

**CHAPTER 1074**  
**REGULATION OF EXPLOSIVES**  
*H.F. 2301*

**AN ACT** relating to transferring responsibility for issuing commercial licenses and permits for the sale, use, purchase, possession and transportation, reporting of theft or loss, and regulation of disposal of explosives, to the state fire marshal, and the sale, possession, or use of the explosive nitroglycerin, providing a penalty, and transferring the responsibility for the inspection of explosive storage facilities from county sheriffs to the state fire marshal while reducing the number of inspections per year.

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

Section 1. Section 101A.2, subsections 1 and 2, Code 1983, are amended to read as follows:

1. The ~~commissioner of public safety~~ state fire marshal shall issue commercial licenses for the manufacture, importation, distribution, sale, and commercial use of explosives to persons who, in the ~~commissioner's~~ state fire marshal'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~~ state fire marshal 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 prescribed by the ~~commissioner of public safety~~ state fire marshal pursuant to the provisions of this chapter.

2. Licenses shall be issued by the ~~commissioner of public safety~~ state fire marshal 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.

Sec. 2. Section 101A.3, subsections 1 and 2, Code Supplement 1983, is amended to read as follows:

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 permits 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 state fire marshal 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 the permittee may have in his possession at any one time, the amount he the permittee 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 state fire marshal. 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 the permittee's 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.

Sec. 3. Section 101A.4, subsection 1, Code 1983, is amended to read as follows:

1. Judicial review of the action of the commissioner state fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 4. Section 101A.5, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The commissioner of public safety state fire marshal 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 state fire marshal 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:

Sec. 5. Section 101A.7, Code Supplement 1983, is amended to read as follows:

101A.7 INSPECTION OF STORAGE FACILITY. The licensee's or permittee's explosive storage facility shall be inspected at least once every six months a year by either a representative of 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 state fire marshal's office. The state fire marshal shall notify the appropriate city or county governing board of licenses to be issued in their respective jurisdictions pursuant to this chapter. The notification shall contain the name of the applicant to be licensed, the location of the facilities to be used in storing explosives, the types and quantities of explosive materials to be stored, and other information deemed necessary by either the governing boards or the state fire marshal. The facility may be examined at other times by 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 and if he the sheriff or city council considers it necessary.

If the sheriff or local police authority find state fire marshal finds 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 state fire marshal shall immediately confiscate the stored explosives. Explosives may be confiscated by the county sheriff or local police authority only if a situation that is discovered during an examination by those authorities is deemed to present an immediate danger. If the explosives are confiscated by

the county sheriff or local police authority, they shall be delivered to the sheriff state fire marshal. The sheriff state fire marshal 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 the thirty-day period, the explosives shall be returned to the licensee or permittee after correction and after the licensee or permittee has paid to the county state an amount equal to the expense incurred by the county state in storing the explosives during the period of confiscation. The amount of expense shall be determined by the sheriff state fire marshal.

If the improper security is not corrected during the thirty-day period, the sheriff state fire marshal shall deliver the explosives to the fire marshal for disposal ~~dispose of the explosives~~ and the license or permit shall be canceled. Such ~~A~~ 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 to the county 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.~~

Sec. 6. Section 101A.8, Code 1983, is amended to read as follows:

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 state fire marshal.

Sec. 7. Section 101A.9, Code 1983, is amended to read as follows:

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 state fire marshal.

Sec. 8. Section 101A.14, subsection 2, Code 1983, is amended to read as follows:

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 state fire marshal pursuant to the provisions of this chapter, commits a simple misdemeanor.

Approved April 13, 1984