

# ILLINOIS EXPLOSIVES ACT

## 225 ILCS 210

### ARTICLE 1. SCOPE AND DEFINITIONS

**Sec. 1001. Short Title.** This Act shall be known and may be cited as the Illinois Explosives Act.

**Sec. 1002. Legislative Declaration.** It is hereby declared to be the policy of this State that safety and security are primary considerations in the storage, use, acquisition, possession, disposal and transfer of explosive materials. An appropriate and thorough system of training, licensing, and certification is necessary to promote these considerations by assuring that these products are handled only by qualified persons.

**Sec. 1003. Definitions.** As used in this Act:

- (a) "Person" means any individual, corporation, company, association, partnership, or other legal entity.
- (b) "Explosive materials" means explosives, blasting agents, and detonators.
- (c) "Explosive" means any chemical compound, mixture, or device (1) the primary or common purpose of which is to function by explosion and (2) that is classified as a Division 1.1, 1.2, or 1.3 material under 49 CFR 173.50, as now or hereafter amended, renumbered, or succeeded. The term includes high and low explosives.
- (d) "Blasting agent" means any material or mixture that (1) consists of a fuel and oxidizer intended for blasting, not otherwise defined as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 blasting cap, as defined by the Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Treasury, when unconfined and (2) is classified as a Division 1.5 material under 49 CFR 173.50, as now or hereafter amended, renumbered, or succeeded.
- (d-5) "Crime punishable by imprisonment for a term exceeding one year" does not mean (1) any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraint of trade, or similar offenses relating to the regulation of business practices as the Secretary of the Treasury may by regulation designate or (2) any State offense, other than one involving a firearm or explosive, classified by the laws of the State as a misdemeanor or punishable by a term of imprisonment of 2 years or less.
- (e) "Detonator" means any device that (1) contains any initiating or primary explosive that is used for initiating detonation and (2) is classified as Division 1.1 or 1.4 material under 49 CFR 173.50, as now or hereafter amended, renumbered, or succeeded. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges.

- (f) "Highway" means any public street, public road, or public alley and includes privately financed, constructed, or maintained roads that are regularly and openly traveled by the general public.
- (g) "Railroad" or "railway" means any public steam, electric or other railroad or rail system which carries passengers for hire, but shall not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine, quarry or plant.
- (h) "Building" means and includes any building regularly occupied, in whole or in part, as a habitation for human beings, and any church, schoolhouse, railway station or other building where people are accustomed to assemble, but does not mean or include any buildings of a mine or quarry or any of the buildings of a manufacturing plant where the business of manufacturing explosive materials is conducted.
- (i) "Factory building" means any building or other structure in which the manufacture or any part of the manufacture of explosive materials is conducted.
- (j) "Magazine" means any building or other structure or container, other than a factory building, used to store explosive materials. Where mobile or portable type 5 magazines are permissible and used, "magazine", for the purpose of obtaining certificates and calculating fees, means the site on which such magazines are located.
- (k) "Magazine keeper" means a qualified supervisory person licensed by the Department under Article 2 of this Act who is responsible for the acquisition, storage, use, possession, transfer, and disposal of explosive materials, including inventory and transaction records, and the proper maintenance of explosive materials, storage magazines, and surrounding areas.
- (l) "Black powder" means a deflagrating or low explosive compound of an intimate mixture of sulfur, charcoal and an alkali nitrate, usually potassium or sodium nitrate.
- (m) "Municipality" means cities, villages, incorporated towns, and townships.
- (n) "Fugitive from justice" means any individual who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. This term shall also include any individual who has been convicted of any crime and has fled to avoid imprisonment.
- (o) "Department" means the Department of Natural Resources.
- (p) (Blank).
- (q) "Director" means the Director of Natural Resources.
- (r) "Storage certificate" means the certificate issued by the Department under Article 3 of this Act that authorizes the holder to store explosive materials in the magazine for which the certificate is issued.

- (s) "License" means that license issued by the Department under Article 2 of this Act authorizing the holder to possess, use, purchase, transfer or dispose of, but not to store, explosive materials.
- (t) "Transfer" of explosive materials means to sell, give, distribute, or otherwise dispose of explosive materials.
- (u) "Use" of explosive materials means the detonation, ignition, deflagration, or any other means of initiating explosive materials.
- (v) "Disposal" of explosive materials means to render inert pursuant to manufacturer's recommendations or commonly accepted industry standards.
- (w) "BATFE" means the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

**Sec. 1004. Scope.** This Act is intended to supplement the requirements of any federal or State laws and regulations and shall apply to all acquisition, storage, use, possession, transfer and disposal of explosive materials, except as provided in Sections 1005, 2000, and 3000 of this Act.

