

MAR 26 1971

HOUSE FILE 522
By COMMITTEE ON LAW ENFORCEMENT

*Place On Calendar
Gen. Law Enforcement 4/7, Pass 4/20*

Passed House, Date 3-31-71 Passed Senate, Date 5-5-71

Vote: Ayes 95 Nays 3 Vote: Ayes 41 Nays 4

Approved 6-10-71

*Motion to reconsider filed 3-31-71, withdrawn 4-2-71
Passed Senate of the preceding
from amendments in the House
refused to concur 5-19-71
ayes 40 nays 2*

*Passed House 5-19-71
ayes 84 nays 0*

A BILL FOR

1 An Act relating to the regulation of the manufacture, sale,
2 transportation, storage, possession, and use of explosive
3 materials; providing penalties for violations of those
4 regulations; and requiring prompt reporting of knowledge
5 or discovery of explosive devices, and providing a penalty
6 for failure to so report.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. DEFINITIONS. As used in this Act:

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

24 2. "Blasting agent" means any material or mixture con-
25 sisting of a fuel and oxidizer, intended for blasting but
26 not otherwise classified as an explosive, in which none of
27 the finished products as mixed and packaged for use or ship-
28 ment can be detonated by means of a number eight test blast-
29 ing cap when unconfined.

30 3. "Commercial license" or "license" means a license
31 issued by the state fire marshal pursuant to this Act.

32 4. "Licensee" means a person holding a commercial license
33 issued by the state fire marshal pursuant to this Act.

34 5. "Users permit" or "permit" means a permit issued by
35 a county sheriff or chief of police of a city of ten thousand

1 or more population, pursuant to this Act.

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

4 7. "Import" and "importation" means transfer into the
5 state of Iowa.

6 8. "Explosive materials" means explosives or blasting
7 agents.

8 9. "Magazine" means any building or structure, other than
9 an explosives manufacturing building, approved by the state
10 fire marshal or his designated agent for the storage of ex-
11 plosive materials.

12 10. "Person" means any individual, corporation, partner-
13 ship, or association.

14 Sec. 2. COMMERCIAL LICENSE--HOW ISSUED--VIOLATION.

15 1. The state fire marshal shall issue commercial licenses
16 for the manufacture, importation, distribution, sale, and
17 commercial use of explosives to persons who, in the fire
18 marshal's discretion are of good character and sound judg-
19 ment, and have sufficient knowledge of the use, handling,
20 and storage of explosive materials to protect the public
21 safety. Licenses shall be issued for a period of one year,
22 but may be issued for shorter periods, and may be revoked
23 or suspended by the state fire marshal for any of the following
24 reasons:

25 a. Falsification of information submitted in the applica-
26 tion for a license.

27 b. Proof that the licensee has violated any provisions
28 of this Act or any rules or regulations prescribed by the
29 state fire marshal pursuant to the provisions of this Act.

30 2. Licenses shall be issued by the state fire marshal,
31 upon payment to him of a fee of sixty dollars, valid for a
32 period of one calendar year, commencing on January first and
33 terminating on December thirty-first; however, an initial
34 license may be issued during any calendar year for the number
35 of months remaining in such calendar year, computed to the

1 first day of the month when the application for the license
2 is approved. The license fee shall be charged on a pro rata
3 basis for the number of months remaining in the year of issue.
4 Applications for renewal of licenses shall be submitted within
5 thirty days prior to the license expiration date and shall
6 be accompanied by payment of the prescribed annual fee.

7 3. Except as permitted in section three (3) of this Act,
8 it shall be unlawful for any person to willfully manufacture,
9 import, store, detonate, sell, or otherwise transfer any ex-
10 plosive materials unless such person is the holder of a valid
11 license issued pursuant to this section.

12 Sec. 3. USER'S PERMIT--HOW ISSUED--VIOLATION.

13 1. User's permits to purchase, possess, transport, store,
14 and detonate explosive materials shall be issued by the sheriff
15 of the county or the chief of police of a city of ten thousand
16 population or more where the possession and detonation will
17 occur. If the possession and detonation are to occur in more
18 than one county or city, then such permits must be issued
19 by the sheriff or chief of police of each of such counties
20 or cities, except in counties and cities in which the
21 explosives are possessed for the sole purpose of transporting
22 them through such counties and cities. A permit shall not
23 be issued unless the sheriff or chief of police having
24 jurisdiction is satisfied that possession and detonation of
25 explosive materials is necessary to the applicant's business
26 or to improve his property. Permits shall be issued only
27 to persons who, in the discretion of the sheriff or chief
28 of police, are of good character and sound judgment, and have
29 sufficient knowledge of the use and handling of explosive
30 materials to protect the public safety. The state fire marshal
31 shall prescribe, have printed, and distribute permit
32 application forms to all local permit issuing authorities.

