

**Enrolled**  
**Senate Bill 89**

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CHAPTER .....

AN ACT

Relating to explosives; amending ORS 480.210, 480.215, 480.244 and 480.290.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 480.210 is amended to read:

480.210. (1) A person may not possess an explosive unless:

(a) The person has in immediate possession at all times during the possession of the explosive a valid certificate of possession issued to the person under ORS 480.235; *[or]*

(b) The person *[is licensed by the Bureau of Alcohol, Tobacco, Firearms and Explosives to be a manufacturer of explosives, a dealer in explosives or the authorized agent of such a manufacturer or dealer.]* **possesses a license or permit issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives of a type that authorizes the possession; or**

(c) **The person is listed as a responsible person or employee possessor under a license or permit described in paragraph (b) of this subsection.**

(2) A person in possession of an explosive shall display a certificate of possession **or federal license or permit** upon the demand of the *[issuing authority]* **State Fire Marshal, an assistant to the State Fire Marshal**, a magistrate or a law enforcement agency, public fire department or fire protection agency of this state.

(3) It is a defense to a charge under subsection (1) of this section that the person so charged produce in court:

(a) A certificate described in subsection (1)(a) of this section that was valid at the time of the arrest of the person; *[or]*

(b) Proof that the person *[is licensed by]* **has a license or permit issued by** the Bureau of Alcohol, Tobacco, Firearms and Explosives *[to be a manufacturer of explosives, a dealer in explosives, or the authorized agent of such a manufacturer or dealer]* **of a type authorizing the person to possess the explosives; or**

(c) **Proof that the person is listed as a responsible person or employee possessor under a license or permit described in paragraph (b) of this subsection.**

**SECTION 2.** ORS 480.215 is amended to read:

480.215. Possession of an explosive *[shall]* **may** not be transferred unless:

(1) The transferee holds a certificate of possession under ORS 480.235 and the certificate is valid at the time of the transfer;

(2) The transferee [*is licensed*] **holds a license or permit issued** by the Bureau of Alcohol, Tobacco, Firearms and Explosives [*as a manufacturer of explosives or a dealer in explosives*] **of a type that authorizes possession of the explosive by the transferee; or**

(3) The transferee is a consignee of explosives that have been transported under the jurisdiction of or in conformity with regulations adopted by the United States Department of Transportation.

**SECTION 3.** ORS 480.244 is amended to read:

480.244. (1) A person may store explosives only in an explosives magazine that has been issued a certificate of registration by the State Fire Marshal **or has been approved by the Bureau of Alcohol, Tobacco, Firearms and Explosives for storing that type of explosive.**

(2) An application for a certificate of registration shall be submitted on a form approved by the State Fire Marshal and shall contain all information required by rule of the State Fire Marshal, including but not limited to the magazine location and structural information.

(3) The State Fire Marshal may establish by rule and collect application and registration fees in an amount necessary to cover the cost of administering the magazine registration program.

(4) Except as provided in subsection (5) of this section, prior to issuing a certificate of registration, the State Fire Marshal shall inspect the magazine to ensure that the magazine complies with the rules established by the State Fire Marshal under ORS 480.280. The State Fire Marshal shall issue a certificate of registration for the magazine unless the State Fire Marshal finds that the magazine does not comply with the rules and regulations adopted by the State Fire Marshal. Denial of a certificate of registration shall be in accordance with subsection (9) of this section.

(5) The State Fire Marshal may substitute for its own inspection of the magazine as required under subsection (4) of this section an inspection completed by the Bureau of Alcohol, Tobacco, Firearms and Explosives. The State Fire Marshal shall establish criteria for when the Bureau of Alcohol, Tobacco, Firearms and Explosives inspection may substitute for the State Fire Marshal inspection.

(6) A certificate of registration shall be valid for two years unless suspended or revoked as provided under subsection (9) of this section.

(7) An application for the renewal of a certificate of registration shall be accompanied by any application fee established by the State Fire Marshal. A person who applies to renew a certificate before the person's current certificate expires does not need to retake the safety examination described under ORS 480.225 (1)(j). Each magazine shall be reinspected prior to renewal of the certificate of registration.

(8) If a magazine required to be registered under this section **or that is approved by the Bureau of Alcohol, Tobacco, Firearms and Explosives** is relocated, the person responsible for the magazine shall notify the State Fire Marshal within 24 hours of the relocation. Upon receiving notification under this subsection, the State Fire Marshal shall notify the fire department or fire protection agency having jurisdiction over the new location.

(9) The State Fire Marshal may deny, suspend or revoke a certificate of registration if the State Fire Marshal finds that the magazine is ineligible for a certificate of registration. If the State Fire Marshal denies, suspends or revokes the certificate of registration, the issuing authority shall issue a notification of denial, suspension or revocation, subject to ORS 480.275.

(10) The issuing authority may revoke the certificate of registration for failure to comply with any provision of ORS 480.200 to 480.290.

**SECTION 4.** ORS 480.290 is amended to read:

480.290. (1) Each person who drives or has charge of a vehicle transporting explosives must [*possess a certificate issued pursuant to ORS 480.235*] **comply with the requirements of the United States Department of Transportation.**

(2) Except as provided in subsection (3) of this section, the driver of a vehicle transporting any quantity of explosives must attend the vehicle at all times.

(3) The driver of a vehicle transporting explosives may leave the vehicle unattended only at a designated location that has been approved for such parking by the State Fire Marshal or by the local government agency that has responsibility for fire protection.

(4) A vehicle which contains explosives must not be parked within 300 feet of any bridge, tunnel, dwelling, building or place where people work, congregate or assemble except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

(5) As used in this section, a vehicle is "attended" when the person in charge of the vehicle is on the vehicle, awake and not in a sleeper berth, or is within 100 feet of the vehicle and has it within unobstructed field of view.

(6) All vehicles containing explosives shall display appropriate placards conforming to the requirements of the United States Department of Transportation.

**Passed by Senate March 20, 2009**

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Secretary of Senate

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President of Senate

**Passed by House May 12, 2009**

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Speaker of House

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

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Secretary of State