

4529--C

2011-2012 Regular Sessions

I N S E N A T E

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Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the executive law, in relation to offenses relating to possession or sale of fireworks, sparkling devices and ammunition

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 1, 2, and 3 of section 270.00 of the penal
2 law, as amended by chapter 180 of the laws of 1997, are amended and a
3 new subdivision 6 is added to read as follows:
4 1. Definition of "fireworks," "ARTICLES PYROTECHNIC" and "dangerous
5 fireworks".
6 (A) The term "fireworks," as used in this section, [is defined and
7 declared to be and to include any blank cartridge, blank cartridge
8 pistol, or toy cannon in which explosives are used, firecrackers, spark-
9 lers or other combustible or explosive of like construction, or any
10 preparation containing any explosive or inflammable compound or any
11 tablets or other device commonly used and sold as fireworks containing
12 nitrates, chlorates, oxalates, sulphides of lead, barium, antimony,
13 arsenic, mercury, nitroglycerine, phosphorus or any compound containing
14 any of the same or other explosives, or any substance or combination of
15 substances, or article prepared for the purpose of producing a visible
16 or an audible effect by combustion, explosion, deflagration or detona-
17 tion, or other device containing any explosive substance and the]
18 INCLUDES:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD05241-08-1

1 (I) DISPLAY FIREWORKS, WHICH MEANS FIREWORKS DEVICES IN A FINISHED
2 STATE, EXCLUSIVE OF MERE ORNAMENTATION, PRIMARILY INTENDED FOR COMMER-
3 CIAL DISPLAYS WHICH ARE DESIGNED TO PRODUCE VISIBLE AND/OR AUDIBLE
4 EFFECTS BY COMBUSTION, DEFLAGRATION OR DETONATION, INCLUDING, BUT NOT
5 LIMITED TO, SALUTES CONTAINING MORE THAN 130 MG (2 GRAINS) OF EXPLOSIVE
6 COMPOSITION, AERIAL SHELLS CONTAINING MORE THAN 40G OF CHEMICAL COMPOSI-
7 TION EXCLUSIVE OF LIFT CHARGE, AND OTHER EXHIBITION DISPLAY ITEMS THAT
8 EXCEED THE LIMITS OF CONSUMER FIREWORKS CONTAINED IN THE AMERICAN PYRO-
9 TECHNIC ASSOCIATION (APA) STANDARD 87-1, 2001 EDITION;

10 (II) ARTICLES PYROTECHNIC, WHICH MEANS PYROTECHNIC DEVICES FOR PROFES-
11 SIONAL USE SIMILAR TO CONSUMER FIREWORKS IN CHEMICAL COMPOSITION AND
12 CONSTRUCTION BUT NOT INTENDED FOR CONSUMER USE AND WHICH ARTICLES MEET
13 THE WEIGHT LIMITS FOR CONSUMER FIREWORKS BUT ARE NOT LABELED AS SUCH AND
14 ARE CLASSIFIED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION IN 49
15 CFR 172.101 AS UN0431;

16 (III) SPECIAL EFFECTS, WHICH MEANS ANY COMBINATION OF CHEMICAL
17 ELEMENTS OR CHEMICAL COMPOUNDS CAPABLE OF BURNING INDEPENDENTLY OF THE
18 OXYGEN OF THE ATMOSPHERE, AND DESIGNED AND INTENDED TO PRODUCE AN AUDI-
19 BLE, VISUAL, MECHANICAL, OR THERMAL EFFECT AS AN INTEGRAL PART OF A
20 MOTION PICTURE, RADIO, TELEVISION, THEATRICAL, OR OPERA PRODUCTION, OR
21 LIVE ENTERTAINMENT; AND

22 (IV) CONSUMER FIREWORKS WHICH ARE AERIAL IN PERFORMANCE AND ARE
23 COMMONLY REFERRED TO AS SKY ROCKETS, BOTTLE ROCKETS, MISSILE TYPE ROCK-
24 ETS, HELICOPTERS, AERIAL SPINNERS, ROMAN CANDLES, MINES, SHELL DEVICES,
25 AERIAL SHELL KITS, RELOADABLES AND AUDIBLE GROUND DEVICES WHICH ARE
26 COMMONLY REFERRED TO AS FIRECRACKERS AND CHASERS.

27 (B) THE term "dangerous fireworks" means any fireworks capable of
28 causing serious physical injury and which are: firecrackers containing
29 more than fifty milligrams of any explosive substance, torpedoes,
30 skyrockets and rockets including all devices which employ any combusti-
31 ble or explosive substance and which rise in the air during discharge,
32 Roman candles, AND bombs[, sparklers more than ten inches in length or
33 one-fourth of one inch in diameter, or chasers including all devices
34 which dart or travel about the surface of the ground during discharge].