33 2. The user's permit shall state the quantity of explo-
34 sive materials which the permittee may purchase, the amount
35 he may have in his possession at any one time, the amount

1 he may detonate at any one time, and the period of time dur-
2 ing which the purchase, possession, and detonation of ex-
3 plosive materials is authorized. The permit shall also specify
4 the place where detonation may occur, the location and
5 description of the place where the explosive materials will
6 be stored, if such be the case, and shall contain such other
7 information as may be required under the rules and regula-
8 tions of the state fire marshal. The permit shall not
9 authorize purchase, possession, and detonation of a quantity
10 of explosive materials in excess of that which is necessary
11 in the pursuit of the applicant's business or the improve-
12 ment of his property, nor shall such purchase, possession,
13 and detonation be authorized for a period longer than is
14 necessary for the specified purpose. In no event shall the
15 permit be valid for more than thirty days from date of issuance
16 but it may be renewed upon proper showing of necessity.

17 3. The user's permit may be revoked for any of the rea-
18 sons specified in section two (2), subsection one (1) for
19 suspension or revocation of a commercial license.

20 4. It shall be unlawful for a person to willfully pur-
21 chase, possess, transport, store, or detonate explosive
22 materials unless such person is the holder of a valid permit
23 issued pursuant to this section or a valid license issued
24 pursuant to section two (2) of this Act.

25 Sec. 4. REFUSAL TO GRANT LICENSE OR PERMIT--APPEAL.

26 1. A person who is refused issuance of a commercial license
27 by the state fire marshal may appeal the fire marshal's
28 decision to the district court in a county where all or a
29 substantial number of the activities for which the license
30 is sought would occur if the license were issued. The decision
31 of the district court upon the appeal shall be final as to
32 both parties.

33 2. A person who is refused issuance of a user's permit
34 by a local permit issuing authority may appeal the authority's
35 decision to the county board of supervisors or the city council

1 of the county or city where the permit is sought. The de-
2 cision of such local governing body shall be final as to both
3 parties.

4 Sec. 5. RULES AND REGULATIONS. The state fire marshal
5 shall prepare, adopt, and distribute to permit issuing author-
6 ities and other interested persons, without cost, rules and
7 regulations in accordance with provisions of chapter seven-
8 teen A (17A) of the Code, pertaining to the manufacture,
9 transportation, storage, possession, and use of explosive
10 materials. Rules and regulations adopted by the state fire
11 marshal shall be compatible with, but not limited to the
12 National Fire Protection Association's pamphlet number four
13 hundred ninety-five and federal rules and regulations per-
14 taining to commerce, possession, storage, and use of explo-
15 sive materials. Such rules shall:

16 1. Prescribe reasonable standards for the safe transporta-
17 tion and handling of explosive materials so as to prevent
18 accidental fires and explosions and prevent theft and unlawful
19 or unauthorized possession of explosive materials.

20 2. Prescribe procedures and methods of inventory so as
21 to assure accurate records of all explosive materials man-
22 ufactured or imported into the state and records of the dis-
23 position of such explosive materials, including records of
24 the identity of persons to whom sales and transfers are made,
25 and the time and place of any loss or destruction of explo-
26 sive materials which might occur.

27 3. Prescribe reasonable standards for the safe storage
28 of explosive materials as may be necessary to prevent acci-
29 dental fires and explosions and prevent thefts and unlawful
30 or unauthorized possession of explosive materials.

31 4. Require such reports from licensees, permittees,
32 sheriffs, and chiefs of police as may be necessary for the
33 state fire marshal to discharge his duties pursuant to this
34 Act.

35 5. Prescribe the form and content of license and permit

1 applications.

2 "6. Conduct such inspections of licensees and permittees
3 as may be necessary to enforce the provisions of this Act.))

