S T A T E  O F  N E W  Y O R K

465

2011-2012 Regular Sessions

I N  S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to issuing permits for consumer use of fireworks

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

Section 1. The penal law is amended by adding a new section 405.02 to read as follows:

S 405.02 PERMITS FOR OUTDOOR CONSUMER USE OF FIREWORKS.

1. NOTWITHSTANDING THE PROVISIONS OF SECTION 270.00 OF THIS CHAPTER CONSUMER FIREWORKS MAY BE POSSESSED AND USED OUTDOORS BY A PERSON HOLDING A VALID PERMIT ISSUED BY A MUNICIPALITY.

2. THE PERMIT AUTHORITY OF A CITY, VILLAGE OR TOWN MAY UPON APPLICATION IN WRITING AND THE PAYMENT OF A REASONABLE FEE, AS DETERMINED BY THE PERMITTING AUTHORITY, ISSUE A PERMIT FOR THE OUTDOOR CONSUMER USE OF FIREWORKS. A PERMIT MAY BE ISSUED TO A PERSON WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND HAS VALID PROOF OF COMPLETION OF A CONSUMER FIREWORKS SAFETY COURSE, PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

3. THE CONSUMER FIREWORKS SAFETY COURSE MUST BE TAUGHT BY A FIREWORKS GROUP, ORGANIZATION OR COMPANY RECOGNIZED BY THE AMERICAN PYROTECHNICS ASSOCIATION. UPON THE COMPLETION OF SUCH SAFETY COURSE, A PROOF OF COMPLETION SHALL BE ISSUED AND SHALL BE VALID FOR TWO YEARS FROM THE DATE OF ISSUANCE.

4. "CONSUMER FIREWORKS" SHALL MEAN AND INCLUDE:

(A) ANY COMBUSTIBLE OR EXPLOSIVE COMPOSITION OR ANY SUBSTANCE OR COMBINATION OF SUBSTANCES, INTENDED TO PRODUCE VISIBLE AND/OR AUDIBLE EFFECTS BY COMBUSTION; AND

(B) WHICH IS SUITABLE FOR USE BY THE PUBLIC BY COMPLYING WITH THE CONSTRUCTION, PERFORMANCE, COMPOSITION AND LABELING REQUIREMENTS PROMULGATED BY THE CONSUMER PRODUCTS SAFETY COMMISSION IN 16 CFR, RELATING TO

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

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COMMERCIAL PRACTICE, OR ANY SUCCESSOR REGULATION, AND WHICH COMPLIES WITH THE PROVISIONS FOR "CONSUMER FIREWORKS" AS DEFINED IN THE AMERICAN PYROTECHNICS ASSOCIATION (APA) STANDARD 87-1, OR ANY SUCCESSOR STANDARD.

5. ANY PERMIT ISSUED PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO PERMIT:

(A) THE USE OF FIRECRACKERS, ROCKETS, MISSILES, AERIAL SHELL KITS, RELOADABLE MORTARS OR WIRE SPARKLERS; OR

(B) THE HOLDER TO VIOLATE ANY LOCAL ORDINANCES.

6. THIS SECTION SHALL NOT APPLY TO CITIES WITH A POPULATION OVER ONE MILLION OR MORE PEOPLE.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.