

the plaintiff, the sum of five dollars (\$5.00) upon the filing of his answer which shall be credited by the clerk upon any judgment thereafter awarded such garnishee defendant against either the plaintiff or the defendant for costs or attorney's fees. If no answer shall be filed by the garnishee defendant on or before the time allowed by law for the filing thereof, the said sum shall be returned to the plaintiff. If the plaintiff shall thereafter recover costs against the garnishee defendant, said sum shall be added thereto. If said sum is applied on a judgment of the garnishee defendant against the defendant it shall be taxed as costs against the defendant and in favor of the plaintiff.

Passed the House March 6, 1931.

Passed the Senate March 5, 1931.

Approved by the Governor March 20, 1931.

CHAPTER 111.

[H. B. 300.]

EXPLOSIVES.

AN ACT relating to the manufacture, keeping, storage and sale of explosives and providing for any violation thereof.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The term "explosive" or "explosives" whenever used in this Act, shall be held to mean and include any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant

Terms,
defined.

Explosive.

gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Magazine. The word "magazine," whenever used in this Act, means any building or other structure, other than a factory building, used for the storage of explosives.

Building. The term "building," whenever used in this Act, shall be held to mean and include only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other building where people are accustomed to assemble, other than buildings on explosives plants.

Explosives plant. The term "explosives plant," whenever used in this Act, means and includes all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

Factory building. The term "factory building," whenever used in this Act, shall be held to mean any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device.

Railroad. The term "railroad," whenever used in this Act, shall be held to mean and include any steam, electric or other railroad which carries passengers for hire.

The term "highway," whenever used in this Act, shall be held to mean and include any public street, public alley or public road.

Efficient artificial barricade. The term "efficient artificial barricade," whenever used in this Act, shall be held to mean an art-

ificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet.

The term "person," whenever used in this Act, shall be held to mean and include firms and corporations, as well as natural persons. Person.

Words used in the singular number shall include the plural, and the plural the singular. Words.

SEC. 2. No person shall manufacture, process, have, keep or store explosives in this state, except in compliance with this Act, except that explosives may be manufactured without compliance with this Act in the laboratories of schools, colleges and similar institutions, for the purpose of investigation and instruction. Manufacture prohibited, except under act.

It shall be unlawful to sell, give away or otherwise dispose of, or deliver to any person under eighteen years of age any explosives, whether said person is acting for himself or for any other person. Person under 18.

All persons engaged in keeping, using or storing any compound, mixture or material, in wet condition, or otherwise, which upon drying out or undergoing other physical changes, may become an explosive within the definition of section one of this Act, shall report in writing subscribed to by such person or his agent, to the department of labor and industries, report blanks to be furnished by such department, and such reports to require: Storage.

(a) The kind of compound, mixture or material kept or stored, and maximum quantity thereof. Report required.

(b) Condition or state of compound, mixture or material. Contents.

(c) Place where kept or stored.

The department of labor and industries may at any time cause an inspection to be made to determine whether the condition of the compound, mixture or material is as reported.

SEC. 3. All factory buildings and magazines in which explosives are had, kept, or stored, must be located at distances from buildings, railroads and Buildings, magazines, location.

Distance
between.

highways in conformity with the following QUANTITY AND DISTANCE TABLE, and this table shall be the basis on which applications for certificate of compliance, as provided in section 12 hereof, shall be made and the certificate of compliance issued: *Provided*, That the quantity and distance table may be disregarded and a certificate of compliance may be issued for two second-class magazines (see section 9) in any building not otherwise prohibited by law, if the contents and location of the magazine are as follows:

Second-class
magazine.

(a) One second-class magazine containing not more than fifty (50) pounds of explosives may be allowed if the said second-class magazine is placed on wheels and located not more than ten feet from, on the same floor with and directly opposite to the entrance on the floor nearest the street level;

(b) One second-class magazine containing not more than five thousand (5,000) blasting caps may be allowed if the said second-class magazine is placed on wheels and located on the floor nearest the street level.

The quantity and distance table governing the manufacture, keeping and storage of explosives to be as follows:

QUANTITY AND DISTANCE TABLE.