4 Sec. 6. NOTICE OF STORAGE REQUIRED. A licensee shall
5 notify the sheriff of the county and the local police authority
6 of any city or town in which explosive materials will be
7 stored, and shall also notify such authorities when the storage
8 is terminated.

9 Sec. 7. REPORT OF THEFT OR LOSS REQUIRED. Any theft or
10 loss of explosive materials, whether from a storage maga-
11 zine, a vehicle in which they are being transported, or from
12 a site on which they are being used, or from any other loca-
13 tion, shall immediately be reported by the person authorized
14 to possess such explosives to the local police or county
15 sheriff. The local police or county sheriff shall immedi-
16 ately transmit a report of such theft or loss of explosive
17 materials to the state fire marshal and to the division of
18 criminal investigation and bureau of identification of the
19 department of public safety.

20 Sec. 8. DISPOSAL REGULATED. No person shall abandon or
21 otherwise dispose of any explosives in any manner which might,
22 as the result of such abandonment or disposal, create any
23 danger or threat of danger to life or property. Any person
24 in possession or control of explosives shall, when the need
25 for such explosives no longer exists, dispose of them in
26 accordance with regulations prescribed by the state fire
27 marshal.

28 Sec. 9. PERSONS AND AGENCIES EXEMPT. This Act shall not
29 apply to the transportation and use of explosive materials
30 by representatives of the state fire marshal, the Iowa highway
31 safety patrol, division of criminal investigation and bureau
32 of identification, local police departments, sheriffs
33 departments, and fire departments acting in their official
34 capacity; nor shall this Act apply to the transportation and
35 use of explosive materials by any peace officer to enforce

1 provisions of this Act when he is acting pursuant to such
2 authority, however, other agencies of the state or any of
3 its political subdivisions desiring to purchase, possess,
4 transport, or use explosive materials for construction or
5 other purposes shall be required to obtain user's permits.

6 Sec. 10. EXPLOSIVE MATERIALS EXEMPT. This Act shall not
7 apply to the possession or use of twenty-five pounds or less
8 of smokeless powder, or five pounds or less of black sporting
9 powder, provided that:

10 1. Smokeless powder is intended only for hand loading
11 of small arms ammunition of seventy-five hundred caliber or
12 less.

13 2. Black sporting powder is intended for loading of small
14 arms or small arms ammunition of seventy-five hundred caliber
15 or less.

16 3. All such powder is for private use and not for resale,
17 and, in the case of black sporting powder, no gift, delivery,
18 or disposition to another person is effected.

19 4. The storage, use, and handling of smokeless and black
20 powder conforms to rules, regulations, or ordinances of
21 authorities having jurisdiction for fire prevention and
22 suppression purposes in the area of such storage, use, and
23 handling.

24 Sec. 11. USE OF FEES. The fees collected by the state
25 fire marshal in issuing licenses shall be used by the fire
26 marshal in administering and enforcing the provisions of this
27 Act.

28 Sec. 12. LOCAL ORDINANCES. Nothing in this Act shall
29 limit the authority of cities and towns to impose additional
30 regulations governing the storage, handling, use, and trans-
31 portation of explosive materials within their respective
32 corporate limits, however, such regulations shall be at least
33 as stringent as and not inconsistent with the provisions of
34 this Act and the rules and regulations promulgated pursuant
35 to this Act.

1 of this Act to limit the lawful manufacture, sale, trans-
2 portation, storage, possession and use of explosives to only
3 those situations where the lawful purpose of such manufacture,
4 sale, transportation, storage, possession, and use is clearly
5 apparent and to strictly control the transportation, storage
6 and use of explosives. The bill also requires a prompt re-
7 port of any discovery or knowledge of the presence of explo-
8 sive materials to the proper authorities.

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HOUSE FILE 522

1 Amend House File 522 as follows:

2 1. Page 6, line 26, by inserting after the period
3 the following:

4 "The prescribed procedure and method of inventory
5 shall, in any event, provide for the taking of at least
6 a weekly inventory of stored explosive materials."

7 2. Page 6, line 30, insert after the period the
8 following:

9 "The storage and security standards for a licensee
10 shall, in any event, include, at least, the following:

11 a. The explosive storage facility shall be a solidly
12 built structure with a floor which is secured to the
13 ground. It shall contain no windows.

14 b. The outer wall covering shall be constructed in
15 such a manner and of such material that entry cannot be
16 accomplished by prying apart or separating portions of
17 the outer wall covering.

