, or plant.

(G) "Highway" means any public street, alley, or public road, legally established.

(H) "Efficient artificial barricade" means an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or an equivalent artificial protection.

(I) "Person" means firms, partnerships, corporations, and joint-stock associations, as well as natural persons.

(J) "Agricultural purposes" means explosives used by agriculturists on their own farms for tree-planting, subsoiling, ditching, boulder-breaking, or other purposes exclusively agricultural, but not for quarrying or mining.

Sec. 3743.02 Prohibitions and exceptions. No person shall manufacture, have, or keep explosives, except in compliance with sections 3743.01 to 3743.26 of the Revised Code. Such sections shall not apply to the manufacture of explosives in experimental and analytical laboratories, permission for which has been obtained in writing from the department of industrial relations, in the laboratories of schools, colleges, and similar institutions for the purposes of instruction and investigation.

No person shall sell, give away, or otherwise dispose of or deliver to any person under eighteen years of age any explosives, whether said person is acting for himself or for any other person.

Sec. 3743.03 Storage location and quantities. All factory buildings and magazines in which explosives are had or kept must be located at distances from buildings, railroads, and highways in conformity with the quantity and distance table set out in this section. Such table shall be the basis on which applications for certificates of compliance, as provided in section 3743.10 of the Revised Code, shall be made and the certificate of compliance issued. Such table may be disregarded and a certificate of compliance may be issued for two second-class magazines in any building not other-

wise prohibited, if the contents and location of the magazines are as follows:

(A) One second-class magazine containing not more than fifty pounds of explosives other than gunpowder or two hundred pounds of gunpowder may be allowed if the second-class magazine is placed on wheels and located not more than ten feet from and on the same floor with and directly opposite to the entrance on the floor nearest the street level;

(B) One second-class magazine containing not more than five thousand blasting caps may be allowed if the said second-class magazine is placed on wheels and located on the floor nearest street level. * * * * *

Sec. 3743.04. Reduction of distance. Whenever the building, railroad, or highway to be protected is effectually screened from the factory building or magazine where explosives are had or kept either by natural features of the ground or by efficient artificial barricade of such height that any straight line drawn from the top of any side wall of the factory building or magazine to any part of the building to be protected will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the factory building or magazine to any point twelve feet above the center of the railroad or highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distances given in columns two, three, and four of the quantity and distance table provided for in section 3743.03 of the Revised Code may be reduced one half. When the physical conditions and surroundings warrant, the department of industrial relations may reduce the barricaded distances to less than one half of the applicable distances given in columns two, three, and four of such table.

Sec. 3743.05. Distance between factory building and magazine. The distance at which factory buildings may be located one from another, the distance at which magazines may be located with relation to factory buildings, and the distance at which magazines and factory buildings may be located from structures, other exposures, or places frequented by persons, not mentioned in sections 3743.03 of the Revised Code, shall be determined and regulated by the department of industrial relations. Any person interested either because of ownership in or occupation of any property affected by any order or ruling made by the department, may petition the department for a hearing on the reasonableness and lawfulness of any such order or ruling in the manner provided in sections 4121.23 and 4121.24 of the Revised Code.

Sec. 3743.06. Maximum amount that may be kept. No quantity of explosives in excess of three hundred thousand pounds, or, in the case of blasting caps, no number in excess of twenty million caps, shall be had or kept in any factory building or magazine.

Sec. 3743.07. Containers required, particles not allowed to remain outside. Except at a factory building, and except while being used, no person shall have or keep explosives unless such explosives are completely enclosed or incased in tight metallic, wooden, or fiber containers, and, except while being transported, or used, or in the custody of a common carrier awaiting shipment or pending delivery to consignee during the time permitted by federal law, explosives shall be kept in a magazine constructed and operated as provided in section 3743.08 of the Revised Code, and no person having explosives in his possession or control shall, under any circumstances, allow any grains or particles to be or remain on the outside or about the containers in which such explosives are kept. All containers in which explosives are kept shall be plainly marked with the name of the explosive contained therein.

Sec. 3743.08. Classes of magazines and specifications. Magazines in which explosives may be kept shall be of two classes:

(A) Magazines of the first class shall be constructed of brick, concrete, iron, or wood covered with iron, and shall have no openings except for ventilation and entrance. The doors of such magazine must be kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons entitled to enter. Every such magazine shall have sufficient openings for ventilation, which must be screened in such manner as to prevent the entrance of sparks of fire. No matches, fire or other flame-producing devices of any kind, except electric incandescent flashlights, shall be permitted in any such magazine. No package of explosives shall be opened in or within fifty feet of any magazine, nor shall any open package of explosives be kept therein except in the original containers. Magazines in which more than fifty pounds of explosives are kept must be detached from other structures. Magazines where more than five thousand pounds of explosives are kept must be located at least two hundred feet from any other magazine. Magazines where explosives over twenty-five thousand pounds are kept must have an increase over two hundred feet of two and two-thirds feet for each one thousand pounds of explosives in excess of twenty-five thousand pounds kept therein. Where magazines are protected one from the

other by approved natural or efficient artificial barricades, the distances required in this section may be reduced by one-half. The premises on which such magazines are located must be conspicuously defined and marked by signs containing the words "Explosives—Keep Off" legibly printed thereon in letters not less than three inches high. Such signs must not be placed on the magazine and must be so located that a bullet passing through the face of such sign at right angles will not strike the magazine. This section does not prohibit the installation and operation of suitable heating apparatus in magazines used exclusively for the storage of liquid nitroglycerin for the purpose of preventing liquid nitroglycerin from freezing. Such heating apparatus must be entirely enclosed in fireproof material properly vented to the outside air and equipped with proper regulators or devices as will prevent such heating apparatus from creating a temperature in the magazines in excess of one hundred degrees Fahrenheit. Nothing but oil or gas shall be used as fuel for such heating.

(B) Magazines of the second class shall be constructed of fireproof material or wood with outside covering of iron, and not more than fifty pounds of explosives other than gunpowder or two hundred pounds of gunpowder or five thousand blasting caps shall at any time be kept therein. Except when necessarily opened for use by authorized persons such magazines shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign, with words "Magazine-Explosive-Dangerous" legibly printed thereon, and not more than two such magazines shall be kept in any building.

Sec. 3743.09. Caps shall not be stored with other explosives. No blasting caps, or other detonating or fulminating caps or detonators, shall be kept in any magazine in which other explosives are kept. Blasting caps, detonating or fulminating caps, or detonators, in quantities of one thousand or over, must be kept in a separate magazine constructed in accordance with section 3743.08 of the Revised Code, and a certificate of compliance must be obtained from the department of industrial relations.

Sec. 3743.091. Warning on blasting caps. No person shall knowingly sell or distribute any blasting cap or electric blasting cap after January 1, 1965, unless the words "DANGER-EXPLOSIVE" are legibly printed thereon.

Sec. 3743.10. Report to department of industrial relations; statements required. All persons engaged in keeping explosives shall make a report in writing, subscribed to

by such person or his agent, to the department of industrial relations on blanks to be furnished by the department stating:

(A) The location of the magazine, if then existing, or in case of a new magazine, or a removal of any existing magazine, the proposed location of such magazine;

(B) The kind of explosives that are kept, or intended to be kept, and the maximum quantity that is intended to be kept;

(C) The distance that such magazine is located, or intended to be located, from the nearest buildings, railways, and highways.

The department shall, as soon as possible after receiving such report, cause an inspection to be made of the magazine, if then constructed, and in the case of a new magazine or the removal of an existing magazine, as soon as possible after the same is constructed or moved to a new location. If upon such inspection the magazine is found to be constructed in accordance with the specifications provided in section 3743.08 of the Revised Code, the department shall determine the amount of explosives that may be kept in such magazine by reference to the quantity and distance table set forth in section 3743.03 of the Revised Code, and shall issue a certificate to the person applying therefor, showing compliance with sections 3743.01 to 3743.26, inclusive, of the Revised Code, which certificate shall set forth the maximum quantity of explosives that may be had, or kept in said magazine.

Such certificate of compliance shall be valid until canceled for cause as provided in section 3743.11 of the Revised Code.

Sec. 3743.11. Cancellation of certificate. Whenever changes take place in the physical conditions surrounding any magazine after the issuance of a certificate of compliance under section 3743.10 of the Revised Code, such as the erection of buildings near said magazine, the construction of railways nearer said magazine, the opening for public travel of highways nearer said magazine, the owner or operator of such magazine shall immediately notify the department of industrial relations and the department shall modify or cancel such certificate in accordance with the changed conditions. Whenever any person to whom a certificate of compliance has been issued by the department keeps, in the magazine covered by such certificate, any quantity of explosives in excess of the maximum amount set forth in said certificate of compliance, or whenever any person fails for thirty days to pay the annual license fee after the same becomes due, or otherwise violates sections 3743.01 to 3743.26, inclusive, of the Revised Code, the department may cancel such certificate of compliance. Whenever a certifi-

cate of compliance is canceled by the department, it shall notify, in writing, the person to whom such certificate is issued of the fact of such cancellation, and shall in said notice direct the removal of all explosives stored in said magazine within ten days from the giving of said notice. Failure to remove the explosives stored in said magazine within the time specified in said notice constitutes a violation of such sections.

Sec. 3743.12. License fee. Every person engaged in keeping explosives shall pay an annual license fee for such magazine maintained. Such fee shall be as shown in the following graduated schedules:

(A) Annual license fees for magazines containing explosives other than blasting and electric caps or other detonators:

(1) Second class magazines, \$1.00

(2) First class magazines, grade A, containing over fifty pounds and not over five hundred pounds, \$2.50

(3) First class magazines, grade B, containing over five hundred pounds and not over five thousand pounds, \$5.00

(4) First class magazines, grade C, containing over five thousand pounds and not over fifteen thousand pounds, \$10.00

(5) First class magazines, grade D, containing over fifteen thousand pounds and not over twenty-five thousand pounds, \$15.00

(6) First class magazines, grade E, containing over twenty-five thousand pounds and not over one hundred fifty thousand pounds, \$20.00

(7) First class magazines, grade F, containing over one hundred fifty thousand pounds and not over three hundred thousand pounds, \$25.00

(B) Annual license fees for magazines containing blasting caps or other detonating or fulminating caps or detonators:

(1) Second class magazines, containing not over five thousand caps, \$1.00

(2) First class magazines, containing not over thirty-five thousand caps, \$1.00

(3) First class magazines, containing over thirty-five thousand caps, \$5.00

Said annual license fees are payable in advance to the department of industrial relations and by the department paid to the treasurer of state.

Sec. 3743.13. Bond required. The owner or operator of every factory in which explosives are manufactured or handled, within sixty days after demand therefor in writing by the department of industrial relations, shall file and keep on file with the division of insurance an indemnity bond payable to the state in such sums as may be determined by the department and set forth in such demand, not in excess of two hundred fifty thousand dollars nor less than ten

thousand dollars, with surety satisfactory to said division, conditioned for the payment of all final judgments that may be rendered against said owner or operator for damages caused to persons and of property by reason of any explosion at said factory of the explosives there manufactured or handled. Any such owner or operator, desiring to be exempted from filing such bond, shall make application to the said division showing his financial ability to discharge all such judgments to the amount of said bond required by said department that may be entered against him, whereupon said division, if satisfied of such financial ability of the applicant, shall, by written order, exempt such applicant from the filing of such bond; and said division may require further statements from the applicant showing his financial ability, and if dissatisfied therewith, may revoke such exemption and require the filing of such bond.

Sec. 3743.14. Entry into factory building. No person, except an official as authorized in sections 3743.01 to 3743.26, inclusive, of the Revised Code, or a person authorized to do so by the owner thereof, or his agent, shall enter any factory building, magazine, or railway car containing explosives.

Sec. 3743.15. Warning flag on transporting vehicle. Every vehicle while carrying explosives upon the public highway shall display upon an erect pole at the front end of such vehicle and at such height that it shall be visible from all directions, a red flag with the word "Danger" printed, stamped, or sewed thereon, in white letters at least three inches in height, or in lieu of such flag the words "Explosives, Dangerous," must be painted or attached to the ends and each side of such vehicle in white letters on proper background at least three inches in height, in accordance with section 177.823 of the United States department of transportation regulations. No person in charge of a vehicle containing explosives shall:

(A) Smoke in, upon, or near such vehicle;

(B) Drive the vehicle while intoxicated;

(C) Drive the vehicle in a careless or reckless manner;

(D) Load or unload such vehicle in a reckless manner;

(E) Make unnecessary stops.

No person shall place or carry or cause to be placed or carried any metal tool or other similar piece of metal in the bed or body of the vehicle containing explosives, unless contained in a box or other container approved by the department of industrial relations. No person shall place or carry, or cause to be placed or carried, in the bed or body of a vehicle containing explosives, any exploders, detonators, blasting caps, or other

similar explosive material, or carry in or upon such vehicle any matches or any other flame-producing device. This section does not prohibit the transportation of explosives in motor-driven vehicles.

Sec. 3743.16. Prohibition against discharge of firearms at or near magazine. No person shall discharge any firearm at or against or within five hundred feet of any magazine, factory building, or explosive sign. This section does not apply to the testing of firearms or explosives in or upon the premises of any manufacturing plant engaged in the manufacture of firearms or explosives nor in guarding any magazine or factory building. The method of testing all firearms in any manufacturing plant engaged in the business of manufacturing firearms shall be subject to the approval of the department of industrial relations.

Sec. 3743.17. Exemptions. Sections 3743.01 to 3743.26, inclusive, of the Revised Code do not apply to:

(A) Explosives while they are being transported upon vessels or railroad cars in conformity with the regulations adopted by the interstate commerce commission;

(B) The transportation or use of blasting explosives for agricultural purposes in quantity not exceeding two hundred pounds at any one time;

(C) Any explosives in quantities not exceeding five pounds at any one time. Gasoline, kerosene, naphtha, turpentine, or benzine shall not be subject to such sections. This section does not cancel the effectiveness of section 3743.25 of the Revised Code.

Sec. 3743.18. Existing ordinances and regulations not affected. Sections 3743.01 to 3743.26, inclusive, of the Revised Code shall not affect any existing ordinance, rule, or regulation, of any municipal corporation not less restrictive than such sections, governing the manufacture, storage, sale, use, or transportation of explosives. Such sections shall not modify, or limit the power of municipal corporations to make ordinances, rules, or regulations not less restrictive than sections 3743.01 to 3743.26, inclusive, of the Revised Code, governing the manufacture, storage, sale, use, or transportation of explosives within their respective corporate limits.

Sec. 3743.19. Prohibition against use of matches. No person shall enter or attempt to enter any explosive plant with matches or other flame-producing devices, except electric incandescent flashlights, nor shall any person enter or attempt to enter such premises with narcotics in his possession or control, or while under the influence of liquor or narcotics, nor shall any person partake of intoxicants or narcotics while within the

plant, nor shall any person smoke in a factory building or upon the premises thereof except at such places as shall be designated by the owner.

The superintendent of such plant may authorize, in writing, any person to have approved safety matches in his possession or to depart from the other provisions of this section.

Such superintendent or other person in charge of all plants included under sections 3743.01 to 3743.26, inclusive, of the Revised Code, shall provide safety containers for matches at all entrances to said plants.

Sec. 3743.20. Prohibition against unguarded receptacles. No person shall leave unguarded or unprotected a can, shell, or receptacle which contains or has contained liquid nitroglycerin, at any place other than a stock wagon, shooter's wagon, factory building, or magazine where liquid nitroglycerin is manufactured or stored.

Sec. 3743.21. Report of fire or explosion. All persons handling explosives shall report to the department of industrial relations any fire or explosion occurring in the manufacture, transportation, or storage involving loss of life or causing damage to property in excess of five hundred dollars. Such report shall be made on the same day that the fire or explosion takes place and shall be transmitted to the department by telephone or telegraph, if practicable. If not practicable to make such report by telephone or telegraph, a written report shall be made. The expense of transmitting such reports shall be borne by the person making the same.

Sec. 3743.22. Exception as to construction and location of magazines. Sections 3743.03 and 3743.08 of the Revised Code, relating to the construction of magazines and the location of magazines and factory buildings, do not apply to magazines and factory buildings constructed and in operation and for which a certificate has been issued prior to August 15, 1919; except as provided in section 3743.10 of the Revised Code, where the physical conditions surrounding such magazines and factory buildings have changed after the issuance of the certificate of compliance and excepting that, the department of industrial relations in accordance with division (B) of section 4121.13 of the Revised Code, may issue such general and special orders affecting the location and construction of such existing magazines and factory buildings as are necessary for the safety of employees and of the public.

Sec. 3743.23. Duties of inspector. An inspector of the department of industrial relations assigned to the inspection of factory buildings wherein explosives are manu-

factured, shall inspect all manufacturing establishments wherein powder, dynamite, nitroglycerin, compounds, fuses, or other explosives are manufactured, as well as all magazines or storehouses wherein such explosives are stored and shall perform such other duties connected with the work as the director of industrial relations directs.

Sec. 3743.24. Inspection of factories and magazines. An inspector of the department of industrial relations assigned to the inspection of factory buildings and magazines shall inspect the process of manufacture and the handling and storing of explosives and in consequence of such inspection the director of industrial relations may order such changes or additions in or about such factory buildings or magazines as are necessary for the safety of the employees and of the public. The director may render such general and special orders and provide such rules and regulations as are necessary, which, with the laws relating thereto, and the duties of the inspector shall be applicable to the places of manufacturing, sale, and storage of explosives. Any person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition the director for a hearing on the reasonableness and lawfulness of any such order in the manner provided in sections 4121.23 and 4121.24 of the Revised Code.

Sec. 3743.25. Prohibition against possession of shells. No person shall have in his possession or control any cartridge, shell, bomb, or similar device, charged or filled with one or more explosives, intending to use the same or cause the same to be used for an unlawful purpose, or attempt to use it to the injury of persons or property, or place or deposit it upon or about the premises of another without his consent. The possession or control by any person of any such device is prima-facie evidence of an intent to use the same for an unlawful purpose.

Sec. 3743.49. Record of storage or sale. (A) Every person, corporation, or partnership engaged in any occupation involving the storage or sale of any explosive, as defined in section 3743.01 of the Revised Code, except those explosives used solely as signalling devices, shall maintain and keep a record of the following information:

- (1) The quantity of such explosives on hand;
- (2) The quantity of such explosives purchased;
- (3) The quantity of such explosives used;
- (4) The quantity of such explosives otherwise disposed of, to whom delivered, and for what purpose;

(5) The signature, address, and age of each purchaser of such explosives.

(B) The record provided for in division (A) shall be preserved for a period of one year and shall be available at all times to the local law enforcement officials.

(C) Every person, corporation, or partnership, within the meaning of division (A), shall make an immediate report of stolen explosives to local enforcement officials.

Sec. 3743.50. Storage by contractors. Every contractor engaged in the use of any explosive, as defined in section 3743.01 of the Revised Code shall at all times store such explosives in a magazine under lock.

Sec. 3743.51. Falsification prohibited. No person shall obtain or attempt to obtain any explosives by the use of a false name, or the giving of a false address, or giving a false age or by stating a false purpose for the purchase of any explosives.

Sec. 3743.99. Penalties. (A) Whoever violates sections 3743.01 to 3743.24, inclusive, or sections 3743.27 to 3743.41, inclusive, of the Revised Code, shall be fined not less than twenty-five nor more than five hundred dollars.

(B) Whoever violates section 3743.25 of the Revised Code shall be imprisoned not less than one nor more than twenty years.

(C) Whoever violates section 3743.26 of the Revised Code shall be fined not less than fifty nor more than five thousand dollars or imprisoned not more than one year, or both.

(D) Whoever violates section 3743.43 of the Revised Code shall be fined not less than fifty nor more than ten thousand dollars or imprisoned not more than one year, or both.

(E) Whoever violates sections 3743.44 to 3743.46, inclusive, of the Revised Code, shall be fined not more than five hundred dollars.

(F) Whoever violates section 3743.47 of the Revised Code shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(G) Whoever violates section 3743.49 of the Revised Code shall be fined not more than five hundred dollars, or imprisoned not more than six months, or both.

(H) Whoever violates section 3743.50 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars.

(I) Whoever violates section 3743.51 of the Revised Code shall be fined not more than five hundred dollars for a first offense; for each subsequent offense such person shall be fined not more than one thousand dollars or imprisoned not more than five years, or both.

(J) Whoever violates section 3743.52 of the Revised Code shall be fined not more than one hundred dollars for a first offense; for each subsequent offense such person shall be fined not more than five hundred dollars or be imprisoned for not more than ninety days, or both. Any such violation constitutes a separate offense on each successive day continued.

Oklahoma

OKLAHOMA STATUTES ANNOTATED

21-721. Person keeping gunpowder or saltpeter which explodes. Every person guilty of making or keeping gunpowder or saltpeter within any city or town, in any quantity or manner such as is prohibited by law or by any ordinance of said city or town, in consequence whereof any explosion occurs whereby any human being is killed is guilty of manslaughter in the second degree.

21-849. Wiring or equipping of vehicles or structures with explosives—Penalty. Every person who shall attach to, or place in or upon any motor vehicle or any vehicle designed or customarily used to transport a person or persons or any structure designed or customarily used for the occupancy of a person or persons, any explosive material, thing or device with the intent of causing bodily injury or death to any person shall be guilty of a felony, and, upon conviction

therefor, shall suffer punishment by imprisonment for a period of time of not less than five (5) years, or imprisonment in the State penitentiary for life, at the discretion of the court or the jury trying the same.

21-1368. Possession of explosives by convicted felons—Penalty. Any person who has been convicted of a felony under the laws of this or any other state or the laws of the United States who, with an unlawful intent, is in possession of any explosives is guilty of a felony and, upon conviction, shall be punished by a fine of not to exceed Five Thousand Dollars (\$5,000.00) or by imprisonment in the State Penitentiary for a term not to exceed ten years, or by both such fine and imprisonment.

21-1369. Definitions. The term "explosives" as used in this Act shall be deemed to mean any chemical compound or mechani-

cal mixture that is commonly used or which is intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. Provided, that dynamite, nitroglycerine, gunpowder, blasting powder and trinitrotoluene shall be deemed explosives without further proof of their explosive nature.

21-1370. Quarrying or mining with use of explosives near schools or churches prohibited—Exceptions. From and after the effective date of this act, it shall be unlawful for any person, firm, or corporation, individually or in association with others, to establish, open up, commence, or carry on any quarrying operation for stone or stone products wherein blasting is required, or to conduct any other quarrying operations for commercial or industrial purposes requiring the use of powder, dynamite, nitroglycerin, or other explosives within five thousand (5,000) feet of any established school, church, or other house of worship; provided, however, that this act shall not apply to underground mines or to any quarrying or mining plants already constructed or in actual operation prior to the effective date of this act.

21-1767.1. Bombs and explosives—Foul, poisonous, offensive or injurious substances. Any person who shall wilfully and maliciously commit any of the following acts shall be deemed guilty of a felony:

1. Any person who places in, upon, under, against or near to any building, car, motor or other vehicle, vessel or structure, any gunpowder, dynamite, bomb, or any explosive substance, with intent to destroy, throw down, or injure, in whole or in part, such property of another, shall be guilty of a felony; or,

2. Any person who places in, upon, under, against or near to any building, car, motor or other vehicle, vessel or structure, any gunpowder, dynamite, bomb, or any explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under circumstances that, if such intent were accomplished, human life or safety would be endangered thereby, shall be guilty of a felony; or,

3. Every person who maliciously, by the explosion of gunpowder, dynamite or any explosive substance, destroys, throws down or injures any property of another, or by which explosion an injury is caused to the

person of another, shall be guilty of a felony; or

4. Any person who shall manufacture, sell, transport or possess a bomb, or any article containing an explosive or combustible substance, with intent to use the same unlawfully against the person or property of another, shall be guilty of a felony; or,

5. Any person who shall place in, upon, under, against or near to any building, car, motor or other vehicle, vessel or structure, any foul, poisonous, offensive or injurious substance or compound, with intent to wrongfully injure, molest or coerce another, or to injure or damage the property of another, shall be guilty of a felony.

6. Nothing contained herein shall be construed to apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving noninjurious firecrackers or devices commonly called "stink bombs."

29-7-401. Deleterious, noxious or toxic substances. A. Except as otherwise provided, no person may deposit, place, throw, or permit to be deposited, placed or thrown, any lime, dynamite or other explosive, poison, drug, sawdust, salt water, crude oil or any other deleterious, noxious or toxic substance in any stream, lake or pond of this state, or in any place where such substances may run or be washed into such waters.

B. Those persons exempt from the above subsection shall be:

1. The Department's authorized agents and employees when they shall use drugs, chemicals and other substances in connection with any fish count, scientific test or for improvement; and

2. Those holders of a scientific purposes license which specifically authorizes taking wildlife in such manner.

C. Any person, firm or corporation violating the provisions of this section shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and each day or part of day during which such action is continued or repeated shall be a separate offense. Provided, that the party responsible for the control of any salt water, crude oil or other deleterious substances causing a violation of this section and resulting from drilling, production, transmission, storage or other operation of the petroleum industry shall be reported to the Oklahoma Corporation Commission and if corrective action is not taken immediately then criminal proceedings shall be had as herein provided. The Corporation Commission is also given the express power to order whatever corrective action is necessary to abate the pollution and is given the authority to enforce the order by any action against the lease or well. Such

action shall be reported by the Wildlife Department to the appropriate agency.

63-125. Storage of explosives. Nothing in this Article shall be held to apply to persons, partnerships or corporations who store not to exceed twenty-five pounds of said explosives, except nitro-glycerine, in any one place at any one time, nor to the manufacturing or storing of drugs. Provided, However, that for good cause shown, the Chief Mine Inspector or deputy may issue a permit for temporary storage of any of said explosives, except nitro-glycerine, not exceeding five hundred pounds.

63-126. Penalty. Whoever, either as principal, agent, servant, or employee of such person, partnership, or corporation violates any of the preceding sections of this Article, or fails to procure a valid certificate from the Chief State Mine Inspector, as herein provided shall be fined not less than fifty dollars nor more than two thousand dollars.

63-127. Transportation of nitroglycerine in or near city, town or village. It shall be unlawful from and after the passage of this Act for any person, partnership, or corporation to haul, transport or cause to be hauled or transported in any manner, any nitro-glycerin over, across, or upon any street, alley or highway of any city, town or village, or any highway or lands within one fourth (1/4) mile of any city, town or village within this State.

63-128. Shooting wells within limits. It is further provided herein that if it becomes necessary at any time to shoot a well located within any city, town or village or within the prohibited distance prescribed herein, before such well is shot or any nitroglycerin is taken within any city, town or village or within the prohibited distance herein prescribed, permission to take a sufficient amount of nitro-glycerin to shoot said well must first be obtained from the Mayor, City Council, Manager or Board of Trustees of such City, town or village where said well is to be shot.

63-129. Authority of officers. Any Sheriff, Deputy Sheriff, or Constable of any county within this State, or any policeman or marshal of any city, town or village shall have the right to arrest any person for the violation of any of the provisions of this act.

Explosives and Blasting Agents

63-141.1 Definitions. A. "Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i. e., with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by

the United States Department of Transportation. The term "explosive" shall include all material which is classified as explosive by the United States Department of Transportation.

B. "Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a test blasting cap containing two (2) grams of a mixture eighty percent (80%) mercury fulminate and twenty percent (20%) potassium chlorate, or a cap of equivalent strength.

C. The term "explosive" or "blasting agent" shall not include explosives in the forms prescribed in the official UNITED STATE PHARMACOPEIA; fireworks as defined by Sec. 1622 of Title 68 of the Oklahoma Statutes; or small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and regulations promulgated thereunder.

D. "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee or personal representative thereof.

63-141.2. **Administration and enforcement—Personnel.** The State Fire Marshal Commission shall promulgate rules and regulations for the administration and enforcement of this act and the State Fire Marshal shall administer the provisions hereof, pursuant to said rules and regulations, and shall employ such agents and clerical help as may be necessary for such purpose.

63-141.3. **Federal regulations to govern.** Any regulation promulgated by any duly authorized federal department, bureau, or agency shall supersede any regulation promulgated under this act.

63-141.4. **Permits—Information to be furnished by buyer.** A. No person shall manufacture, sell, transport for hire, or store for resale explosives or blasting agents without first obtaining from the State Fire Marshal a permit to engage in such activity; provided, however, the State Fire Marshal shall waive the state permit requirement where a valid federal license or permit has been issued.

B. Explosives or blasting agents shall not be sold, given, delivered or transferred to any person who does not furnish the information required in Section 4 C of this act.

C. It shall be unlawful for any person to purchase, receive or obtain explosives or blasting agents without first furnishing to the seller or distributor the following infor-

mation: a statement of intended use, name, date, quantity, social security number or taxpayer identification number, and place of residence of any natural person to whom explosives or blasting agents are distributed. If explosives or blasting agents are sold or distributed to a corporation or other entity, such information shall include the identity and principal and local places of business, statement of intended use, quantity, date, name, social security number, and place of residence of the natural person acting as agent of the corporation or other entity in arranging the purchase or distribution.

D. An application for a permit under this act shall be accompanied by the payment of a fee in the amount of Ten Dollars (\$10.00).

E. All state, county and city agencies that use explosives and blasting agents shall furnish the information required in Section 4 C of this act.

F. Permits shall be valid for the calendar year in which issued, unless sooner revoked or suspended, and may be renewed annually on January 1 upon the payment of the required fee.

G. It shall be unlawful for any person to possess or use explosives or blasting agents unless such person can furnish proof of compliance with the provisions of this act.

63-141.5. **Disposition of permit fees.** All monies derived from the sale of permits as specified in this act shall be transferred to the State Treasurer of the State of Oklahoma, to be placed to the credit of the "General Revenue Fund."

63-141.6. **Records.** Every permit holder, including those holding federal licenses or permits, shall keep such records as may be required by the State Fire Marshal. Records shall be maintained for a period of not less than five (5) years following the year in which the record is made. All such records shall be open to inspection by the State Fire Marshal and his assistants during normal business hours.

63-141.7. **Inspection of premises.** The Fire Marshal and his assistants may, during normal business hours, inspect any building, structure or premises of any person subject

to the provisions of this act, and shall, upon the discovery of any violation of this act or regulations promulgated hereunder, issue such orders as are necessary for the safety of occupants and the public.

63-141.8. **Denial, revocation or suspension of permits.** Any violation of this act or the regulations promulgated hereunder shall constitute grounds for the denial, revocation or suspension of a permit by the State Fire Marshal as he deems appropriate.

63-141.9. **Responsibility of permit holders—Penalties.** A. Any firm, corporation, company or partnership shall see that all personnel, field crews, magazine attendants, truck drivers, supervisors and superintendents are fully conversant with all provisions of this act and the regulations promulgated hereunder. The permit holder shall be responsible for violations committed by employees working under the company or corporation permit.

B. Any person violating any of the provisions of this act or any rules or regulations made thereunder shall be guilty of a felony and shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment. If such violation was committed with the knowledge and intent that any explosive or blasting agent involved was to be used to kill, injure or intimidate any person or unlawfully to damage any real or personal property, the person or persons committing such violations, upon conviction, shall be guilty of a felony and shall be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for not more than ten (10) years, or both. If in a case involving such knowledge or intent personal injury results, such person shall be imprisoned for not more than twenty (20) years, or fined not more than Twenty Thousand Dollars (\$20,000.00), or both; and if death results such person shall be subject to imprisonment for any term of years or for life.

63-141.10. **Operative date.** The provisions of this act shall become operative on and after July 1, 1971.

Oregon

OREGON REVISED STATUTES

Crimes

Possession of Destructive Device or Loaded Firearm in Public Building

166.360. Definitions for ORS 166.360 to 166.380. As used in ORS 166.360 to 166.380,

unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the Supreme Court Building, the State Office Building, the State Library Building, the Labor and Industries Building, the State Highway Building, the Agriculture Building

or the Public Service Building and includes any new buildings which may be constructed on the same grounds as an addition to the group of buildings listed in this subsection.

(2) "Destructive device" means:

(a) A projectile containing an explosive or incendiary material or any other chemical substance; or

(b) A bomb, grenade, missile or similar device or any launching device therefor.

(3) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the firearm.

(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(4) "Public building" means a capitol building, a public or private school, college or university, a county courthouse, a city hall or the residence of the Governor, Secretary of State or State Treasurer and includes the grounds adjacent to a building described in this subsection.

166.370. **Possession of destructive device or loaded firearm prohibited; exceptions.** (1) Any person who possesses a destructive device or loaded firearm, on his person in or on a public building, shall be punished upon conviction by a fine of not more than \$500 or by imprisonment in the county jail for not more than one year, or both.

(2) Subsection (1) of this section does not apply to:

(a) A sheriff, policeman or other duly appointed peace officer.

(b) A person summoned by a peace officer to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(c) A member of the military forces of this state or the United States, when engaged in the performance of his duty.

(d) A person who is licensed under ORS 166.290 to carry a concealed weapon.

166.380. **Examination of device or firearm by peace officer; arrest for failure to allow examination.** (1) A peace officer may examine a firearm possessed by anyone on his person while in or on a public building to determine whether the firearm is a loaded firearm.

(2) Refusal by a person to allow the examination authorized by subsection (1) of this section constitutes reason to believe that the person has committed a crime and the peace officer may make an arrest pursuant to ORS 133.310.

166.480. **Sale or gift of explosives and firearms to children.** Any person who sells, exchanges, barter or gives to any child, under the age of 14 years, any explosive article or substance, other than an ordinary firecracker containing 10 grains of gunpowder; or who sells, exchanges, barter or gives to any such child any firearms, or other device of a like kind, ordinarily used or ordinarily capable of being used in discharging gunpowder in a greater quantity than 10 grains; or who sells, exchanges, barter or gives to any such child, any instrument or apparatus, the chief utility of which is the fact that it is used, or is ordinarily capable of being used, as an article or device to increase the force or intensity of any explosive, or to direct or control the discharge of any such explosive, is guilty of a misdemeanor.

Chapter 480

Explosives

480.010. **Labels for blasting powder and fuse.** All blasting powder and fuse shipped into this state for use, or manufactured in this state for use in this state, shall have stamped or printed upon the outside of the original package, box, case or wrapper the date of manufacture of the contents.

480.020. **Powder deemed bad; prohibition of sale.** Whenever any blasting powder shows a state of disintegration or decomposition sufficient so that it remains in a soft condition in a temperature of 32 degrees Fahrenheit, or is in a state of crystallization, which is revealed by some portions being in a hard condition and surrounded by other portions in a soft condition, it shall be deemed bad and dangerous powder, and its sale and use is prohibited.

480.030. **Fuse unfit for use and sale; prohibition of use.** Whenever any fuse shows by its appearance to have been overheated, or if it is in a hard and brittle condition, which is seen by breaks and cracks in the wrapper around the outside of the fuse, the same shall be declared unfit for use and sale, and its use is forbidden.

480.040. **Sale, exchange or possession, when unlawful.** No person shall sell or exchange, or offer or expose for sale or exchange, or have in possession for use by his employees:

(1) Any blasting powder or fuse which has not been stamped or printed upon as required in ORS 480.010.

(2) Any blasting powder of which the sale and use is prohibited by ORS 480.020.

(3) Any fuse declared to be unfit for use as prohibited by ORS 480.030.

480.050. **Intrastate transportation of explosives in passenger vehicle operated**

by common carrier. No person shall transport, carry or convey, or have transported, carried or conveyed, any dynamite, gunpowder or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier which car or vehicle is carrying passengers for hire. However, it shall be lawful to transport on any such car or vehicle small arms, ammunition in any quantity, such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation, and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of one-half pound each and not exceeding 20 samples at one time in a single car or vehicle. Such samples shall not be carried in that part of a car or vehicle which is intended for the transportation of passengers for hire. Nothing in this section shall be construed to prevent the transportation of military or naval forces, with their accompanying munitions of war, on passenger equipment, cars or vehicles.

480.060. **Transportation of certain explosives prohibited.** No person shall transport, carry or convey, or have transported, carried or conveyed, liquid nitroglycerine, fulminate in bulk in dry condition, or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier in the transportation of passengers.

480.070. **Fire bombs prohibited; exceptions.** (1) No person shall possess a fire bomb. For the purpose of this section a "fire bomb" is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having an integral wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illuminating shall be deemed to be a fire bomb for the purpose of this section.

(2) This section shall not prohibit the authorized use or possession of such fire bomb by a member of the Armed Forces of the United States or by any member of a regularly organized public fire or police department.

480.085. **Liability of user for nonremoval of unused explosives from work area.** (1) In addition to any other legal requirements, all users of explosives shall be responsible for the removal of all unused explosives from any area of use after the work for which the explosive was required is completed or when the user is absent for more than 30 days from the area of use, unless the explosives are stored in a manner meeting the safety requirements promul-

gated by the State Fire Marshal pursuant to ORS 476.030.

(2) As used in this section:

(a) "Explosives" means dynamite, blasting powder, black powder, nitroglycerin, detonators, nitro-jelly, prima-cord and detonating fuse.

(b) "User" means any person using explosives for any purpose whatsoever, and regardless of whether such person is being compensated for such use.

480.095. Liability of persons violating ORS 480.085. Persons violating ORS 480.085 shall be liable to the penalty provided in subsection (4) of ORS 480.990 and shall also be liable in civil action for damages to any person suffering injury from handling or otherwise coming in contact with unused explosives which are left in an area of use in violation of ORS 480.085, regardless of any negligence or lack of negligence on the part of the defendant.

Manufacture, Sale, Possession and Transfer of Explosives

480.200. Definitions for ORS 480.200 to 480.280. As used in ORS 480.200 to 480.275 and subsection (2) of ORS 480.280 unless the context requires otherwise:

(1) "Dealer in explosives" means a person registered as required by ORS 480.245.

(2) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined by subsection (1) of ORS 480.110, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(3) "Fire marshal" means the State Fire Marshal.

(4) "Issuing authority" means the State Fire Marshal or an assistant appointed by the fire marshal under subsection (2) of ORS 480.280.

(5) "Manufacturer of explosives" means a person registered as required by ORS 480.240.

(6) "Small arms ammunition" means a shotgun, rifle, pistol or revolver cartridge.

(7) "Small arms ammunition primers" means small percussion-sensitive explosive charges encased in a cup and used to ignite propellant powder.

480.205. Application. ORS 480.200 to 480.275, subsection (2) of ORS 480.280 and subsection (7) of ORS 480.990 do not apply to:

(1) The possession of an explosive by a member of the Armed Forces of the United States while he is on active duty and engaged

in the performance of his official duties or by a member of a regularly organized fire or police department of a public agency while he is engaged in the performance of his official duties.

(2) The possession of an explosive in the course of transportation by way of railroad, water, highway or air while under the jurisdiction of, or in conformity with, regulations adopted by the United States Department of Transportation.

(3) The possession, sale, transfer or manufacture of an explosive by a person acting in accordance with the provisions of any applicable federal law or regulation that provides substantially the same requirements as the comparable provisions of ORS 480.200 to 480.275 and subsection (2) of ORS 480.280.

480.210. Certificate of possession required; exceptions; display of certificate upon demand; defenses. (1) Except as otherwise provided by ORS 480.255, a person may not have an explosive in his possession on or after September 9, 1971, unless:

(a) He has in his immediate possession at all times during the possession of the explosive a valid certificate of possession issued to him under ORS 480.235; or

(b) He is a manufacturer of explosives or a dealer in explosives.

(2) A person in possession of an explosive shall display his certificate of possession upon the demand of an issuing authority, a magistrate or a peace officer of this state.

(3) It is a defense to a charge under subsection (1) of this section that the person so charged produce in court:

(a) A certificate described in paragraph (a) of subsection (1) of this section that was valid at the time of his arrest; or

(b) Proof that he is a manufacturer in explosives, a dealer in explosives, the authorized agent of such a manufacturer or dealer or a transferee under ORS 480.255 at the time of his arrest.

480.215. Transfer of explosives limited. Except as otherwise provided by ORS 480.255, possession of an explosive shall not be transferred on or after September 9, 1971, unless:

(1) The transferee holds a certificate of possession under ORS 480.235 and the certificate is valid at the time of the transfer; or

(2) The transferee is a manufacturer of explosives or a dealer in explosives; or

(3) The transferee is a consignee of explosives which have been transported under the jurisdiction of or in conformity with regulations adopted by the United States Department of Transportation.

480.220. Manufacture or possession of destructive device with intent to use unlawfully prohibited; intent presumed in

certain cases. (1) A person shall not assemble, produce or otherwise manufacture or possess a destructive device with the intent to use the destructive device or knowing that some other person intends to use the destructive device unlawfully against the person or property of another.

(2) The possession of a destructive device by a person while committing or attempting or threatening to commit a felony or a breach of the peace or an act of violence against the person or property of another is presumptive evidence that the person possesses the destructive device in violation of subsection (1) of this section.

(3) As used in this section, "destructive device" has the same meaning given in subsection (2) of ORS 166.360.

480.225. Eligibility for certificate of possession or certificate of registration as manufacturer or dealer. A person is eligible for a certificate of possession under ORS 480.235 or a certificate of registration as a manufacturer of explosives or as a dealer in explosives under ORS 480.250, if:

(1) He has not been convicted of a crime involving the use or threatened use of force, violence or a dangerous or deadly weapon. A person who has been so convicted is eligible under this subsection following the expiration of seven years after the date of his final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.

(2) He has not been convicted of a crime involving the unlawful manufacture, sale, possession or use of an explosive in any state or federal jurisdiction. A person who has been so convicted is eligible under this subsection following the expiration of seven years after the date of his final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.

(3) He has not been adjudged to be mentally ill or mentally deficient pursuant to ORS chapter 426 or 427. A person who previously has been so adjudged is eligible under this subsection if, at the time of his application for such a certificate, he produces a certified copy of a full discharge from the proper state hospital.

(4) He is at least 18 years of age.

(5) He does not use a fictitious name or make a material misrepresentation in his application for such a certificate.

480.230. Application for certificate of possession; fee. A person desiring a certificate of possession shall apply in person, or if such person is other than an individual, through its authorized representative or agent. The applicant shall provide at the time of such application:

(1) His name and address and, if the applicant is other than an individual, the name and address of the individual completing the application and his relationship to or position with the applicant;

(2) If the applicant is an individual, his age;

(3) A statement by the applicant that he is eligible for a certificate of possession under ORS 480.225;

(4) Any other information that the issuing authority may require to readily identify the applicant;

(5) A verification, signed by the applicant or the individual completing the application, that the information contained in the application is true; and

(6) An application fee of \$5.

480.235. Waiting period for issuance of certificate of possession; investigation of applicant; term of certificate; assignment or transfer of certificate prohibited. (1) A certificate of possession may not be issued before the expiration of seven days after the date of the application or the conclusion of the investigation conducted by the issuing authority pursuant to subsection (2) of this section, whichever occurs first.

(2) The issuing authority shall investigate the qualifications of the applicant for a certificate of possession. Unless the issuing authority finds that the applicant is ineligible under ORS 480.225, he shall issue a certificate of possession to the applicant at the end of the seven-day period or at the conclusion of his investigation, whichever occurs first.

(3) A certificate of possession is valid until suspended or revoked.

(4) A certificate of possession may not be assigned or transferred.

480.240. Manufacture of explosives without certificate of registration as manufacturer prohibited; application for registration; fee. (1) No person may compound, mix, fabricate, produce, process or otherwise manufacture an explosive in this state unless he is registered with an issuing authority as a manufacturer of explosives.

(2) A person desiring to register as a manufacturer of explosives shall apply for such registration in person or, if such person is other than an individual, through its authorized representative or agent. The applicant shall provide at the time of such registration:

(a) His name and business address, and if the applicant is other than an individual, the name and address of the individual completing the application and his representative capacity with the applicant;

(b) The location and nature of his manufacturing operation;

(c) Any other information that the fire marshal may require to readily identify the applicant; and

(d) An application fee of \$5.

480.245. Dealing in explosives without certificate of registration as dealer prohibited; application for registration; fee. (1) No person may engage in the business of selling, bartering or otherwise transferring possession of explosives in this state unless he is registered with an issuing authority as a dealer in explosives.

(2) Each person desiring to register as a dealer in explosives shall apply in person or, if such person is other than an individual, through its authorized representative or agent. The applicant shall provide at the time of such registration:

(a) His name and business address and, if the applicant is other than an individual, the name and address of the individual completing the application;

(b) The nature of the business conducted by him;

(c) A statement of the type of explosives to be transferred by him in the regular course of his business;

(d) Any other information that the issuing authority may require to readily identify the applicant; and

(e) An application fee of \$5.

480.250. Waiting period for issuance of certificate of registration as manufacturer or dealer; investigation of applicants; term of registration; assignment or transfer of registration prohibited. (1) A certificate of registration as a manufacturer of explosives or as a dealer in explosives may not be issued before the expiration of seven days after the date of the application therefor or the conclusion of the investigation by the issuing authority pursuant to subsection (2) of this section, whichever occurs first.

(2) The issuing authority shall investigate the qualifications of the applicant for the certificate of registration. Unless the issuing authority finds that the applicant is ineligible under ORS 480.225, he shall issue the certificate of registration to the applicant at the end of the seven-day period or at the conclusion of his investigation, whichever occurs first.

(3) A certificate of registration as a manufacturer of explosives or as a dealer in explosives is valid until suspended or revoked.

(4) A certificate of registration as a manufacturer or as a dealer in explosives may not be assigned or transferred.

480.255. Transfer of explosives to person not holding certificate of possession; transfer receipts. (1) On or after September 9, 1971, possession of an explosive may be

transferred to an individual who does not hold a valid certificate of possession issued to him under ORS 480.235, if:

(a) The individual is an employe, agent, contractor or subcontractor of the transferor of the explosive; and

(b) the transferor holds a valid certificate of possession issued to him under ORS 480.235 or he is a manufacturer of explosives or a dealer in explosives; and

(c) The transferor complies with subsection (2) of this section.

(2) At the time of the transfer of possession of the explosive, the transferor of the explosive shall complete, upon forms supplied by the fire marshal, a transfer receipt in duplicate. Each transfer receipt shall include:

(a) The name, address and signature of the transferor of the explosive;

(b) The name and signature of the transferee of the explosive and his relationship to or position with the transferor;

(c) The location where possession of the explosive was transferred and the location where the explosive will be delivered; and

(d) The type and quantity of the explosive transferred.

(3) The transferee of the explosive shall keep his copy of the transfer receipt on his person at all times while the explosive is in his possession. The transferee shall display his copy of the transfer receipt upon the demand of an issuing authority, a magistrate or a peace officer of this state.