**Sec. 1005. Exemptions.**

- (a) This Act does not apply to any aspect of the transporting of explosive materials via railroad, water, highway, or air that is regulated by the United States Department of Transportation and agencies thereof, or state agencies with similar jurisdiction, and which pertains to safety.  
 A person who is licensed under Article 2 of this Act or holds a storage certificate under Article 3 of this Act may transfer explosive materials to a non-resident of Illinois if the transfer is limited to the purpose of transporting the explosive materials. The non-resident may not use or store explosive materials within Illinois unless he or she is licensed under Article 2 of this Act or holds a storage certificate under Article 3 of this Act.
- (b) This Act does not apply to an agricultural fertilizer if the use of the agricultural fertilizer is for agricultural or horticultural purposes.
- (c) This Act does not apply to the possession, use, purchase, transfer, storage, or disposal of explosive material by United States military or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned or operated by the United States.
- (d) Government agencies and their employees that are (1) subject to the requirements of this Act and, (2) in the exercise of their official emergency response functions, are required to store, use, or possess explosive materials, shall not be subject to any fee required by this Act.

**ARTICLE 2. LICENSES**

**Sec. 2000. Scope; exemptions.**

- (a) The license requirements of this Article apply to all explosive materials unless otherwise excepted under this Section or Section 1005 of this Act.

- (b) This Article does not apply to the purchase, receipt, possession, or use of black powder solely for sporting, recreational, or cultural purposes by an individual for his or her own use or for his or her immediate family living in the same household. This includes components for use in muzzle loading firearms and other antique devices and hand loading, reloading, or custom loading fixed ammunition.
- (c) A person is not required to have a license under this Article for the acquisition, possession, use, transfer, or disposal of explosive materials in connection with mine, quarry, construction, manufacturing, or wholesale or retail explosive materials operations if (1) the person holds a storage certificate under Article 3 of this Act and (2) the acquisition, possession, use, transfer, or disposal of the explosive materials is limited to the purpose authorized by his or her storage certificate.

In addition to the person who holds the storage certificate, this exemption shall also apply to any employee, contractor, or other authorized individual if he or she is under the direct supervision of an individual who is either licensed under this Act, licensed for blasting operations or use of explosives in aggregate mining operations under the Surface-Mined Land Conservation and Reclamation Act, certified for blasting or use of explosives in mining operations under the Surface Coal Mining Land Conservation and Reclamation Act, or certified as a shot firer under the Coal Mining Act. Direct supervision requires the supervising individual to be physically present at all times during the use or disposal of the explosive materials.

**Sec. 2001. Unlicensed activity; non-residents.** No person shall acquire, possess, use, transfer, or dispose of explosive materials unless licensed by the Department except as provided under Section 1005 or 2000 of this Act and the Pyrotechnic Distributor and Operator Licensing Act.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 2002. Original individual license; Application; Fees.** Applications by individuals for original licenses shall be made to the Department, in writing, on forms prescribed by the Department. The application shall be accompanied by the required fee, which is not refundable. All license application fees collected under this provision of this Act shall be deposited into the Explosives Regulatory Fund. The application shall require such information as in the judgment of the Department will enable the Department to pass on the qualifications of the applicant for a license. It shall include, but need not be limited to, information concerning age, full name of applicant, present residence, date of birth, sex, physical description, drivers license number, and the purpose for which and the place or places where the explosive materials are to be used or possessed. Each applicant shall file, with his application, fingerprint based data, or other state of the art criminal identification data, in the form and manner required by the Illinois State Police to enable the Illinois State Police to conduct criminal history checks on the applicant.

(Source: P.A. 96-1194, eff. 1-1-11; 97-400, eff. 1-1-12.)