18 c. The doors to the facility shall be fastened to
19 the facility by hinges and hasps that cannot be readily
20 removed or broken by the use of a pry bar or like tool.
21 The hinges and hasps shall be attached to the doors by
22 welding, riveting or bolting, with the nuts on the in-
23 side of the door. The rivets or bolts shall be installed
24 in such a manner that the hinges and hasps cannot be
25 removed when the doors are closed or locked.

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1 d. Each door shall be equipped with two mortise
2 locks; or with two padlocks fastened in separate hasps
3 and staples; or with a combination of mortise lock and
4 a padlock; or with a mortise lock that requires two keys
5 to open; or three-point lock. All padlocks shall be
6 fine-tumbler proof. All padlocks shall be protected
7 with one-quarter inch steel caps constructed so as to
8 prevent sawing or lever action on the locks or hasps."

9 "The storage and security standards for a permittee
10 shall, in any event, include, at least the requirements
11 that explosives be placed in a container that cannot be
12 readily opened or dismantled by the use of a pry bar or
13 like tool; any lid or top thereto be secured to such
14 container in like manner; such lid or top, when closed,
15 be secured by a mortise lock or padlock that cannot be
16 readily removed or broken by the use of a pry bar or
17 like tool; and be securely anchored to the ground in
18 some manner."

19 3. Page 7, by inserting after line 1 the words:

20 "6. Conduct such inspections of licensees and
21 permittees as may be necessary to enforce the provisions

Senate 9
May 5, 1971

22 of this Act."
23 4. Page 7, by inserting the following new section
24 after line 8:
25 "The licensee's or permittee's explosive storage

PAGE 3

1 facility shall be inspected at least once every six
2 months by either the sheriff of the county where the
3 facility is located or by the local police authority if
4 the facility is located within a city of over ten thou-
5 sand population. The facility may be examined at other
6 times by the sheriff if he considers it necessary.
7 If the sheriff or local police authority find the
8 facility to be improperly secured, the licensee or per-
9 mittee shall immediately correct the improper security
10 and, if not so corrected, the sheriff or local police
11 authority shall immediately confiscate the stored explo-
12 sives. If the explosives are confiscated by the local
13 police authority, they shall be delivered to the sheriff.
14 The sheriff shall hold confiscated explosives for a
15 period of thirty days under proper security unless the
16 period of holding is shortened pursuant to this section.
17 If the licensee or permittee corrects the improper
18 security within such thirty day period, the explosives
19 shall be returned to the licensee or permittee after he
20 has made such correction and after he has paid into the
21 county fund an amount equal to the expense incurred by
22 the county in storing the explosives during the period
23 of confiscation. The amount of such expense shall be
24 determined by the sheriff.
25 If the improper security is not corrected during the

PAGE 4

1 thirty day period, the sheriff shall deliver the explo-
2 sives to the fire marshall for disposal and the license
3 or permit shall be canceled. Such canceled license or
4 permit shall not be reissued for a period of two
5 years from the date of cancellation.
6 The licensee or permittee may obtain possession of
7 the explosives from the sheriff during the thirty day
8 period for the purpose of disposing of them. The dis-
9 posal procedure shall conform to the provisions of
10 section eight (8) of this Act. The licensee or permittee
11 shall first pay into the county fund an amount equal to
12 the expense incurred by the county in storing the explo-
13 sives during the period of confiscation. The amount of
14 the expense shall be determined by the sheriff."

Filed - *Adopted 5/5*
May 4, 1971

By GAUDINEER, THORSEN, CONKLIN,
KENNEDY and POTTER

Senate 11
May 5, 1971

HOUSE FILE 522

1 Amend the Potgeter amendment filed May 3, 1971 to page 5 of
2 House File 522, line 7, by inserting after the word "and"
3 the words "de novo".

Filed - *Adopted 5/5*
May 4, 1971

By POTGETER, DeKOSTER and GAUDINEER

HOUSE FILE 522

1 Amend House File 522, page 5, line 28, by inserting
2 after the word "court." the words "Such appeal shall be
3 heard as a trial de novo."