35 (C) "Fireworks" and "dangerous fireworks" shall not be deemed to
36 include [(1)] THE FOLLOWING THROUGHOUT THIS STATE, NOR SHALL THE
37 PURCHASE AND USE OF ANY ITEMS LISTED BELOW BE SUBJECT TO PART 61 TO
38 TITLE 12 NYCRR, GENERAL BUSINESS LAW SECTION FOUR HUNDRED EIGHTY THROUGH
39 FOUR HUNDRED EIGHTY-THREE:

40 (I) flares of the type used by railroads or any warning lights common-
41 ly known as red flares, or marine distress signals of a type approved by
42 the United States coast guard, or

43 [(2)] (II) toy pistols, toy canes, toy guns or other devices in which
44 paper caps containing twenty-five hundredths grains or less of explosive
45 compound are used, providing they are so constructed that the hand
46 cannot come in contact with the cap when in place for use, and toy
47 pistol paper caps which contain less than twenty-hundredths grains of
48 explosive mixture, the sale and use of which shall be permitted at all
49 times, or

50 [(3)] (III) bank security devices which contain not more than fifty
51 grams of any compound or substance or any combination thereof, together
52 with an igniter not exceeding 0.2 gram, capable of producing a lachry-
53 mating and/or visible or audible effect, where such device is stored or
54 used only by banks, national banking associations, trust companies,
55 savings banks, savings and loan associations, industrial banks, or cred-
56 it unions, or by any manufacturer, wholesaler, dealer, jobber or common

1 carrier for such devices and where the total storage on any one premises
2 does not exceed one hundred devices, OR

3 (IV) SPARKLING DEVICES WHICH ARE GROUND-BASED OR HAND-HELD DEVICES
4 THAT PRODUCE A SHOWER OF WHITE, GOLD, OR COLORED SPARKS AS THEIR PRIMARY
5 PYROTECHNIC EFFECT. ADDITIONAL EFFECTS MAY INCLUDE A COLORED FLAME, AN
6 AUDIBLE CRACKLING EFFECT, AN AUDIBLE WHISTLE EFFECT, AND SMOKE. THESE
7 DEVICES DO NOT RISE INTO THE AIR, DO NOT FIRE INSERTS OR PROJECTILES
8 INTO THE AIR, AND DO NOT EXPLODE OR PRODUCE A REPORT (AN AUDIBLE CRACK-
9 LING-TYPE EFFECT IS NOT CONSIDERED TO BE A REPORT). GROUND-BASED OR
10 HAND-HELD DEVICES THAT PRODUCE A CLOUD OF SMOKE AS THEIR SOLE PYROTECH-
11 NIC EFFECT ARE ALSO INCLUDED IN THIS CATEGORY. TYPES OF DEVICES IN THIS
12 CATEGORY INCLUDE:

13 (A) CYLINDRICAL FOUNTAIN: CYLINDRICAL TUBE CONTAINING NOT MORE THAN 75
14 G OF PYROTECHNIC COMPOSITION THAT MAY BE CONTAINED IN A DIFFERENT SHAPED
15 EXTERIOR SUCH AS A SQUARE, RECTANGLE, CYLINDER OR OTHER SHAPE BUT THE
16 INTERIOR TUBES ARE CYLINDRICAL IN SHAPE. UPON IGNITION, A SHOWER OF
17 COLORED SPARKS, AND SOMETIMES A WHISTLING EFFECT OR SMOKE, IS PRODUCED.
18 THIS DEVICE MAY BE PROVIDED WITH A SPIKE FOR INSERTION INTO THE GROUND
19 (SPIKE FOUNTAIN), A WOOD OR PLASTIC BASE FOR PLACING ON THE GROUND (BASE
20 FOUNTAIN), OR A WOOD OR CARDBOARD HANDLE TO BE HAND HELD (HANDLE FOUN-
21 TAIN). WHEN MORE THAN ONE TUBE IS MOUNTED ON A COMMON BASE, TOTAL PYRO-
22 TECHNIC COMPOSITION MAY NOT EXCEED 200 G, AND WHEN TUBES ARE SECURELY
23 ATTACHED TO A BASE AND THE TUBES ARE SEPARATED FROM EACH OTHER ON THE
24 BASE BY A DISTANCE OF AT LEAST HALF AN INCH (12.7 MILLIMETERS), A MAXI-
25 MUM TOTAL WEIGHT OF 500 G OF PYROTECHNIC COMPOSITION SHALL BE ALLOWED.

26 (B) CONE FOUNTAIN: CARDBOARD OR HEAVY PAPER CONE CONTAINING NOT MORE
27 THAN 50 G OF PYROTECHNIC COMPOSITION. THE EFFECT IS THE SAME AS THAT OF
28 A CYLINDRICAL FOUNTAIN. WHEN MORE THAN ONE CONE IS MOUNTED ON A COMMON
29 BASE, TOTAL PYROTECHNIC COMPOSITION MAY NOT EXCEED 200 G, AS IS OUTLINED
30 IN SUBPARAGRAPH (J) OF THIS PARAGRAPH.

31 (C) ILLUMINATING TORCH: CYLINDRICAL TUBE CONTAINING NOT MORE THAN 100
32 G OF PYROTECHNIC COMPOSITION THAT PRODUCES A COLORED FLAME UPON IGNITION
33 AND MAY HAVE A SPIKE, BASE, OR HAND HELD FOUNTAIN. WHEN MORE THAN ONE
34 TUBE IS MOUNTED ON A COMMON BASE, TOTAL PYROTECHNIC COMPOSITION MAY NOT
35 EXCEED 200 G, AS IS OUTLINED IN SUBPARAGRAPH (J) OF THIS PARAGRAPH.

36 (D) WHEEL: PYROTECHNIC DEVICE INTENDED TO BE ATTACHED TO A POST OR
37 TREE BY MEANS OF A NAIL OR STRING WHICH MAY HAVE ONE OR MORE DRIVERS,
38 EACH OF WHICH MAY CONTAIN NOT MORE THAN 60 G OF PYROTECHNIC COMPOSITION.
39 NO WHEEL MAY CONTAIN MORE THAN 200 G OF TOTAL PYROTECHNIC COMPOSITION.
40 UPON IGNITION, THE WHEEL REVOLVES, PRODUCING A SHOWER OF COLOR AND
41 SPARKS AND, SOMETIMES, A WHISTLING EFFECT.

42 (E) GROUND SPINNER: SMALL DEVICE CONTAINING NOT MORE THAN 20 G OF
43 PYROTECHNIC COMPOSITION, VENTING OUT AN ORIFICE USUALLY ON THE SIDE OF
44 THE TUBE AND IS SIMILAR IN OPERATION TO A WHEEL BUT INTENDED TO BE
45 PLACED FLAT ON THE GROUND AND IGNITED. A SHOWER OF SPARKS AND COLOR IS
46 PRODUCED BY THE RAPIDLY SPINNING DEVICE.

47 (F) FLITTER SPARKLER: NARROW PAPER TUBE ATTACHED TO A STICK OR WIRE
48 AND FILLED WITH NOT MORE THAN 5 G OF PYROTECHNIC COMPOSITION THAT
49 PRODUCES COLOR AND SPARKS UPON IGNITION. THE PAPER AT ONE END OF THE
50 TUBE IS IGNITED TO MAKE THE DEVICE FUNCTION.

51 (G) TOY SMOKE DEVICE: SMALL PLASTIC OR PAPER ITEM CONTAINING NOT MORE
52 THAN 100 G OF PYROTECHNIC COMPOSITION THAT, UPON IGNITION, PRODUCES
53 WHITE OR COLORED SMOKE AS THE PRIMARY EFFECT. TOY SMOKE DEVICES, WHEN
54 COMPLYING WITH THE PROVISIONS OF THIS SECTION, ARE CLASSED AS FIREWORKS,
55 1.4G UNLESS CLASSED AS 1.4S OR NOT REGULATED AS AN EXPLOSIVE ON THE
56 BASIS OF EXAMINATION AND TESTING AS SPECIFIED IN TITLE 49 CFR, S 173.56.

(H) WIRE SPARKLER/DIPPED STICK: THESE DEVICES CONSIST OF A METAL WIRE OR WOOD DOWEL THAT HAS BEEN COATED WITH PYROTECHNIC COMPOSITION. UPON IGNITION OF THE TIP OF THE DEVICE, A SHOWER OF SPARKS IS PRODUCED. SPARKLERS MAY CONTAIN UP TO 100 G OF PYROTECHNIC COMPOSITION PER ITEM.

(I) MULTIPLE TUBE DEVICES CONTAINING MORE THAN ONE CARDBOARD TUBE: THE IGNITION OF ONE EXTERNAL FUSE CAUSES ALL OF THE TUBES TO FUNCTION IN SEQUENCE. THE TUBES ARE EITHER INDIVIDUALLY ATTACHED TO A WOOD OR PLASTIC BASE, OR ARE DENSE-PACKED AND ARE HELD TOGETHER BY GLUE, WIRE, STRING, OR OTHER MEANS THAT SECURELY HOLDS THE TUBES TOGETHER DURING OPERATION. THE WEIGHT OF CHEMICAL COMPOSITION PER TUBE IS LIMITED TO THE WEIGHT LIMIT FOR THE SPECIFIC TYPE OF DEVICE IN THE TUBE. THE CONNECTING FUSES ON MULTIPLE TUBE DEVICES MUST BE FUSED IN SEQUENCE SO THAT THE TUBES FIRE SEQUENTIALLY RATHER THAN ALL AT ONCE. WHEN THE TUBES ARE SECURELY ATTACHED TO A WOOD OR PLASTIC BASE, AND THE TUBES ARE SEPARATED FROM EACH OTHER ON THE BASE BY A DISTANCE OF AT LEAST HALF AN INCH (12.7 MILLIMETERS), A MAXIMUM TOTAL WEIGHT OF 500 G OF PYROTECHNIC COMPOSITION SHALL BE PERMITTED FOR APPROVAL AS 1.4G, OR

(V) NOVELTIES WHICH DO NOT REQUIRE APPROVAL FROM USDOT AND ARE NOT REGULATED AS EXPLOSIVES, PROVIDED THAT THEY ARE MANUFACTURED AND PACKAGED AS DESCRIBED BELOW:

(A) PARTY POPPER: SMALL DEVICES WITH PAPER OR PLASTIC EXTERIORS THAT ARE ACTUATED BY MEANS OF FRICTION (A STRING OR TRIGGER IS TYPICALLY PULLED TO ACTUATE THE DEVICE). THEY FREQUENTLY RESEMBLE CHAMPAGNE BOTTLES OR TOY PISTOLS IN SHAPE. UPON ACTIVATION, THE DEVICE EXPELS FLAME-RESISTANT PAPER STREAMERS, CONFETTI, OR OTHER NOVELTIES AND PRODUCES A SMALL REPORT. DEVICES MAY CONTAIN NOT MORE THAN 16 MG (0.25 GRAINS) OF EXPLOSIVE COMPOSITION, WHICH IS LIMITED TO POTASSIUM CHLORATE AND RED PHOSPHORUS. THESE DEVICES MUST BE PACKAGED IN AN INNER PACKAGING WHICH CONTAINS A MAXIMUM OF SEVENTY-TWO DEVICES.

(B) SNAPPER: SMALL, PAPER-WRAPPED DEVICES CONTAINING NOT MORE THAN ONE MILLIGRAM OF SILVER FULMINATE COATED ON SMALL BITS OF SAND OR GRAVEL. WHEN DROPPED, THE DEVICE EXPLODES, PRODUCING A SMALL REPORT. SNAPPERS MUST BE IN INNER PACKAGES NOT TO EXCEED FIFTY DEVICES EACH, AND THE INNER PACKAGES MUST CONTAIN SAWDUST OR A SIMILAR, IMPACT-ABSORBING MATERIAL.

(C) TOY SMOKE DEVICES: SMALL DEVICES CONSISTING OF CORK-LIKE SPHERES, OR CARDBOARD OR PLASTIC TUBES, CONTAINING NOT MORE THAN 5 G OF PYROTECHNIC COMPOSITION THAT PRODUCES A SMALL CLOUD OF SMOKE AFTER ACTIVATION. THE DEVICES ARE TYPICALLY IGNITED BY MEANS OF SAFETY FUSE. THE OUTER CONFIGURATION IS USUALLY A SPHERE (SMOKE BALL), CYLINDRICAL TUBE, OR PAPER CONE. THE CHEMICAL COMPOSITION FOR WHITE SMOKE CONSISTS OF POTASSIUM NITRATE AND SULFUR, WHILE COLORED SMOKES ARE PRODUCED BY MIXTURES CONSISTING OF POTASSIUM CHLORATE, SULFUR OR SUGAR, AND A SUBLIMABLE ORGANIC DYE. MIXTURES CONTAINING POTASSIUM CHLORATE MUST ALSO CONTAIN A NEUTRALIZER/COOLANT SUCH AS SODIUM BICARBONATE. TO BE ELIGIBLE FOR UNREGULATED STATUS, THESE DEVICES MUST PRODUCE SMOKE AS THEIR SOLE PYROTECHNIC EFFECT FOLLOWING IGNITION, AND MUST BE PACKAGED IN INNER UNITS CONTAINING A MAXIMUM OF SEVENTY-TWO DEVICES.

(D) SNAKES, GLOW WORM: PRESSED PELLETS OF PYROTECHNIC COMPOSITION THAT CONTAIN 2 G OR LESS OF COMPOSITION PER ARTICLE. UPON BURNING, THEY PRODUCE A SNAKE-LIKE ASH THAT EXPANDS IN LENGTH AS THE PELLET BURNS. CHEMICAL COMPOSITIONS VARY, BUT TYPICALLY CONTAIN AMMONIUM PERCHLORATE, NITRATE PITCH, ASPHALTUM, AND SIMILAR CARBONACEOUS MATERIALS. THESE DEVICES ARE LIMITED TO A MAXIMUM OF TWENTY-FIVE PELLETS PER INNER PACKAGE IN ORDER TO BE TRANSPORTED AS NOT REGULATED DEVICES.

1 (E) WIRE SPARKERS/DIPPED STICKS: THESE DEVICES CONSIST OF A METAL WIRE
2 OR WOOD DOWEL THAT HAS BEEN COATED WITH PYROTECHNIC COMPOSITION. UPON
3 IGNITION OF THE TIP OF THE DEVICE, A SHOWER OF SPARKS IS PRODUCED.
4 SPARKLERS MAY CONTAIN UP TO 100 G OF COMPOSITION PER ITEM. SPARKLERS
5 TYPICALLY USE BARIUM NITRATE AS THE OXIDIZER, WITH ALUMINUM AND DEXTRINE
6 AS FUELS. IRON FILINGS PRODUCE THE SPARK EFFECT. COLOR-PRODUCING SPARK-
7 LERS USE POTASSIUM PERCHLORATE AS AN OXIDIZER. ANY SPARKLER CONTAINING A
8 CHLORATE OR PERCHLORATE OXIDIZER IS LIMITED TO A MAXIMUM OF 5 G OF
9 COMPOSITION PER ARTICLE. SPARKLERS MUST BE PACKAGED IN INNER PACKAGING
10 THAT CONTAIN EIGHT DEVICES OR LESS TO BE TRANSPORTED AS NOT REGULATED
11 DEVICES, OR

12 (VI) TOY PLASTIC OR PAPER CAPS FOR TOY PISTOLS IN SHEETS, STRIPS,
13 ROLLS, OR INDIVIDUAL CAPS, CONTAINING NOT MORE THAN AN AVERAGE OF 0.25
14 GRAINS (16 MG) OF EXPLOSIVE COMPOSITION PER CAP. TOY CAPS ARE DESCRIBED
15 AS TOY CAPS NA0037 AND CLASSED AS 1.4S. TOY CAPS SHALL ONLY BE APPROVED
16 FOR TRANSPORTATION USING THE PROCEDURE SPECIFIED IN TITLE 49 CFR, S
17 173.56(B), OR

18 (VII) SIMILAR DEVICES WHICH ARE REMOVED FROM THE DEFINITION OF
19 EXPLOSIVES AND PYROTECHNICS THROUGHOUT THE STATE IN THIS ARTICLE AND
20 SECTION 405.00 OF THIS CHAPTER AND WHICH ARE NOT SPECIFICALLY DESCRIBED
21 IN THIS PARAGRAPH, BUT RECOGNIZED BY THE AMERICAN PYROTECHNICS ASSOCI-
22 ATION AS BEING ALMOST IDENTICAL IN AN INCENDIARY OR EXPLOSIVE NATURE SO
23 AS TO SUBSTANTIALLY REPLICATE ANYTHING DEFINED AS A SPARKLING DEVICE,
24 NOVELTY OR TOY CAP.

25 2. Offense. (a) Except as herein otherwise provided, or except where a
26 permit is obtained pursuant to section 405.00 OF THIS CHAPTER; (i) any
27 person who shall offer or expose for sale, sell or furnish, any fire-
28 works or dangerous fireworks is guilty of a class B misdemeanor;

29 (ii) any person who shall offer or expose for sale, sell or furnish
30 any fireworks or dangerous fireworks valued at five hundred dollars or
31 more shall be guilty of a class A misdemeanor;

32 [(b) (i) Except as herein otherwise stated, or except where a permit
33 is obtained pursuant to section 405.00,] (III) any person who shall
34 possess, use, explode or cause to explode any fireworks or dangerous
35 fireworks is guilty of a violation[.];

36 [(ii) A] (IV) ANY person who shall offer or expose for sale, sell or
37 furnish, any dangerous fireworks, FIREWORKS, SPARKLING DEVICES, NOVEL-
38 TIES OR SIMILAR DEVICES to any person who is under the age of eighteen
39 is guilty of a class A misdemeanor.

40 [(iii)] (B) A person who has previously been convicted of a violation
41 of subparagraph [(ii)] (IV) of [this] paragraph (A) OF THIS SUBDIVISION
42 within the preceding five years and who shall offer or expose for sale,
43 sell or furnish, any dangerous fireworks to any person who is under the
44 age of eighteen, shall be guilty of a class E felony.

45 (c) Possession of fireworks or dangerous fireworks valued at ONE
46 HUNDRED fifty dollars or more shall be a presumption that such fireworks
47 were intended to be offered or exposed for sale.

48 3. [The provisions of this section shall not apply to articles of the
49 kind and nature herein mentioned, while in possession of railroads and
50 transportation agencies for the purpose of transportation to points
51 without the state, the shipment of which is not prohibited by the inter-
52 state commerce commission regulations as formulated and published from
53 time to time, unless the same be held voluntarily by such railroads or
54 transportation companies as warehousemen for delivery to points within
55 the state; provided, that none of the provisions of this section shall
56 apply to signaling devices used by railroad companies or motor vehicles

1 referred to in subdivision seventeen of section three hundred seventy-
2 five of the vehicle and traffic law, or to high explosives for blasting
3 or similar purposes; provided that none of the provisions of this
4 section shall apply to fireworks or dangerous fireworks and the use
5 thereof by the army and navy departments of the state and federal
6 government; nor shall anything in this act contained be construed to
7 prohibit any manufacturer, wholesaler, dealer or jobber from manufactur-
8 ing, possessing or selling at wholesale such fireworks or dangerous
9 fireworks to municipalities, religious or civic organizations, fair
10 associations, amusement parks, or other organizations or groups of indi-
11 viduals authorized to possess and use fireworks or dangerous fireworks
12 under this act, or the sale or use of blank cartridges for a show or
13 theatre, or for signal purposes in athletic sports, or for dog trials or
14 dog training, or the use, or the storage, transportation or sale for use
15 of fireworks or dangerous fireworks in the preparation for or in
16 connection with television broadcasts; nor shall anything in this act
17 contained be construed to prohibit the manufacture of fireworks or
18 dangerous fireworks, nor the sale of any kind of fireworks or dangerous
19 fireworks, provided the same are to be shipped directly out of the
20 state.] EXCEPTIONS. (A) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY
21 TO:

22 (I) FIREWORKS, DANGEROUS FIREWORKS, SPARKLING DEVICES AND NOVELTIES
23 WHILE IN POSSESSION OF RAILROADS, COMMON OR CONTRACT CARRIERS, RETAIL-
24 ERS, WHOLESALERS, DISTRIBUTORS, JOBBERS AND TRANSPORTATION COMPANIES OR
25 TRANSPORTATION AGENCIES FOR THE PURPOSE OF TRANSPORTATION TO POINTS
26 WITHOUT THE STATE, THE SHIPMENT OF WHICH IS NOT PROHIBITED BY INTERSTATE
27 COMMERCE COMMISSION REGULATIONS AS FORMULATED AND PUBLISHED FROM TIME TO
28 TIME, UNLESS THEY BE HELD VOLUNTARILY BY SUCH RAILROADS, COMMON OR
29 CONTRACT CARRIERS, RETAILERS, WHOLESALERS, DISTRIBUTORS, JOBBERS AND
30 TRANSPORTATION AGENCIES OR TRANSPORTING COMPANIES AS WAREHOUSEMEN FOR
31 DELIVERY TO POINTS WITHIN THE STATE;

32 (II) SIGNALING DEVICES USED BY RAILROAD COMPANIES OR MOTOR VEHICLES
33 REFERRED TO IN SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED
34 SEVENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW;

35 (III) HIGH EXPLOSIVES FOR BLASTING OR SIMILAR PURPOSES;

36 (IV) FIREWORKS, FOR THE USE THEREOF BY THE UNITED STATES MILITARY, AND
37 DEPARTMENTS OF THE STATE AND FEDERAL GOVERNMENT;

38 (V) THE USE, TRANSPORTATION AND STORAGE OF FIREWORKS, SPARKLING
39 DEVICES, ARTICLES PYROTECHNIC, NOVELTIES, SIMILAR DEVICES, PYROTECHNICS
40 AND SPECIAL EFFECTS MATERIALS IN CONNECTION WITH THE PRODUCTION OF
41 MOTION PICTURES, TELEVISION PROGRAMS, COMMERCIALS, AND ALL ENTERTAINMENT
42 MEDIA RECORDED IN ANY CURRENT OR TO BE DESIGNED FORMAT WHEN SUCH USE,
43 TRANSPORTATION AND STORAGE HAS BEEN APPROPRIATELY PERMITTED BY THE LOCAL
44 GOVERNMENTAL SUBDIVISION HAVING JURISDICTION; OR

45 (VI) THE USE, TRANSPORTATION AND STORAGE OF EXPLOSIVES IN THE
46 PRODUCTION OF MOTION PICTURES, TELEVISION PROGRAMS, COMMERCIALS AND
47 SIMILAR ENTERTAINMENT MEDIA PRODUCTION PROVIDED THE USE, TRANSPORTATION
48 AND STORAGE OF EXPLOSIVES ARE UNDER THE CONTROL OF ONE OR MORE INDIVID-
49 UALS AUTHORIZED BY FEDERAL LAW OR REGULATION TO HANDLE SUCH MATERIAL AND
50 THAT SUCH EXPLOSIVE MATERIAL IS USED, TRANSPORTED AND STORED AND OTHER-
51 WISE HANDLED IN ACCORDANCE WITH FEDERAL LAW OR REGULATION.