Column 1				Column 2	Column 3	Column 4
Quantity That May Be Had, Kept or Stored				Distance From Nearest Building	Distance From Nearest Railway	Distance From Nearest Highway
Blasting and Electric Blasting Caps		Other Explosives		Feet	Feet	Feet
Number Over	Number Not Over	Pounds Over	Pounds Not Over			
1,000	5,000			30	20	10
5,000	10,000			60	40	20
10,000	20,000			120	70	35
20,000	25,000		50	145	90	45
25,000	50,000	50	100	240	140	70
50,000	100,000	100	200	360	220	110
100,000	150,000	200	300	520	310	150
150,000	200,000	300	400	640	380	190
200,000	250,000	400	500	720	430	220
250,000	300,000	500	600	800	480	240
300,000	350,000	600	700	860	520	260
350,000	400,000	700	800	920	550	280
400,000	450,000	800	900	980	590	300
450,000	500,000	900	1,000	1,020	610	310
500,000	750,000	1,000	1,500	1,060	640	320
750,000	1,000,000	1,500	2,000	1,200	720	360
1,000,000	1,500,000	2,000	3,000	1,300	780	390
1,500,000	2,000,000	3,000	4,000	1,420	850	420
2,000,000	2,500,000	4,000	5,000	1,500	900	450
2,500,000	3,000,000	5,000	6,000	1,560	940	470
3,000,000	3,500,000	6,000	7,000	1,610	970	490
3,500,000	4,000,000	7,000	8,000	1,660	1,000	500
4,000,000	4,500,000	8,000	9,000	1,700	1,020	510
4,500,000	5,000,000	9,000	10,000	1,740	1,040	520
5,000,000	7,500,000	10,000	15,000	1,780	1,070	530
7,500,000	10,000,000	15,000	20,000	1,950	1,170	580
10,000,000	12,500,000	20,000	25,000	2,110	1,270	630
12,500,000	15,000,000	25,000	30,000	2,260	1,360	680
15,000,000	17,500,000	30,000	35,000	2,410	1,450	720
17,500,000	20,000,000	35,000	40,000	2,550	1,530	760
		40,000	45,000	2,680	1,610	800
		45,000	50,000	2,800	1,680	840
		50,000	55,000	2,920	1,750	880
		55,000	60,000	3,030	1,820	910
		60,000	65,000	3,130	1,880	940
		65,000	70,000	3,220	1,940	970
		70,000	75,000	3,310	1,990	1,000
		75,000	80,000	3,390	2,040	1,020
		80,000	85,000	3,460	2,080	1,040

QUANTITY AND DISTANCE TABLE—Continued.

Column 1				Column 2	Column 3	Column 4
Quantity That May Be Had, Kept or Stored				Distance From Nearest Building	Distance From Nearest Railway	Distance From Nearest Highway
Blasting and Electric Blasting Caps		Other Explosives				
Number Over	Number Not Over	Pounds Over	Pounds Not Over	Feet	Feet	Feet
		85,000	90,000	3,520	2,120	1,060
		90,000	95,000	3,580	2,150	1,080
		95,000	100,000	3,630	2,180	1,090
		100,000	125,000	3,670	2,200	1,100
		125,000	150,000	3,800	2,280	1,140
		150,000	175,000	3,930	2,360	1,180
		175,000	200,000	4,060	2,440	1,220
		200,000	225,000	4,190	2,520	1,260
		225,000	250,000	4,310	2,590	1,300
		250,000	275,000	4,430	2,660	1,340
		275,000	300,000	4,550	2,730	1,380

SEC. 4. No quantity in excess of three hundred thousand (300,000) pounds, or in the case of blasting caps no number in excess of twenty million (20,000,000) caps, shall be had, kept or stored in any factory building or magazine in this state.

SEC. 5. All factory buildings shall be located one from the other and from other buildings on explosives plants in which persons are regularly employed, and all magazines shall be located from factory buildings and buildings on explosives plants in which persons are regularly employed, in conformity with the Intra-Explosives Plant Quantity and Distance Table below set forth:

EXPLOSIVES		
Pounds Over	Pounds Not Over	Distance Feet
		Separate Building or Within Substantial Dividing Walls
.....	10	
10	25	40
25	50	60
50	100	80
100	200	100

Storage quantity limited.