Filed - *Adopted 5/5*
May 4, 1971

By POTGETER, DeKOSTER and GAUDINEER

HOUSE FILE 522

1 Amend House File 522 as amended and passed by the House
2 by numbering properly and adding the following new section
3 after line 26 on page 9:
4 "Sec. 15. Any person who has an existing and valid
5 license or permit pursuant to the laws of the United States
6 to manufacture, import, distribute, sell, possess, transport,
7 store or detonate explosives shall be exempt from the pro-
8 visions of this Act."

Filed - *Adopted 5/5*
May 4, 1971

By HILL and GAUDINEER

HOUSE FILE 522

1 Amend House File 522, page 3, by striking in lines 17 and 18
2 the words "fire marshal's" and inserting in lieu thereof the word
3 "commissioner's".

Filed - *Adopted 5/5*
May 4, 1971

By POTGETER

HOUSE FILE 522

1 Amend House File 522, page 3, line 31, by striking the word
2 "sixty" and inserting in lieu thereof the word "twenty".

Filed - *Lost 5/5*
May 4, 1971

By WALSH

1 Amend House File 522, page 7, by adding after line 3
2 the following new subsection:
3 "Prescribe minimum distances which must be maintained
4 between the point where explosive materials are proposed
5 to be detonated and adjacent dwellings or other objects
6 in order to minimize the danger of injury or damage to
7 persons or property in the proximity of the blasting
8 area. Such minimum distances shall be based upon the
9 amount of explosive material proposed to be used in a
10 single detonation, the nature of the adjacent property
11 sought to be protected, and other relevant factors."

Filed and Adopted
May 5, 1971

By CONKLIN

1 Amend House File 522 as follows:
2 1. Page 4, line 9, by striking the word "detonate,".
3 2. Page 5, line 21, by striking "store, or detonate" and
4 inserting in lieu thereof "or store".

Filed and Adopted
May 5, 1971

By ANDERSON

HOUSE FILE 522

1 Amend House File 522 as follows:

2 1. Page 4, line 7, by adding after the figure "(3)" the words
3 and figures ", section eight (8), section nine (9), and section
ten (10)".

4 2. Page 4, by adding the following new subsection after line
11:

5 "4. Commercial dealers having a federal firearms license
6 shall be exempt from the requirement or the
commercial
7 license requirement of this Act for importation,
8 distribution, sale, transportation, storage and
9 possession of smokeless powder propellents or black
10 sporting powder propellents provided that such dealer
11 must conform and comply to rules, regulations, or
12 ordinances of federal, state, city or town
authorities
13 having jurisdiction of such powder."

14 3. Page 7, line 30, by adding after the word "by" the words
15 "the regular military or naval forces of the United States, the
duly
16 organized militia of this state.

17 4. Page 8, line 8, by striking the word "five" and inserting
18 the word "ten".

19 5. Page 8, by striking lines 10 through 18 inclusive and in-
20 sserting in lieu thereof the following:

21 "1. Smokeless powder is intended for handloading or re-
22 loading of ammunition for small arms with bores
23 equivalent to ten gauge or less.

24 2. Black sporting powder is intended for handloading or
25 reloading ammunition for small arms with bores

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1 equivalent to ten gauges or less, loading black
2 ammunition, loading cap and ball revolvers, loading
3 muzzle loading arms, or loading muzzle loading
cannon."

4 3. All such powder is for private use and not for
commercial
5 resale, and in the case of black sporting powder or
6 smokeless powder the sharing with or disposition to
7 another person is permitted if otherwise lawful."

Filed - *Adopted 5/4*
April 30, 1971

By THORSEN

1 Amend House File 522, page 5, by striking all after the
2 period in line 14 and all of lines 15 and 16.

Filed - *lost 5/4*
May 3, 1971

By POTGETER

1 Amend House File 522 as follows:

- 2 1. Page 5, line 28, by striking the word "court"
3 and inserting in lieu thereof a period, and by striking all of
4 lines 29 through 32, inclusive. } *Dis.*
1
Adopted
5/4
5 2. Page 6, line 1, by striking all after the word "sought"
6 and all of lines 2 and 3 and inserting in lieu thereof the words
7 ", and to the district court."

Filed *Dis. 1 adopted 5/4, Dis. 2* By POTGETER
May 3, 1971 *adopted 5/5*

1 Amend House File 522 as follows:

- 2 1. Page 3, line 31, by striking the word "sixty" and
3 inserting in lieu thereof the word "ten".
4 2. Page 3, line 33, by striking all after the word "first"
5 and all of lines 34 and 35 and inserting in lieu thereof a
6 period.
7 3. Page 4, by striking all of lines 1, 2 and 3.