52 (B) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT:

53 (I) ANY MANUFACTURER, WHOLESALER, RETAILER, DEALER OR JOBBER FROM
54 MANUFACTURING, POSSESSING OR SELLING AT WHOLESALE SUCH SPARKLING
55 DEVICES, NOVELTIES, OR TOY CAPS OR SIMILAR DEVICES TO MUNICIPALITIES,
56 RELIGIOUS OR CIVIC ORGANIZATIONS, FAIR ASSOCIATIONS, AMUSEMENT PARKS, OR

1 OTHER ORGANIZATIONS AUTHORIZED BY THE STATE TO STORE, TRANSPORT, POSSESS
2 AND USE OR TO INDIVIDUALS TO STORE, TRANSPORT, POSSESS AND USE;

3 (II) THE SALE OR USE OF BLANK CARTRIDGES FOR A MOTION PICTURE, TELE-
4 VISION PROGRAM, COMMERCIAL AND ALL ENTERTAINMENT MEDIA, OR FOR SIGNAL
5 PURPOSES IN ATHLETIC SPORTS, OR FOR DOG TRIALS OR DOG TRAINING;

6 (III) THE USE, STORAGE, TRANSPORTATION OR SALE OR TRANSFER FOR USE OF
7 FIREWORKS IN THE PREPARATION FOR OR IN CONNECTION WITH MOTION PICTURES,
8 TELEVISION PROGRAMS, COMMERCIALS, AND ALL ENTERTAINMENT MEDIA RECORDED
9 IN ANY CURRENT OR TO BE DEIGNED FORMAT WHEN SUCH USE, TRANSPORTATION AND
10 STORAGE HAS BEEN APPROPRIATELY PERMITTED BY THE LOCAL GOVERNMENTAL
11 SUBDIVISION HAVING JURISDICTION; OR

12 (IV) THE MANUFACTURE OR SALE OF SPARKLING DEVICES, NOVELTIES, TOY CAPS
13 AND SIMILAR DEVICES PROVIDED THEY ARE TO BE SHIPPED DIRECTLY OUT OF THE
14 STATE AND ANY SUCH ITEMS ARE SOLD IN ACCORDANCE WITH THE PROVISIONS OF
15 THIS ARTICLE.

16 (C) EXCEPT AS SPECIFICALLY PROHIBITED BY ANY OTHER PROVISION OF THIS
17 ARTICLE, THE SALE, DISTRIBUTION, USE, STORAGE, TRANSPORTATION AND
18 POSSESSION OF SPARKLING DEVICES, NOVELTIES, TOY CAPS AND SIMILAR DEVICES
19 THROUGHOUT THE STATE IS ALLOWED AT ALL TIMES.

20 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE MANUFAC-
21 TURE, SALE, OR USE OF SPARKLING DEVICES IS PROHIBITED IN CITIES WITH A
22 POPULATION OF ONE MILLION OR MORE.

23 6. SALE OF SPARKLING DEVICES REGULATED. SPARKLING DEVICES, NOVELTIES,
24 TOY CAPS OR SIMILAR DEVICES WHICH ARE AUTHORIZED FOR SALE UNDER PARA-
25 GRAPH (C) OF SUBDIVISION ONE OF THIS SECTION MAY NOT BE SOLD BY A
26 RETAILER OR SEASONAL RETAILER UNLESS THE PRODUCT WAS OBTAINED FROM A
27 MANUFACTURER, DISTRIBUTOR, OR WHOLESALER REGISTERED WITH THE OFFICE OF
28 FIRE PREVENTION AND CONTROL PURSUANT TO SECTION ONE HUNDRED FIFTY-SIX-H
29 OF THE EXECUTIVE LAW. EACH RETAILER AND SEASONAL RETAILER SHALL EXHIBIT
30 A COPY OF HIS OR HER REGISTRATION CERTIFICATE AT EACH SEASONAL RETAIL
31 LOCATION. THE SALE OF SPARKLING DEVICES AND NOVELTIES SHALL BE REGULATED
32 BY THE PROVISIONS OF NFPA 1124, 2006 EDITION ONLY.