**Sec. 2003. Criminal history background fees; law enforcement exemption.** Each applicant for a license shall submit, in addition to the license fee, a fee specified by the Illinois State Police for processing fingerprint based data, or other state of the art criminal identification data, which may be made payable to the State Police Services Fund and shall be remitted to the Illinois State Police for deposit into that fund. Law enforcement personnel who apply for an explosives license in order to carry out their official functions may be exempted from the criminal history

background requirement provided the law enforcement agency submits documentation that the applicant has previously been subjected to a criminal history background check.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 2004. Investigation; Examination of applicant.** Upon receipt of an application, the Department shall investigate the eligibility of the applicant. The Department has authority to request and receive from any federal, state or local governmental agency such information and assistance as will enable the Department to carry out its powers and duties under this Act. The Illinois State Police shall cause the fingerprint based data or other state of the art criminal identification data of each applicant to be compared with the fingerprint based data or other state of the art criminal identification data of criminals now or hereafter filed with the Illinois State Police and with federal law enforcement agencies maintaining official criminal identification files. The investigation shall include, but is not limited to, an oral examination and a written examination as to the applicant's knowledge and ability regarding basic safety, possession, handling, use, storage, disposal and transportation of explosives. Passage of these examinations is prerequisite to being considered for license issuance. Such examinations may be administered by any person designated by the Department.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 2005. Qualifications for licensure.**

- (a) No person shall qualify to hold a license who:
- (1) is under 21 years of age;
  - (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
  - (3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;
  - (4) is a fugitive from justice;
  - (5) is an unlawful user of or addicted to any controlled substance as defined in Section 102 of the federal Controlled Substances Act (21 U.S.C. Sec. 802 et seq.);
  - (6) has been adjudicated a mentally disabled person as defined in Section 1.1 of the Firearm Owners Identification Card Act; or
  - (7) is not a legal citizen of the United States.
- (b) A person who has been granted a "relief from disabilities" regarding criminal convictions and indictments, pursuant to the federal Safe Explosives Act (18 U.S.C. Sec. 845) may receive a license provided all other qualifications under this Act are met.

(Source: P.A. 98-63, eff. 7-9-13.)

**Sec. 2006. Renewal.** Applications for renewal licenses shall be made to the Department in writing on forms prescribed by the Department and shall contain such information as will enable the Department to determine if the applicant is qualified to continue to hold a license and shall be accompanied by the required fee. All fees collected under this Section shall be deposited into the Explosives Regulatory Fund.

(Source: P.A. 88-599, eff. 9-1-94.)

**Sec. 2007. Fee; Exemptions.** Agencies of the United States, the State and its political and civil subdivisions which are subject to the requirements of this Act, and which, in the exercise of their emergency response functions, are required to store, acquire, possess, use, transfer, or dispose of explosive materials shall not be liable for the payment of any fee required by this Act.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 2008. Issuance of license and renewals; notification of law enforcement officers.** The Department shall issue the appropriate license or renewal where the applicant satisfactorily meets the requirements of this Act and no grounds for refusal, revocation, or suspension exist. Within 10 days after the issuance of an original, replacement, or renewed license, the Department shall notify the appropriate law enforcement officer of the municipality or county where the explosive materials are to be used or possessed, and provide such officer with any other information pertaining thereto as the Director may prescribe.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 2009. Display of Licenses; Prohibitions; Duplicates.**

- (a) The license issued under this Act shall be carried on the person at all times when the licensee is purchasing, possessing, using or transferring explosive materials.
- (b) No person shall allow his license to be photocopied or reproduced in any manner, except as the Department may provide by rule.
- (c) If a license is lost or destroyed, a replacement shall be issued and the original license voided upon satisfactory proof to the Department of such loss or destruction and payment of the required fee. All fees collected under this provision of this Act shall be deposited into the Explosives Regulatory Fund.

(Source: P.A. 88-599, eff. 9-1-94.)

**Sec. 2010. Licenses not transferable.** Licenses issued under this Act are not transferable.

(Source: P.A. 86-364.)

**Sec. 2011. Enforcement action; licenses.**

- (a) Failure to satisfy the age or examination requirements of Sections 2004 and 2005(1) shall result in automatic license denial.
- (b) Subject to the provisions of Sections 5003 through 5005 of this Act, the Department may suspend, revoke, or refuse to issue or renew a license and may take any other disciplinary action that the Department may deem proper, including the imposition of fines not to exceed \$5,000 for each occurrence, if the applicant or licensee fails to comply with or satisfy the requirements of any provision of this Act and for any of the following reasons:

- (1) Failure to meet or maintain the qualifications for licensure set forth in Section 2005.
  - (2) Willful disregard or violation of this Act or its rules.
  - (3) Willfully aiding or abetting another in the violation of this Act or its rules.
  - (4) Allowing a license issued under this Act to be used by an unlicensed person.
  - (5) Possession, use, acquisition, transfer, handling, disposal, or storage of explosive materials in a manner that endangers the public health, safety, or welfare.
  - (6) Refusal to produce records or reports or permit any inspection lawfully requested by the Department.
  - (7) Failure to make, keep, or submit any record or report required by this Act or its implementing regulations; or making, keeping, or submitting a false record or report.
  - (8) Material misstatement in the application for an original or renewal license.
- (c) (Blank).
- (d) (Blank).
- (e) All fines collected under this Section shall be deposited into the Explosives Regulatory Fund.  
(Source: P.A. 96-1194, eff. 1-1-11.)