Factory buildings, location.

<i>EXPLOSIVES</i>		
<i>Pounds Over</i>	<i>Pounds Not Over</i>	<i>Distance Feet</i>
		<i>Separate Building or Within Substantial Dividing Walls</i>
200	300	120
300	400	130
400	500	140
500	750	160
750	1,000	180
1,000	1,500	210
1,500	2,000	230
2,000	3,000	260
3,000	4,000	280
4,000	5,000	300
5,000	6,000	320
6,000	7,000	340
7,000	8,000	360
8,000	9,000	380
9,000	10,000	400
10,000	12,500	420
12,500	15,000	450
15,000	17,500	470
17,500	20,000	490
20,000	25,000	530
25,000	30,000	560
30,000	35,000	590
35,000	40,000	620
40,000	45,000	640
45,000	50,000	660
50,000	55,000	680
55,000	60,000	700
60,000	65,000	720
65,000	70,000	740
70,000	75,000	770
75,000	80,000	780
80,000	85,000	790
85,000	90,000	800
90,000	95,000	820
95,000	100,000	830
100,000	125,000	900
125,000	150,000	950
150,000	175,000	1,000
175,000	200,000	1,050
200,000	225,000	1,100
225,000	250,000	1,150

SEC. 6. Magazines in which more than fifty (50) pounds of explosives are kept and stored must be

Magazines,
detached
from other
structures.

Distances.

detached from other structures, and magazines where more than five thousand (5,000) pounds of explosives are kept and stored must be located at least two hundred (200) feet from any other magazine, except cap magazines, and magazines where quantities of explosives over twenty-five thousand (25,000) pounds are kept and stored must have an increase over two hundred (200) feet of two and two-thirds ($2\frac{2}{3}$) feet for each one thousand (1,000) pounds of explosives in excess of twenty-five thousand (25,000) pounds stored therein: *Provided*, That the said distances between magazines may be disregarded where the total quantity stored in said magazines, considered as a whole, complies with the quantity and distance table of section 3 hereof; except that, in all cases, the quantity of explosives contained in cap magazines shall govern in regard to spacing said cap magazines from magazines containing other explosives, but under no circumstances shall a magazine containing blasting caps be within a less distance than one hundred (100) feet, not barricaded, or fifty (50) feet, barricaded, from any magazine other than cap magazine.

Screened.

Barricade.

SEC. 7. Whenever a factory building or magazine is effectually screened from another explosives plant building or magazine, building, railroad or highway, either by natural features of the ground, or by efficient artificial barricade of such height that any straight line drawn from the top of any sidewall of the factory building or magazine to any part of the explosives plant building, magazine or building to be protected, will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any sidewall of the factory building or magazine, to any point twelve feet above the center of the railroad or highway to be protected, will pass through such intervening natural or efficient artificial barricade, the applicable

distances, as prescribed by the quantity and distance table, section 3, and the intra-plant quantity and distance table, section 5, and the distances separating magazines, section 6, may be reduced one-half.

SEC. 8. Except only at a factory building, and except while being used, no person shall have, keep or store explosives at any place within this state unless such explosives are completely enclosed or encased in tight metallic, wooden or fibre containers, and, except while being transported, or used, or in the custody of a common carrier awaiting shipment or pending delivery to consignee during the time permitted by federal law, explosives shall be kept and stored in a magazine constructed and operated as provided in section 9 of this act, and no person having explosives in his possession or control shall, under any circumstances, permit or allow any grains or particles to be or remain on the outside or about the containers in which such explosives are held. All containers in which explosives are held shall be plainly marked with the name of the explosive contained therein.

Stored
explosives
enclosed.

SEC. 9. Magazines in which explosives may lawfully be kept or stored shall be of two classes, as follows:

Magazines,
classified.