33 S 2. Subdivision 4 of section 270.05 of the penal law, as added by
34 chapter 286 of the laws of 1978, is amended to read as follows:

35 4. Bank security devices not prohibited. Notwithstanding the
36 provisions of subdivision one of this section, it shall not be unlawful
37 for any bank, national banking association, trust company, savings bank,
38 savings and loan association, industrial bank, or credit union to store,
39 possess, transport, use or cause to discharge any bank security device
40 as described in [subdivision one of] section 270.00 of this [chapter]
41 ARTICLE; nor shall it be unlawful for any manufacturer, wholesaler,
42 dealer, jobber or common carrier to manufacture, store, possess, trans-
43 port, or sell such a device to banks, national banking associations,
44 trust companies, savings banks, savings and loan associations, indus-
45 trial banks or credit unions.

46 S 3. Subdivision 19 of section 156 of the executive law, as renumbered
47 by chapter 615 of the laws of 2006, is renumbered subdivision 20 and a
48 new subdivision 19 is added to read as follows:

49 19. LICENSE THE MANUFACTURERS, DISTRIBUTORS, WHOLESALERS, RETAILERS
50 AND SEASONAL RETAILERS OF SPARKLING DEVICES WHO WISH TO DO BUSINESS WITH
51 THE STATE.

52 S 4. The executive law is amended by adding a new section 156-h to
53 read as follows:

54 S 156-H. REGISTRATION AND FEES FOR MANUFACTURERS, DISTRIBUTORS, WHOLE-
55 SALERS, AND RETAILERS OF SPARKLING DEVICES. 1. REGISTRATION REQUIRE-
56 MENTS. ANY MANUFACTURER, DISTRIBUTOR, WHOLESALER, RETAILER, OR SEASONAL

1 RETAILER OF SPARKLING DEVICES AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION
2 ONE OF SECTION 270.00 OF THE PENAL LAW WHO WISHES TO DO BUSINESS IN THIS
3 STATE OR TO OTHERWISE SELL, SHIP, OR ASSIGN FOR SALE ITS PRODUCTS IN
4 THIS STATE MUST REGISTER ANNUALLY WITH THE OFFICE OF FIRE PREVENTION AND
5 CONTROL ON FORMS PRESCRIBED BY THE OFFICE. ANY RETAILER WHO SELLS SPAR-
6 KLING DEVICES AT MORE THAN ONE RETAIL LOCATION MAY SUBMIT ONE REGISTRA-
7 TION FORM FOR ALL SUCH LOCATIONS BUT MUST PROVIDE THE ADDRESS OF EACH
8 LOCATION WITH THE REGISTRATION FORM; HOWEVER, ANY RETAILER MAY SUBMIT
9 MULTIPLE REGISTRATION FORMS.

10 2. REGISTRATION FORM. THE REGISTRATION FORM FILED WITH THE OFFICE MUST
11 BE NOTARIZED AND MUST INCLUDE THE FOLLOWING INFORMATION: BUSINESS NAME;
12 ADDRESS; TELEPHONE NUMBER; OFFICERS, IF THE BUSINESS IS A CORPORATION;
13 AND AN INDIVIDUAL DESIGNATED AS A CONTACT PERSON.

14 3. FEES. (A) EACH MANUFACTURER, DISTRIBUTOR, OR WHOLESALE MUST PAY AN
15 ANNUAL REGISTRATION FEE TO BE SET BY THE OFFICE NOT TO EXCEED ONE THOU-
16 SAND DOLLARS. EACH SEASONAL RETAILER MUST PAY AN ANNUAL REGISTRATION FEE
17 TO BE SET BY THE OFFICE NOT TO EXCEED TWO HUNDRED DOLLARS. EACH RETAILER
18 SHALL PAY AN ANNUAL REGISTRATION FEE TO BE SET BY THE OFFICE NOT TO
19 EXCEED FIFTEEN DOLLARS FOR EACH RETAIL LOCATION REGISTERED. EACH CERTI-
20 FICATE-HOLDER WISHING TO HAVE A DUPLICATE CERTIFICATE ISSUED FOR ONE
21 WHICH IS LOST OR TO REFLECT A CHANGE OF ADDRESS SHALL REQUEST SUCH
22 DUPLICATE IN WRITING AND SHALL PAY A FEE OF FIVE DOLLARS.

23 (B) REVENUE FROM REGISTRATION FEE PAYMENTS SHALL BE USED FOR THE
24 PURPOSES OF IMPLEMENTING THE REGISTRATION AND TESTING PROVISIONS OF THIS
25 CHAPTER.

26 (C) NO CITY, MUNICIPALITY OR OTHER LOCAL JURISDICTION SHALL CHARGE ANY
27 FEE OR REQUIRE ANY PERMIT WHATSOEVER FOR THE SALE AND USE OF SPARKLING
28 DEVICES.

29 4. RULES. THE STATE FIRE ADMINISTRATOR SHALL PROMULGATE RULES
30 PRESCRIBING REGISTRATION FORMS REQUIRED BY THIS SECTION.

31 S 5. This act shall take effect immediately.