### ARTICLE 3. STORAGE

#### **Sec. 3000. Storage requirements; exemptions.**

- (a) No person, unless otherwise exempt, shall store explosive materials unless a storage certificate has been issued by the Department. The Department shall, by rule, establish requirements for the storage of explosive materials including magazine construction, magazine maintenance and the distances from which magazines or factory buildings must be separated from other magazines, buildings, railroads and highways. In establishing magazine construction, maintenance and distance requirements, the Department shall differentiate, as appropriate, between types, classifications and quantities of explosive materials and shall fully consider nationally recognized industry standards and the standards enforced by agencies of the federal government including the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury.
- (b) This Article does not apply to the purchase, receipt, possession, or use of black powder solely for sporting, recreational, or cultural purposes by an individual for his or her own use or for his or her immediate family living in the same household, unless the quantity of black powder is more than 5 pounds. Black powder in

quantities greater than 5 pounds must be stored in accordance with this Article, regardless of the intended usage.  
(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 3001. Storage requirements; Magazines.**

- (a) No person shall possess or store explosive materials unless such explosive materials are stored in a magazine or in a factory building in accordance with this Act except while being transported or being used in preparation for blasting.
- (b) Not more than 300,000 pounds of explosive materials shall be stored in any magazine at any one time.
- (c) (Blank).
- (d) (Blank).
- (e) (Blank).

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 3002. Storage Certificates.**

- (a) No person shall store explosive materials until he has obtained a storage certificate from the Department. No storage certificate shall be required, however, where holes are drilled and the explosive materials are upon delivery, immediately and continuously loaded into the holes for blasting from the mobile container in which they were delivered. The container shall at all times be attended by an authorized agent or employee of the seller or the user of the explosive materials. In no event shall the mobile container of explosive materials be exempt unless it is completely unloaded for blasting. Every person to which this Section applies shall submit an application to the Department, on forms furnished by the Department, containing the following information:
  - (1) the location or proposed location of a magazine;
  - (2) the kind and maximum quantity of explosive materials intended to be stored in the magazine;
  - (3) the distance or intended distance of the magazine from the nearest magazine, building, railroad and highway;
  - (4) the name, explosive license number, and residence and business addresses of the person designated as "magazine keeper";
  - (5) a description of the purposes for which explosive materials are intended to be stored or used; and
  - (6) any other information that the Department deems necessary to implement the requirements of this Act.



- (b) All storage certificate application fees collected under this Act shall be deposited into the Explosives Regulatory Fund. Following receipt of an application, the Department shall inspect the magazine. If it finds that the magazine is located and constructed in accordance with this Act and rules adopted by the Department, then it shall issue a storage certificate to the applicant.
- (c) A storage certificate holder's authority to store explosives shall be limited to the type, maximum quantity, and purpose specified in his or her application to the Department, unless the certificate holder is granted a modification to the storage certificate. The Department shall approve any modification to the storage certificate if the certificate holder requests a modification and he or she meets the requirements of this Act. If any person to whom the certificate has been issued keeps or stores explosive materials in excess of the amount authorized by the certificate, or stores explosives material for a different purpose than indicated in the application without first obtaining the Department's approval to modify the certificate, then the Department may cancel the certificate or initiate an enforcement action. Whenever there are changes in the physical conditions surrounding a magazine, such as the erection of buildings, operation of railways or opening of highways near such magazine, the Department shall, in accordance with the changed conditions, modify or cancel the certificate. Upon cancellation of the certificate, the magazine keeper shall immediately remove all explosive materials from the magazine. The magazine keeper of a magazine shall promptly notify the Department of any change in conditions.
- (d) Storage certificates issued under this Act are not transferable. In the event of the lease, sale or other transfer of the business or operations covered by the certificate, the new owner, tenant or successor in interest must obtain the storage certificate required by this Article before storing explosive materials.
- (e) No individual may act as a magazine keeper unless licensed under Article 2 of this Act.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 3003. (Repealed).**

(Source: P.A. 87-835. Repealed by P.A. 96-1194, eff. 1-1-11.)

**Sec. 3004. Refusal, suspension, or revocation of certificate; Grounds.**

- (a) Subject to the provisions of Sections 5003 through 5005 of this Act, the Department may suspend, revoke, refuse to issue or renew a certificate or take any other disciplinary action as the Department may deem proper, including the imposition of fines not to exceed \$5000 for each occurrence, if the applicant or certificate holder fails to comply with or satisfy the requirements of any provision of this Act or for any of the following reasons:
  - (1) Material misstatement in the application for original certificate or in the application for any renewal certificate under this Act.

- (2) Failure to continue to possess the necessary qualifications or to meet the requirements of the Act for the issuance or holding of a certificate after issuance of the certificate, in which case the certificate shall be revoked.
  - (3) Willful disregard or violation of this Act or of its rules.
  - (4) Willfully aiding or abetting another in the violation of this Act or its rules.
  - (5) Allowing a certificate under this Act to be used by an unauthorized person.
  - (6) Refusing to produce records or permit inspections lawfully requested by the Department.
  - (7) Failing to make or keep records or reports, or making or keeping false records or reports as required under this Act.
  - (8) Storing any explosive material in a manner not in conformity with this Act.
  - (9) Possession, use, or storage of explosive materials in a manner which endangers the public health, safety, or welfare in violation of this Act.
- (b) All fines collected under this Section of this Act shall be deposited into the Explosives Regulatory Fund.  
(Source: P.A. 87-835; 88-599, eff. 9-1-94.)

#### ARTICLE 4. RECORDKEEPING, REPORTING AND INSPECTIONS

##### **Sec. 4001. Reports to Department.**

- (a) The holder of any license or certificate shall promptly notify the Department of any change in business or home address, or of any conditions affecting the license or certificate.
- (b) License and certificate holders shall take reasonable precautions to protect their licenses and certificates from loss, misplacement, theft, defacement, destruction or unauthorized duplication. Any such occurrence shall be reported immediately to the Department.  
(Source: P.A. 86-364; 87-835; 87-895.)

##### **Sec. 4002. Reporting accidents, incidents, theft, or loss.**

- (a) A licensee or certificate holder shall immediately report to the Department, in a manner and form prescribed by the Department, any incident or accident related to explosive materials that results in personal injury or property damage.
- (b) The theft or loss of explosive materials shall be reported within 24 hours of the discovery by the licensee or certificate holder to the Department and to local law enforcement authorities.  
(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 4003. Recordkeeping and inspection.**

- (a) All license and certificate holders shall maintain such records pertaining to the possession, use, purchase, transfer and storage of explosive materials as the Department may prescribe and shall furnish the Department or its authorized representatives such records or other relevant information legally requested by the Department or its representatives. In establishing record keeping requirements, the Department shall consider the requirements imposed by agencies of the federal government to avoid duplication or inconsistency. All records required by the Department related to the possession, use, purchase, transfer, or storage of explosive materials shall be maintained for a minimum of 3 years.
- (b) (Blank).
- (c) All license and certificate holders shall permit their facilities to be inspected at reasonable times and in a reasonable manner by representatives of the Department.  
(Source: P.A. 96-1194, eff. 1-1-11.)

ARTICLE 5. ADMINISTRATION

**Sec. 5001. Powers, duties, and functions of Department.** In addition to the powers, duties, and functions vested in the Department by this Act, or by other laws of this State, the Department shall have the full powers and authority to carry out and administer this Act, including the following powers, duties, and functions:

- (a) To adopt reasonable rules consistent with this Act to carry out the purposes and enforce the provisions of this Act.
- (b) To prescribe and furnish application forms, licenses, certificates, and any other forms necessary under this Act.
- (c) To prescribe examinations which reasonably test the applicant's knowledge of the safe and proper use, storage, possession, handling, and transfer of explosive materials.
- (d) To establish and enforce reasonable standards for the use, storage, disposal, and transfer of explosive materials.
- (e) To issue licenses and certificates to qualified applicants who comply with the requirements of this Act and its rules.
- (f) To suspend, revoke, or refuse to issue or renew licenses or certificates, or take other disciplinary action, including the imposition of fines. All fines collected under this Act shall be deposited into the Explosives Regulatory Fund.
- (g) To establish by rule the expiration and renewal period for licenses and certificates issued under this Act, and to establish and collect license and certificate application fees, fees required by the Illinois State Police for criminal identification purposes, and such other fees as are authorized or necessary under this Act.
- (h) To conduct and prescribe rules of procedure for hearings under this Act.

- (i) To appoint qualified inspectors to periodically visit places where explosive materials may be stored or used, and to make such other inspections as are necessary to determine satisfactory compliance with this Act.
- (j) To receive data and assistance from federal, State, and local governmental agencies, and to obtain copies of identification and arrest data from all federal, State, and local law enforcement agencies for use in carrying out the purposes and functions of the Department and this Act.
- (k) To receive and respond to inquiries from the industry, public, and agencies or instrumentalities of the State, and to offer advice, make recommendations, and provide monitoring services pertinent to such inquiries regarding the safe and proper storage, handling, and use of explosive materials.
- (l) To inform, advise, and assist the State's Attorney of the county where any noncompliance with or violation of this Act occurs when the State's Attorney is seeking criminal charges against a person pursuant to Section 5010 or 5011 of this Act.
- (m) To bring an action in the name of the Department, through the Attorney General of the State of Illinois, whenever it appears to the Department that any person is engaged or is about to engage in any acts or practices that constitute or may constitute a violation of the provisions of this Act or its rules, for an order enjoining such violation or for an order enforcing compliance with this Act. Upon filing of a verified petition in such court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin such violation. If it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this paragraph are in addition to, and not in lieu of, all other remedies and penalties provided for by this Act.

The powers, duties, and functions vested in the Department under the provisions of this Act shall not be construed to affect in any manner the powers, duties, and functions vested in the Department under any other provision of law.

(Source: P.A. 96-1194, eff. 1-1-11; 97-333, eff. 8-12-11.)

**Sec. 5002. (Repealed).**

(Source: P.A. 88-599, eff. 9-1-94. Repealed by P.A. 96-1194, eff. 1-1-11.)

**Sec. 5003. Appeal to Department; Hearing; Notice.**

- (a) Whenever the Department intends to refuse to issue or renew or to suspend, revoke or take other disciplinary action with respect to a license or certificate, the Department shall give notice to the applicant or holder. Such notice shall be in writing, shall state specifically the grounds upon which the Department intends to take the indicated action and shall be served by delivery of the same personally to the applicant or holder, or by mailing the same by registered or certified mail to the applicant or holder's last known address. The aggrieved party may appeal to the Department for a hearing. The applicant or holder shall request such a hearing in

writing within 30 days after notice is mailed. The provisions of Sections 5003 through 5005 shall not apply to decisions of the Department to deny a license or certificate based on an applicant's failure to satisfy any age or examination requirements.

- (b) Upon the receipt of a request for a hearing, the Department shall order a hearing to be held. The hearing proceedings shall be commenced within 30 days after the receipt by the Department of the request for a hearing unless the hearing is continued for good cause at the request of any party. The Department shall, at least 10 days prior to the date set for the hearing, notify in writing the applicant for or holder of a license or certificate that a hearing will be held at the place and on the date designated in the notice to determine whether the applicant or holder is qualified to hold a license or certificate, and that the Department shall afford the applicant or holder an opportunity to be heard. Such written notice may be served by personal delivery to the applicant or holder, or by mailing the notice by registered or certified mail to the applicant or holder's last known address.
- (c) At the time and place fixed in the notice, the Department shall proceed to hear the appeal, and all parties to the proceeding shall have the opportunity to present such statements, testimony, evidence and argument as may be relevant to the proceeding. Hearings shall be conducted by hearing officers appointed by the Department, and an authorized agent of the Department may administer oaths to witnesses at any hearing which the Department is authorized to conduct. The Department, if necessary, may continue such hearing from time to time. Hearing officers may authorize reasonable discovery by any party. The Illinois Code of Civil Procedure and Illinois Supreme Court rules shall not be applicable to hearing proceedings under this Section.
- (d) Nothing in this Section shall be construed to limit the authority of the Department to deny, refuse to issue or renew, or suspend, revoke, or take other disciplinary action with respect to a license or certificate if the applicant or holder waives the right to a hearing by failing to request a hearing within the prescribed time after notice is mailed.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 5004. Record of proceedings; transcript.** The Department or aggrieved party may provide at its or his or her expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing of any case involving denial or refusal to issue or renew a license or certificate, or the suspension or revocation or other discipline of a license or certificate. Copies of the transcript of such record may be purchased from the certified shorthand reporter who prepared the record.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 5005. Findings of fact.** The Department shall make findings of fact in such hearing, and shall render its decision within 30 days after termination of the hearing, unless additional time is required by the Department for a proper disposition of the matter. The Department shall serve a copy of its decision on the applicant or holder either personally or by certified or registered mail within 5 days of rendering the decision. Technical errors in the proceeding before the Department shall not be grounds for reversal of any administrative decision unless it appears to

the court that such error materially affects the rights of any party and results in substantial injustice to such person.

(Source: P.A. 86-364.)

**Sec. 5006. Actions without notice of hearing.** Notwithstanding any other provision of this Act, whenever the Department finds that a condition or practice exists which could reasonably be expected to cause death or serious physical harm or property damage, and if the Department incorporates a finding to that effect in an order, it may summarily suspend or revoke a license or certificate, or order such immediate action as may be necessary to abate the condition or practice. Whenever summary action is taken under this Section, the Department shall, simultaneously with such action, serve upon the holder a copy of its order which shall be effective immediately. Upon the request of the aggrieved party, the Department shall conduct a hearing regarding its order in accordance with the requirements of Sections 5003, 5004, and 5005 of this Act.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 5007. Surrender; Seizure of license.** Upon the suspension or revocation of any license or certificate, the holder shall immediately surrender the license or certificate to the Department. If the holder fails to do so, the Department has the right to seize the license or certificate through its agents or local law enforcement personnel. If summary action under Section 5006 of this Act is taken by the Department, the Department shall have the right to seize the license or certificate immediately upon issuance of its order.

(Source: P.A. 86-364.)

**Sec. 5008. Administrative Review Law.** All final administrative decisions of the Department under this Act are subject to judicial review pursuant to the Administrative Review Law (735 ILCS 5/3-101 et seq.), as now or hereafter amended, and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Appeals from all orders and judgments entered by the court, in reviewing a final administrative decision of the Department, may be taken by any party to the action as in other civil cases. Pending final decision on such review, the acts, orders and rulings of the Department shall remain in full force and effect unless modified or suspended by order of court pending final judicial decision. The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless there is filed in the court with the complaint a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be computed at the rate of 35 cents per page. Failure on the part of the plaintiff to file such receipt in court shall be grounds for dismissal of the action.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 5010. Unlawful possession.** Any person subject to this Act who possesses an explosive material without having obtained a valid license or certificate under this Act is guilty of a Class 3 felony unless otherwise exempted under Section 1005 or 2000 of this Act. Any person subject to this Act who transfers explosive material to a person who does not possess a valid license or certificate under this Act is guilty of a Class 3 felony unless otherwise exempted under Section 1005 or 2000 of this Act.

(Source: P.A. 96-1194, eff. 1-1-11.)

**Sec. 5011. Violation and penalty.** Any license or certificate holder who fails to comply with or violates any applicable provision of this Act is guilty of a Class B misdemeanor. All law enforcement officers and personnel of the State of Illinois and the various units of local government are responsible for assisting with the enforcement of this Act.

(Source: P.A. 86-364.)

**Sec. 5012. Existing remedies unimpaired.** No existing civil or criminal remedy for any wrongful action which is a violation of any code, or rule promulgated under this Act shall be excluded or impaired by this Act.

(Source: P.A. 86-364.)

**Sec. 5013. Variations.**

- (a) Emergency variations. The Department may approve variations from the requirements of this Act when it finds that an emergency exists and that the proposed variations from the specific requirements are necessary, will not hinder the effective administration of this Act, and will not be contrary to any provisions of any other applicable law.
  
- (b) Other variations. The Director may authorize alternate construction for explosives storage magazines when it is shown that the alternate magazine construction is substantially equivalent to the standards of safety and security required under this Act or the Department's rules. Any person intending to use alternate magazine construction shall submit a letter application to the Director, specifically describing the proposed magazine. Explosive materials may not be stored in alternate magazines before the applicant has been notified that the application has been approved.

(Source: P.A. 86-364; 87-835.)

**Sec. 5014. (Repealed).**

(Source: P.A. 86-364. Repealed by P.A. 96-1194, eff. 1-1-11.)