

SECOND REGULAR SESSION

HOUSE BILL NO. 1211

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (158).

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STEPHEN S. DAVIS, Chief Clerk

3047L.011

AN ACT

To amend chapter 320, RSMo, by adding thereto nine new sections relating to regulation of the possession and use of explosives.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 320, RSMo, is amended by adding thereto nine new sections, to be
2 known as sections 320.280, 320.282, 320.284, 320.286, 320.288, 320.290, 320.292, 320.294,
3 and 320.296, to read as follows:

320.280. As used in sections 320.280 to 320.296, the following terms shall mean:

2 **(1) "Explosives", any explosive, blasting agent, emulsion explosive, water gel, or**
3 **detonator. Explosive materials determined to be within the coverage of sections 320.280**
4 **to 320.296, shall include all such materials listed in 18 U.S.C. Chapter 40, as issued at least**
5 **annually by the Director of the Treasury;**

6 **(2) "Issuing authority", the Missouri division of fire safety, office of the state fire**
7 **marshal.**

320.282. 1. Sections 320.280 to 320.296 shall apply to persons engaged in the
2 **manufacture, ownership, possession, storage, use, transportation, purchase, sale or gift of**
3 **explosives as defined in section 320.280.**

4 **2. Sections 320.280 to 320.296 shall not apply to explosives while being transported**
5 **in conformity with federal law or regulations, or to the armed forces of the United States,**
6 **the national guard, and duly constituted police and firefighting forces of the state and its**
7 **civil and political subdivisions.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 **3. For all purposes of sections 320.280 to 320.296, explosives in the possession of an**
9 **employee within the scope of his or her duties, shall be considered to be in the possession**
10 **of the employer.**

320.284. 1. No person shall store explosives except in a magazine constructed and
2 **located in accordance with the provisions of sections 320.280 to 320.296 and the rules of the**
3 **issuing authority and unless a certificate, which shall be attached to the magazine on the**
4 **inside thereof, has been issued for such magazine. No person shall store more than three**
5 **hundred thousand pounds of explosives in any one magazine at any time.**

6 **2. This section shall not apply to explosives while being legally blasted or while**
7 **legally in the custody of a common carrier awaiting shipment or delivery to a consignee**
8 **during the time permitted by federal law; nor to the storage of such limited amount of**
9 **sporting or smokeless powders as may be permitted by the rules of the issuing authority.**

320.286. No person shall unlock or open the doors of magazines, except for the
2 **lawful storage or removal of explosives. No person shall have matches or fire of any kind**
3 **in any magazine. No person shall store or keep blasting caps, detonating or fulminating**
4 **caps, or detonators in a magazine in which any other type of explosive is stored or kept.**
5 **No person shall open any package of explosives within fifty feet of any magazine, nor shall**
6 **any explosives be kept in a magazine except in the original container. No person shall**
7 **discharge firearms within five hundred feet of a magazine or explosives factory, or at a**
8 **storage magazine. Any theft or loss of explosives from a storage magazine or otherwise,**
9 **shall immediately be reported to the issuing authority and the state or local police or**
10 **county sheriff.**

320.288. 1. No person shall purchase, own, possess, transport, or use explosives
2 **unless such person has applied for and received a license as provided for in sections**
3 **320.280 to 320.296.**

4 **2. Application for such a license shall be made to the issuing authority on forms**
5 **provided by the issuing authority and shall contain such information as the issuing**
6 **authority may require. Where the issuing authority finds that the applicant has complied**
7 **with the requirements of sections 320.280 to 320.296 and the rules promulgated by the**
8 **issuing authority, the issuing authority shall issue a license or renewal of a license which**
9 **shall be valid for one year from the date of issuance. Such application and each renewal**
10 **of a license shall be accompanied by a nonrefundable fee of fifty dollars payable to the**
11 **issuing authority.**

12 **3. No person shall manufacture, deal in, sell, give, or dispose of explosives unless**
13 **a license shall have been issued to such person for that purpose by the issuing authority,**

14 nor shall any person sell, give, or dispose of explosives to, or manufacture explosives for,
15 any person who does not hold a license as provided by subsection 1 of this section.