(a) Magazines of the first class shall consist of those containing explosives exceeding fifty (50) pounds, and shall be constructed of brick, concrete, iron, or wood covered with iron, and shall have no openings except for ventilation and entrance. The doors of such magazines must at all times be kept closed and locked except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks of fire through the same, except

First-class.

that magazines containing only black powder may be constructed without openings for ventilation. Upon each end of such magazine, above the side walls thereof, or upon its barricade, or on the premises on which such magazines are located, shall at all times be posted signs with the words "EXPLOSIVES—KEEP OFF" legibly printed thereon in letters not less than three (3) inches high. No matches or fire of any kind shall at any time be permitted at any such magazine. No package of explosives shall at any time be opened within fifty (50) feet of any magazine, nor shall any explosives be kept therein except in the original containers.

Signs posted.

Second class.

(b) Magazines of the second class shall be made of fire-proof material, or wood covered with sheet iron, and no more than fifty (50) pounds of explosives shall at any time be kept or stored therein, and, except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each magazine there shall at all times be kept conspicuously posted a sign with the words "MAGAZINE—EXPLOSIVES—DANGEROUS" legibly printed thereon, and not more than two such magazines shall be had or kept in any building.

Signs posted.

Blasting caps.

SEC. 10. No blasting caps, or other detonating or fulminating caps, or detonators, shall be kept or stored in any magazine in which other explosives are kept or stored.

Manufacturers.

SEC. 11. All persons engaged in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device, on the date when this act takes effect, shall within sixty days thereafter, and all persons engaging in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device after this act takes effect shall, before

Report.

so engaging, make a report in writing, subscribed to by such person or his agent, to the department of labor and industries, the report stating: Contents.

(1) Location of place of manufacture or processing.

(2) Kind of explosives manufactured, processed or used.

There shall be kept in the main office on the premises of each explosives plant a plan of said plant showing the location of all factory buildings and the distance they are located from other factory buildings where persons are employed and from magazines, and these plans shall at all times be open to inspection by duly authorized inspectors of the department of labor and industries. The superintendent of each plant shall upon demand of said inspector furnish the following information: Location plan.

(a) The maximum amount and kind of explosive material which is or will be present in each building at one time. Inspection.

(b) The nature and kind of work carried on in each building and whether or not said buildings are surrounded by natural or artificial barricades. Information.

The department of labor and industries shall as soon as may be after receiving such report cause an inspection to be made of the explosives plant, and if found to be in accordance with sections 3 and 5 of this act, such department shall issue a permit to the person applying therefor showing compliance with the provisions of this act. Such permit shall continue in full force and effect until surrendered or canceled, because of failure to comply with sections 3 or 5 of this act. Permit.

SEC. 12. All persons engaged in keeping or storing explosives on the date when this act takes effect shall within sixty (60) days thereafter, and all persons engaging in keeping or storing explosives after this act takes effect, shall before engaging in the Storage.

Report. keeping or storing of explosives, make a report in writing subscribed to by such persons, or his agent, to the department of labor and industries stating:

Contents. (1) The location of the magazine, if then existing, or in case of a new magazine, the proposed location of such magazine.

(2) The kind of explosives that are kept or stored or intended to be kept or stored, and the maximum quantity that is intended to be kept or stored thereat.

(3) The distance that such magazine is located or intended to be located from the nearest buildings, railroads and highways.

Inspection. The department of labor and industries shall, as soon as may be after receiving such report, cause an inspection to be made of the magazine, if then constructed, and, in the case of a new magazine, as soon as may be after same is found to be constructed in accordance with the specifications provided in section 9 of this act, such department shall determine the amount of explosives that may be kept and stored in such magazine by reference to the quantity and distance table set forth in section 3 of this act, and shall issue a certificate to the person applying therefor, showing compliance with the provisions of this act, which certificate shall set forth the maximum quantity of explosives that may be had, kept or stored in said magazine. Such certificate of compliance shall be valid until canceled for one or more of the causes hereinafter provided. Whenever by reason of change in the physical conditions surrounding said magazine at the time of the issuance of the certificate of compliance therefor, such as

Certificate. (a) The erection of buildings nearer said magazine,

Change of conditions.

