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I hereby certify that the foregoing Act, House File 177, was published in The Newton Daily News, Newton, Iowa, March 12, 1971, and in The Sheldon Mail, Sheldon, Iowa, March 10, 1971.

MELVIN D. SYNHORST, *Secretary of State.*

CHAPTER 117

EXPLOSIVE MATERIALS

H. F. 522

AN ACT relating to the regulation of the manufacture, sale, transportation, storage, possession, and use of explosive materials; providing penalties for violations of those regulations; and requiring prompt reporting of knowledge or discovery of explosive devices, and providing a penalty for failure to so report.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Definitions. As used in this Act:

2 1. "Explosive" or "explosives" means any chemical compound,
3 mixture or device, the primary or common purpose of which is to
4 function by explosion, i.e., with substantially instantaneous release of
5 gas and heat, unless such compound, mixture, or device is otherwise
6 specifically classified by the United States department of transporta-
7 tion. The term "explosives" includes all material which is classified
8 as class A, class B, and class C explosives by the United States de-
9 partment of transportation, and includes, but is not limited to, dyna-
10 mite, black powder, pellet powders, initiating explosives, blasting
11 caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters,
12 squibs, cordeau detonant* fuse, instantaneous fuse, igniter cord,
13 igniters, smokeless propellant, cartridges for propellant-actuated
14 power devices and cartridges for industrial guns, but shall not
15 include "fireworks" as defined and regulated pursuant to sections
16 seven hundred thirty-two point seventeen (732.17) through seven
17 hundred thirty-two point nineteen (732.19) of the Code, nor ammuni-
18 tion or small arms primers manufactured for use in shotguns, rifles,
19 and pistols. Commercial explosives are those explosives which are
20 intended to be used in commercial or industrial operations.

21 2. "Blasting agent" means any material or mixture consisting of a
22 fuel and oxidizer, intended for blasting but not otherwise classified as
23 an explosive, in which none of the finished products as mixed and
24 packaged for use or shipment can be detonated by means of a number
25 eight test blasting cap when unconfined.

26 3. "Commercial license" or "license" means a license issued by the
27 commissioner of public safety pursuant to this Act.

28 4. "Licensee" means a person holding a commercial license issued
29 by the commissioner of public safety pursuant to this Act.

30 5. "Users permit" or "permit" means a permit issued by a county
31 sheriff or chief of police of a city of ten thousand or more population,
32 pursuant to this Act.

33 6. "Permittee" means a person holding a user's permit issued
34 pursuant to this Act.

*According to enrolled Act.

35 7. "Import" and "importation" means transfer into the state of
36 Iowa.

37 8. "Explosive materials" means explosives or blasting agents.

38 9. "Magazine" means any building or structure, other than an ex-
39 plosives manufacturing building, approved by the commissioner of
40 public safety or his designated agent for the storage of explosive
41 materials.

42 10. "Person" means any individual, corporation, partnership, or
43 association.

1 **SEC. 2. Commercial license—how issued—violation.**

2 1. The commissioner of public safety shall issue commercial licenses
3 for the manufacture, importation, distribution, sale, and commercial
4 use of explosives to persons who, in the commissioner's discretion are
5 of good character and sound judgment, and have sufficient knowledge
6 of the use, handling, and storage of explosive materials to protect the
7 public safety. Licenses shall be issued for a period of one year, but
8 may be issued for shorter periods, and may be revoked or suspended
9 by the commissioner of public safety for any of the following reasons:

10 a. Falsification of information submitted in the application for a
11 license.

12 b. Proof that the licensee has violated any provisions of this Act or
13 any rules or regulations prescribed by the commissioner of public
14 safety pursuant to the provisions of this Act.

15 2. Licenses shall be issued by the commissioner of public safety
16 upon payment to him of a fee of sixty dollars, valid for a period of
17 one calendar year, commencing on January first and terminating on
18 December thirty-first; however, an initial license may be issued during
19 any calendar year for the number of months remaining in such calen-
20 dar year, computed to the first day of the month when the application
21 for the license is approved. The license fee shall be charged on a pro
22 rata basis for the number of months remaining in the year of issue.
23 Applications for renewal of licenses shall be submitted within thirty
24 days prior to the license expiration date and shall be accompanied by
25 payment of the prescribed annual fee.