480.260. Recording transfers of explosives by dealers; transfer register; examination of register. At the time of a transfer of the possession of an explosive by a dealer in explosives:

(1) The dealer shall enter in duplicate in a transfer register supplied by the fire marshal:

(a) The date of the transfer;

(b) His name and address and the number of his certificate of registration as a dealer in explosives;

(c) The name, address and signature of the transferee and, if the transferee is other than an individual, the name, address and signature of the individual receiving possession of the explosive and his representative capacity with the transferee;

(d) The number of the certificate of possession issued to the transferee; and

(e) The type and quantity of the explosive transferred.

(2) The transferee shall show his certificate of possession to the dealer.

(3) The dealer shall deliver the copy of the entry in the transfer register to the individual receiving possession of the explosive and

retain the original of the entry in the transfer register.

(4) A dealer in explosives shall keep each transfer register maintained by him pursuant to subsections (1), (2) and (3) of this section for a period of three years from the date of the last entry therein and permit an issuing authority or any peace officer of this state to examine the entries in the transfer register upon request.

480.265. Report of loss, theft or unlawful removal of explosives required. The loss, theft or unlawful removal of an explosive from the possession of any person shall be reported by the person immediately to an issuing authority or a peace officer of this state. The report shall include the type and quantity of the explosive.

480.270. Revocation or suspension for violations; surrender of certificate. (1) An issuing authority may suspend or revoke a certificate of possession or a certificate of registration as a manufacturer of explosives or as a dealer in explosives if he finds that the person to whom the certificate was issued is ineligible for the certificate under ORS 480.225 or that the person has been convicted of a violation under subsection (7) of ORS 480.990.

(2) A certificate suspended or revoked under subsection (1) of this section shall be void from the date of the suspension or revocation. The person to whom the certificate was issued shall surrender the suspended or revoked certificate to an issuing authority upon the demand of the issuing authority.

480.275. Hearings; notice; representation by counsel; decision; judicial review. (1) An applicant who has been denied a certificate of possession or a certificate of registration as a manufacturer of explosives or as a dealer in explosives, or a person whose certificate has been suspended or revoked is entitled to be represented by counsel at a hearing before the issuing authority under ORS 183.310 to 183.500. At least 20 days before the date of the hearing the issuing authority shall notify the applicant or certificate holder of the matters to be considered at the hearing. Within 30 days after the date of the hearing, the issuing authority shall send written notice of its decision to the applicant or certificate holder.

(2) Within 60 days after the receipt of the written notice of the decision of the issuing authority under subsection (1) of this section, the applicant or certificate holder may seek judicial review of the decision under ORS 183.480, 183.490 and 183.500.

480.280. Administration and enforcement by State Fire Marshal; rules and regulations; appointment of assistants.

(1) The State Fire Marshal shall administer and enforce ORS 480.200 to 480.275, subsection (2) of ORS 480.280 and subsection (7) of ORS 480.990 and may, in accordance with the applicable provisions of ORS chapter 183, adopt rules and regulations considered by him to be necessary in carrying out ORS 480.200 to 480.275, subsection (2) of ORS

480.280 and subsection (7) of ORS 480.990.

(2) The State Fire Marshal may appoint an individual, designated as his assistant by subsection (1) of ORS 476.060, or any other individual to act as his assistant in the administration and enforcement of this subsection and ORS 480.200 to 480.275, and subsection (7) of ORS 480.990.

Pennsylvania

PENNSYLVANIA STATUTES ANNOTATED (PURDON'S)

Crimes

18-6161. Carrying explosives on conveyances. (a) **Offense defined.** A person is guilty of a misdemeanor of the second degree if he enters into or upon any railroad train, locomotive, tender or car thereof, or into or upon any automobile or other conveyance used for the carrying of freight or passengers, having in his custody or about his person any nitroglycerine or other explosive, other than as freight regularly shipped as such.

(b) **Powers of crew.** The conductor or person having charge and control of any railroad train, coach, or other conveyance for the carriage of freight or passengers, may arrest any person found violating the provisions of this section and detain such person until reaching some place, where such person may be delivered to a constable or other police authority.

(c) **Venue.** It shall be lawful to prosecute such offenders in any county through which said public conveyance passes, without reference to the place where such offenders were arrested.

18-6162. Shipping explosives. (a) **Offense defined.** A person is guilty of a misdemeanor of the third degree if he knowingly delivers, or causes to be delivered to any transportation company, or to any person engaged in the business of transportation, any explosive material adapted for blasting, or for any other purpose for which such articles may be used, under any false or deceptive invoice or description, or without informing the carrier at or before the time when such delivery is made, of the true nature of the same, and without having the keg, barrel, can or package containing the same plainly marked with the name of the explosive material therein contained, together with the word "dangerous."

(b) **Damages.** Any person convicted of an offense under this section shall, in addition to any other penalty, be responsible for all damages to persons or property directly or indirectly resulting from the explosion of any such article.

(c) **Opening of suspected containers.** Any person engaged in the business of transportation, upon affidavit made of the fact that any container tendered for transportation, not in compliance with the provisions of this section is believed to contain explosive material, may require such container to be opened, and refuse to receive any such container unless such requirement is complied with.

(d) **Disposition of explosives.** If such container is opened and found to contain any explosive material, the container and its contents shall be forthwith removed to any lawful place for the storing of explosives. After conviction of the offender, or after three months from such removal, the container, with its contents, shall be sold at public sale, after the expiration of ten days from notice of the time and place of such sale, published in one newspaper in the county where such seizure shall have been made. The proceeds of such sale, after deducting therefrom the expenses of removal, storage, advertisement and sale, shall be paid into the treasury of the county.

18-6302. Sale or lease of weapons and explosives. (a) **Offense defined.** A person is guilty of a misdemeanor of the first degree if he sells or causes to be sold or leases to any person under 18 years of age any deadly weapon, cartridge, gunpowder, or other similar dangerous explosive substance.

(b) **Exception.** The provisions of subsection (a) of this section shall not prohibit hunting by minors under 18 years of age permitted under provisions of The Game Law.

Chapter 3.— Explosives, Regulation

* * * * *

73-151. Explosives; makers and dealers of subject to act; exceptions. No person shall manufacture, process, store, or have in his possession any explosives in this Commonwealth, until all requirements of this act have been complied with: Provided, That nothing contained in this act shall be construed to apply to the storage and actual use of explosives in or in connection with anthracite and bituminous coal mines and coal mining operations, or clay or shale mining operations, or in the operation of stone or rock quarries, or in agricultural work, or to the military and naval forces of the United States, or to the transportation of explosives upon vessel or railroad cars when in conformity with the rules of the Interstate Commerce Commission.

73-152. Definitions. The term "explosives," whenever used in this act, shall mean and include any chemical compound or other substance intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportions or quantities that ignition by fire, by friction, by concussion, by percussion, or by detonation, may produce an explosion capable of causing injury to persons, or damage to property.

For the purpose of this act, manufactured articles shall not be held to be explosives when individual units contain ingredients in such limited quantities and of such nature as not ordinarily to be classified as an explosive, such as fixed ammunition for small arms, firecrackers, safety fuse, matches, and other articles which may be defined from time to time by regulation of the department.

The term "magazine," as used herein, means any building or other structure used exclusively for the storage of explosives.

The word "person," as used in this act, shall be construed to include individuals, copartnerships, associations, and corporations, as well as the Commonwealth and all political subdivisions thereof.

73-153. Reports of manufacturers to Department of Labor and Industry. All persons engaged in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device on the date when this act takes effect, shall, within sixty days thereafter, and all persons engaging in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device after this act takes effect,

shall, before so engaging, make a report in writing, subscribed to by such person or his agent, to the Department of Labor and Industry, the report stating—

(1) The location of place of manufacture or processing.

(2) The kind of explosives manufactured, processed, or used.

73-154. Reports concerning stored explosives. All persons storing explosives or having explosives in their possession on the date when this act takes effect, shall, within sixty days thereafter, and all persons contemplating the storing of explosives or having same in their possession after this act takes effect, shall, before obtaining or storing such explosives, make a report in writing, subscribed to by such person or his agent, to the Department of Labor and Industry, the report stating—

(1) The capacity, type of construction, and location of the magazine, if then existing, or, in case of a new magazine or a removal of any existing magazine, the capacity, type of construction, and proposed location of such magazine.

(2) The kind of explosives that are stored or in possession, or intended to be stored or obtained, and the maximum quantity involved.

(3) The distance that such magazine is located or intended to be located from the nearest buildings, magazines, railroads, and highways.

73-155. Duties of department; cancellation of license. The department shall determine the amount of explosives that may be stored or placed in magazines and shall issue a license to the person applying therefor, as hereinafter provided, such license to stipulate the maximum amount of explosives permitted.

Whenever any person fails, for thirty days, to pay the annual license fee hereinafter provided, after the same becomes due or otherwise violates any of the provisions of this act, the Secretary of Labor and Industry may cancel such license. Whenever a license is cancelled for any cause, the Secretary of Labor and Industry, or his duly authorized representative shall notify, in writing, the person to whom such license is issued of the fact of such cancellation, and shall in said notice direct the removal of all explosives stored in said magazine within a reasonable time limit, and not to exceed ten days from the giving of said notice. Failure to so remove the explosives stored in said magazine within the time specified in said notice shall constitute a violation of this act.

73-156. Information as to buildings not conforming to act; hearing. If at any time any governing body or other authority

of any locality may know of any reason why a magazine or building in which explosives are used or kept is not or cannot be conducted in accordance with the provisions of this act, and should not be permitted to operate, upon notifying the Secretary of Labor and Industry, in writing, or his duly authorized representative, a hearing may be conducted by the said Secretary of Labor and Industry or his duly authorized representative, to show cause why a license should not be issued or should not be revoked.

73-157. Regulations as to safety. All explosive plants and all buildings and magazines wherein explosives are manufactured or stored shall be located, operated, maintained, equipped, and conducted so as to provide for the adequate protection for all persons employed in or about such explosive plants or magazines. The location of explosive plants with respect to other buildings, railroads, and highways, and the location of buildings wherein explosives are manufactured or stored with respect to other magazines or buildings when explosives are manufactured shall be in accordance with the regulations adopted by the Department of Labor and Industry.

73-158. Plans of plants. There shall be kept in the main office on the premises of every explosive plant a plan of said plant, showing the location of all buildings and the distance they are located from other buildings where persons are employed at all times be open to inspection by duly authorized inspectors of the Department of Labor and Industry. The superintendent of each plant shall, upon demand of said inspectors, furnish the following information:

(a) The maximum amount and kind of explosive material which is or will be present in each building at any one time.

(b) The nature and kind of work carried on in each building, whether or not said buildings are surrounded by natural or artificial barricades, and if so the details of construction of such barricades.

73-159. Licenses. After January first, one thousand nine hundred and thirty-eight, every person storing or in possession of explosives shall be required to have a license for each magazine used for the storing or placing of explosives, which license shall be issued on a form prepared and furnished by the Department of Labor and Industry. The application for license shall be accompanied by the proper license fee, which shall be prescribed by the department, according to the quantity of explosives which are to be stored or placed in the magazine, and shall not be less than three dollars and fifty cents (\$3.50) nor more than fifty dollars (\$50). Such

license shall be kept posted conspicuously in or about the magazine for which issued. Licenses shall expire annually on the thirty-first day of December, and shall be renewed annually upon payment of the fee as specified in this section.

73-160. Records of manufacturers, etc. Every person, company, or corporation manufacturing, storing, selling, transferring, dealing in, or in any manner disposing of any explosives, shall keep, in a book for that purpose, an accurate record of all transactions with the date thereof relating to the receiving and disposing of the same, which record shall show the amount of each such explosive received, by whom transported or conveyed, and each and every sale or other disposition made of such explosives with the amount thereof, and the name of the person to whom delivery of the same was made, who shall be required to receipt therefor. Such record shall at all times be open to the inspection of any duly authorized representative of the Commonwealth.

73-161. Rules and regulations. For the purpose of carrying out the provisions of this act and applying these provisions to specific cases, the Department of Labor and Industry shall have the power, and its duties shall be, to make, alter, amend, or repeal general rules and regulations to provide protection in the manufacture, processing, transportation, storage, use, or handling of explosives.

73-162. Penalties. Any person or persons who shall violate any of the provisions of this act or the rules and regulations of the department as herein provided for, or who shall hinder or interfere with a duly authorized officer of the Commonwealth in the performance of his duties as herein provided, shall, upon conviction in a summary proceeding, be punished by a fine of not less than ten dollars (\$10) or more than one hundred dollars (\$100) and in default of the payment of such fine and costs shall be sentenced to imprisonment for not more than thirty days. Any person or persons who shall, on second offense, violate any of the provisions of this act or the rules and regulations of the department as herein provided for, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000), or to suffer imprisonment for not more than one year, or both, at the discretion of the court. Prosecution for violation of this act may be instituted by the Secretary of Labor and Industry or his duly authorized representative.

73-163. Fees to be paid into state treasury. All fees collected under the provi-

sions of this act shall be paid into the State Treasury, through the Department of Revenue.

73-164. Definitions. As used in this act—(1) "Explosives" mean any chemical compound or other substance intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportions or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property.

(2) "Blasting Operation" means the use of explosives in the blasting of stone, rock, ore or any other natural formation, or in any construction or demolition work in which six or more employees are engaged, but shall not include its use in agricultural operations or in anthracite or bituminous coal mines or strip mining operations.

(3) "Blaster" means a person licensed to fire or detonate explosives in blasting operations.

73-165. Examination and licensing of blasters; fees. No person shall detonate explosives in any blasting operation unless he has passed an examination, prescribed by the Department of Labor and Industry, which shall test the examinee's skill and knowledge of the principles and practice of blasting operations and the storage, moving, handling and detonation of explosives. Application for examination as a blaster shall be in writing upon a form furnished by the department and shall be accompanied by a fee of ten dollars (\$10). If the applicant is successful in passing the examination, a license indicating his competency to detonate explosives shall be issued upon the payment of an additional fee of five dollars (\$5). Anything hereinbefore to the contrary notwithstanding, the department shall issue a license without examination to any applicant who shall show to the department that he has, at the effective date hereof, had three years experience in the handling and use of explosives. Each blaster shall be required to renew his license each year by application to the department, which application shall be accompanied by a fee of three dollars and fifty cents (\$3.50). The Secretary of Labor and Industry may suspend any license for due cause but no license may be revoked until the licensee has been granted a hearing.

73-166. Blasting operations conducted in accordance with regulations. (a) The use of explosives for the purpose of blasting in the neighborhood of any public highway, stream of water, dwelling house, public building, school, church, commercial or institutional building, or pipe line, shall be done in accordance with the provisions of this sec-

tion, and rules and regulations promulgated by the Department of Labor and Industry.

(b) In all blasting operations, except as hereinafter otherwise provided, the maximum peak particle velocity of any one of three mutually perpendicular components of the ground motion in the vertical and horizontal directions shall not exceed 2 inches per second at the immediate location of any dwelling house, public building, school, church, commercial or institutional building.

(1) Instruments for determining particle velocity as set forth in this subsection shall be limited to such specific types of devices as shall have been expressly approved by the Department of Labor and Industry, and the Secretary of Labor and Industry or his duly authorized agent may enter upon any premises for the purpose of conducting or supervising any necessary instrumentations provided by this act.

(2) Blasting operations without instrumentation will be considered as being within the limits set forth in this subsection if at a specified location on at least five blasts instrumentation has shown that the maximum peak particle velocity at the specified location is fifty percent (50%) or less than the limit set forth in this subsection: Provided, That for all future blasts the scaled distance is equal to or greater than the scaled distance for the instrumented blast. "Scaled distance" means the actual distance in feet divided by the square root of the maximum explosive weight in pounds that is detonated per delay period for delay intervals of eight (8) milliseconds or greater. If delay intervals less than eight (8) milliseconds are employed or if instantaneous blasting is employed, scaled distance shall be computed by dividing the actual distance in feet by the square root of the total explosive weight in pounds.

(3) When blasting operations are contemplated which would result in ground vibrations that would have a particle velocity of any one of three (3) mutually perpendicular components in excess of 2 inches per second at the immediate location of any dwelling house, public building, school, church, commercial or institutional building, blasting operations may proceed after receiving written consent from the property owner or owners affected and the Secretary of Labor and Industry.

(c) When blasting operations, other than those conducted at a fixed site as a part of an industry or business operated at such site, are to be conducted within two hundred feet of a pipe line, the blaster or person in charge of the blasting operations shall take due precautionary measures for the protection of the line, and shall notify the owner of the line

or his agent that such blasting operations are intended.

(d) Blasting operations near streams shall be prohibited in all cases where the effect of the blasting is liable to change the course or channel of any stream without first obtaining a permit from the Department of Labor and Industry which has been approved by the Water and Power Resources Board.

(e) Blasting operations shall not be conducted within eight hundred feet of any public highway, unless due precautionary measures are taken to safeguard the public.

(f) Mudcapping in blasting operations shall be permitted only where it would endanger the safety of the workmen to drill the rock or material to be blasted. If mudcapping is necessary, no more than ten pound of explosives shall be used for each charge.

(g) All trunk lines of detonating fuse may be covered, except that trunk lines of detonating fuse shall be covered if located within eight hundred feet of any public highway, dwelling house, public building, school, church, commercial or institutional building.

Black Powder

73-169. Definitions. As used in this act: (1) The term "contiguous state" shall mean any state having a common border with Pennsylvania.

(2) All other terms herein shall be given the meaning prescribed in Public Law 91-452, known as the "Organized Crime Control Act of 1970."

73-170. Purchase of black powder in contiguous states. It shall be lawful for a person residing in Pennsylvania, including a corporation or business entity maintaining a place of business in this Commonwealth to purchase or otherwise obtain black powder in a contiguous state and to receive or transport such black powder into this Commonwealth.

73-171. Applicability. This act shall not apply or be construed to affect in any way the purchase, receipt, or transportation of black powder by federally licensed explosives manufacturers, importers, dealers or permittees.

Excavation and Demolition

73-176. Definitions. As used in this act:

"Contractor" means any person who or which performs excavation or demolition work for himself or for another person.

"Demolition work" means the use of powered equipment or explosives to destroy or raze any structure.

"Designer" means any architect, engineer or other person who or which prepares a drawing for a construction or other project which requires excavation or demolition work as herein defined.

"Emergency" means any condition constituting a clear and present danger to life or property by reason of escaping gas, exposed wires, or other breaks or defects in a user's lines.

"Excavation work" means the use of powered equipment or explosives in the movement of earth, rock or other material, and includes but is not limited to augering, backfilling, blasting, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling; but shall not include such use in agricultural operations or for the purpose of finding or extracting natural resources.

"Line" means an underground conductor used in providing electric or communication service, or an underground pipe used in providing gas, oil or oil-product delivery, sewage, water or other service to one or more consumers of such service.

"Operator" means any individual in physical control of powered equipment or explosives when being used to perform excavation or demolition work.

"Person" means an individual, partnership, corporation, governmental agency, or any other entity.

"Powered equipment" means any equipment energized by an engine or motor and used in excavation or demolition work.

"User" means the public utility, municipal corporation, municipality, authority, rural electric cooperative or other person who or which uses a line to provide service to one or more consumers.

"Working day" means any day except a Saturday, Sunday or legal holiday prescribed by act of the General Assembly.

73-177. Duties of users. It shall be the duty of each user:

(1) To give written notice to the recorder of deeds of each county in which its lines are located, which notice shall state:

(i) the name of the user;
(ii) the names of the county's political subdivisions in which its lines are located;
(iii) the user's office address (by street, number and political subdivision), and the telephone number to which inquiries may be directed as to the location of such lines.

(2) To give like written notice within five days after any of the matters stated in the last previous notice shall have changed.

(3) To accompany each such written notice with a filing fee of five dollars (\$5) payable to and for the use of the county.

(4) Not more than two working days after receipt of a request therefor from a designer who identifies the site of excavation or demolition work for which he is preparing a drawing, to respond to his request for information as to the approximate location and type of the user's lines at such site.

(5) Not more than two working days after receipt of a request therefor from a contractor or operator who identifies the site of excavation or demolition work he intends to perform, to inform him of:

(i) the location of any of the user's lines at such site;

(ii) the cooperative steps which the user may take, either at or off the excavation or demolition site, to assist him in avoiding damage to its lines;

(iii) suggestions for procedures that might be followed in avoiding such damage.

(6) Upon receipt of a request pursuant to clauses (4) or (5) to assign such request a serial number, inform the requestor of such number, and to maintain a register showing the name, address and telephone number of the requestor, the site to which the request pertains, and the assigned serial number.

Puerto Rico

LAWS OF PUERTO RICO ANNOTATED

Chapter 59. Explosives Act

* * * * *

Sec. 561. Title. This chapter shall be known as the "Puerto Rico Explosives Act,"—June 28, 1969, No. 134, p. 396, Section 1, eff. 90 days after June 28, 1969.

Sec. 562. Definitions. For the purposes of this chapter, the terms appearing

hereunder shall have the following meanings:

1. "Explosive" or "explosives" means any chemical compound or any mixture containing oxidizing, reducer and combustible substances or other ingredients in such proportions, quantities or packing that an ignition by heat, friction, concussion, percussion or detonator of any part of the compound or mixture may cause sudden decomposition

with the generation of high heat and highly heated gases that the resultant gaseous pressures are capable of producing destructive effects upon life, limb or contiguous objects; or any chemical compound or mechanical mixture containing any oxidizing and reducer and combustible or other ingredients or any substance that by itself or mixed with another may become inflammable, no matter the quantities or proportions such chemical compound or mixture contains that an ignition by fire, friction, concussion, percussion or detonator are capable of producing or starting a fire.

For the purposes of this chapter the following substances shall not be considered explosives: gasoline, kerosene, naphtha, turpentine, ammonium nitrate in its pure form, benzine, carbon bisulphide, ether, petrol ether, colloided nitrocellulose in sheets, or rods or grains not under one-eighth of an inch in diameter, and wet nitro starch containing twenty per centum or more moisture or wet picric acid containing or being in ten per centum or more moisture. It being provided, however, that for the purposes of sections 586, 587, 592 and 593 of this title the term "explosives" shall include those substances where it is shown that the same are used or possessed for the intentions expressly provided for in sections 586 and 587 of this title.

2. "Percussion cap" or "detonator" means: Metallic tube containing a high explosive used for detonating or exploding an explosive less sensitive. There are two types of detonators: electric and nonelectric. The electric one is exploded by an electric charge. The nonelectric is ignited or exploded by a time device, by heat or any agent or chemical substance.

3. "Bomb" is an explosive substance or substances used within a container with an electrical, mechanical, or chemical device or a combination thereof to make it explode.

4. "Factory" means: Any building or structure in which explosives or substances that may be used for the manufacture of explosives are totally or partially manufactured.

5. "Magazine" means: Any building or other structure, other than a factory, used for the storing of explosives.

6. "Substances that may be used for the manufacture of explosives" means: Any substance that the Superintendent may, upon previous study and promulgation of the regulations to that effect, deem as necessary or effective, together or mixed with one or other substances, to constitute an explosive, as such term is herein defined.

7. "Superintendent" means: The Police Superintendent of Puerto Rico or the person

or persons in whom he may delegate.

Any term herein expressed in the singular shall include the plural and any term in the plural shall include the singular.

Sec. 563. Permits. (a) No person shall carry out any or any one of the activities herein listed without having first obtained the corresponding permit or permits from the Superintendent issued in accordance with the provisions of this chapter and its regulations.

(1) Manufacture explosives or substances that may be used to manufacture explosives;

(2) Transport explosives or substances that may be used to manufacture explosives;

(3) Receive, store or possess explosives or substances that may be used to manufacture explosives;

(4) Use explosives or substances that may be used to manufacture explosives;

(5) Operate an establishment where explosives or substances are handled that may be used to manufacture explosives.

(b) Permit shall be personal and untransferable. It shall state the activities for which issued; term of effectiveness, which shall not be more than one year; and shall further contain, the name of the agent or agents, if any, authorized by the applicant to receive, use, store, possess or transport the explosives or substances that may be used to manufacture explosives.

The Superintendent may require that the permit include any other information as in his judgment may be necessary.

(c) Issuance of permit shall constitute authorization to carry out only the activities expressly prescribed therein.

(d) There shall be exempted from the compliance of the provisions of subsection (a) herein, the agents of any person to whom the proper permit has been issued whose names appear in said permit, provided the agents act within the scope of their functions in the regular course of their mandate, as authorized in the permit.

Sec. 564. Permit application. Application for obtaining the permit to carry out any of the activities set forth in the preceding section shall be filed with the Superintendent in the forms prescribed by him. Said application shall be sworn before any officer authorized to administer oaths, and shall contain the following information:

(1) Name, address and age of applicant;

(2) Name, address and age of the agent authorized by the applicant to receive, use, store, possess or transport the explosives or substances that may be used to manufacture explosives;

(3) The place where and the purpose for which the explosives or substances that may

be used to manufacture explosives shall be used, stored or transported;

(4) The name and quantity of explosives for which permit is requested;

(5) Signature of applicant;

(6) Declaration of applicant and of each one of his agents where it is so stated by each applicant, if he has been convicted of a felony within or without Puerto Rico during the last 15 years;

(7) Any other pertinent information that the Superintendent may prescribe by regulation.

Sec. 565. Issuance and denial of permits. (a) The Superintendent shall issue the permit applied for, when the applicant shows, to his satisfaction, that he has the appropriate means to carry out the activities specified in the application and that the granting of the permit shall not constitute a hazard to the public safety. When the Superintendent deems it necessary or advisable for attaining the purposes of this chapter, he may require additional information from the applicant for the purpose of evaluating in the most adequate manner the application under consideration.

(b) Upon issuing or renewing any permit, the Superintendent may, in each case, impose the restrictions or conditions he may deem necessary for the prevention of fires, explosions and for the protection of life and public safety.

(c) The Superintendent, at his own discretion, may deny or refuse to renew any permit when in his judgment the handling or use, by the applicant or his agent, of explosives or substances that may be used to manufacture explosives, constitutes a hazard to the public safety.

Sec. 566. Bond. Prior to the issuance of any permit, the Superintendent may require the giving of a bond to guarantee payment of the damages that may occur through the use and handling of explosives or substances that may be used to manufacture explosives. The Superintendent shall fix the sum to which said bond shall amount and the time during which same shall be kept in effect. It is provided, however, that the bond shall never exceed \$20,000 nor shall it be a requisite to keep it in effect for a period of more than two (2) months, once the permit has expired or has been revoked. The Superintendent is hereby authorized to prescribe by regulations everything relative to the furnishing of bonds.

Sec. 567. Renewal and extension of permits. Every person interested in renewing any permit issued under the provisions of this chapter and its regulations, shall follow the proceeding prescribed for the application of permits. The Superintendent

may extend the term of effectiveness of a permit as provided by regulation.

Sec. 568. Suspension or revocation of permit. The Superintendent may revoke or suspend the permit when, in his judgment, the person to whom it was issued or his agent, have violated its terms or any of the provisions of this chapter or of its regulations, or when the manner in which said person or his agent or agents use, sell, store, transport or otherwise handle or dispose of the explosives or substances that may be used in the manufacture of explosives, constitutes a hazard to the public safety.

Sec. 569. Fees. The Superintendent shall collect a fee of five (5) dollars for each permit issued in accordance with the provisions of this chapter or regulations thereof.

Sec. 570. Sale or conveyance of explosives or substances that may be used to manufacture explosives; record. No person shall sell, donate, deliver or otherwise convey the possession of explosives or substances that may be used to manufacture explosives, to a person who does not have a permit issued in accordance with the provisions of this chapter and its regulations.

Every person who sells, donates, delivers or otherwise conveys the possession of explosives or substances that may be used to manufacture explosives shall keep in his principal office or in the place of his business, a journal or book of record where there shall be clearly stated in writing a brief statement of each transaction or delivery in which shall be included:

(1) The date of transaction;

(2) The kind and quantity of explosives or substances that may be used to manufacture explosives, the object of the transaction or delivery;

(3) The name and address of the acquirer; and the name and address of the agent receiving said explosives or substances, if any;

(4) The name and address of the public carrier who transports the explosive or substance that may be used to manufacture explosives, and the number of the license plate of the vehicle to be used;

(5) The use that the acquirer or his agent state that shall be given to the explosive or substance that may be used to manufacture explosives;

(6) The permit number for receiving such substances;

(7) Any other pertinent information that the Superintendent may deem necessary to comply with the purposes of this chapter, as provided by regulations.

Both the acquirer or his agent, as the person who conveys or delivers said explosives or substances shall sign the statement

of the transaction made in the journal or book of record.

Said journal or book of record shall be kept for a period of not less than 3 years reckoning from the date of the last transaction.

Sec. 571. Inspection, reports. The journal or book of record required in the above section may be inspected by any officer duly authorized by the Superintendent. Any person who sells, donates, delivers or otherwise conveys in Puerto Rico explosives or substances that may be used to manufacture explosives, shall render monthly reports to the Superintendent, as the latter may provide by regulations, of each and every one of the transactions or deliveries wherein shall be included all the data appearing in the journal or book of record.

Sec. 572. Importers, dealers, distributors and retailers. Every importer, wholesale dealer, distributor or retailer who sells or offers for sale in Puerto Rico, explosives or substances that may be used to manufacture explosives, shall keep a journal or book of record where he shall clearly enter a brief statement of each shipment or cargo he receives. The Superintendent shall prescribe by regulations the information that shall be stated in said journal or book of record and the time during which same shall be kept. The provisions of section 571 of this title shall apply to that herein provided.

The Superintendent may require, if he deems it necessary for the purposes of this chapter, that every importer, wholesale dealer, distributor or retailer who sells or offers for sale, in Puerto Rico, explosives or substances that may be used to manufacture explosives, to keep a perpetual inventory of same.

Sec. 573. Encasement and containers. Except only in the factory or while being exploded by an authorized person, no person shall possess, transport or store explosives, unless such explosives are completely enclosed or encased in tight metal, wooden or fibre containers or in any other container approved by the Interstate Commerce Commission of the United States of America.

No person having explosives in his possession or control, shall, under any circumstances, permit any grains or particles of it to remain on the outside of, or about its container.

Every container shall be duly marked with the name and quantity of the explosive contained therein.

Sec. 574. Storage. Except while being transported or blasted or while in the custody of a common carrier awaiting shipment or delivery to a consignee as provided by regulations, every explosive shall be stored

in magazines in accordance with this chapter and its regulations. The Superintendent shall regulate everything relative to the storage of the substances that may be used to manufacture explosives.

Sec. 575. Blasting or detonating caps. Every person having in his possession or under his control blasting or detonating caps shall keep same in safe and duly closed receptacles or containers, as provided by regulations, except when the latter are being sold, transported or used, in which case the pertinent safety measures shall be taken to avoid blastings that may endanger the safety of persons and properties and to avoid that said articles pass to persons not authorized to possess them.

Every person having in his possession or under his control blasting or detonating caps in quantities of one thousand or over, shall keep or store them in magazines where no explosives or substances that may be used to manufacture explosives are stored.

Sec. 576. Magazines, regulations. The Superintendent shall prescribe, by regulations, everything relative to the construction, location, permit and precautions to be taken near magazines.

No person shall store or keep explosives or blasting or detonating caps in magazines which have not been duly inspected, and for which no permit has been issued by the Superintendent.

Sec. 577. Transportation. The Superintendent shall, upon taking into consideration the purposes of this chapter, regulate everything relative to the transportation of explosives and substances that may be used to manufacture explosives and blasting and detonating caps. The Superintendent may exempt common carriers duly authorized to transport explosives or substances that may be used to manufacture explosives to comply with the provisions of sections 570 and 571 of this title.

Sec. 578. Abandonment of explosives. No person shall abandon or dispose of explosives or substances that may be used to manufacture explosives in a manner as to endanger and threaten the public safety. Every person having in his possession or under his control explosives or substances that may be used to manufacture explosives and who does not have any use for them, shall deliver them to any person duly authorized to receive them or to destroy them in a safe manner as provided by regulations.

Sec. 579. Theft or loss of explosives. Every theft or loss of explosives or substances that may be used to manufacture explosives shall be, forthwith, reported to the Police by the person or persons in charge

or control of the explosives or substances that may be used to manufacture explosives.

Sec. 580. Entrance to places containing explosives. No person, with the exception of the owner, his agent, persons authorized by the latter, or the Superintendent, shall enter a factory, magazine or vehicle containing explosives.

Sec. 581. Persons under 18 years of age. No explosives or substances that may be used to manufacture explosives shall be sold, transferred or delivered to any person under 18 years of age, although such person acts on his own or in behalf of another person.

Sec. 582. Use of firearms. No person shall discharge a firearm at a distance of less than 500 feet from a magazine or factory or in the direction or aiming at any of said buildings.

Sec. 583. Reconsideration and review. Any person aggrieved by any order or decision issued by the Superintendent under the provisions of this chapter or regulations thereof, and any person aggrieved by seizure or confiscation made by the Superintendent may petition for a reconsideration before the Superintendent within 10 days reckoning from the date in which the notice of the decision or order or the seizure or confiscation is received. The Superintendent shall prescribe by regulations the manner in which said reconsideration hearing shall be held, granting thereby to the person applying therefor the right to be assisted by counsel, to produce and cross-examine witnesses and to produce evidence. Every person not in accordance with the decision issued by the Superintendent, after the holding of the hearing, or to whom same is denied, may petition for a review of the Superior Court, which court may, in the use of its discretion, grant or refuse same. The petition for review shall be filed within a term of 30 days reckoning from the date of the receipt of the notice of the decision of the Superintendent. A copy of said petition shall be notified to the Superintendent, who shall certify and file with the Court a copy of the record of the case.

The filing of the petition for reconsideration or review shall not stay the effects of the order, decision, seizure or confiscation challenged.

Sec. 584. Administration and regulation. The Superintendent shall administer the provisions of this chapter and shall promulgate the rules and regulations as may be necessary to execute its provisions, including such regulations as may be necessary to safeguard the public safety and to prevent that substances governed by this chapter be

used for purposes other than those authorized.

In the use of his discretion, the Superintendent, by regulations, may exempt from the provisions of this chapter or the regulations thereof, any sector of the industry or commerce, when compliance of such provisions by said sector of the industry or commerce is unnecessary to attain the purposes of this chapter.

Sec. 585. Investigation powers. For the purposes of administering and seeing to the compliance of this chapter and the regulations thereof, the Superintendent is hereby empowered to carry out the investigations he may deem advisable; and to this end, he may examine witnesses and may subpoena witnesses to testify and produce documents, books, papers or any other tangible property containing relevant evidence.

If any summons issued in accordance with the provisions of this chapter are not complied with, the Superintendent may appeal before the Superior Court of Puerto Rico and demand that it order the compliance of the summons. The Superior Court shall give preference to the proceeding of said petition and may issue an order compelling the appearance of witnesses or the production of documents or evidence previously required by the Superintendent. The Superior Court shall have power to punish for contempt disobedience to these orders.

Sec. 586. Penalty for unlawful use. Any person using explosives or any substance that may be used to manufacture explosives for the unlawful purpose of inflicting bodily injury or to terrify any person or to injure or destroy any property or to damage same in any manner, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in jail for a term of not less than five (5) years nor more than twenty-five (25) years.

Sec. 587. Possession for unlawful purposes; penalty. Any person having in his possession any explosive or substance that may be used to manufacture an explosive or any object that may be used for blasting or for manufacturing explosives or bombs, such as a fuse, battery, watch, acid, blasting or detonating cap, or any other that may serve for analogous purposes, with the intention of using it to inflict bodily injury or to frighten any person or to damage or destroy any property or to cause damage to same in any manner, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in jail for a term of not less than two (2) years nor more than twenty (20) years.

Sec. 588. Unlawful possession. Any person having unlawfully in his possession explosives or any substance that may be used to manufacture explosives for purposes other than those provided in the above section shall be guilty of a misdemeanor and upon conviction thereof, punished by a fine of not less than five hundred (500) dollars nor more than two thousand (2,000) dollars or imprisonment in jail for a term of not less than thirty (30) days nor more than one (1) year or both penalties in the discretion of the court.

Sec. 589. Possession with prima facie evidence for unlawful intention. In the trial of any person accused of having committed any of the offenses set forth in section 587 of this title, if the unlawful possession of explosives or of a substance that may be used to manufacture explosives, is proved, said proof shall be prima facie evidence that the defendant committed the crime or crimes charges and the burden of proof to show the contrary shall fall upon the defendant.

Sec. 590. Other penalties. Any violation to the provisions of this chapter and the regulations thereof unless otherwise provided therein, shall constitute a misdemeanor and any misdemeanor to the provisions of this chapter for which no other penalty has been provided, shall be punishable by a fine of not more than two thousand (2,000) dollars or imprisonment in jail for a term of not more than one (1) year, or both penalties, in the discretion of the court.

Sec. 591. False information on proposed use. Any person who in violation of the provisions of this chapter, shall furnish false information as to the use which he proposes to give to the explosive or substance that may be used to manufacture explosives, shall incur in a misdemeanor. A use different from that set forth in the journal or books of record established in section 570 of this title shall constitute prima facie evidence of the falsehood of the information furnished.

Sec. 592. Seizure. The Secretary of Justice shall seize every vehicle, mount, vessel or plane in which there is loaded, unloaded, transported, carried or transferred, which is used for loading, unloading, transporting, carrying or transferring, or which is caught loaded, or at the time of loading or unloading, or when transporting or carrying or transferring any explosive or substance that may be used to manufacture explosives in violation of the provisions of this chapter or of the regulations thereof.

For the seizure and disposal of vehicles, mounts, vessels or planes the proceeding established by the act known as the "Uni-

form Vehicle, Mount, Vessel and Plane Seizure Act", Act No. 39 of June 4, 1960, sections 1721 and 1722 of Title 34, shall be followed.

Sec. 593. Seizure for unlawful possession. Any explosive or substance that may be used to manufacture explosives and any blasting or detonating caps that may be manufactured, used, possessed, stored, transported, sold or in any manner transferred in Puerto Rico in violation of the provisions of this chapter or its regulations

shall be seized and confiscated by the Superintendent.

Any person affected by the seizure or confiscation may petition for reconsideration and review of the decision of the Superintendent following the proceeding established in section 583 of this title.

The Superintendent shall dispose of the substance seized or confiscated, as provided by regulations, in such a manner as not to constitute a danger or threat to the public safety.

Rhode Island

GENERAL LAWS OF RHODE ISLAND

11-13-8. Delivery or transportation of unmarked explosives or inflammable substances. Every person who shall knowingly deliver or cause to be delivered to any person or carrier any box, can or other package of nitroglycerine, gunpowder, naphtha or other equally inflammable and explosive substance, material or fluid, not marked with a plain and legible label describing its contents, or who shall remove or cause to be removed any such label or mark, or who shall carry or cause to be carried on any vessel, car or vehicle operated in the transportation of passengers by a common carrier, which vessel, car or vehicle is carrying passengers for hire, any box, can or other package of nitroglycerine, gunpowder, naphtha, gun cotton or substance or material containing gun cotton, or any other equally inflammable and explosive material, substance or fluid, shall be fined not more than ten thousand dollars (\$10,000) or imprisoned not more than five (5) years.

11-47-21. Restrictions on possession or carrying of explosives or noxious substances. Any person, except a member of the state police, the sheriff or his deputies, or a member of the police force of any city or town, or a member of the army, navy, air force, or marine corps of the United States, or of the national guard or organized reserves when on duty, who possesses, or carries on or about his person or in a vehicle, a bomb or bombshell, except for blasting or other commercial use, or who, with intent to use the same unlawfully against the person or property of another, possesses or carries any explosive substance, or any noxious liquid, gas or substance, shall be guilty of a

violation of this chapter and punished as hereinafter provided.

12-1-10. Duty of police officials to furnish fingerprints and stolen property lists. It shall be the duty of the superintendent of state police and of the superintendents or chiefs of police or town sergeants of each city or town, hereinafter referred to as police officials, to promptly furnish to the attorney-general fingerprints and descriptions of all persons arrested, who, in the judgment of such police officials, are persons wanted for serious crimes, or who are fugitives from justice, and of all persons in whose possession at the time of arrest are found goods or property reasonably believed by such police officials to have been stolen by such persons; and of all persons in whose possession are found burglar outfits or tools or keys or who have in their possession explosives reasonably believed to have been used or to be used for unlawful purposes, or who are in possession of infernal machines, bombs, or other contrivances in whole or in part and reasonably believed by said police officials to have been used or to be used for unlawful purposes, and of all persons who carry concealed firearms or other deadly weapons reasonably believed to be carried for unlawful purposes or who have in their possession inks, dye, paper or other articles necessary in the making of counterfeit bank notes, or in the alteration of bank notes; or dies, molds or other articles necessary in the making of counterfeit money, and reasonably believed to have been used or to be used by such persons for such unlawful purposes. This section is not intended to include violators of city or town ordinances or of persons

arrested for similar minor offenses. It is also made the duty of said police officials to furnish said department daily copies of the reports received by their respective offices of lost, stolen, found, pledged or pawned property.

Chapter 28.28— Explosives

23-28.28-1. Definition of terms—As used in this chapter. (a) "Explosives" means gunpowders, powders used for blasting, high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powder and any chemical compound or any chemical mixture containing any oxidizing and combustible units, or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion or detonation of any part thereof may and is intended to cause an explosion but shall not include petroleum products, turpentine, acetone, ethyl, ether and benzol. Fire-crackers, matches; empty cartridge shells, primed; percussion caps, small-arms ammunition, small arms primers and smokeless powder for small arms shall not be held to be explosives when the individual units contain any of the above-mentioned articles in such limited quantity or of such nature and in such packing that it is impossible to produce an explosion of such units to the injury of life, limb or property.

(b) "Person" includes any natural person, partnership, association or corporation.

(c) "Manufacturer" means any person who is engaged in the manufacture of explosives or who otherwise produces any explosives. Persons reloading small-arms ammunition shall not be considered as manufacturers.

(d) "Dealer" means any person, not a manufacturer, engaged in the business of buying and selling explosives other than empty cartridge shells, primed; percussion caps, small-arms ammunition, small-arms primers and smokeless powder for small arms.

(e) * * *

23-28.28-2. License required. No person shall manufacture or deal in explosives, and no person shall possess explosives other than empty cartridge shells, primed; percussion caps, small-arms ammunition, small-arms primers and smokeless powder for small arms or black powder in excess of five (5) pounds unless he has obtained a license therefor pursuant to the provisions of Sections 23-28.28-3 to 23-28.28-5, inclusive.

23-28.28-3. Manufacturing license. Application for a license to manufacture explosives, shall be made to the licensing authority of any city or town in such form as the attorney-general shall prescribe; and shall state, among other things: * * * (5) if the applicant is an association or corporation the names and addresses of the officers and directors thereof and their citizenship.

The licensing authority of said city or town shall issue the license applied for unless he finds that either the applicant, or the officers, agents or employees of the applicant has been convicted of a crime involving moral turpitude, or is disloyal to the United States.

23-28.28-4. Dealers' licenses. Application for licenses to engage in the business of dealing in explosives other than empty cartridge shells, primed; percussion caps, small-arms ammunition, small-arms primers and smokeless powder for small arms shall be made to the licensing authority in the city or town in which the applicant conducts his business, in such form as the attorney general shall prescribe and shall state among other things:

- (1) the name and address of the applicant;
- (2) the reason for desiring to engage in the business of dealing in explosives;
- (3) citizenship, if an individual application;
- (4) if a partnership, the names and addresses of the partners and their citizenship, and
- (5) if an association or corporation, the names and addresses of the officers and directors thereof, and their citizenship.

Said licensing authority shall issue the license applied for only to established businesses for use at their place of business unless he finds that either the applicant or the officer, agents or employees of the applicant have been convicted of a crime involving moral turpitude, or are disloyal to the United States.

23-28.28-5. License to possess explosives. Application for license to possess explosives other than empty cartridge shells, primed; percussion caps, small-arms ammunition, small-arms primers and smokeless powder for small-arms, or black powder in excess of five (5) pounds, shall be made in writing to the licensing authority of the city or town in which the applicant resides or has his regular place of business, in such form as the attorney general shall prescribe and shall state among other things:

- (1) the name and address of the applicant
- (2) the reason for desiring the license to possess explosives

(3) his citizenship, if the applicant is an individual

(4) if the applicant is a partnership, the names and addresses of the partnership, and their citizenship, and

(5) if the applicant is an association, the names and addresses of the officers and directors thereof and their citizenship.

Said licensing authority shall issue the license applied for unless he finds that either the applicant or the officers, agents or employees of the applicant have been convicted of a crime involving moral turpitude or is disloyal to the United States, and provided, further, that no license shall be issued to any person under the age of eighteen (18) years.

23-28.28-9. Records of shipments, sales and purchases. Manufacturers and dealers shall keep a record of all class A and class B explosives shipped, purchased or sold by them, which records shall include the name and address of each consignee, vendor or vendee, the date of each shipment, sale or purchase and the amount and kind of explosives shipped, sold or purchased. Such record shall be open for inspection by duly authorized agents of the governor and by all federal, state and local law enforcement officers during normal business hours.

23-28.28-10. Sale to unlicensed persons prohibited. No dealer shall sell, barter, give or dispose of class A or class B explosives to any person who does not hold a license to possess explosives issued under the provisions of this chapter.

23-28.28-11. Appeals to fire safety code commission. Any person aggrieved by any order of a licensing authority in refusing a license or in revocation of a license may appeal thereon to the fire safety code commission by filing within ten (10) days of the date of such order of the licensing authority a petition with said commission stating the grounds upon which the appeal is taken. Upon the filing of such petition, the commission shall cause thirty (30) days' notice of the pendency thereof to be given to the licensing authority by serving the licensing authority, in the manner in which subpoenas in equity are served with a certified copy of such petition and such petition shall follow the course of equity so far as the same is applicable; and upon hearing such petition the commission may review the information upon which the order of the licensing authority, and the taking of such appeal shall operate as a stay of the order of the licensing authority from which appeal is taken, and such stay shall remain in full force and effect during the pendency of the appeal.

23-28.28-12. Penalty for violations.

Any person who violates any provision of this chapter shall, upon conviction, be imprisoned for a term of not more than six (6) months, or shall be fined not more than one thousand dollars (\$1,000), or both.

23-28.28-15. Definitions. * * * *

(b) "Low explosives," any explosive which cannot be detonated by a commercial blasting cap, and shall include sporting cannon, and blasting powders, flash powder sheets in bulk, flash powders packed in inner units exceeding two (2) ounces each, and flash [powder] or spreader cartridges exceeding seventy-two (72) grains each.

(c) * * * *

23-28.28-16. Classification. In this chapter explosives are classed as: (A) dangerous explosives, (B) less dangerous explosives, and (C) relatively safe explosives.

