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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 11. EXPLOSIVES [12000 - 12761]** ( *Division 11 enacted by Stats. 1939, Ch. 60.*  )

**PART 1. HIGH EXPLOSIVES [12000 - 12401]** ( *Part 1 repealed and added by Stats. 1967, Ch. 1497.*  )

**CHAPTER 4. Permits [12101 - 12112]** ( *Chapter 4 added by Stats. 1967, Ch. 1497.*  )

**12101.** (a) No person shall do any one of the following without first having made application for and received a permit in accordance with 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 Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Application for a permit shall be made to the appropriate issuing authority.

(c) (1) A permit shall be obtained from the issuing authority having the responsibility in the area where the activity, as specified in subdivision (a), is to be conducted.

(2) 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, the person shall first present the permit to the issuing authority in the jurisdiction of purchase or receipt for endorsement. The issuing authority may include any reasonable restrictions or conditions which the authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives within the authority's jurisdiction. If, for any reason, the issuing authority refuses to endorse the permit previously issued in the area of intended use or storage, the authority shall immediately notify both the issuing authority who issued the permit and the Department of Justice of the fact of the refusal and the reasons for the refusal.

(3) Every person who sells, gives away, delivers, or otherwise disposes of explosives to another person shall first be satisfied 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 ensure 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 issue a permit for the possession, use, or storage of explosives in an area not within the authority's jurisdiction.

(d) In the event any person desires to receive explosives for use in an area outside of this state, a permit to receive the 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 the time when 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.

(h) An issuing authority shall not issue a permit authorizing the transportation of explosives pursuant to this section if the display of placards for that transportation is required by Section 27903 of the Vehicle Code, unless the driver possesses a license for the transportation of hazardous materials issued pursuant to Division 14.1 (commencing with Section 32000) of the Vehicle Code, or the explosives are a hazardous waste or extremely hazardous waste, as defined in Sections 25117 and 25115 of the Health and Safety Code, and the transporter is currently registered as a hazardous waste hauler pursuant to Section 25163 of the Health and Safety Code.

(i) An issuing authority shall not issue a permit pursuant to this section authorizing the handling or storage of division 1.1, 1.2, or 1.3 explosives in a building, unless the building has caution placards which meet the standards established pursuant to subdivision (g) of Section 12081.

(j) (1) A permit shall not be issued to a person who meets any of the following criteria:

(A) He or she has been convicted of a felony.

(B) He or she is addicted to a narcotic drug.

(C) He or she is in a class prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) For purposes of determining whether a person meets any of the criteria set forth in this subdivision, the issuing authority shall obtain two sets of fingerprints on prescribed cards from all persons applying for a permit under this section and shall submit these cards to the Department of Justice. The Department of Justice shall utilize the fingerprint cards to make inquiries both within this state and to the Federal Bureau of Investigation regarding the criminal history of the applicant identified on the fingerprint card.

This paragraph does not apply to any person possessing a current certificate of eligibility issued pursuant to subdivisions (a) to (c), inclusive, of Section 26710 of the Penal Code or to any holder of a dangerous weapons permit or license issued pursuant to Section 31000, 32650, or 33300 of the Penal Code, or pursuant to Sections 18900 to 18910, inclusive, or Sections 32700 to 32720, inclusive, of the Penal Code.

(k) An issuing authority shall inquire with the Department of Justice for the purposes of determining whether a person who is applying for a permit meets any of the criteria specified in subdivision (j). The Department of Justice shall determine whether a person who is applying for a permit meets any of the criteria specified in subdivision (j) and shall either grant or deny clearance for a permit to be issued pursuant to the determination. The Department of Justice shall not disclose the contents of a person's records to any person who is not authorized to receive the information in order to ensure confidentiality. If an applicant becomes ineligible to hold a permit, the Department of Justice shall provide to the issuing authority any subsequent arrest and conviction information supporting that ineligibility.

*(Amended by Stats. 2010, Ch. 178, Sec. 38. (SB 1115) Effective January 1, 2011. Operative January 1, 2012, by Sec. 107 of Ch. 178.)*

**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 a 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.

*(Amended by Stats. 1975, Ch. 355.)*

**12102.** 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.

*(Amended by Stats. 1970, Ch. 1425.)*

**12102.1.** 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.

*(Added by Stats. 1970, Ch. 1425.)*

**12103.** 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 and whether the employee or authorized representative has been issued a blaster's license by the Division of Industrial Safety to use or handle explosives.

(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.

*(Amended by Stats. 1976, Ch. 1094.)*

**12105.** 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.

*(Amended by Stats. 1970, Ch. 1425.)*

**12105.1.** 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.

*(Amended by Stats. 1972, Ch. 1011.)*

**12105.2.** A copy of each permit issued shall be forwarded to the State Bureau of Criminal Identification and Investigation in Sacramento.

*(Added by Stats. 1970, Ch. 1425.)*

**12106.** 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.

*(Amended by Stats. 1970, Ch. 1425.)*

**12107.** 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 explosives by such person would be hazardous to property or dangerous to any person.

*(Amended by Stats. 1970, Ch. 1425.)*

**12108.** 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.

*(Amended by Stats. 1970, Ch. 1425.)*

**12109.** Except as provided in Section 12111, permits shall be valid for the period of time specified thereon.

*(Repealed and added by Stats. 1967, Ch. 1497.)*

**12110.** No permit issued under the provisions of this chapter shall be transferable.

*(Repealed and added by Stats. 1967, Ch. 1497.)*

**12111.** 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.

*(Amended by Stats. 1970, Ch. 1425.)*

**12112.** 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.

*(Amended by Stats. 1970, Ch. 1425.)*