26 3. Except as permitted in section three (3), section nine (9), section
27 ten (10), and section eleven (11) of this Act, it shall be unlawful for
28 any person to willfully manufacture, import, store, detonate, sell, or
29 otherwise transfer any explosive materials unless such person is the
30 holder of a valid license issued pursuant to this section.

31 4. Commercial dealers having a federal firearms license shall be
32 exempt from the requirement or the commercial license requirement
33 of this Act for importation, distribution, sale, transportation, storage
34 and possession of smokeless powder propellants or black sporting
35 powder propellants provided that such dealer must conform and com-
36 ply to rules, regulations, or ordinances of federal, state, city or town
37 authorities having jurisdiction of such powder.

1 **SEC. 3. User's permit—how issued—violation.**

2 1. User's permits to purchase, possess, transport, store, and deto-
3 nate explosive materials shall be issued by the sheriff of the county
4 or the chief of police of a city of ten thousand population or more
5 where the possession and detonation will occur. If the possession and

6 detonation are to occur in more than one county or city, then such
7 permits must be issued by the sheriff or chief of police of each of such
8 counties or cities, except in counties and cities in which the explosives
9 are possessed for the sole purpose of transporting them through such
10 counties and cities. A permit shall not be issued unless the sheriff or
11 chief of police having jurisdiction is satisfied that possession and det-
12 onation of explosive materials is necessary to the applicant's business
13 or to improve his property. Permits shall be issued only to persons
14 who, in the discretion of the sheriff or chief of police, are of good
15 character and sound judgment, and have sufficient knowledge of the
16 use and handling of explosive materials to protect the public safety.
17 The commissioner of public safety shall prescribe, have printed, and
18 distribute permit application forms to all local permit issuing authori-
19 ties.

20 2. The user's permit shall state the quantity of explosive materials
21 which the permittee may purchase, the amount he may have in his
22 possession at any one time, the amount he may detonate at any one
23 time, and the period of time during which the purchase, possession,
24 and detonation of explosive materials is authorized. The permit shall
25 also specify the place where detonation may occur, the location and
26 description of the place where the explosive materials will be stored,
27 if such be the case, and shall contain such other information as may
28 be required under the rules and regulations of the commissioner of
29 public safety. The permit shall not authorize purchase, possession,
30 and detonation of a quantity of explosive materials in excess of that
31 which is necessary in the pursuit of the applicant's business or the
32 improvement of his property, nor shall such purchase, possession, and
33 detonation be authorized for a period longer than is necessary for the
34 specified purpose. In no event shall the permit be valid for more than
35 thirty days from date of issuance but it may be renewed upon proper
36 showing of necessity.

37 3. The user's permit may be revoked for any of the reasons specified
38 in section two (2), subsection one (1) for suspension or revocation of
39 a commercial license.

40 4. It shall be unlawful for a person to willfully purchase, possess,
41 transport, store, or detonate explosive materials unless such person
42 is the holder of a valid permit issued pursuant to this section or a valid
43 license issued pursuant to section two (2) of this Act.

1 SEC. 4. Refusal to grant license or permit—appeal.

2 1. A person who is refused issuance of a commercial license by the
3 commissioner of public safety may appeal the commissioner's decision
4 to the district court. Such appeal shall be heard as a trial de novo.

5 2. A person who is refused issuance of a user's permit by a local
6 permit issuing authority may appeal the authority's decision to the
7 county board of supervisors or the city council of the county or city
8 where the permit is sought, and de novo to the district court.