Class A (dangerous explosives) shall include: Ammunition for cannon with explosive projectiles; ammunition for cannon with gas projectiles; ammunition for cannon with smoke projectiles; ammunition for cannon with incendiary projectiles; black powder, except in manufacturers containers, not exceeding one (1) pound in capacity, and limited to five (5) one (1) pound containers in a person's possession, and except persons holding either manufacturer's or dealer's license; blasting caps in quantity exceeding 1,000 caps in the aggregate; blasting caps with safety fuse in quantity exceeding one thousand (1,000) caps in the aggregate; electric blasting caps in quantity exceeding one thousand (1,000) caps in the aggregate; boosters (explosive); detonating fuses; explosive bombs; explosive mines; explosive projectiles; explosive torpedoes; hand grenades; high explosives; low explosives; rifle grenades; wet fulminate of mercury.

Class B (less dangerous explosives) shall include: Ammunition for cannon with empty projectiles; ammunition for cannon with sand-loaded projectiles; ammunition for cannon with solid projectiles; ammunition for cannon without projectiles; smokeless powder for cannon; smokeless powder for small arms, in quantities exceeding one hundred (100) pounds.

Class C (relatively safe explosives) shall include: Blasting caps in quantity not exceeding one thousand (1,000) caps in the aggregate; blasting caps with safety fuse in quantity not exceeding one thousand (1,000) caps in the aggregate; electric blasting caps in quantity not exceeding one thousand (1,000) caps in the aggregate; cannon prim-

ers; combination fuses; combination primers; cordeau detonant; delay electric igniters; electric squibs; empty cartridge bags—black-powder igniters; empty cartridge shells, primed; empty grenades, primed; fuse igniters; fuse lighters; instantaneous fuses; percussion caps, percussion fuses; safety squibs; small-arms ammunition; small-arms primers; time fuses; tracer fuses; smokeless powder for small arms in quantities not exceeding one hundred (100) pounds, and in individual manufacturer's containers of not more than eight (8) pounds each in a person's possession.

23-28.28-19. Storage of explosives on land. (a) * * * * (g) Liquid nitroglycerin shall not be stored, except in the form of the official United States Pharmacopoeia solution, and may be kept in a weak solution of not more than one per cent (1%) for medicinal use. * * * *

23-28.28-23. Keeping for sale of explosives. (a) Gunpowder, not in excess of ten (10) one pound canisters or fifteen (15) eight ounce canisters of each type, and in original packages, may be kept for sale by a dealer. Wholesalers shall be limited to the amounts of smokeless powder for small arms specified under class C in Section 23-28.28-16.

(b) Detonators or primers, not in excess of fifty thousand (50,000) of each type, and in original packages, may be kept for sale by a dealer. Wholesalers may keep for sale, primers not in excess of five hundred thousand (500,000) total, and in original packages.

(c) * * * *

23-28.28-27. Notification of change in personnel. In the event there is any change in the personnel of the licensee whereby any officer, director or partner is added to the personnel of the licensee or whereby any agent or employee handling explosives is added to the personnel of the licensee, such licensee shall immediately notify the authority which issued the license of such change in personnel.

23-28.28-28. Certificate of competency to conduct blasting operations—Application—Fee—Examination—Issuance—Duration—Expiration—Renewal—Duplicate. No person shall conduct blasting operations unless he holds a certificate of competency issued by the fire marshal. Any person desiring to obtain a certificate of competency to conduct blasting operations shall make application to the fire marshal. A fee of twenty dollars (\$20.00) shall accompany each application, ten dollars (\$10.00) of which shall be for the examination and ten

dollars (\$10.00) shall be for the certificate if issued. The application shall be in such form and contain such information as the state fire marshal may require. Within three (3) months after the date of receipt of his application, the applicant shall be examined as to his experience and ability to conduct blasting operations, and if found by the examiner to be qualified, he shall forthwith be issued a certificate of competency. Said certificate shall be valid throughout the state until the date of birth of the licensee occurring more than twelve (12) months but not more than twenty-four (24) months after the effective date of such license and may be renewed after its expiration without examination upon the payment of a fee of ten dollars (\$10.00). If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-

ninth shall, for the purposes of this section, expire on March first. If the applicant fails to qualify, five dollars (\$5.00) of the fee paid with his application shall be refunded to him. A holder of a certificate of competency to conduct blasting operations whose certificate is lost, misplaced or stolen may obtain a duplicate certificate from the state fire marshal upon the payment of one dollar (\$1.00).

23-28.28-29. Bond for blasting operations in more than one place. If the applicant for a permit to possess or to use an explosive in the blasting of rock or any other substance desires to conduct blasting operations in more than one city or town in the state he may, instead of filing a bond with the clerk of each city or town in which such operations are to be conducted, file a bond with the state treasurer in the penal sum of fifty thousand dollars (\$50,000), running to the state, with sureties approved by the state treasurer, and for such additional penal sum as the fire marshal shall determine to be necessary to cover the losses, damages or injuries that might ensue to persons or property by reason thereof.

South Carolina

CODE OF LAWS OF SOUTH CAROLINA

Certain Offenses on Capitol Grounds and in Capitol Building.

Sec. 1-425.1. Carrying, etc., dangerous weapon, explosive or incendiary device.

It shall be unlawful for any person or group of persons: (a) to carry or have readily accessible to the person upon the capitol grounds or within the capitol building any firearm, dangerous weapon, explosive or incendiary device; (b) to discharge any firearm or explosive or to use any dangerous weapon or to ignite any incendiary device upon the capitol grounds or within the capitol building; or (c) to transport by any means upon the capitol grounds or within the capitol building any explosive or incendiary device.

Offenses Against Property

General Provisions

Sec. 16-302. Making, mending or possessing tools, etc., to be employed in crime. A person who makes or mends, causes to be made or mended or has in his possession in the day or nighttime any engine, machine, tool, false key, picklock, bit, nippers, nitroglycerine, dynamite cap, coil or fuse, steel wedge, drill, tap-pin or other implement or thing adapted, designed or commonly used for the commission of burglary, larceny, safecracking or other crime, under circumstances evincing any intent to use or employ or allow the same to be used or employed in the commission of a crime or knowing that

the same are intended to be so used shall, upon conviction, be guilty of a misdemeanor. In either case he shall, upon conviction, be punished at the discretion of the court.

Motor Vehicles

Definitions

Sec. 46-233. Explosives. An "explosive" is any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Municipal Corporations

Sec. 47-1159. Amount of explosives, etc., that may be kept. Explosives, inflammable liquids and matches may be kept within the corporate limits only in such quantities and in such manner as shall not cause an increase in the insurance rate on any property affected thereby.

Carriers Generally

Explosives

Sec. 58-611. "Explosive compound" defined. By the words "explosive compound," as used in this article, shall be understood gun cotton or nitroglycerine or any other compound of either thereof, and fulminate or, generally, any substance intended to be used, by exploding or igniting it, to produce a force to propel missiles or to rend apart substances, except gunpowder.

Sec. 58-612. Explosives to be packed, marked, etc. No person shall deliver for transportation to any railroad corporation, or other person engaged in the transportation of passengers within this State or take or place upon or in any car, boat or other vehicle of any such corporation or person, with intent that it shall be carried or transported on such car, boat or other vehicle, any explosive compound unless it is packed and marked as herein provided and notice of the

dangerous nature thereof is expressly given to the agent, servant or person to whom it is delivered or to the agent, servant or person having at the time the management and control of the car, boat or other vehicle in or upon which it is to be carried or transported. And any common carrier may decline to receive for transportation any such explosive compound in any manner whatever.

Sec. 58-613. Transportation of explosive compounds. No railroad corporation or other person engaged in the transportation of passengers within this State shall knowingly transport within the territorial limits of this State or transport into such limits, for sale, storage or use therein, any explosive compound in quantities exceeding the amounts fixed by the rules hereinafter referred to in any vehicle containing passengers, or in any vehicle attached to any railroad train or vehicle conveying passengers nor in any case, unless such explosive compound be plainly and legibly marked with the name of such compound and the words "Explosive—Dangerous." The Public Service Commission, from time to time, shall make such rules fixing the maximum amounts of various explosive compounds which may be so carried in any public vehicle, in a railroad train containing passengers or in a vehicle attached to such train. Such rules shall also define the method of packing such compounds to ensure the greatest safety and shall prescribe how they shall be carried as freight on railroads and steamboats and by common carriers generally.

Sec. 58-614. Punishment for violation of provisions as to explosives. Whoever knowingly violates or knowingly causes or permits the violation of any provision of this article or knowingly transports or causes or permits the transportation of any explosive compound in any manner other than in conformity with the rules made by the Commission, shall be punished by a fine of not less than fifty dollars nor more than five thousand dollars or by imprisonment in the State prison not exceeding five years.

Sec. 58-615. Magistrates may issue search warrants for explosives. Upon complaint made under oath to a magistrate that the complainant has probable cause to believe, and does believe, that an explosive compound is had, kept or to be found in any city, town or other place within the jurisdiction of such magistrate by any railroad corporation, contrary to law, a warrant may issue directed to the sheriff of the county or his deputy or to any constable of such city or town, commanding him to enter any building, vehicle, ship or other vessel specified in the

warrant and there make diligent search for and seize such explosive compound and to make return of his doings to such magistrate forthwith.

Sec. 58-616. Explosives forfeited when seized. Any explosive compound had, kept or transported contrary to the provisions of this article and seized under Section 58-615 may be adjudged forfeited after due notice and hearing and may be ordered to be destroyed in such manner as the court or magistrate may direct.

Sec. 58-617. Damages for injury by explosives. Any person who shall suffer injury by the explosion of any explosive compound while it is being kept or transported contrary to the provisions of this article or the ordinances, rules or bylaws made in conformity thereto may recover damages for the injury thus sustained in an action against the person so violating the provisions of this article or the ordinances, rules or bylaws made in conformity therewith.

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Sec. 58-734. Placing explosives on railroad rails. It shall be unlawful for any unauthorized person to place any explosive substance whatever upon the rail of any railroad, whether operated by steam, electricity or otherwise, in this State and any person who violates the provisions of this section or aids or assists therein shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars or to imprisonment not exceeding thirty days, in the discretion of the court or magistrate.

Trade and Commerce

General Provisions

Sec. 66-4. Regulation of sale of explosives; reports. No person shall sell, deliver or dispose of dynamite or similar powerful explosives, except ordinary gunpowder, unless such person knows the purchaser or the person to receive such explosive and is satisfied that the explosive is not to be used for killing fish, and then only upon a written application from the person desiring to purchase, stating the purpose for which he desires to use such explosives. A person selling, delivering or disposing of such explosives shall keep a book in which shall be recorded the name of the purchaser or person to whom the explosive is delivered, the quantity sold or so delivered and the date of such sale or delivery. No sale shall be made to a person under the age of twenty-one or a person who has been convicted of a felony. Such person selling or keeping for sale the

explosives mentioned in this section shall make sworn quarterly reports of such sales, the name and race of the purchaser, the amount sold and the date of sale to the county auditor of each county. The auditor of each county shall forward a copy of all

reports to the South Carolina Law Enforcement Division. Any person violating this section shall be guilty of a misdemeanor, punishable by fine not to exceed one hundred dollars or imprisonment not to exceed thirty days.

South Dakota

SOUTH DAKOTA COMPILED LAWS

Chapter 22-14A

Explosives and Destructive Devices

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22-14A-1. Destructive device defined. The term "destructive device" shall be limited to the following:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including but not limited to, that which is commonly known as tracer or incendiary material or any other chemical substance, including but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than .60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designated primarily for emergency, distress signaling or hobby purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of one hundred and fifty degrees Fahrenheit or less and has a wick or similar device capable of being ignited.

(6) Any other thing that is designed for the purpose of harming any person or prop-

erty and contains any flammable material, or explosive as defined by Section 22-14A-2.

22-14A-2. Explosive defined. The term "explosive" shall mean any substance, or combination of substances, that is commonly used for the purpose of detonation and which, upon exposure to any external or internal force or condition, is capable of a relatively instantaneous release of gas and heat. The term "explosive" shall include, but shall not be necessarily limited to all of the following:

(1) Substances determined to be class A and class B explosives as classified by the United States department of transportation prior to July 1, 1972.

(2) Nitro carbo nitrate substances (blasting agent) as classified by the United States department of transportation prior to July 1, 1972.

22-14A-3. Fireworks not destructive device or explosive. A "destructive device" or "explosive" shall not include permissible fireworks enumerated and described in SDCL 34-37-5.

22-14A-4. Possession of destructive device as felony—Punishment. Any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a felony and may be punished by imprisonment in the county jail for a term not to exceed one year, or in the state penitentiary for a term not to exceed five years, or by a fine not to exceed five thousand dollars or by both such fine and imprisonment.

22-14A-5. Carrying or placing explosive or device on vehicle or in baggage—

Felony. Every person who willfully does any of the following is guilty of a felony.

(1) Carries any explosive or destructive device on any vessel, aircraft, motor vehicle, or other vehicle that transports passengers for hire.

(2) Places or carries any explosive or destructive device, while on board any such vessel, aircraft, motor vehicle, or other vehicle, in any hand baggage, roll, or other container with intent to conceal the same.

(3) Places any explosive or destructive device in any baggage which is later checked with any common carrier.

22-14A-6. Possession of explosive or device with intent to injure, intimidate or destroy property as felony. Every person who willfully has in his possession any explosive or destructive device with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony.

22-14A-7. Sale or transportation of destructive device as felony. Any person, firm or corporation who, within this state, sells, offers for sale, or knowingly transports any destructive device is guilty of a felony.

22-14A-8. Punishment for prohibited possession, sale or transportation. Every person who is found guilty of a felony in violation of Section 22-14A-5, Section 22-14A-6 or Section 22-14A-7 shall be imprisoned in the state penitentiary not to exceed ten years.

22-14A-9. Use of explosive or device with intent to injure as felony. Every person who willfully explodes, ignites, or attempts to explode or ignite any explosive or destructive device with intent to commit murder or bodily injury is guilty of a felony.

22-14A-10. Malicious use of device or explosive causing injury as felony. Every person who maliciously explodes or ignites any destructive device or explosive which causes bodily injury to any other person is guilty of a felony.

22-14A-11. Malicious use of device or explosive causing great bodily harm as felony. Every person who maliciously explodes or ignites any destructive device or explosive which causes mayhem or great bodily harm to any person is guilty of a felony.

22-14A-12. Punishment for prohibited uses to cause bodily injury. Any person guilty of a felony in violation of Section 22-14A-9, Section 22-14A-10 or Section

CONTINUED

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22-14A-11 shall be sentenced to the state penitentiary for a term of not more than twenty years.

22-14A-13. Unauthorized possession of substances with intent to make explosives as felony—Punishment. Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any explosive without first obtaining a valid permit from the state fire marshal to make such explosive, is guilty of a felony and may be imprisoned in the state penitentiary for a period not to exceed fifteen years.

22-14A-14. Possession of explosive by felon as felony—Punishment. Any person who has been previously convicted of a felony in this state or elsewhere and who possesses any explosive as defined by Sections 22-14A-2 and 22-14A-3 is guilty of a felony, and upon conviction thereof shall be sentenced to the state penitentiary for a term not to exceed five years.

22-14A-15. Possession of substances with intent to make destructive device as felony—Punishment. Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any destructive device, is guilty of a felony and may be imprisoned in the state penitentiary for a period not to exceed fifteen years.

22-14A-16. Armed forces and law enforcement agencies exempt. This chapter shall not apply to the armed forces of the United States, the national guard, any law enforcement agency or any officer, agent, employee or member thereof acting in a lawful capacity.

22-14A-17. Severability of provisions. If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this chapter is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

Public Health and Safety

Chapter 34-36

Explosives * * * * *

34-36-2. Registration of explosive sales required—Contents of entry—Non-compliance as misdemeanor. No person shall sell any dynamite or explosive as

defined by Sections 22-14A-2 and 22-14A-3, except ordinary gunpowder, to any person unknown to the seller unless introduced by some person known to the seller, and on every sale the seller shall, before delivery, make entry on a book kept for that purpose stating the date of sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is required, and the name of the person, if any, who introduced the purchaser. Any person failing to comply with this section shall be guilty of a misdemeanor.

34-36-3. Inspections by fire marshal. The state fire marshal is hereby authorized to make inspections of all buildings, areas or vehicles where the manufacture, storage, transportation or use of explosives is involved, in the interest of public safety.

34-36-4. Rules, regulations and standards of fire marshal. The state fire marshal is hereby authorized to adopt, in compliance with chapter 1-26, rules, regulations and standards in order to facilitate and implement the purposes of this chapter. Such rules, regulations and standards shall be in general conformity with regulations of the United States interstate commerce commis-

sion and the United States department of transportation and their successor agencies.

34-36-5. Orders of fire marshal requiring compliance with laws, rules and regulations. Whenever the state fire marshal or any deputy fire marshal shall find by inspection that the laws, rules and regulations have been violated, or defects of installation exist, he shall issue an order in writing requiring immediate and full compliance with the provisions of the state law and the rules and regulations adopted pursuant thereto.

34-36-6. Violation or interference with enforcement as misdemeanor. Any person, firm, partnership or corporation who shall violate any of the provisions of this chapter or the rules and regulations adopted pursuant thereto, or who shall fail or refuse to observe an order for the enforcement of said provisions or rules and regulations issued by duly authorized deputies or subordinates of the state fire marshal or who shall hinder or delay or interfere with any officer charged with the enforcement of this chapter in the performance of his duty, shall upon conviction thereof be guilty of a misdemeanor.

39-1401. Malicious injury to structures with explosives—Penalty. Any person who willfully and maliciously damages or destroys any dwelling, business house, building, outhouse or any other structure, the property of himself or of another, by the use of dynamite or any other explosive, shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the state penitentiary for a period of time not less than ten (10) years nor more than twenty-one (21) years.

39-1402. Malicious injury to personal property with explosive—Penalty. Any person who willfully and maliciously damages or destroys any personal property in excess of the value of twenty-five dollars (\$25.00), the property of himself or of another, by the use of dynamite or any other explosive shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the state penitentiary for a

period of time not less than ten (10) years nor more than twenty-one (21) years.

39-1403. Attempt to destroy property by placing explosives—Penalty. Any person who willfully and maliciously attempts to destroy any property as described by Sections 39-1401, 39-1402, by placing any dynamite, fuses, caps, or any other explosive in, on, or adjacent to, such property with the intention to eventually damage or destroy the same, shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the state penitentiary for a period of time not less than five (5) years nor more than ten (10) years.

39-1404. Storage of gunpowder—Penalty—Civil liability. No person shall, within the limits of any incorporated city or town, keep on hand, at any one time, either for sale or for his own use, more than fifty (50) pounds of gunpowder, guncotton, or any other explosive material.

Any person violating the provisions of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars (\$100); and is, moreover, liable in damages to any person who may be injured, either in person or property, in consequence thereof.

39-1405. Unauthorized possession, use or transportation—Definition of explosive. The term explosive or explosives, wherever used in Sections 39-1405--39-1412 shall be held to mean and include dynamite or its derivatives and shall include any chemical compound or chemical mixture that contains any oxidizing and combustible units, or other ingredient in such proportions that ignition by fire, friction, concussion, percussion, or detonation, may cause a sudden generation of gaseous pressures capable of producing conditions destructive to life or property; except it shall not mean to include the possession, transportation or use of small arms ammunitions and/or fireworks, gasoline or motor fuels.

39-1406. Unauthorized possession or transportation of explosives—Felony. Except as authorized by law or regulations of the state fire marshal, any person or persons who may be found to be in possession of or to have transported any explosive or explosives, or to have in possession or transported any component part of an explosive or explosives such as fuses, caps, detonators, wiring, or other means of creating an explosion or explosions of an illegal act capable of producing conditions destructive to life or property shall be deemed guilty of a felony.

39-1407. Possession, transportation or use of explosives—Conspiracy to commit illegal act capable of destroying life or property—Felony. Where two (2) or more persons enter into an agreement to commit an illegal act capable of producing conditions destructive to life or property by the possession or transportation or use of any explosive or explosives, or to have in possession or transported any component part of an explosive or explosives such as fuses, caps, detonators, wiring, or other means of creating an explosion or explosions of an illegal nature shall be deemed guilty of a felony.

39-1408. Penalty for unauthorized possession, transportation or use of explosives or conspiracy to commit illegal acts. Any person or persons who violates the provisions of Sections 39-1406 and 39-1407 shall be deemed guilty of a felony and upon conviction thereof shall be punishable by confinement in the state penitentiary for not

less than two (2) nor more than ten (10) years.

39-1409. Possession without compliance with regulations of state fire marshal deemed prima facie possession or transportation for illegal use. Any person or persons found to have in their possession or to be transporting explosive or explosives as defined in Section 39-1405 and who have not complied with the regulations of the state fire marshal in the keeping, storing, use, manufacture, sale, handling, transportation or other disposition of explosive or explosives shall be deemed to have the same in their possession, transportation, direction or control prima facie for the purpose of committing an illegal act, and it shall not be required of the state to prove what property or life might have been endangered thereby.

39-1410. Certificated common carriers exempt from law. The provisions of Sections 39-1405--39-1410 shall not apply to any common carrier certificated by the Tennessee public service commission or the interstate commerce commission.

39-1411. False and malicious reports of explosive in building or structure. Any person, who by verbal or written communication, falsely and maliciously reports, suggests or implies that a bomb or any similar device has been placed, or is located, in or near any building or structure; or who, by verbal or written communication, falsely and maliciously reports, suggests or implies that an explosion, detonation, or other occurrence capable of endangering life, limb or property is to, or may occur in or near any building or structure, shall be guilty of a felony.

Any person violating the provisions of this section shall be punished by imprisonment in the penitentiary for not less than one (1) year nor more than five (5) years.

39-1412. Willful injury by explosives—Penalty. Any person who shall willfully

and maliciously injure another by means of dynamite, fuses, caps, bombs, or any other explosive, with intent to cause death or great bodily harm, shall be deemed guilty of a felony and upon conviction shall be punished by confinement in the state penitentiary for a period of time not less than ten (10) years, nor more than twenty-one (21) years.

39-909. Manufacture or possession of explosives for burglarious purposes—Penalty. Any person who makes, manufactures, concocts, or has in his possession any explosive, percussion caps, or fuses, with burglarious intent, or who sells, offers for sale, or gives away any such explosive, knowing that they are to be used for burglarious purposes, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state penitentiary for not less than two (2) years nor more than ten (10) years.

Motor and Other Vehicles

59-801. Definitions. The following words and phrases when used in chapters 8 and 10 of this title shall, for the purpose of chapters 8 and 10 of this title, have the meanings respectively ascribed to them in this section. * * * * * **Explosives.** Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. * * * * *

Tennessee

TENNESSEE CODE ANNOTATED

Texas

TEXAS CODES ANNOTATED (VERNON'S)

Penal Code

Chapter 46. Weapons * * * * *

Sec. 46.01. Definitions. * * * * * (2) "Explosive weapon" means any explosive, incendiary, or poison gas bomb, grenade, rocket, or mine, that is designed, made, or

adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, and includes a device principally designed, made, or adapted for delivery or shooting an explosive weapon.
* * * * *

Sec. 46.06. Prohibited Weapons. (a) A person commits an offense if he intention-

ally or knowingly possesses, manufactures, transports, repairs, or sells: (1) an explosive weapon; (2) a machine gun; (3) a short-barrel firearm; (4) a firearm silencer; (5) a switchblade knife; or (6) knuckles.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a penal institution.