(b) The construction of railroads nearer said magazine, or

(c) The opening for public travel of highways nearer said magazine, then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to conform to such changed conditions in accordance with the quantity and distance table notwithstanding the certificate of compliance, and the department of labor and industries shall modify or cancel such certificate in accordance with the changed conditions. Whenever any person to whom a certificate of compliance has been issued, keeps or stores in the magazine covered by such certificate of compliance, any quantity of explosives in excess of the maximum amount set forth in said certificate of compliance, or whenever any person fails for thirty (30) days to pay the annual license fee hereinafter provided after the same becomes due, the department is authorized to cancel such certificate of compliance. Whenever a certificate of compliance is canceled by the department for any cause herein specified, the department shall notify the person to whom such certificate of compliance is issued of the fact of such cancellation and shall in said notice direct the removal of all explosives stored in said magazine within ten days from the giving of said notice. Failure to remove the explosives stored in said magazine within the time specified in said notice shall constitute a violation of this act.

Cancellation.

Excess storage.

Payment annual license fee.

Cancellation of certificate.

Removal of explosives.

SEC. 13. Every person engaging in the business of keeping or storing of explosives, shall pay an annual license fee for each magazine maintained, to be graduated by the department of labor and industries according to the quantity kept or stored therein, or not less than one dollar (\$1.00) nor more than ten dollars (\$10.00). Said license fee shall accompany the application, and be by the department turned over to the state treasurer.

Annual license fee for storage.

Annual
inspection.

SEC. 14. The department of labor and industries shall make, or cause to be made, at least one inspection during every year, of each licensed explosives plant or magazine.

Visiting
prohibited.

SEC. 15. No person, except an official as authorized herein or a person authorized to do so by the owner thereof, or his agent, shall enter any factory building, magazine or car containing explosives in this state.

Discharge
of firearms.

SEC. 16. No person shall discharge any fire arms at or against any magazine or factory buildings.

Violation of
act mis-
demeanor.

SEC. 17. Except as otherwise provided in this act, whoever fails to comply with or violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than five hundred dollars (\$500.00).

Explosive
shell,
bomb.

SEC. 18. Any person who shall have in his possession or control any shell, bomb or similar device, charged or filled with one or more explosives, intending to use the same or cause same to be used for an unlawful purpose, shall be deemed guilty of a felony, and upon conviction, shall be punished by imprisonment in a state prison for a term of not less than five years nor more than twenty-five years. The possession or control by any person, of any such device, so charged or filled, shall be deemed *prima facie* evidence of an intent to use the same, or cause the same to be used, for an unlawful purpose.

Possession,
felony.

SEC. 19. In case any provision of this act shall be adjudged unconstitutional, or void for any other reason, such adjudication shall not affect any of the other provisions of this act.

Invalidity
of part not
to affect
balance.

SEC. 20. (a) Nothing contained in this act shall apply to the regular military or naval forces of the United States, nor the duly authorized militia of any state or territory thereof, nor to the police or fire

U. S. mili-
tary or
naval forces.

Militia.

departments of this state, or of any municipality or county within this state, providing the same are acting in their official capacity, and in the proper performance of their duties, nor to common fireworks which are to be used for celebration or commercial purposes.

(b) Nothing contained in this act shall apply to explosives while being transported upon vessels or railroad cars in conformity with the regulations adopted by the interstate commerce commission; nor to transportation, storage, or use of blasting explosives for agricultural purposes, by the consumer, in quantities not exceeding two thousand (2000) pounds at any other one time; nor to any explosives in quantities not exceeding ten (10) pounds at any one time.

Vessels,
railroad
cars.

SEC. 21. Nothing contained in this act shall affect any existing ordinance, rules or regulation of any city or municipality not less restrictive than this act governing the manufacture, storage and sale of explosives, or affect, modify or limit the power of cities or municipalities in this state to make ordinances, rules or regulations not less restrictive than this act, governing the manufacture, storage, sale, use, or transportation of explosives within their respective corporate limits.

Municipal
ordinances.

SEC. 22. All acts and parts of acts inconsistent with this act are hereby repealed: *Provided, however,* That nothing in this act shall be construed as amending, limiting, or repealing any provision of chapter 36, Session Laws of 1917, known as the Coal Mining Code.

Repeals in-
consistent
acts.

Passed the House February 26, 1931.

Passed the Senate March 9, 1931.

Approved by the Governor March 20, 1931.