1 SEC. 5. Rules and regulations. The commissioner of public safety
2 shall prepare, adopt, and distribute to permit issuing authorities and
3 other interested persons, without cost, rules and regulations in ac-
4 cordance with provisions of chapter seventeen A (17A) of the Code,
5 pertaining to the manufacture, transportation, storage, possession,
6 and use of explosive materials. Rules and regulations adopted by the

7 commissioner of public safety shall be compatible with, but not limited
8 to the National Fire Protection Association's pamphlet number four
9 hundred ninety-five and federal rules and regulations pertaining to
10 commerce, possession, storage, and use of explosive materials. Such
11 rules shall:

12 1. Prescribe reasonable standards for the safe transportation and
13 handling of explosive materials so as to prevent accidental fires and
14 explosions and prevent theft and unlawful or unauthorized possession
15 of explosive materials.

16 2. Prescribe procedures and methods of inventory so as to assure
17 accurate records of all explosive materials manufactured or imported
18 into the state and records of the disposition of such explosive ma-
19 terials, including records of the identity of persons to whom sales and
20 transfers are made, and the time and place of any loss or destruction
21 of explosive materials which might occur.

22 3. Prescribe reasonable standards for the safe storage of explosive
23 materials as may be necessary to prevent accidental fires and ex-
24 plosions and prevent thefts and unlawful or unauthorized possession
25 of explosive materials.

26 4. Require such reports from licensees, permittees, sheriffs, and
27 chiefs of police as may be necessary for the commissioner of public
28 safety to discharge his duties pursuant to this Act.

29 5. Prescribe the form and content of license and permit applications.

30 6. Conduct such inspections of licensees and permittees as may be
31 necessary to enforce the provisions of this Act.

1 **SEC. 6. Notice of storage required.** A licensee shall notify the
2 sheriff of the county and the local police authority of any city or town
3 in which explosive materials will be stored, and shall also notify such
4 authorities when the storage is terminated.

1 **SEC. 7.** The licensee's or permittee's explosive storage facility shall
2 be inspected at least once every six months by either the sheriff of the
3 county where the facility is located or by the local police authority
4 if the facility is located within a city of over ten thousand population.
5 The facility may be examined at other times by the sheriff if he con-
6 siders it necessary.

7 If the sheriff or local police authority find the facility to be improv-
8 erly secured, the licensee or permittee shall immediately correct the
9 improper security and, if not so corrected, the sheriff or local police
10 authority shall immediately confiscate the stored explosives. If the
11 explosives are confiscated by the local police authority, they shall be
12 delivered to the sheriff. The sheriff shall hold confiscated explosives
13 for a period of thirty days under proper security unless the period of
14 holding is shortened pursuant to this section.

15 If the licensee or permittee corrects the improper security within
16 such thirty-day period, the explosives shall be returned to the licensee
17 or permittee after he has made such correction and after he has paid
18 into the county fund an amount equal to the expense incurred by the
19 county in storing the explosives during the period of confiscation. The
20 amount of such expense shall be determined by the sheriff.

21 If the improper security is not corrected during the thirty-day
22 period, the sheriff shall deliver the explosives to the fire marshal for
23 disposal and the license or permit shall be canceled. Such canceled

24 license or permit shall not be reissued for a period of two years from
25 the date of cancellation.

26 The licensee or permittee may obtain possession of the explosives
27 from the sheriff during the thirty-day period for the purpose of dis-
28 posing of them. The disposal procedure shall conform to the pro-
29 visions of section nine (9) of this Act. The licensee or permittee shall
30 first pay into the county fund an amount equal to the expense incurred
31 by the county in storing the explosives during the period of con-
32 fiscation. The amount of the expense shall be determined by the
33 sheriff.

1 **SEC. 8. Report of theft or loss required.** Any theft or loss of
2 explosive materials, whether from a storage magazine, a vehicle in
3 which they are being transported, or from a site on which they are be-
4 ing used, or from any other location, shall immediately be reported by
5 the person authorized to possess such explosives to the local police
6 or county sheriff. The local police or county sheriff shall immediately
7 transmit a report of such theft or loss of explosive materials to the
8 commissioner of public safety.

1 **SEC. 9. Disposal regulated.** No person shall abandon or otherwise
2 dispose of any explosives in any manner which might, as the result of
3 such abandonment or disposal, create any danger or threat of danger
4 to life or property. Any person in possession or control of explosives
5 shall, when the need for such explosives no longer exists, dispose of
6 them in accordance with regulations prescribed by the commissioner
7 of public safety.