(c) It is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to the National Firearms Act, as amended.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct was incidental to dealing with a switchblade knife, springblade knife, or short-barrel firearm solely as an antique or curio.

(e) An offense under this section is a

felony of the second degree unless it is committed under Subsection (a)(5) or (a)(6) of this section, in which event it is a felony of the third degree.

Traffic Regulations

Art. 6701d. * * * * Sec. 8. (a) Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

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Utah

UTAH CODE ANNOTATED

Criminal Code

Explosives

76-10-301. Unlawful handling of explosives in city or town. Every person who makes or keeps gunpowder, nitroglycerin, or other highly explosive substance within any city or town, or who carries it through the streets thereof, in any quantity or manner prohibited by law or by any ordinance of the city or town, is guilty of a class B misdemeanor.

76-10-302. Marking of containers of explosives before transportation or storage. Every person who knowingly leaves with or delivers to another, or to any express or railway company or other common carrier, or to any warehouse or storehouse, any package containing nitroglycerin, dynamite, gun cotton, gunpowder, or other highly explosive compound, or any benzine, gasoline, phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled, stored, shipped, or transported, without plainly marking and indicating on such package the name and nature of the contents thereof, is guilty of a class B misdemeanor.

76-10-303. Powder houses. Every person who builds, constructs, or uses within 300 feet of any residence or traveled county road any powder house, magazine, or building in which powder, dynamite, or other explosive is kept in quantities exceeding 500 pounds is guilty of a class B misdemeanor; provided that this section shall not apply to any magazine maintained at any mine or stone quarry.

76-10-304. Marking of containers of explosives held for sale or use. It shall be a class A misdemeanor to sell or offer for sale or take or solicit orders of sale, or purchase or use, or have on hand or in store for the purpose of sale or use, any giant, hercules, atlas, venture or any other high explosive containing nitroglycerin, unless on each box or package and wrapper containing any such high explosive there shall be plainly stamped or printed the name and place of business of the person, partnership, or corporation by whom or by which it was manufactured, and the exact and true date of its manufacture, and the percentage of nitroglycerin or other high explosive contained therein.

76-10-305. Different dates on contain-

ers of explosives prohibited—Reuse of containers prohibited. It shall be unlawful for any person or persons, partnership, or corporation to have two or more different dates on any box or package containing giant, hercules, atlas, or venture, or any other high explosive containing nitroglycerin. It shall further be unlawful to use any box, package, or wrapper formerly used by any other person or persons, partnership, or corporation in the packing of such giant, hercules, atlas, venture, or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, hercules, atlas, venture, or other explosive containing nitroglycerin.

76-10-306. "Infernal machine" defined. An infernal machine is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical, or compound, or knife, loaded pistol, or gun, or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled, or opened, or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb, or property.

76-10-307. Infernal machine—Delivery to common carrier, mailing, or placement on premises. Every person who delivers or causes to be delivered to any express or railway company or other common carrier, or to any person, any infernal machine, knowing it to be such, without informing the common carrier or person of the nature thereof, or sends it through the mail, or throws or places it on or about the premises or property of another, or in any place where another may be injured thereby in his person or property, is guilty of a felony of the second degree.

76-10-308. Infernal machine—Construction or possession. Every person who knowingly constructs or contrives any infernal machine, or with intent to injure another in his person or property, has any infernal machine in his possession is guilty of a felony of the third degree.

76-10-309. Infernal machine—Venue of prosecution for shipping. Any person knowingly delivering any infernal machine to any railway, express, or stage company, or to any person or company whatever, for transmission to any person in another county may be prosecuted in the county in which he delivers it or in the county to which it is transmitted.

Vermont

VERMONT STATUTES ANNOTATED

Title Thirteen

Crimes and Criminal Procedure

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Chapter 29. Conspiracy

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Sec. 1401. Conspiracy to commit certain crimes. If three or more persons conspire together for the purpose and with the intent, violently and forcibly, to kill, maim or wound a person, or to rob a person, corporation or community, or to burn, blow up or otherwise destroy a bank building, store, factory, dwelling house or other building or depository of property, or a railroad car or engine, a vessel, steamboat or other water craft, finished or unfinished, for use in navigable waters, each person so offending shall be imprisoned not more than twenty years and fined not more than \$10,000.00.

Sec. 1402. Attempts. If three or more persons, acting in concert, with force and violence, attempt to kill, maim or wound a person, or to rob a person, corporation or community of money or other property, or to burn, blow up or otherwise destroy a bank building, store, factory, dwelling house, or other building or depository of property, or a railroad car or engine, or a steamboat, vessel or other water craft, finished or unfinished, for use in navigable waters, each person so offending shall be imprisoned for life or for not less than five years or fined not more than \$10,000.00.

Sec. 1403. Accessories deemed principals. A person who wilfully and knowingly aids, assists, counsels, advises and supports the commission of an offense named in sections 1401 and 1402 of this title, or, having knowledge thereof, does not disclose the same, shall be deemed to be a principal in the commission of such offense and shall be punished as such.

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Chapter 37. Explosives

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Sec. 1601. Wilful and malicious injuries caused by explosives. A person who wilfully and maliciously, by the explosion of gunpowder or any other explosive substance, unlawfully destroys or injures a dwelling house, office, shop or other building, or a ship, vessel, or a dam or reservoir for

storing water, shall be imprisoned not more than twenty years or fined not more than \$1,000.00

Sec. 1602. Attempts. A person who wilfully and maliciously throws into, against or upon, or puts, places or explodes, or causes to be exploded, in, upon or near a dwelling house, office, shop, building, ship, vessel, or any dam or reservoir for storing water, gun powder or other explosive substance, or a bombshell, torpedo or other instrument filled or loaded with an explosive substance, with intent unlawfully to destroy or injure such dwelling house, office, shop, building, ship, vessel or any dam or reservoir for storing water, or any person or property therein, shall be imprisoned not more than ten years or fined not more than \$500.00.

Sec. 1603. Definitions. For the purposes of this chapter:

(1) "Destructive device" means any:

(A) explosive, incendiary or poison gas bomb; or

(B) explosive, incendiary or poison gas grenade; or

(C) explosive, incendiary or poison gas rocket having a propellant charge of more than four ounces; or

(D) explosive, incendiary or poison gas missile having an explosive or incendiary charge of more than one-quarter ounce; or

(E) explosive, incendiary or poison gas mine; or

(F) device 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, and can be carried or thrown by one individual acting alone; or

(G) device similar to those devices enumerated in paragraphs (1), (A)-(E) of this section.

A destructive device does not include a firearm or ammunition therefor.

(2) "Explosive" means dynamite, or any explosive compound of which nitroglycerin forms a part, or fulminate in bulk or dry condition, or blasting caps, or detonating fuses, or blasting powder or any other similar explosive. The term does not include a firearm or ammunition therefor or any components of ammunition for a firearm including primers, smokeless powder or black gunpowder.

Sec. 1604. Possession of destructive devices. A person who manufactures, pos-

sesses, stores or transports a destructive device shall be imprisoned for not more than 10 years or fined not more than \$5,000.00 or both.

Sec. 1605. Injuries caused by destructive devices. A person who purposely and maliciously uses a destructive device to injure a person or to damage or destroy the property of another shall be imprisoned for not more than 20 years or fined not more than \$10,000.00 or both.

Sec. 1606. Possession and use of explosives. A person who possesses, purchases, stores, uses or transports an explosive without a license as provided in chapter 177, subchapter 2, division 2 of Title 20 shall be imprisoned for not more than 5 years or fined not more than \$1,000.00 or both.

Sec. 1607. Sale of explosives. A person who gives, transfers or sells an explosive to another who does not hold a license issued under chapter 177, subchapter 2, division 2 of Title 20 shall be imprisoned for not more than 5 years or fined not more than \$1,000.00 or both.

Sec. 1608. Injuries caused by explosives. A person who purposely and maliciously uses an explosive to injure a person or to damage or destroy the property of another shall be imprisoned for not more than 20 years or fined not more than \$10,000.00, or both.

Sec. 1609. Record of sale. (a) A person may not give, transfer or sell an explosive to another unless the purchaser exhibits a valid license issued under chapter 177, subchapter 2, division 2 of Title 20.

(b) A person who gives, transfers or sells an explosive to another shall record the name and address of the purchaser, the license number of the purchaser, the date of sale, the type and quantity of explosives sold, the serial or lot number of the explosives, if any, and the purpose for which the explosive is to be used on forms provided by the commissioner of public safety. The purchaser holding a license shall keep a record of each purchase made and the disposition of the explosives, giving a full report without delay but in no event later than twenty-four hours after discovery of the loss or theft of any of such explosives to the commissioner of public safety. The records shall be kept by the seller and the purchaser for a period of two years and shall be open to inspection by any law enforcement officer.

(c) A person who violates a provision of this section shall be imprisoned for not more than five years or fined not more than \$1,000.00 or both.

Sec. 1610. Purchase in contiguous states. Any person holding a valid license

under chapter 177, subchapter 2, division 2 of Title 20 may purchase explosives in any state contiguous to this state and transport them into this state, provided that he furnishes a record of each purchase to the commissioner of public safety within fifteen days of the transportation of the explosives into this state, and that he comply with both the laws applicable to the purchases in the contiguous state, and the pertinent statutes of the United States government.

Sec. 1611. Exemptions. (a) Nothing contained in this chapter shall apply to the armed forces of the United States, the duly authorized militia of the state, the fire or police departments of this state, or to the state or any subdivision thereof.

(b) Nothing contained in this chapter shall apply to destructive devices or explosives while being transported upon vessels, motor vehicles or railroad cars in conformity with the regulations adopted by the interstate commerce commission.

(c) The provisions of section 1604 of this title do not apply to a person who holds a valid license issued under Title 18 of the United States Code, chapter 44, to manufacture, possess, use, store or transport a destructive device provided he is complying with the terms of the license.

Title Twenty-One

Labor

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Chapter 3. Safety

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Sec. 261. Definitions. As used in this subchapter:

(1) "Explosive materials" includes "explosives", "explosive materials", "blasting agent" and "detonator", as defined in section 841 of Title 18 of the United States Code, as amended at any time, and regulations promulgated thereunder;

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Sec. 262. Rules and standards. Without limiting his authority to make rules and set standards under subchapter 5 of this chapter, the commissioner ("Commissioner" means the commissioner of labor and industry) may promulgate rules and standards for explosion prevention, fire prevention and public safety with respect to the safekeeping, storage, use, manufacturing, sale, handling, transportation and other disposition of explosive materials, flammable materials, hazardous materials, petroleum and petroleum products. He may prescribe the location, materials and construction of buildings

and other facilities to be used for such purposes.

Sec. 263. Seizure of materials. Without warrant the commissioner, a member of the state police, a sheriff, a deputy sheriff, police officer or constable may seize materials held by a person in violation of rules promulgated under this subchapter and hold the same subject to the order of the court taking jurisdiction of the offense.

Sec. 264. Orders. After an inspection the commissioner may issue an appropriate order to remove or abate a condition dangerous to persons or property involving explosive materials, flammable materials or hazardous materials. This order shall be served on the owner or occupant of the premises on which the condition exists.

Title Twenty

Internal Security and Public Safety

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Chapter 177. Explosives and Fireworks

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Sec. 3061. Possession. A person who keeps or suffers to be kept upon premises owned or occupied by him, within fifty rods of an inhabited building of another person, more than fifty pounds of gunpowder or nitroglycerine at one time, or more than one pound unless contained in sound canisters of tin or other metal, or a package containing more than fifty pounds of dynamite, shall be fined \$25.00, and \$25.00 additional for each day that it is so kept after notice from an inhabitant of such town to remove the same.

Sec. 3062. Unlawful transportation. (a) No person shall transport, carry or convey from one place in this state to another place in this state, dynamite, gunpowder, or other explosive on a vessel or vehicle of any description operated by a common carrier, which vessel or vehicle is carrying passengers for hire.

(b) No person shall transport, carry, or convey intrastate, liquid nitroglycerine, fulminate in bulk in dry condition, or other like explosive, on a vessel or vehicle of any description operated by a common carrier in the transportation of passengers or articles of commerce by land or water.

Sec. 3063. Lawful transportation. It shall be lawful to transport on such vessel or vehicle small arms, ammunition in any quantity, and such fuses, torpedoes, rockets, or other signal devices, as may be essential to

promote safety in operation; and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of a half pound each, and not exceeding twenty samples at one time in a single vessel or vehicle, but such samples shall not be carried in that part of a vessel or vehicle which is intended for transportation of passengers for hire. However, section 3062(a) of this title shall not be construed to prevent the transportation of military or naval forces with their accompanying munitions of war on passenger equipment, vessels, or vehicles.

Sec. 3064. Marking packages. Every package containing explosives or other dangerous articles when presented to a common carrier for shipment shall have plainly marked on the outside the contents thereof. No person shall deliver or cause to be delivered to a common carrier an explosive, or other dangerous article under a false or deceptive marking, description, invoice, shipping order, or other declaration, or without informing the agent of such carrier of the true character thereof, at or before the time such delivery for carriage is made.

Sec. 3065. Penalties. (a) A person who knowingly violates, or causes to be violated, a provision of sections 3062-3064 of this title, or a regulation made by the public service commission in pursuance thereof, shall be imprisoned not more than eighteen months, or fined not more than \$2,000.00, or both.

(b) When the death or bodily injury of a person is caused by the explosion of any explosive named in sections 3062-3064 and 3091-3092 of this title, while the same is being placed upon a vessel or vehicle to be transported in violation hereof, or while the same is being so transported, or while the same is being removed from such vessel or vehicle, the person who knowingly places, or aids or permits the placement of such explosives upon such vessel or vehicle to be so transported, shall be imprisoned not more than ten years.

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Sec. 3071. Possession by employee. For the purposes of this division, explosives in the possession of an employee who is acting within the scope of his duties, shall be considered to be in the possession of the employer.

Sec. 3072. Issuance of license. (a) Any person who has reached the age of majority may apply to the commissioner of public safety for a license to possess, purchase, store, use, transport, give, transfer or

sell explosives, as defined in section 1603 of Title 13, in this state for not more than one year from the date of issue.

(b) An applicant for a license shall be entitled to the issuance thereof upon the submission of evidence, under oath, which satisfies the commissioner of public safety that the applicant:

(1) Has a reasonable and lawful purpose for possessing, purchasing, storing, using, transporting, giving, transferring or selling explosives; and

(2) Has not been convicted of an offense the maximum term of imprisonment of which exceeds one year with the seven years preceding the application; and

(3) Has not been adjudged insane or mentally incompetent by a court of competent jurisdiction in this or any other jurisdiction; and

(4) He demonstrates that he is competent to possess, purchase, store, use, transport, give, transfer or sell the explosives as the case may be.

(c) The application for a license shall be in duplicate on forms provided by the commissioner of public safety and shall bear the name, address and signature of the licensee or an officer of the licensee. The original shall be delivered to the licensee and the duplicate shall be preserved for three years by the commissioner of public safety.

(d) The license shall be issued or denied within fifteen days after application therefor, however, if the application is denied, the reasons for the denial shall be stated in writing with a copy mailed to the applicant.

(e) The commissioner of public safety may revoke any license issued under this division if, in his opinion, the holder has violated any provision of this division or of sections 1603-1611 of Title 13, or is ineligible to acquire explosives or to obtain a license under this section. A written notice of a revocation of a license by the commissioner of public safety shall be given to the holder of the license in person or by certified mail prior to or concurrently with the effective date of the revocation, which notice shall state specific grounds upon which the revocation is based.

Sec. 3073. Fees. The fee for licenses issued to residents of the state shall be \$2.00. The fee for licenses issued to nonresidents shall be \$4.00. All fees shall be transmitted by the commissioner of public safety to the finance director for inclusion in the state's general fund.

Sec. 3074. Appeals. Any person denied a license for the reasons enumerated in section 3072(c) of this title or whose license is revoked may, within fifteen days of the date of the written denial of his application, request a hearing before the commissioner of public safety. The commissioner of public safety shall record any evidence offered by or on behalf of the person seeking the license, and also shall record any evidence denying or revoking the license, and list findings of fact upon which a decision was based. In the event the license is again denied or its revocation continued for any of the reasons enumerated in section 3072(c) of this title, an

appeal may be taken to the appropriate county court.

Sec. 3075. Rules and regulations. The commissioner of public safety may adopt rules and regulations under chapter 25 of Title 3 to implement the provisions of this division and to govern the storage, transportation and the manner of use of explosives as defined in section 1603 of Title 13.

Sec. 3076. Penalties. Any person convicted of violating the rules or regulations adopted under this division or making a false statement in applying for a license under this division, shall be fined not more than \$1,000.00 or imprisoned not more than five years, or both.

Virginia CODE OF VIRGINIA

Criminal Offenses

Sec. 18.2-85. Manufacture, possession, use, etc., of fire bombs or explosives. (a) For the purpose of this section, "fire bomb" means a container containing gasoline, kerosene, fuel oil, derivative thereof, or similar flammable substance, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, derivative thereof or similar flammable substance, provided that no similar device commercially manufactured and used solely for the purpose of illumination shall be deemed to be a fire bomb.

(b) It shall be unlawful for any person to possess materials with which fire bombs or explosives as defined in Section 40.1-23 can be made with the intent to manufacture fire bombs or explosives.

(c) It shall be unlawful to manufacture, distribute, possess or use a fire bomb or explosive.

(d) Violators of this section shall be guilty of a Class 5 felony.

(e) Nothing in this section shall prohibit the authorized manufacture, use or possession of any material, substance, or device by a member of the armed forces of the United States, firemen or law-enforcement officers; nor shall it prohibit the manufacture, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose.

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Labor and Employment

Sec. 40.1-23. Authority of Commission to regulate handling, storage and use of explosives; "explosives" and "blasting agent" defined; rules and regulations; penalty for violation. (b) In addition to the authority conferred by Section 40.1-22, the Safety and Health Codes Commission, with the advice of the Commissioner, is hereby authorized to adopt, alter, amend or repeal rules and regulations relating to the handling, storage and use of explosives or blasting agents, and enforce such rules and regulations. Such rules and regulations shall, insofar as practicable, be based upon the recommendations of recognized bodies in the field of demolition and explosives, and generally recognized bodies in the field of safety in the use of explosives and blasting agents which have promulgated standards for the protection of the public in such cases. Rules and regulations adopted by the Safety and Health Codes Commission pursuant to this section shall be enforceable by the Commissioner and by all officers empowered to enforce the criminal law of the State.

Sec. 40.1-24. Manufacturers of explosives to register with Commissioner. Every person, firm or corporation who or which manufactures in this State explosives as defined in Section 40.1-23 shall register with the Safety and Health Codes Commission.

Each such registrant shall furnish to the Commission such information concerning his plant and method of operation, and shall also make such periodic reports to the Commission as it may deem necessary to protect the safety of the employees of such plant and the public.

Sec. 40.1-25. Permit to manufacture, store, handle, use or sell explosives. (a) No person shall engage in the manufacture, storage, handling, use or sale of explosives or blasting agents, as defined in Section 40.1-23, without obtaining a proper permit so to do from the Department.

(b) Permits, other than a special use permit, shall be effective for the remainder of the calendar year in which issued and shall expire on the thirty-first day of December thereof. Application may be made in December for the ensuing calendar year in which such permits shall be effective. The fees required by this section shall be required for all permits issued for any calendar year or part thereof.

(c) Permits shall not be transferable.

(d) Permits shall be posted or used as prescribed on the face thereof.

(e) Individual applicants for a permit shall be eighteen years of age or older. Such application shall be submitted to the Department accompanied by a post-office money order or check drawn in favor of the State Treasurer in the amount specified in subsection (f) of this section appropriate for the type of permit requested.

(f) Types of permits issuable, accompanied by appropriate application fees, are the following:

(i) For manufacturing—fifty dollars;

(ii) For storing and using explosives or blasting agents in Class I magazine which is defined as a magazine containing more than two hundred pounds of explosives—fifteen dollars;

(iii) For storing and using explosives or blasting agents in Class II magazine which is defined as a magazine containing two hundred pounds or less—ten dollars;

(iv) For selling wholesale and retail—twenty-five dollars;

(v) For selling wholesale—fifteen dollars;

(vi) For selling retail—ten dollars;

(vii) For special use, which permits are defined in subsection (g) of this section—five dollars; and

(viii) For small users which permits are defined in subsection (h) of this section—ten dollars.

(g) A special use permit is one which the Department may issue to authorize a person

not storing explosives or blasting agents to secure from another person owning an approved magazine and holding a permit for same, a limited quantity of explosives or blasting agents, not to exceed one hundred pounds, for immediate use on a specific blasting project. Any unused explosives or blasting agents shall be returned to the magazine from which secured at the end of each workday. Such special use permittee shall comply with all other applicable requirements of this section and rules and regulations of the Department and Safety Codes Commission.

(h) A small user's permit is one which the Department may issue for the purchase and use of a small quantity of explosives or blasting agents not to exceed fifty pounds. To be eligible for a small user's permit, the applicant must be operating a legitimate business under a license or charter issued by proper authority and must indicate the number and expiration date of same on his application, provided cemeteries having a grave-opening service, and not required to have a license or charter to operate, may be issued a permit.

(i) A separate permit must be obtained for each magazine, each manufacturing operation, each sales operation, and each special use project.

(j) The provisions of this section shall not apply to a person storing or using twenty-five or fewer pounds of explosives or blasting agents on property owned or occupied by him; provided, however, such person shall comply with all rules and regulations promulgated by the Department and Safety Codes Commission.

(k) The provisions of this section shall not apply to the storage, handling or use of explosives or blasting devices carried on under the provisions of Title 45.1 of the Code of Virginia.

Sec. 40.1-25.1. Reports of stolen explosives. Any person holding a permit pursuant to the provisions of Section 40.1-25 shall report to the office of the chief arson investigator for the State any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery thereof which shall be followed by a written report to be filed within such time, and in such form, as is specified by the chief arson investigator.

Failure to comply with the provisions of this section shall constitute a misdemeanor punishable as a Class 3 misdemeanor.

Trade and Commerce

Chapter 10

Explosives

* * * * *

Sec. 59.1-137. Definition. Whenever used in this chapter: "Explosives" means commercial explosives which are classified as of June twenty-seven, nineteen hundred sixty, in the Interstate Commerce Commission's regulations for transportation of explosives and other dangerous articles as Class A, Class B, or Class C explosives, and include but are not limited to dynamite, black blasting powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord and igniters.

Sec. 59.1-138. Record of sales required; signing by purchasers; sales to persons under eighteen prohibited. (a) Any person selling any explosives covered by this chapter shall keep a record of all such explosives sold, showing the kind and quantity sold, the name and address of the purchaser, and the date of each sale. The person selling such explosives shall also require any person purchasing such explosives to sign such record at the time of such purchase.

(b) No person shall sell, deliver, give away, or otherwise dispose of any explosives to any individual under eighteen years of age, whether such individual is acting for himself, herself, or for any other person.

Sec. 59.1-139. Persons possessing explosives to give notice of theft. Any person having in his possession any explosives covered by this chapter shall immediately notify the sheriff of the county or the police officials of the city in which any such explosives are being stored or used in the event that any such explosives are stolen.

Sec. 59.1-140. Effect of chapter upon municipal regulation. Nothing contained in this chapter shall: Affect any existing ordinance, rule or regulation of any city or municipality in this State that is not less restrictive than this chapter, or affect, modify or limit the power of such cities or municipalities to make ordinances, rules or regulations not less restrictive than this chapter, governing the storage, possession, sale and use of explosives within their respective corporate limits.