Filed - *lost 5/4*
May 3, 1971

By POTGETER

1 Amend House File 522 as follows:

- 2 1. Page 9, by striking lines 16 through 26, inclusive.
3 2. Page 1, line 4, by striking all after the word
4 "regulations" and all of lines 5 and 6 and inserting in lieu
5 thereof a period.

Filed - *Adopted*
May 3, 1971

By POTGETER

1 Amend the Thordsen amendment, filed April 30, 1971, to House
2 file 522, by striking lines 17 and 18.

Filed and Adopted
May 5, 1971

By THORSEN

House 37
May 7, 1971

SENATE AMENDMENT TO HOUSE FILE 522

- 1 Amend House File 522 as follows:
- 2 1. Page 2, line 31, by striking the words "state fire marshal"
- 3 and inserting in lieu thereof the words "commissioner of public
- 4 safety".
- 5 2. Page 2, line 33, by striking the words "state fire marshal"
- 6 and inserting in lieu thereof the words "commissioner of
- 7 public safety".
- 8 2. Page 3, lines 9 and 10, by striking the words "state fire
- 9 marshal" and inserting in lieu thereof the words "commissioner
- 10 of public safety".
- 11 4. Page 3, line 15, by striking the words "state fire marshal"
- 12 and inserting in lieu thereof the words "commissioner of public
- 13 safety".
- 14 5. Page 3, lines 17 and 18, by striking the words "fire
- 15 marshal's" and inserting in lieu thereof the word
- 16 "commissioner's".
- 17 6. Page 3, line 23, by striking the words "state fire marshal"
- 18 and inserting in lieu thereof the words "commissioner of
- 19 public safety".
- 20 7. Page 3, line 29, by striking the words "state fire marshal"
- 21 and inserting in lieu thereof the words "commissioner of
- 22 public safety".
- 23 8. Page 3, line 30, by striking the words "state fire marshal"
- 24 and inserting in lieu thereof the words "commissioner of public
- 25 safety".
- 26 9. Page 4, line 7, by adding after the figure "(3)" the
- 27 following: ", section eight (8), section nine (9), and
- 28 section ten (10)".
- 29 10. Page 4, line 9, by striking the word "detonate,".
- 30 11. Page 4, by adding the following new subsection after
- 31 line 11.
- 32 "4. Commercial dealers having a federal firearms
- 33 license shall be exempt from the requirement or the
- 34 commercial license requirement of this Act for importation,
- 35 distribution, sale, transportation, storage and possession
- 36 of smokeless powder propellents or black sporting powder
- 37 propellents provided that such dealer must conform and comply
- 38 to rules, regulations, or ordinances of federal, state, city
- 39 or town authorities having jurisdiction of such powder."
- 40 12. Page 4, line 30, by striking the words "state fire marshal"
- 41 and inserting in lieu thereof the words "commissioner of
- 42 public safety".
- 43 13. Page 5, line 8, by striking the words "state fire marshal"
- 44 and inserting in lieu thereof the words "commissioner of
- 45 public safety".
- 46 14. Page 5, line 21, by striking "store, or detonate" and
- 47 inserting in lieu thereof "or store".
- 48 15. Page 5, line 27, by striking the words "state fire
- 49 marshal" and inserting in lieu thereof the words "commissioner

House 38
May 7, 1971

50 of public safety".

51 16. Page 5, line 27, by striking the words "fire marshal's"
52 and inserting in lieu thereof the word "commissioner's".

53 17. Page 5, by striking all of line 28 after the word "court"
54 and by striking all of lines 29 through 32, inclusive, and
55 inserting in lieu thereof the following: ", Such appeal shall
56 be heard as a trial de novo."

57 18. Page 6, line 1, by striking all after the word "sought"
58 and all of lines 2 and 3 and inserting in lieu thereof the
59 following: ", and de novo to the district court."

60 19. Page 6, line 4, by striking the words "state fire
61 marshal" and inserting in lieu thereof the words "commissioner
62 of public safety".

63 20. Page 6, lines 10 and 11, by striking the words "state
64 fire marshal" and inserting in lieu thereof the words
65 "commissioner of public safety".