16 **4. Application for such a license, which shall be renewed annually, shall be made**
17 **to the issuing authority on forms provided by the issuing authority and shall contain such**
18 **information as the issuing authority may require. The issuing authority, after investigation**
19 **of the application, shall issue a license or renew a license, which shall be valid for one year**
20 **from the date of issuance, where the issuing authority finds that the applicant has complied**
21 **with the requirements of sections 320.280 to 320.296 and the rules promulgated by the**
22 **issuing authority. Each application for such a license, or for its renewal, shall be**
23 **accompanied by a nonrefundable fee of one hundred dollars to be payable to the issuing**
24 **authority.**

25 **5. No person shall keep or store explosives unless a certificate to keep or store**
26 **explosives has been issued to such person by the issuing authority as provided in this**
27 **section, but this requirement shall not apply to the storage at any one time by farmers of**
28 **two hundred pounds or less of blasting explosives for agricultural purposes.**

29 **6. Application for such a certificate shall be made to the issuing authority on forms**
30 **provided by the issuing authority and shall contain such information as the issuing**
31 **authority may require. The issuing authority, where it is found that the applicant has**
32 **complied with the requirements of sections 320.280 to 320.296, and the rules promulgated**
33 **by the issuing authority, and all other applicable provisions of law, shall issue a certificate**
34 **or renew a certificate, which shall be valid for one year from the date of issuance. In**
35 **addition to any other causes for revocation of a certificate provided in this section, the**
36 **issuing authority may revoke or modify such certificate because of any change in the**
37 **conditions under which it was granted, or for failure to pay the annual fee. The owner or**
38 **user of a magazine shall annually pay to the issuing authority in advance a fee, subject to**
39 **the discretion of the issuing authority and not less than fifty dollars, which shall be**
40 **proportioned according to the quantity and type of explosives authorized by the certificate**
41 **to be stored in the magazine.**

42 **7. An application for a license or a certificate under subdivisions 1, 2, or 3 of this**
43 **section shall be sworn to under oath and shall contain information sufficient to identify the**
44 **applicant, and the purpose for which and the place where the explosives are to be used,**
45 **manufactured, dealt in, given, disposed of, or stored, as the case may be, and to**
46 **demonstrate the eligibility of such applicant for the license or certificate requested. The**
47 **issuing authority may require that the application include, among other things,**
48 **photographs, fingerprints, and personal references. Such fingerprints shall be submitted**
49 **to the Missouri state highway patrol for a state criminal history check, and may be**

50 submitted to the Federal Bureau of Investigation for a national criminal history record
51 check.

52 **8. Before a license or certificate is issued, the issuing authority shall investigate the**
53 **eligibility of the applicant. The issuing authority shall have the authority to request and**
54 **receive from any department, division, board, bureau, commission, or agency of the state**
55 **or local government such assistance and information as will enable the issuing authority**
56 **to properly and effectively carry out its duties under sections 320.280 to 320.296.**

57 **9. The investigation prescribed in subsection 8 of this section may include, but is**
58 **not limited to the following:**

59 **(1) A personal interview of the applicant by a designated agent of the issuing**
60 **authority if the issuing authority is unable to make a determination on the basis of the**
61 **factors contained in the application;**

62 **(2) An examination as to the applicant's knowledge and ability with respect to basic**
63 **safety precautions in the possession, handling, storage, and transportation of explosives,**
64 **and for such purpose the issuing authority may prescribe tests which the applicant shall**
65 **be required to pass as a prerequisite to the issuance of a license or certificate. The test may**
66 **be administered by any person or agency designated by the issuing authority.**

67 **10. Except for the provisions of subsection 12 of this section, this section shall not**
68 **apply to smokeless powder.**