Sec. 59.1-141. Penalty. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished accordingly.

Virgin Islands

VIRGIN ISLANDS CODE

Chapter 9. Fire Prevention Code

Subchapter V. Explosives

* * * * *

Sec. 711. Definitions. As used in this subchapter: (1) "Explosive" means blasting powder, nitroglycerin, dynamite, TNT and any other form of high explosive, blasting material, fuse other than an electric circuit breaker, detonator and other detonating agent, a chemical compound or mechanical mixture containing oxidizing or combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion or other means of detonation of the compound or mixture or any part thereof may result in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property. An explosive does not include gasoline, kerosene, naphtha, turpentine, butane, propane, wet nitrocellulose or wet nitrostarch containing moisture in excess of 20%, or wet picric acid containing moisture in excess of 10%; or manufactured articles such as fixed ammunition for small arms, fire crackers, safety flares or matches containing an explosive in such limited quantity that the collective and simultaneous detonation thereof is incapable of resulting in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property.

(2) "Dealer" means a person, not a manufacturer, engaged in the business of buying and selling explosives.

(3) "Person" means an individual, firm, partnership, corporation, association or other legal entity but does not include an officer of a law enforcement agency or of a fire department, while acting in his official capacity.

(4) "Commissioner" means the Commissioner of Public Safety.

(5) "Issuing officer" means an officer or employee of the Department of Public Safety designated by the Commissioner.

Sec. 712. Permits. (a) A person shall not handle, store, control, use, sell, purchase, transfer, transport or otherwise dispose of an explosive unless he has applied for, obtained and has on his person a valid permit as prescribed by this chapter, except that:

(1) This section does not apply to an employee, or agent other than an independent contractor, acting in the scope and course of his employment or agency and under the supervision of his employer or principal where the employer or principal has applied for and obtained a valid permit.

(2) A person need not have the permit on his person where he is only storing explosives.

(b) A permit may be issued by an issuing officer upon the completion in writing by the applicant on forms prescribed and provided by the Commissioner, of an application, the content of which shall at least include the (a) name, (b) address, (c) date of birth, (d) social security number, (e) signature of the applicant, and (f) fingerprints of applicant. The applicant shall also indicate in writing the intended use of the explosive for which the permit is to be issued, and whether he has been convicted of a felony within 5 years.

(c) A permit shall not be issued to an applicant who has not, on or before the date of application, attained the age of 18 years or who has been duly adjudged insane, unless subsequently restored by court order to full mental competency and capacity.

(d) A permit shall be issued in triplicate; the original shall be forwarded to the Commissioner, a copy shall be furnished to the applicant on the same day as the application is filed and approved and a copy shall remain on file with the issuing officer. Unless subsequently revoked, a permit is valid for 1 year after the date of issuance; or for such shorter term as may be deemed appropriate by the Commissioner in the public interest.

Sec. 713. Refusal and revocation of permits; permanent permits. (a) A permit may be refused to an applicant where the issuing officer has reasonable cause to believe that granting the permit would constitute a substantial and immediate danger to the public health, safety and welfare. Notice of refusal to issue a permit shall be given the applicant within three (3) days from the date his application is made. Within 3 days thereafter, the issuing officer shall send to the applicant, by certified mail, a copy of the notice of refusal together with a statement in writing of the reason for the refusal.

(b) Within 15 days after the notice of refusal, the applicant may request, in writing on a form prescribed and provided by the Commissioner, a review of the refusal by the Commissioner. Within 30 days after receipt by the Commissioner of the application for

review, he, or his duly authorized representative shall conduct a hearing on the refusal and shall issue an order of determination on the review. The Commissioner shall send, by certified mail, to the applicant and to the issuing officer, a copy of his order of determination. The Commissioner's order of determination shall be reviewable, upon timely appeal, by the District Court.

(c) An issuing officer may revoke a permit when he has reasonable cause to believe that its possession by the holder constitutes a substantial and immediate danger to the public health, safety and welfare. The procedures set forth in this chapter applicable to the refusal of issuance of a permit shall apply to revocation.

(d) The Commissioner may in his discretion issue a permanent permit to persons of known moral character, who have constant legitimate use of explosives.

Sec. 714. Dealer records; nonassignability of permits. (a) A dealer shall keep and maintain such records on such forms as are prescribed and provided by the Commissioner, which records shall include (1) an amount of each sale, transfer or other disposition of explosives by him, (2) the date thereof, the name, age, address and permit number of the purchaser or transferee, and (3) the amount and type of explosive sold or transferred. The records shall be forwarded to the Commissioner on the last day of each month.

(b) A dealer or person shall not sell or otherwise transfer an explosive without first ascertaining that the purchaser or transferee has on his person and displays a valid permit. All explosives shall be marked or numbered as prescribed by the Commissioner so that they may be readily identified.

(c) A person holding a valid permit shall not assign or transfer it to any other person.

Sec. 715. Storage. (a) All storage of explosives shall be in approved explosive magazines located at distances from neighboring buildings and highways in conformity with the American Table of Distances for Storage of Explosives.

(b) When explosives in excess of immediate requirements are removed from a magazine and delivered in the vicinity of a blasting operation they shall be kept in a portable magazine consisting of either a stout tight box covered with not less than 24-gauge sheet iron and equipped with a hinged lid or in a small portable building similarly covered. Such portable magazine shall be painted red and conspicuously marked "Explosives—Dangerous", in white block letters not less than 3 inches in height. Portable magazines as described in this subsection

shall be locked and located as required by the Commissioner.

Sec. 716. Transportation of explosives. (a) Blasting caps, or detonators, shall not be transported over the highways of the Virgin Islands on the same vehicles with explosives.

(b) Vehicles used for the transportation of explosives shall be strong enough to carry the load without difficulty, and shall be in good mechanical condition. If vehicles do not have a closed body, the body shall be covered with a tarpaulin or other effective protection against moisture and sparks. Such vehicles shall have tight floors and shall have a lining of wood or other nonsparking material which shall cover any projections or metal which might come into contact with packages of explosives.

(c) Every vehicle while carrying explosives shall have its headlights lit and shall have painted on both sides and read, in letters at least four inches high, in contrasting colors, the word "Explosives", or in lieu thereof shall display, in such manner that it shall be visible from all directions, a red flag with the word "Explosives", printed, stamped or sewed thereon in white letters at least six inches high.

(d) No metal, metal tools, oils, matches, firearms, electric storage batteries, flammable substances, acids, oxidizing or corrosive compounds shall be carried in the bed or body of any vehicle transporting explosives.

(e) Any person desiring to transport explosives on the public highways shall notify the Commissioner in writing in advance thereof, designating the date, time and route to be followed.

Sec. 717. Use of explosives. (a) At least 24 hours in advance of blasting, the blaster shall give written notice specifying the location and intended time of blasting to appropriate representatives of the gas, electric, water, fire alarm, telephone, telegraph, and steam utilities which operate within the Virgin Islands. In an emergency the Commissioner may waive the time limit and allow verbal instead of written notice to be given.

(b) Due precautions shall be taken to avoid accidental discharge of electric blasting caps by radio transmitters or other source of extraneous electricity.

(c) No person shall handle an explosive while under the influence of intoxicating liquor or narcotics.

Sec. 718. Penalties. A person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than 1 year, or both; Provided, That any person found in possession of explosives without a

proper permit shall be guilty of a felony and shall be fined not more than \$5,000 or imprisoned for not more than 10 years, or both.

Sec. 719. Other regulations. This

chapter is in addition to any other requirements of local or federal law regulating the possession, handling, storage, control, use, sale, purchase, transfer, transportation or other disposition of explosives.

Washington

REVISED CODE OF WASHINGTON ANNOTATED

Chapter 70.74— Washington State Explosives Act

70.74.010. Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

The terms "authorized", "approved" or "approval" shall be held to mean authorized, approved, or approval by the department of labor and industries.

The term "blasting agent" shall be held to mean and include any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a No. 8 test blasting cap.

The term "explosive" or "explosives" whenever used in this chapter, shall be held to mean and include any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. In addition, the term "explosives" shall include all material which is classified as class A, class B, and class C explosives by the federal department of transportation: *Provided*, That for the purposes of this chapter small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder not exceeding five pounds shall not be defined as explosives.

Classification of explosives shall include but not be limited to the following:

CLASS A EXPLOSIVES: (Possessing

detonating hazard) dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder exceeding five pounds, blasting caps in quantities of 1001 or more, and detonating primers.

CLASS B EXPLOSIVES: (Possessing flammable hazard) propellant explosives, including smokeless propellants exceeding fifty pounds.

CLASS C EXPLOSIVES: (Including certain types of manufactured articles which contain class A or class B explosives, or both, as components but in restricted quantities) blasting caps in quantities of 1000 or less.

The term "explosive-actuated power devices" shall be held to mean any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices.

The term "magazine", shall be held to mean and include any building or other structure, other than a factory building, used for the storage of explosives.

The term "inhabited building", shall be held to mean and include only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble, other than any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

The term "explosives manufacturing plant" shall be held to mean and include all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

The term "explosives manufacturing building", shall be held to mean and include any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used

as a component part or ingredient in the manufacture of any article or device.

The term "railroad" shall be held to mean and include any steam, electric, or other railroad which carries passengers for hire.

The term "highway" shall be held to mean and include any public street, public alley, or public road.

The term "efficient artificial barricade" shall be held to mean an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or such other artificial barricade as approved by the department of labor and industries.

The term "person" shall be held to mean and include any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

The term "dealer" shall be held to mean and include any person who purchases explosives or blasting agents for the sole purpose of resale, and not for use or consumption.

The term "forbidden or not acceptable explosives" shall be held to mean and include explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the federal department of transportation.

The term "handloader" shall be held to mean and include any person who engages in the noncommercial assembling of small arms ammunition for his own use, specifically the operation of installing new primers, powder, and projectiles into cartridge cases.

The term "handloader components" means small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder as used in muzzle loading firearms not exceeding five pounds.

The term "fuel" shall be held to mean and include a substance which may react with the oxygen in the air or with the oxygen yielded by an oxidizer to produce combustion.

The term "motor vehicle" shall be held to mean and include any self-propelled automobile, truck, tractor, semi-trailer or full trailer, or other conveyance used for the transportation of freight.

The term "natural barricade" shall be held to mean and include any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

The term "oxidizer" shall be held to mean a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

The term "propellant-actuated power device" shall be held to mean and include any

tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge.

The term "public conveyance" shall be held to mean and include any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

The term "public utility transmission system" shall mean power transmission lines over 10 KV, telephone cables, or microwave transmission systems, or buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil, or refined products and chemicals, whose services are regulated by the utilities and transportation commission, municipal, or other publicly owned systems.

The term "purchaser" shall be held to mean any person who buys, accepts, or receives any explosives or blasting agents.

The term "pyrotechnics" shall be held to mean and include any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks.

The term "small arms ammunition" shall be held to mean and include any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

The term "small arms ammunition primers" shall be held to mean small percussion-sensitive explosive charges encased in a cup, used to ignite propellant powder and shall include percussion caps as used in muzzle loaders.

The term "smokeless propellants" shall be held to mean and include solid chemicals or solid chemical mixtures in excess of fifty pounds which function by rapid combustion.

The term "user" shall be held to mean and include any natural person, manufacturer, or blaster who acquires, purchases, or uses explosives as an ultimate consumer or who supervises such use.

Words used in the singular number shall include the plural, and the plural the singular.

70.74.020. Restrictions on manufacture, sale, or storage—Users—Reports on storage—Waiver. No person shall manufacture, possess, store, sell, purchase, transport, or use explosives or blasting agents except in compliance with this chapter.

The director of the department of labor and industries shall make and promulgate rules and regulations concerning qualifications of users of explosives and shall have the

authority to issue licenses for users of explosives to effectuate the purpose of this chapter: *Provided*, That where there is a finding by the director that the use or disposition of explosives in any class of industry presents no unusual hazard to the safety of life or limb of persons employed therewith, and where the users are supervised by a superior in an employment relationship who is sufficiently experienced in the use of explosives, and who possesses a license for such use under this chapter, the director in his discretion may exclude said users in those classes of industry from individual licensing.

The director of the department of labor and industries shall make and promulgate rules and regulations concerning the manufacture, sale, purchase, use, transportation, storage, and disposal of explosives, and shall have the authority to issue licenses for the manufacture, purchase, sale, use, transportation, and storage of explosives to effectuate the purpose of this chapter. The director of the department of labor and industries is hereby delegated the authority to grant written waiver of this chapter whenever it can be shown that the manufacturing, handling, or storing of explosives are in compliance with applicable national or federal explosive safety standards: *Provided*, That any resident of this state who is qualified to purchase explosives in this state and who has complied with the provisions of this chapter applicable to him may purchase explosives from an authorized dealer of a bordering state and may transport said explosives into this state for use herein: *Provided further*, That residents of this state shall, within ten days of the date of purchase, present to the department of labor and industries a report signed by both vendor and vendee of every purchase from an out of state dealer, said report indicating the date of purchase, name of vendor, vendor's license number, vendor's business address, amount and kind of explosives purchased, the name of the purchaser, the purchaser's license number, and the name of receiver if different than purchaser.

It shall be unlawful to sell, give away or otherwise dispose of, or deliver to any person under twenty-one years of age any explosives other than small arms ammunition and handloader components, whether said person is acting for himself or for any other person: *Provided*, That if there is a finding by the director that said use or disposition of explosives poses no unusual hazard to the safety of life or limb in any class of industry, where persons eighteen years of age or older are employed as users, and where said persons are adequately trained and adequately supervised by a superior in an

employment relationship who is sufficiently experienced in the use of explosives, and who possesses a valid license for such use under this chapter, the director in his discretion may exclude said persons in that class of industry from said minimum age requirement.

All persons engaged in keeping, using or storing any compound, mixture or material, in wet condition, or otherwise, which upon drying out or undergoing other physical changes, may become an explosive within the definition of RCW 70.74.010, shall report in writing subscribed to by such person or his agent, to the department of labor and industries, report blanks to be furnished by such department, and such reports to require:

(1) The kind of compound, mixture or material kept or stored, and maximum quantity thereof.

(2) Condition or state of compound, mixture or material.

(3) Place where kept or stored.

The department of labor and industries may at any time cause an inspection to be made to determine whether the condition of the compound, mixture or material is as reported.

70.74.025. Magazines—Classification, location and construction—Standards—Use. The director of the department of labor and industries shall establish by rule or regulation requirements for classification, location and construction of magazines for storage of explosives in compliance with accepted applicable explosive safety standards. All explosives shall be kept in magazines which meet the requirements of this chapter.

70.74.030. Quantity and distance table for storage—Exceptions. All explosive manufacturing buildings and magazines in which explosives or blasting agents except small arms ammunition and smokeless powder are had, kept, or stored, must be located at distances from inhabited buildings, railroads, highways, and public utility transmission systems in conformity with the following quantity and distance tables, and these tables shall be the basis on which applications for license for storage shall be made and license for storage issued, as provided in RCW 70.74.110 and 70.74.120. All distances prescribed in the following quantity and distance tables are unbarricaded, and, if there is an efficient artificial barricade or a natural barricade between the explosives manufacturing building or magazine and another explosives manufacturing building or magazine, building, railroad, highway, or public utility transmission system, the distance prescribed in the following quantity and distance tables may be reduced by one-

half. Blasting and electric blasting caps in strength through No. 8 must be rated as one and one-half pounds of explosives per one thousand caps. Blasting and electric blasting caps of strength higher than No. 8 must be computed on the combined weight of explosives.

* * * * *

Quantity and distance table deleted

70.74.040. Limit on storage quantity. No quantity in excess of three hundred thousand pounds, or the equivalent in blasting caps shall be had, kept or stored in any factory building or magazine in this state.

70.74.050. Quantity and distance table for factories. All explosives manufacturing buildings shall be located one from the other and from other buildings on explosives manufacturing plants in which persons are regularly employed, and all magazines shall be located from factory buildings and buildings on explosives plants in which persons are regularly employed, in conformity with the intraexplosives plant quantity and distance table below set forth:

* * * * *

Quantity and distance table deleted

70.74.061. Quantity and distance table for separation between magazines. Magazines containing blasting caps and electric blasting caps shall be separated from other magazines containing like contents, or from magazines containing explosives by distances based on the following:

(1) Blasting caps in strengths through No. 8 should be rated at one and one-half pounds of explosive per one thousand caps;

(2) For strengths higher than No. 8, use the total combined weight of explosives;

(3) Magazines in which explosives are kept and stored shall be detached from other structures and separated from other magazines in conformity with the quantity and distance table set forth below:

* * * * *

Quantity and distance table deleted

70.74.100. Storage of caps with explosives prohibited. No blasting caps, or other detonating or fulminating caps, or detonators, or flame-producing devices shall be kept or stored in any magazine in which other explosives are kept or stored.

70.74.110. Manufacturer's report—Inspection—License. All persons engaged in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device, on the date when this 1969 amendatory act takes effect, shall within sixty days thereafter, and all persons engaging in the manufacture of

explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device after this act takes effect, shall before so engaging, make an application in writing, subscribed to by such person or his agent, to the department of labor and industries, the application stating:

(1) Location of place of manufacture or processing;

(2) Kind of explosives manufactured, processed or used;

(3) The distance that such explosives manufacturing building is located or intended to be located from the other factory buildings, magazines, inhabited buildings, railroads and highways and public utility transmission systems;

(4) The name and address of the applicant;

(5) The reason for desiring to manufacture explosives;

(6) The applicant's citizenship, if the applicant is an individual;

(7) If the applicant is a partnership, the names and addresses of the partners, and their citizenship;

(8) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof, and their citizenship; and

(9) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

There shall be kept in the main office on the premises of each explosives manufacturing plant a plan of said plant showing the location of all explosives manufacturing buildings and the distance they are located from other factory buildings where persons are employed and from magazines, and these plans shall at all times be open to inspection by duly authorized inspectors of the department of labor and industries. The superintendent of each plant shall upon demand of said inspector furnish the following information:

(a) The maximum amount and kind of explosive material which is or will be present in each building at one time.

(b) The nature and kind of work carried on in each building and whether or not said buildings are surrounded by natural or artificial barricades.

The department of labor and industries shall as soon as may be after receiving such application cause an inspection to be made of the explosives manufacturing plant, and if found to be in accordance with RCW 70.74.030 and 70.74.050 and in RCW 70.74.061, such department shall issue a license to the person applying therefor showing compliance with the provisions of this

act, unless the department shall find that the applicant or the officers, agents or employees of the applicant are not sufficiently experienced in the manufacture of explosives, have been convicted of a crime involving moral turpitude, or are disloyal to the United States. Such license shall continue in full force and effect until surrendered or canceled, because of failure to comply with any of the conditions necessary for the granting of a license.

70.74.120. Storage report—Inspection—License—Cancellation. All persons engaged in keeping or storing and all persons having in their possession explosives on the date when this 1969 amendatory act takes effect, shall within sixty days thereafter, and all persons engaging in keeping or storing explosives or coming into possession thereof after this act takes effect, shall before engaging in the keeping or storing of explosives or taking possession thereof, make an application in writing subscribed to by such person or his agent, to the department of labor and industries stating:

(1) The location of the magazine, if any, if then existing, or in case of a new magazine, the proposed location of such magazine;

(2) The kind of explosives that are kept or stored or possessed or intended to be kept or stored or possessed and the maximum quantity that is intended to be kept or stored or possessed thereat;

(3) The distance that such magazine is located or intended to be located from other magazines, inhabited buildings, explosives manufacturing buildings, railroads, highways and public utility transmission systems;

(4) The name and address of the applicant;

(5) The reason for desiring to store or possess explosives;

(6) The citizenship of the applicant if the applicant is an individual;

(7) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(8) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship;

(9) And such other pertinent information as the director of the department of labor and industries shall require to effectuate the purpose of this 1969 amendatory act.

The department of labor and industries shall, as soon as may be after receiving such application, cause an inspection to be made of the magazine, if then constructed, and, in the case of a new magazine, as soon as may be after same is found to be constructed in accordance with the specification provided in RCW 70.74.025, such department shall deter-

mine the amount of explosives that may be kept and stored in such magazine by reference to the quantity and distance tables set forth in RCW 70.74.030, 70.74.050 and 70.74.061, and shall issue a license to the person applying therefor, unless the department shall find that such applicant is not sufficiently experienced in the handling of explosives, lacks suitable facilities therefor, has been convicted of a crime involving moral turpitude, or is disloyal to the United States. Said license shall set forth the maximum quantity of explosives that may be had, kept or stored by said person. Such license shall be valid until canceled for one or more of the causes hereinafter provided. Whenever by reason of change in the physical conditions surrounding said magazine at the time of the issuance of the license therefor, such as:

(a) The erection of buildings nearer said magazine;

(b) The construction of railroads nearer said magazine;

(c) The opening for public travel of highways nearer said magazine; or

(d) The construction of public utilities transmission systems near said magazine; then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to conform to such changed conditions in accordance with the quantity and distance table notwithstanding the license, and the department of labor and industries shall modify or cancel such license in accordance with the changed conditions. Said license may also be canceled if the department of labor and industries shall find that the applicant is keeping explosives for an unlawful purpose or is disloyal to the United States. Whenever any person to whom a license has been issued, keeps or stores in the magazine or has in his possession, any quantity of explosives in excess of the maximum amount set forth in said license, or whenever any person fails for thirty days to pay the annual license fee hereinafter provided after the same becomes due, the department is authorized to cancel such license. Whenever a license is canceled by the department for any cause herein specified, the department shall notify the person to whom such license is issued of the fact of such cancellation and shall in said notice direct the removal of all explosives stored in said magazine within ten days from the giving of said notice, or, if the cause of cancellation be the failure to pay the annual license fee, or the fact that explosives are kept for an unlawful purpose, or the applicant is disloyal to the United States, the department of labor and industries shall order such person to dispossess himself of

mine the amount of explosives that may be kept and stored in such magazine by reference to the quantity and distance tables set forth in RCW 70.74.030, 70.74.050 and 70.74.061, and shall issue a license to the person applying therefor, unless the department shall find that such applicant is not sufficiently experienced in the handling of explosives, lacks suitable facilities therefor, has been convicted of a crime involving moral turpitude, or is disloyal to the United States. Said license shall set forth the maximum quantity of explosives that may be had, kept or stored by said person. Such license shall be valid until canceled for one or more of the causes hereinafter provided. Whenever by reason of change in the physical conditions surrounding said magazine at the time of the issuance of the license therefor, such as:

(a) The erection of buildings nearer said magazine;

(b) The construction of railroads nearer said magazine;

(c) The opening for public travel of highways nearer said magazine; or

(d) The construction of public utilities transmission systems near said magazine; then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to conform to such changed conditions in accordance with the quantity and distance table notwithstanding the license, and the department of labor and industries shall modify or cancel such license in accordance with the changed conditions. Said license may also be canceled if the department of labor and industries shall find that the applicant is keeping explosives for an unlawful purpose or is disloyal to the United States. Whenever any person to whom a license has been issued, keeps or stores in the magazine or has in his possession, any quantity of explosives in excess of the maximum amount set forth in said license, or whenever any person fails for thirty days to pay the annual license fee hereinafter provided after the same becomes due, the department is authorized to cancel such license. Whenever a license is canceled by the department for any cause herein specified, the department shall notify the person to whom such license is issued of the fact of such cancellation and shall in said notice direct the removal of all explosives stored in said magazine within ten days from the giving of said notice, or, if the cause of cancellation be the failure to pay the annual license fee, or the fact that explosives are kept for an unlawful purpose, or the applicant is disloyal to the United States, the department of labor and industries shall order such person to dispossess himself of

said explosives within ten days from the giving of said notice. Failure to remove the explosives stored in said magazine or to dispose oneself of the explosives as herein provided within the time specified in said notice shall constitute a violation of this act.