66 21. Page 6, line 26, by inserting after the period the
67 following: "The prescribed procedure and method of inventory
68 shall, in any event, provide for the taking of at least a
68 weekly inventory of stored explosive materials."

70 22. Page 6, line 30, by inserting after the period the
71 following: "The storage and security standards for a
72 licensee shall, in any even, include, at least, the
73 following:

74 a. The explosive storage facility shall be a solidly
75 built structure with a floor which is secured to the ground.
76 It shall contain no windows.

77 b. The outer wall covering shall be constructed in
78 such a manner and of such material that entry cannot be
79 accomplished by prying apart or separating portions of the
80 outer wall covering.

81 c. The doors to the facility shall be fastened to the
82 facility by hinges and hasps that cannot be readily removed
83 or broken by the use of a pry bar or like tool. The hinges
84 and hasps shall be attached to the doors by welding, riveting
85 or bolting, with the nuts on the inside of the door. The
86 rivets or bolts shall be installed in such a manner that the
87 hinges and hasps cannot be removed when the doors are closed
88 or locked.

89 d. Each door shall be equipped with two mortise locks;
90 or with two padlocks fastened in separate hasps and staples;
91 or with a combination of mortise lock and a padlock; or
92 with a mortise lock that requires two keys to open; or a
93 three-point lock. All padlocks shall be fine-tumbler proof.
94 All padlocks shall be protected with one-quarter inch steel
95 caps constructed so as to prevent sawing or lever action on
96 the locks or hasps."

97 "The storage and security standards for a permittee shall,
98 in any event, include, at least the requirements that explosives
99 be placed in a container that cannot be readily opened or

100 dismantled by the use of a pry bar or like tool; any lid or
101 top thereto be secured to such container in like manner;
102 such lid or top, when closed, be secured by a mortise
103 lock or padlock that cannot be readily removed or **broken**
104 by the use of a pry bar or like tool; and be securely
105 anchored to the ground in some manner."

106 23. Page 6, line 33, by striking the words "state fire
107 marshal" and inserting in lieu thereof the words "commissioner
108 of public safety".

109 24. Page 7, by inserting after line 1 the following:

110 "6. Conduct such inspections of licensees and permittees
111 as may be necessary to enforce the provisions of this Act."

112 25. Page 7, by adding after line 3 the following new
113 subsection:

114 "Prescribe minimum distances which must be maintained
115 between the point where explosive materials are proposed
116 to be detonated and adjacent dwellings or other objects in
117 order to minimize the danger of injury or damage to persons
118 or property in the proximity of the blasting area. Such
119 minimum distances shall be based upon the amount of explosive
120 material proposed to be used in a single detonation, the
121 nature of the adjacent property sought to be protected, and
122 other relevant factors."

123 26. Page 7, by inserting after line 8 the following new
124 section:

125 "The licensee's or permittee's explosive storage
126 facility shall be inspected at least once every six months
127 by either the sheriff of the county where the facility is
128 located or by the local police authority if the facility
129 is located within a city of over ten thousand population.
130 The facility may be examined at other times by the sheriff
131 if he considers it necessary.

132 If the sheriff or local police authority find the facility
133 to be improperly secured, the licensee or permittee shall
134 immediately correct the improper security and, if not so
135 corrected, the sheriff or local police authority shall
136 immediately confiscate the stored explosives. If the
137 explosives are confiscated by the local police authority,
138 they shall be delivered to the sheriff. The sheriff shall
139 hold confiscated explosives for a period of thirty days under
140 proper security unless the period of holding is shortened
141 pursuant to this section.

142 If the licensee or permittee corrects the improper
143 security within such thirty-day period, the explosives shall
144 be returned to the licensee or permittee after he has made
145 such correction and after he has paid into the county fund
146 an amount equal to the expense incurred by the county in
147 storing the explosives during the period of confiscation.
148 The amount of such expense shall be determined by the
149 sheriff.

150 If the improper security is not corrected during the

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151 thirty-day period, the sheriff shall deliver the explosives
152 to the fire marshal for disposal and the license or permit
153 shall be canceled. Such canceled license or permit shall
154 not be reissued for a period of two years from the date of
155 cancellation.