69 **11. Within thirty days after the issuance of a license or certificate under this**
70 **section, the issuing authority shall notify the chief executive officer of the municipality**
71 **where the licensee resides or where the certificate holder has his or her place of business**
72 **of the issuance of such license or certificate, and provide such officer with such other**
73 **information pertaining to the issuance of the license or certificate as the issuing authority**
74 **may from time to time prescribe.**

75 **12. No explosives shall be sold, given, or delivered to any person under eighteen**
76 **years of age, whether such person is acting for himself or herself or for another person, nor**
77 **shall any such person be eligible to obtain any license or certificate required under the**
78 **provisions of this section.**

320.290. 1. A license or certificate, its renewal or continuation may be denied
2 **where the issuing authority has probable cause to believe, based on knowledge or reliable**
3 **information, or finds, after due investigation that the applicant or any officer, servant,**
4 **agent, or employee of the applicant is not sufficiently reliable and experienced to be**
5 **authorized to own, possess, store, transport, use, manufacture, deal in, sell, purchase or**
6 **otherwise handle, as the case may be, explosives, lacks suitable facilities for the explosives,**
7 **has been convicted of a crime for which he or she has been sentenced to serve one or more**

8 years in prison, is disloyal or hostile to the United States or has been confined as a patient
9 or inmate in a public or private institution for the treatment of mental diseases. Whenever
10 the issuing authority denies an application for a license or certificate or its renewal, he or
11 she shall, within five days of such denial, give notice of the denial and the reasons for the
12 denial, in writing, to the applicant personally or by mail to the address given in the
13 application. Such denial may be appealed to the issuing authority who shall follow the
14 procedure provided by subsection 4 of this section.

15 2. The issuing authority may revoke any certificate or license on any ground or
16 grounds authorized in subsection 1 of this section for the denial of a license or certificate,
17 or for a violation of the terms of such license or certificate, or for a violation of any
18 provision of this article or of the rules of the issuing authority, or for noncompliance with
19 any order issued by the issuing authority within the time specified within the order.

20 3. Where the issuing authority has probable cause to believe, based on knowledge
21 or reliable information that a licensee or certificate holder is disloyal to the United States,
22 he or she may summarily revoke the license or certificate or may, in his or her discretion,
23 give such licensee or certificate holder notice and opportunity to be heard as provided in
24 subsection 4 of this section. Revocation of a license or certificate for any other grounds
25 may be ordered only after giving written notice and an opportunity to be heard to the
26 holder of the license or certificate. Such notice may be given to the holder personally or
27 by mail and shall specify the ground or grounds on which it is proposed to revoke the
28 license or certificate. When a license or certificate is revoked, the issuing authority may
29 direct the disposition of explosives held by such licensee or certificate holder. Upon
30 revocation of a license or certificate by the issuing authority, the holder of the license or
31 certificate shall surrender his or her license or certificate to the issuing authority at once.

32 4. Unless, within fifteen days from the date of the notice, the applicant for a license
33 or certificate or the recipient of a notice stating that the issuing authority proposes to
34 revoke a license or certificate held by him or her, shall file a written answer with the
35 issuing authority denying the ground or grounds on which revocation of a license or
36 certificate has been denied or ground or grounds on which revocation of a license or
37 certificate is sought, and shall request a hearing, the issuing authority may make a final
38 determination respecting the application for a license or certificate, or may revoke a license
39 or certificate forthwith. If, within such fifteen days, the applicant, licensee, or certificate
40 holder files such answer and request for hearing, the issuing authority shall schedule a
41 hearing. The notice of hearing shall state the time, place, and subject of the hearing, and
42 shall be mailed to the applicant, certificate holder, or licensee at his or her last known
43 address at least five days before the date of the hearing. Hearings shall be held by the

44 issuing authority or his or her representative, and the applicant, certificate holder, or
45 licensee may appear in person or may be represented by an agent. After such hearing, the
46 issuing authority shall render his or her decision in writing.

320.292. 1. The issuing authority is authorized and empowered, without
2 application to any court, to seize and impound any explosives found within this state, which
3 are in apparent violation of any of the provisions of this article, rules of the issuing
4 authority, or laws or regulations of the federal government, or which have been abandoned
5 or lost, or where the issuing authority has reason to believe that public safety is endangered
6 by such explosives. Such explosives may be removed and transported by the issuing
7 authority and stored in magazines provided or obtained for that purpose by the state or
8 by the issuing authority.

9 2. The owner of such explosives may, within five days of such seizure, make written
10 demand upon the issuing authority for a hearing. Upon such demand, the issuing
11 authority shall give the owner written notice in person or by mail, of the time, date, and
12 place of such hearing to be held not less than ten days thereafter.

13 3. Where no hearing is demanded within the time prescribed in subsection 2 of this
14 section or where, after hearing, the issuing authority finds that there has been a violation
15 of the provisions of sections 320.280 to 320.296, rules of the issuing authority, or laws or
16 regulations of the federal government, or that public safety is endangered, he or she may
17 destroy or order the destruction of such explosives, or direct such other disposition of the
18 explosives as he or she deems proper. If the issuing authority finds there has been no such
19 violation and that public safety has not been endangered, he or she shall return such
20 explosives to their owner.

21 4. Where such explosives have been abandoned or lost, and no claimant has
22 appeared within thirty days, demanded the return of the explosives and proved, to the
23 satisfaction of the issuing authority, his or her title to and right of possession of such
24 explosives, the issuing authority may destroy or direct the destruction of the explosives, or
25 direct such other disposition of the explosives as he or she deems proper.

26 5. Notwithstanding any other provision of sections 320.280 to 320.296, where, in the
27 opinion of the issuing authority, the manufacture, condition, packing, or location of
28 explosives is such that its continued existence or transportation is a danger to public safety,
29 he or she may, without hearing and without liability to the owner of the explosives, seize
30 and destroy or direct the seizure and destruction of such explosives.

320.294. 1. Every person selling, delivering, or giving away an explosive shall keep
2 at his or her principal office or place of business within the state, a record of the
3 transaction, including the name or type and quantity of the explosive, such identification

4 of the explosive as may be required by rules of the issuing authority, the date of each sale,
5 delivery, or gift, the name and business address of the purchaser, donee, or person to
6 whom delivered, the number of the license to own or possess explosives, if such license is
7 required by sections 320.280 to 320.296, and the name and address of the person taking the
8 explosives away. A report of all such transactions, when requested by him or her, shall be
9 submitted to the issuing authority. Such record shall be open to inspection by the issuing
10 authority or by federal, state, and local law enforcement officers at all times. No person
11 shall have in his or her possession any explosives unless he or she has a bill of sale or other
12 evidence of title to such explosives.

13 2. No person within the state shall purchase, receive, or accept delivery of
14 explosives from any place outside the state, and no person shall bring explosives into the
15 state from any place outside the state, unless, in addition to holding a license issued under
16 sections 320.280 to 320.296, such person shall, not more than twenty-four hours thereafter,
17 transmit to the issuing authority by mail a written statement giving weight, name or brand,
18 and type of the explosives, the name and address of the shipper and the date of the
19 shipment.

 320.296. 1. The issuing authority may make rules supplemental to sections 320.280
2 to 320.296 as he or she shall deem necessary or desirable to assure the public safety as well
3 as to provide reasonable and adequate protection of the lives, health, and safety of persons
4 employed in the manufacture, storage, handling, and use of explosives. The issuing
5 authority may prescribe such rules as he or she may deem necessary and proper for the
6 administration of sections 320.280 to 320.296.

7 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
8 that is created under the authority delegated in this section shall become effective only if
9 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
10 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
11 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
12 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
13 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
14 adopted after August 28, 2005, shall be invalid and void.

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