70.74.130. Dealer in explosives—Application—License—Cancellation. Every person desiring to engage in the business of dealing in explosives shall apply to the department of labor and industries for a license therefor. Said application shall state, among other things:

(1) The name and address of applicant;

(2) The reason for desiring to engage in the business of dealing in explosives;

(3) Citizenship, if an individual applicant;

(4) If a partnership, the names and addresses of the partners and their citizenship;

(5) If an association or corporation, the names and addresses of the officers and directors thereof and their citizenship; and

(6) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall issue the license applied for unless the department finds that either the applicant or any of the officers, agents or employees of the applicant are not sufficiently experienced in the business of dealing in explosives, lack suitable facilities therefor, have been convicted of a crime involving moral turpitude, or are disloyal to the United States. Said license may be canceled for any cause that would prevent the initial issuance thereof.

70.74.135. Purchaser of explosives—Application—License—Issuance—Cancellation. All persons desiring to purchase explosives except handloader components shall apply to the department of labor and industries for a license. Said application shall state, among other things:

(1) The location where explosives are to be used;

(2) The kind and amount of explosives to be used;

(3) The name and address of the applicant;

(4) The reason for desiring to use explosives;

(5) The citizenship of the applicant if the applicant is an individual;

(6) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(7) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship; and

(8) Such other pertinent information as the director of the department of labor and

industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall issue the license applied for unless the department finds that either the applicant or any of the officers, agents or employees of the applicant are not sufficiently experienced in the use of explosives, lack suitable facilities therefor, have been convicted of a felony involving force or violence, or are disloyal to the United States. Said license may be canceled for any cause that would prevent the initial issuance thereof; or for any violation of this chapter.

70.74.137. Purchaser's license fee. Every person applying for a purchaser's license, or renewal thereof, shall pay an annual license fee of two dollars. Said license fee shall accompany the application, and be by the department turned over to the state treasurer: *Provided*, That if the applicant is denied a purchaser's license the license fee shall be returned to said applicant by registered mail.

70.74.140. Storage license fee. Every person engaging in the business of keeping or storing of explosives, shall pay an annual license fee for each magazine maintained, to be graduated by the department of labor and industries according to the quantity kept or stored therein, of not less than one dollar nor more than fifty dollars. Said license fee shall accompany the application, and be by the department turned over to the state treasurer.

70.74.142. User's license or renewal fee. Every person applying for a user's license, or renewal thereof, under this chapter shall pay an annual license fee of three dollars. Said license fee shall accompany the application, and be turned over by the department to the state treasurer: *Provided*, That if the applicant is denied a user's license the license fee shall be returned to said applicant by registered mail.

70.74.160. Unlawful access to explosives. No person, except an official as authorized herein or a person authorized to do so by the owner thereof, or his agent, shall enter any explosives manufacturing building, magazine or car, vehicle or other common carrier containing explosives in this state.

70.74.170. Discharge of firearms or igniting flame near explosives. No person shall discharge any firearms at or against any magazine or explosives manufacturing buildings or ignite any flame or flame-producing device nearer than two hundred feet from said magazine or explosives manufacturing building.

70.74.180. Explosive devices prohibited—Penalty. Any person who shall have

in his possession or control any shell, bomb or similar device, charged or filled with one or more explosives, intending to use the same or cause same to be used for an unlawful purpose, shall be deemed guilty of a felony, and upon conviction, shall be punished by imprisonment in a state prison for a term of not less than five years nor more than twenty-five years.

70.74.191. Exemptions. The laws contained in this chapter and the ensuing regulations prescribed by the department of labor and industries shall not apply to:

(1) Explosives or blasting agents in the course of transportation by way of railroad, water, highway or air under the jurisdiction of, and in conformity with, regulations adopted by the federal department of transportation, the Washington state utilities and transportation commission and the Washington state patrol;

(2) The laboratories of schools, colleges and similar institutions if confined to the purpose of instruction or research and if not exceeding the quantity of one pound;

(3) Explosives in the forms prescribed by the official United States Pharmacopeia;

(4) The transportation, storage, and use of explosives or blasting agents in the normal and emergency operations of federal agencies and departments including the regular United States military departments on military reservations or the duly authorized militia of any state or territory, or to emergency operations of any state department or agency, any police, or any municipality or county;

(5) The sale and use of fireworks, signaling devices, flares, fuses, and torpedoes;

(6) Any violation under this chapter if any existing ordinance of any city, municipality or county is more stringent than this chapter.

70.74.201. Municipal or county ordinances unaffected—State pre-emption. This chapter shall not affect, modify or limit the power of a city, municipality or county in this state to make an ordinance that is more stringent than this chapter which is applicable within their respective corporate limits or boundaries: *Provided*, That the state shall be deemed to have preempted the field of regulation of small arms ammunition and handloader components.

70.74.220. Penalty. Except as otherwise provided by the specific penalty provisions in this chapter and in chapter 70.74 RCW, whoever fails to comply with or violates any of the provisions of this chapter or of chapter 70.74 RCW shall be guilty of a gross misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars.

70.74.240. Sale to unlicensed person prohibited. No dealer shall sell, barter, give or dispose of explosives to any person who does not hold a license to purchase explosives issued under the provisions of this chapter.

70.74.270. Endangering life and property by explosives—Penalty. Every person who shall maliciously place any explosive substance or material in, upon, under, against or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, in such manner or under such circumstances as to destroy or injure the same if exploded, shall be guilty of a felony, and if the circumstances and surroundings are such that the safety of any person might be endangered by the explosion thereof, shall be punished by imprisonment in the state penitentiary for not more than twenty-five years.

70.74.280. Damaging building, etc., by explosion—Penalty. Every person who shall maliciously, by the explosion of gunpowder or any other explosive substance or material, destroy or damage any building, car, airplane, vessel, common carrier, railroad track, public utility transmission system or structure, shall be punished as follows:

(1) If thereby the life or safety of a human being is endangered, by imprisonment in the state penitentiary for not more than twenty-five years;

(2) In every other case by imprisonment in the state penitentiary for not more than five years.

70.74.290. Keeping explosives unlawfully—Penalty. Every person who shall make or keep any explosive in any city or village, or carry it through the streets thereof in a quantity, or manner prohibited by law, or by ordinance of such municipality; and every person who, by careless, negligent or unauthorized use or management of any such explosive, shall injure or cause injury to the person or property of another, shall be guilty of a gross misdemeanor.

70.74.295. Abandonment of explosives. It shall be unlawful for any person to abandon explosives or explosive substances.

70.74.297. Separate storage of components capable of detonation when mixed. Any two components which, when mixed, become capable of detonation by a No. 6 cap must be stored in separate locked containers or in a licensed, approved magazine.

70.74.300. Explosive containers to be marked—Penalty. Every person who shall put up for sale, or who shall deliver to any warehouseman, dock, depot, or common carrier any package, cask or can containing any explosive, nitroglycerine, dynamite, or

powder, without having been properly labeled thereon to indicate its explosive classification, shall be guilty of a gross misdemeanor.

70.74.310. Gas bombs, explosives, stink bombs, etc. Any person other than a lawfully constituted peace officer of this state who shall deposit, leave, place, spray, scatter, spread or throw in any building, or any place, or who shall counsel, aid, assist, encourage, incite or direct any other person or persons to deposit, leave, place, spray, scatter, spread or throw, in any building or place, or who shall have in his possession for the purpose of, and with the intent of depositing, leaving, placing, spraying, scattering, spreading or throwing, in any building or place, or counseling, aiding, assisting, encouraging, inciting or directing any other person or persons to deposit, leave, place, spray, scatter, spread or throw, any stink bomb, stink paint, tear bomb, tear shell, explosive or flame-producing device, or any other device, material, chemical or substance, which, when exploded or opened, or without such exploding or opening, by reason of its offensive and pungent odor, does or will annoy, injure, endanger or inconvenience any person or persons, shall be guilty of a gross misdemeanor: *Provided*, That this section shall not apply to persons in the military service, actually engaged in the performance of military duties, pursuant to orders from competent authority nor to any property owner or person acting under his authority in providing protection against the commission of a felony.

70.74.320. Small arms ammunition, primers and propellants—Transportation regulations. The federal regulations of the United States department of transportation on the transportation of small arms ammunition, of small arms ammunition primers, and of small arms smokeless propellants are hereby adopted in this chapter by reference.

The director of the department of labor and industries has the authority to issue future regulations in accordance with amendments and additions to the federal regulations of the United States department of transportation on the transportation of small arms ammunition, of small arms ammunition primers, and of small arms smokeless propellants.

70.74.330. Separation from flammable materials. Small arms ammunition shall be separated from flammable liquids, flammable solids and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of twenty-five feet.

70.74.340. Transportation, storage and display requirements. Quantities of small arms smokeless propellant (class B) in ship-

ping containers approved by the federal department of transportation not in excess of fifty pounds may be transported in a private vehicle.

Quantities in excess of twenty-five pounds but not to exceed fifty pounds in a private passenger vehicle shall be transported in an approved magazine as specified by the department of labor and industries rules and regulations.

Transportation of quantities in excess of fifty pounds is prohibited in passenger vehicles: *Provided*, That this requirement shall not apply to duly licensed dealers.

Transportation of quantities in excess of fifty pounds shall be in accordance with federal department of transportation regulations.

Small arms smokeless propellant intended for personal use in quantities not to exceed twenty-five pounds may be stored without restriction in residences; quantities over twenty-five pounds but not to exceed fifty pounds shall be stored in a strong box or cabinet constructed with three-fourths inch plywood (minimum), or equivalent, on all sides, top, and bottom.

Black powder as used in muzzle loading firearms may be transported in a private vehicle or stored without restriction in private residences in quantities not to exceed five pounds.

Not more than seventy-five pounds of small arms smokeless propellant, in containers of one pound maximum capacity may be displayed in commercial establishments.

Not more than twenty-five pounds of black powder as used in muzzle loading firearms may be stored in commercial establishments of which not more than four pounds in containers of one pound maximum capacity may be displayed.

Quantities in excess of one hundred fifty pounds of smokeless propellant or twenty-five pounds of black powder as used in muzzle loading firearms shall be stored in magazines constructed as specified in the rules and regulations for construction of magazines, and located in compliance with this chapter.

All small arms smokeless propellant when

stored shall be packed in federal department of transportation approved containers.

70.74.350. Primers, transportation and storage requirements. Small arms ammunition primers shall not be transported or stored except in the original shipping container approved by the federal department of transportation.

Truck or rail transportation of small arms ammunition primers shall be in accordance with the federal regulation of the United States department of transportation.

No more than twenty-five thousand small arms ammunition primers shall be transported in a private passenger vehicle: *Provided*, That this requirement shall not apply to duly licensed dealers.

Quantities not to exceed ten thousand small arms ammunition primers may be stored in a residence.

Small arms ammunition primers shall be separate from flammable liquids, flammable solids, and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of twenty-five feet.

Not more than seven hundred fifty thousand small arms ammunition primers shall be stored in any one building except as next provided; no more than one hundred thousand shall be stored in any one pile, and piles shall be separated by at least fifteen feet.

Quantities of small arms ammunition primers in excess of seven hundred fifty thousand shall be stored in magazines in accordance with RCW 70.74.025.

Forest Protection

70.04.245. Blasting fuse regulations—Penalty. It shall be unlawful to use fuse for blasting on any area of logging slash or area of actual logging operation for the period of June fifteenth to October fifteenth. This period may be extended by the supervisor if hazardous weather conditions warrant. Any person violating the provisions of this section shall be guilty of a misdemeanor. Upon the issuance of a written permit by the supervisor or warden or ranger, fuse may be used during the closed season under the conditions specified in the permit.

West Virginia WEST VIRGINIA CODE

Traffic

Definition for Transport Purposes
Sec. 17C-1-24. Explosives. "Explosives" means any chemical compound or

mechanical mixture that is commonly used or intended for the purpose of producing an explosive and which contains any oxidizing and combustible units or other ingredients in such proportions quantities, or packing that

an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Crimes

Sec. 61-3-8. Prohibitions as to molotov cocktails; penalty. It shall be unlawful for any person to make, carry, possess, sell, give or use any type of incendiary device, commonly known as a molotov cocktail, which is hereby defined to mean a makeshift incendi-

ary bomb made of a breakable container filled with flammable liquid and provided with a wick composed of any substance capable of bringing a flame into contact with the liquid, but is not intended to mean a device commercially manufactured primarily for the purpose of illumination, or other such use.

Any person who shall violate any provision of this section shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one year nor more than five years.

The possession, sale or control by a person or persons of any such device or container containing flammable liquid is prima facie evidence of a violation of this section.

Wisconsin

WISCONSIN STATUTES ANNOTATED

Criminal Code

164.20. Machine guns and other weapons; use in certain cases; penalty. (1) No person shall sell, possess, use or transport any machine gun or other full automatic firearm, nor shall any person sell, possess, use, or transport any bomb, hand grenade, projectile, shell or other container of any kind or character into which tear gas or any similar substance is used or placed for use to cause bodily discomfort, panic, or damage to property.

(2) Any person violating any of the provisions of this section shall be punished by imprisonment in the state prison for a term of not less than one year nor more than three years.

(3) The provisions of this section shall not apply to the sale, possession, use or transportation of any such weapons or containers to or by any national guardsman in line of duty, any civil enforcement officer of the state or of any city or county, or any person duly authorized by the chief of police of any city or the sheriff of any county to sell, possess, use or transport such weapons or containers;

nor shall the restriction on transportation apply to common carriers.

941.31. Possession of explosives for unlawful purpose. Whoever makes, buys, transports, possesses, or transfers any explosive compound or offers to do the same, either with intent to use such explosive to commit a crime or knowing that another intends to use it to commit a crime, may be fined not more than \$1,000 or imprisoned not more than 10 years or both.

943.06. Molotov cocktails. (1) As used in this section, "fire bomb" means a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but does not mean a device commercially manufactured primarily for the purpose of illumination.

(2) Whoever possesses, manufactures, sells, offers for sale, gives or transfers a fire bomb may be fined not more than \$500 or imprisoned not more than 6 months or both.

(3) This section shall not prohibit the authorized use or possession of any such device by a member of the armed forces or by firemen or law enforcement officers.

Wyoming

WYOMING STATUTES

Crimes and Offenses

Sec. 6-128.2. Possession, manufacture, or disposal of fire bomb. Every person who possesses, manufactures, or disposes of

a fire bomb is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the state penitentiary, not exceeding five years or both. For the pur-

poses of this section, "disposes of" means to give, give away, lend, offer, offer for sale, sell, or transfer. For the purposes of this section, a "fire bomb" is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, and having a wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be a fire bomb for the purposes of this section.

Public Health and Safety

Chapter 13

Purchase of Explosive Materials

Sec. 35-526. Definitions. As used in this act [Sections 35-526, 35-527] unless the context otherwise requires: (a) "Explosive materials" means explosives, blasting agents, and detonators as defined by section 181.11 of title 26, Code of Federal Regulations. (b) "Nonlicensee or nonpermittee" means any individual, corporation, company, association, firm, partnership, society, or joint stock company who is not required to be licensed or obtain a permit under title XI, Regulation of Explosives, of the Federal Organized Crime Control Act of 1970.

Sec. 35-527. Purchase of explosive materials from contiguous state permitted; transportation, etc. Any nonlicensee or nonpermittee who is a resident of the State of Wyoming and who uses explosive materials in the conduct of business may lawfully purchase explosive materials from a licensee of a state contiguous to the State of Wyoming and may transport, ship, or receive any such explosive materials if all requirements of section 181.26 of title 26 of the Code of Federal Regulations are met.

EXPLOSIVES STATUTES CHART

STATE	UNLAWFUL USES OF EXPLOSIVES										FALSE REPORTS/THREATS	TRANSPORTATION		DELEGATION TO STATE AGENCIES		
	ARSON	BURGLARY	FISHING	HUNTING	MALICIOUS DESTRUCTION/INJURY	FURNISHING TO PRISONERS	STOPPING AT R.R. X	MARKING VEHICLES								
ALABAMA														55538		
ALASKA														§ 08.52.010		
ARIZONA		§ 13-303	§ 17-309(C)	§ 17-309(C)	§ 13-922	§ 31-129	§ 17-309(C)	§ 13-922	§ 13-922	§ 31-129	§ 28-863	§ 28-862	§ 23-124	§ 28-863	§ 28-862	§ 23-124
ARKANSAS	§ 41-1902		§ 47-408	§ 47-316F	§ 41-1903	§ 59-1116	§ 47-316F	§ 41-1903	§ 41-1903	§ 59-1116	§ 41-2911	§ 75-638	§ 82-811	§ 41-2911	§ 75-638	§ 82-811
CALIFORNIA		PENAL § 464	FISH & GAME § 5500								PENAL § 148.1	VEHICLE § 27903	HEALTH & SAFETY § 12081			
COLORADO	§ 18-4-102 THROUGH 18-4-105	§ 18-4-202		§ 33-6-118							§ 18-6-110	§ 42-4-228				
CONNECTICUT	§ 53a-111	§ 53a-101	§ 26-119	§ 26-88	§ 53a-117	§ 53a-174	§ 26-119	§ 53a-117	§ 53a-117	§ 53a-174	§ 14-250					
DELAWARE			75912 75111													
DISTRICT OF COLUMBIA					§ 22-3105											
FLORIDA	§ 806.01	§ 810.01			§ 790.16 § 790.16						§ 790.162 § 790.163 § 790.164	§ 316.159	§ 316.286	§ 316.159	§ 316.286	§ 552.13
GEORGIA	§ 26-1401 THROUGH 26-1403		§ 45-703								§ 26-2609					
HAWAII			§ 188-21 § 188-22		§ 753-8						§ 753-16 § 753-17	§ 291C-93			§ 396-4	
IDAHO		§ 18-1405	§ 36-1101		§ 18-7006						§ 18-3313					
ILLINOIS	38520-1		5653.15		38521-1										935155	
INDIANA	§ 35-16-1-5	§ 35-13-7-1	§ 14-2-7-26		§ 35-13-4-1						§ 35-30-9-2 § 35-30-9-3	§ 9-4-1-108 § 35-28-11-1	§ 22-11-13-16			§ 72-11-5-11
IOWA		§ 708.4	§ 109.76	§ 109.92	§ 697.2 THROUGH 697.4	§ 745.15 THROUGH 745.17					§ 697.6	§ 321.343	§ 321.450	§ 321.343	§ 321.450	
KANSAS			§ 32-135									§ 8-1553		§ 8-1553		§ 31-133
KENTUCKY			§ 150.460	§ 150.365								§ 189.565	§ 189.160	§ 189.565	§ 189.160	

EXPLOSIVES STATUTES CHART

STATE	UNLAWFUL USES OF EXPLOSIVES						FALSE REPORTS/THREATS	TRANSPORTATION		DELEGATION TO STATE AGENCIES
	ARSON	BURGLARY	FISHING	HUNTING	MALICIOUS DESTRUCTION/INJURY	FURNISHING TO PRISONERS		STOPPING AT R.R. X	MARKING VEHICLES	
LOUISIANA	R.S. 14:51 THROUGH R.S. 14:54		R.S. 56:320				R.S. 14:54.1	R.S. 32:251		
MAINE			12§4207		17§501		17§503 17§504	29§959		25§2441
MARYLAND		27§34	66C§4-503		27§119				66½§12-407	38A§8 38A§33
MASSACHUSETTS	266§5A		130§23		266§101 266§102		269§14	90§15		148§9
MICHIGAN		§28.307	§13.1602 §13.1606		§§ 28.401 THROUGH 28.405 §28.560		§28.643(1)	§9.2369	§9.2414	§ 4.559(3a)
MINNESOTA	§609.56 §609.565 §609.57	§609.58	§101.42 SUBD. 11			§243.55	§609.713	§219.21 §169.28	§169.76	§299F46 §299F18 §299F19
MISSISSIPPI	§97-17-9(2)		§49-7-69 §49-7-81	§49-7-69			§97-37-21	§63-3-1011	§63-7-77	
MISSOURI		38§560.100	16§252.220		38§560.400					
MONTANA	§94-6-104	§94-6-205	§26-335		§94-8-225				§32-21-153	
NEBRASKA	§28-504.04	§28-537	§37-515	§37-511	§28-1011.24(8)&(9)	§28-735	§28-753 §28-1011.24(6)	§39-658		§81-502
NEVADA	§205.025	§205.075			§202.270 §202.830	§212.160	§202.840	§484.353		
NEW HAMPSHIRE		§635:1	§211:7	§210:17	§158:34		§158:38	§263:76	§263:76	
NEW JERSEY		§2A:94-2	§23:5-27		§2A:89-4	§2A:104-12				§21:1A-131
NEW MEXICO					§40A-7-4	§40A-22-12				
NEW YORK	PENAL §150.20	PENAL §140.25 §140.30	ECL §11-1321		PENAL §145.12			V&T 1171		
NORTH CAROLINA		§14-57 §14-89.1	§113-262		§14-49 §14-49.1			§20-167		
NORTH DAKOTA										§18-01-33
OHIO					§3743.25				§4513.29	

EXPLOSIVES STATUTES CHART

STATE	UNLAWFUL USES OF EXPLOSIVES						FALSE REPORTS/THREATS	TRANSPORTATION		DELEGATION TO STATE AGENCIES
	ARSON	BURGLARY	FISHING	HUNTING	MALICIOUS DESTRUCTION/INJURY	FURNISHING TO PRISONERS		STOPPING AT R.R. X	MARKING VEHICLES	
OKLAHOMA		21§1441	29§6-301(2)	29§5-201				47§11-702	63§124	§63 141.2
OREGON	§164.315 §164.325	§164.225 §164.235		§166.320	§164.365					
PENNSYLVANIA	18 C.P.S.A. §3301		30§200 30§201	34§1311.603 34§1311.724	18 C.P.S.A. §3302 & §3304		18 P.S. §4329 & §4329.1			
PUERTO RICO					§59-586					§59-584
RHODE ISLAND					§11-11-2		§11-13-9 §11-35-18			
SOUTH CAROLINA			§28-674		§16-383.1		§16-383.2	§46-472	§46-629	§37-81
SOUTH DAKOTA	§22-33-7				§22-34-22 THROUGH 22-34-24		§22-34-26			§1-34-9 §34-36-4
TENNESSEE		§39-906	§51-438		§39-1401 §39-1403	§41-132	§39-1411	§59-847		39-1409
TEXAS	PENAL §28.02		PENAL ART. 924						ART. 6701d §139	
UTAH	§76-6-5	§76-9-1					§76-9-105		§41-6-154	
VERMONT	13§509				37§1601					20 §3075, 21 §262
VIRGINIA	§18.2-77		§29-153 §28.1-55 §28.1-56		§18.2-77		§18.2-83	§46.1-424		§40.1-22
VIRGIN ISLANDS									§9-716	
WASHINGTON			§77.16.060		§70.74.280	§9.94.060		§46.61.350		§70.74.020
WEST VIRGINIA					§61-3-7		§61-6-17	§17C-12-3	§17C-15-41	
WISCONSIN	§943.02		§29.29		§943.05					
WYOMING	§6-128.1	§6-130								

END

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