156 The licensee or permittee may obtain possession of the
157 explosives from the sheriff during the thirty-day period
158 for the purpose of disposing of them. The disposal pro-
159 cedure shall conform to the provisions of section eight (8)
160 of this Act. The licensee or permittee shall first pay
161 into the county fund an amount equal to the expense incurred
162 by the county in storing the explosives during the period
163 of confiscation. The amount of the expense shall be
164 determined by the sheriff."

165 27. Page 7, line 17, by striking the words "state fire
166 marshal and to the division of" and all of lines 18 and 19
167 and inserting in lieu thereof the words "commissioner of
168 public safety."

169 28. Page 7, lines 26 and 27, by striking the words "state
170 fire marshal" and inserting in lieu thereof the words
171 "commissioner of public safety".

172 29. Page 7, line 30, by inserting after the word "by" the
173 following: "the regular military or naval forces of the
174 United States, the duly organized militia of this state,".

175 30. Page 8, by striking lines 10 through 18, inclusive, and
176 inserting in lieu thereof the following:

177 "1. Smokeless powder is intended for handloading or
178 reloading of ammunition for small arms with bores equivalent
179 to ten gauge or less.

180 "2. Black sporting powder is intended for handloading
181 or reloading ammunition for small arms with bores equivalent
182 to ten gauge or less, loading black ammunition, loading
183 cap and ball revolvers, loading muzzle loading arms, or
184 loading muzzle loading cannon.

185 "3. All such powder is for private use and not for
186 commercial resale, and in the case of black sporting powder
187 or smokeless powder the sharing with or disposition to
188 another person is permitted if otherwise lawful "

189 31. Page 8, lines 24 and 25, by striking the words "state
190 fire marshal" and inserting in lieu thereof the words
191 "commissioner of public safety".

192 32. Page 8, lines 25 and 26, by striking the words "fire
193 marshal" and inserting in lieu thereof the word "commissioner".

194 33. Page 9, line 11, by striking the words "state fire
195 marshal" and inserting in lieu thereof the words "commissioner
196 of public safety".

197 34. Page 9, by striking lines 16 through 26, inclusive.

198 35. Page 9, by adding after line 26 the following new section:
199 "Sec. _____. Any person who has an existing and valid
200 license or permit pursuant to the laws of the United States

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201 to manufacture, import, distribute, sell, possess, transport,
202 store or detonate explosives shall be exempt from the pro-
203 visions of this Act."
204 36. Page 1, by striking all of line 4 after the word
205 "regulations" and by striking lines 5 and 6 and inserting
206 in lieu thereof a period.
207 37. By renumbering the sections, subsections and internal
208 references to conform with this amendment.

Received from the Senate
May 6, 1971

*House concurred in amendments 1 thru 9, 11 thru 13, 15 thru 20
" Refused to concur in 10, 14, 21, 22, 25, 34, and 35
Senate receded from " " " " " " " " " " " "*

- 1 Amend House File 522 as follows:
- 2 Page 8, line 25, by inserting after the word "be" the
- 3 words "deposited in a special fund in the state treasury
- 4 to be".

Filed from the floor and Adopted By CAMPBELL of Washington
March 30, 1971 District 89

EXPLANATION OF AMENDMENT

This amendment will in effect require that when funds are appropriated to the state fire marshal each biennium the appropriation bill should contain a provision which would appropriate fees collected pursuant to this Act. Thus all funds to be used by the fire marshal would be reflected in one appropriation bill rather than having a standing appropriation which does cause problems when a budget is being developed for the fire marshal's office.

House

- 1 Amend House File 522, page 8, line 2, by
- 2 adding after the word "authority" the following:
- 3 ", or to movement of explosives to be used by
- 4 the federal government;"

Offered from the floor and Withdrawn By SCHROEDER of Pottawattamie
March 31, 1971 District 54

House

- 1 Amend House File 522, page 7, by striking all
- 2 of lines 2 and 3.

Offered from the floor and Adopted By WELDEN of Hardin
March 31, 1971 District 32

House

- 1 Amend House File 522, page 9, line 21 by
- 2 striking the words "destructive substance or device"
- 3 and inserting in lieu thereof the words
- 4 "explosive materials".

Offered from the floor and Adopted
March 31, 1971

House

- 1 Amend House File 522 as follows:
- 2 Page 8, following line 5 insert the following:
- 3 "No charge shall be made for such user's permits."

Filed - w.D. 5/5
April 26, 1971

Senate By VAN DRIE