1 **SEC. 10. Persons and agencies exempt.** This Act shall not apply
2 to the transportation and use of explosive materials by the regular
3 military or naval forces of the United States, the duly organized
4 militia of this state, representatives of the state fire marshal, the
5 Iowa highway safety patrol, division of criminal investigation and
6 bureau of identification, local police departments, sheriffs departments,
7 and fire departments acting in their official capacity; nor shall this
8 Act apply to the transportation and use of explosive materials by any
9 peace officer to enforce provisions of this Act when he is acting pur-
10 suant to such authority, however, other agencies of the state or any
11 of its political subdivisions desiring to purchase, possess, transport,
12 or use explosive materials for construction or other purposes shall be
13 required to obtain user's permits.

1 **SEC. 11. Explosive materials exempt.** This Act shall not apply to
2 the possession or use of twenty-five pounds or less of smokeless
3 powder, or five pounds or less of black sporting powder, provided that:
4 1. Smokeless powder is intended for handloading or reloading of
5 ammunition for small arms with bores equivalent to ten gauge or less.
6 2. Black sporting powder is intended for handloading or reloading
7 ammunition for small arms with bores equivalent to ten gauge or less,
8 loading black ammunition, loading cap and ball revolvers, loading
9 muzzle loading arms, or loading muzzle loading cannon.
10 3. All such powder is for private use and not for commercial resale,
11 and in the case of black sporting powder or smokeless powder the
12 sharing with or disposition to another person is permitted if otherwise
13 lawful.

14 4. The storage, use, and handling of smokeless and black powder
 15 conforms to rules, regulations, or ordinances of authorities having
 16 jurisdiction for fire prevention and suppression purposes in the area
 17 of such storage, use, and handling.

1 SEC. 12. **Use of fees.** The fees collected by the commissioner of
 2 public safety in issuing licenses shall be deposited in a special fund in
 3 the state treasury to be used by the commissioner in administering and
 4 enforcing the provisions of this Act.

1 SEC. 13. **Local ordinances.** Nothing in this Act shall limit the
 2 authority of cities and towns to impose additional regulations govern-
 3 ing the storage, handling, use, and transportation of explosive ma-
 4 terials within their respective corporate limits, however, such regula-
 5 tions shall be at least as stringent as and not inconsistent with the
 6 provisions of this Act and the rules and regulations promulgated
 7 pursuant to this Act.

1 SEC. 14. **Criminal penalties.**

2 1. Any person who violates the provisions of section two (2), sub-
 3 section three (3), or section three (3), subsection four (4) of this Act
 4 commits a public offense and, upon conviction, shall be punished by
 5 imprisonment in the penitentiary for a term not to exceed fifteen
 6 years, or fined not to exceed five thousand dollars, or by both such
 7 imprisonment and fine.

8 2. Any person who violates the provisions of sections six (6), eight
 9 (8), or nine (9) of this Act, or any of the rules and regulations
 10 adopted by the commissioner of public safety pursuant to the pro-
 11 visions of this Act, commits a public offense and, upon conviction,
 12 shall be punished by imprisonment in the county jail not to exceed
 13 thirty days, or fined not to exceed one hundred dollars.

1 SEC. 15. Section six hundred ninety-seven point seven (697.7),
 2 Code 1971, is amended by adding the following new paragraph:

3 "Any person who receives or has knowledge of such a threat or who
 4 discovers or has knowledge of the discovery of any bomb or explosive
 5 materials shall promptly report the same to a peace officer or to the
 6 county attorney. Failure to report such knowledge or discovery shall
 7 be a public offense punishable, upon conviction, by imprisonment in
 8 the county jail not to exceed thirty days, or by a fine not to exceed
 9 one hundred dollars."

Approved June 10, 1971.

CHAPTER 118

RIGHT OF WAY RULES OF VESSEL TRAFFIC

H. F. 330

AN ACT relating to the right-of-way rules of vessel traffic.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section one hundred six point twenty-six (106.26),
 2 Code 1971, is amended by adding the following new subsection: