

## ACT 259

S.B. NO. 2559

A Bill for an Act Relating to Explosives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 396-3, Hawaii Revised Statutes, is amended by repealing the definition of “manufacturer”.

[““Manufacturer” means, for the purpose of the section concerning explosives, any person who is engaged in the manufacture of explosives or who otherwise produces any explosive.”]

SECTION 2. Section 396-3, Hawaii Revised Statutes, is amended by amending the definition of “dealer” to read as follows:

““Dealer” means, for the purpose of the section concerning explosives, any person, [not a manufacturer,] corporation, partnership, association, association of dealers, or other form of business enterprise engaged in the business of buying and selling explosives.”

SECTION 3. Section 396-9, Hawaii Revised Statutes, is amended to read as follows:

“**§396-9 Explosives.** (a) [Permits and certificates. No person shall manufacture or deal in explosives unless the person has obtained a permit therefor and no] No person shall use, store, or deal in explosives unless the person has first obtained a certificate of fitness. A certificate of fitness shall only be issued to an individual and shall set forth the individual’s competency and provide for the individual’s positive identification. Certificates of fitness may be limited as to types or kinds of explosives or to the use of explosives for specific purposes.

[(b) Manufacturer’s reports; dealer’s record and report. Manufacturers shall file a report with the director at the end of each calendar month giving in the report

the names of all purchasers and the amount and description of all explosives sold or delivered and such other information as the director may require.

(c) Storage. No person shall have, store, keep, or possess explosives, or suffer them to remain in any building or upon any premises, unless the same are in a magazine complying with rules and regulations of the department governing the classes, type of construction, and capacity of magazines, the quantities and types or kinds of explosives which may be kept in the several classes of magazines, the location of permanent magazines, the safety precautions to be taken therein, and the places where movable magazines shall be kept and the duration of such keeping.

(d) Transportation. No person shall transport or cause any explosive to be transported except in compliance with rules and regulations of the department and without first having secured a permit from the director.

(e) Sale of; permits for purchase.] (b) No dealer shall sell or deliver explosives to any person who does not hold a certificate of fitness [and a permit for the purchase thereof secured from the director or the director's authorized subordinates; and no dealer shall sell or deliver explosives except for the types or kinds and in the quantities as prescribed by, and in compliance with all the terms and conditions contained in the permit.

(f) Unlawful use or possession]. (c) It shall be unlawful for any person to use or possess any explosives unless the person has a certificate of fitness or is using the explosives under the immediate supervision and direction of a holder of the certificate. [It shall be unlawful for any person, other than a manufacturer or dealer, to have any explosives in the person's possession unless the person has a permit therefor, or unless the person has the explosives in the person's possession under the direction and for the purposes of a holder of the certificate.]

Any person who violates this section shall be subject to arrest and upon conviction, shall be fined not more than \$1,000 or imprisoned not more than one year, or both, provided that an employer or an employee acting within the scope of employment shall not be deemed to be in violation of this section.

[(g) Revocation of permits and certificates.] (d) Any [permit or] certificate of fitness issued under this section may be revoked or suspended by the director on any ground specified in the rules [and regulations promulgated] adopted under this chapter, or for any violation of this section.

[(h) National emergency.] (e) Any [permit or] certificate issued under this section [may], during any time of national emergency or crisis, may be suspended or canceled by the director[, and all explosives in the possession or control of any person may be purchased or seized and held in possession by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the owner thereof and the government of the United States or the government of the State may agree upon some other disposition of the explosives]. A national emergency or crisis shall be deemed to exist when [such] it has been so determined under section 134-34.

[(i) Exceptions.] (f) This section shall not apply to the armed forces of the United States [or], to employees of the United States, or the state or county police or fire departments who are authorized [by the United States] to handle explosives."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)