

7110

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 20, 2009

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Introduced by M. of A. KOLB -- Multi-Sponsored by -- M. of A. CALHOUN,  
GIGLIO, HAWLEY, TOWNSEND -- read once and referred 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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The penal law is amended by adding a new section 405.02 to  
2 read as follows:  
3     S 405.02 PERMITS FOR OUTDOOR CONSUMER USE OF FIREWORKS.  
4     1. NOTWITHSTANDING THE PROVISIONS OF SECTION 270.00 OF THIS CHAPTER  
5 CONSUMER FIREWORKS MAY BE POSSESSED AND USED OUTDOORS BY A PERSON HOLD-  
6 ING A VALID PERMIT ISSUED BY A MUNICIPALITY.  
7     2. THE PERMIT AUTHORITY OF A CITY, VILLAGE OR TOWN MAY UPON APPLICA-  
8 TION IN WRITING AND THE PAYMENT OF A REASONABLE FEE, AS DETERMINED BY  
9 THE PERMITTING AUTHORITY, ISSUE A PERMIT FOR THE OUTDOOR CONSUMER USE OF  
10 FIREWORKS. A PERMIT MAY BE ISSUED TO A PERSON WHO IS EIGHTEEN YEARS OF  
11 AGE OR OLDER AND HAS VALID PROOF OF COMPLETION OF A CONSUMER FIREWORKS  
12 SAFETY COURSE, PURSUANT TO SUBDIVISION THREE OF THIS SECTION.  
13     3. THE CONSUMER FIREWORKS SAFETY COURSE MUST BE TAUGHT BY A FIREWORKS  
14 GROUP, ORGANIZATION OR COMPANY RECOGNIZED BY THE AMERICAN PYROTECHNICS  
15 ASSOCIATION. UPON THE COMPLETION OF SUCH SAFETY COURSE, A PROOF OF  
16 COMPLETION SHALL BE ISSUED AND SHALL BE VALID FOR TWO YEARS FROM THE  
17 DATE OF ISSUANCE.  
18     4. "CONSUMER FIREWORKS" SHALL MEAN AND INCLUDE:  
19     (A) ANY COMBUSTIBLE OR EXPLOSIVE COMPOSITION OR ANY SUBSTANCE OR  
20 COMBINATION OF SUBSTANCES, INTENDED TO PRODUCE VISIBLE AND/OR AUDIBLE  
21 EFFECTS BY COMBUSTION; AND  
22     (B) WHICH IS SUITABLE FOR USE BY THE PUBLIC BY COMPLYING WITH THE  
23 CONSTRUCTION, PERFORMANCE, COMPOSITION AND LABELING REQUIREMENTS PROMUL-  
24 GATED 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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1 COMMERCIAL PRACTICE, OR ANY SUCCESSOR REGULATION, AND WHICH COMPLIES  
2 WITH THE PROVISIONS FOR "CONSUMER FIREWORKS" AS DEFINED IN THE AMERICAN  
3 PYROTECHNICS ASSOCIATION (APA) STANDARD 87-1, OR ANY SUCCESSOR STANDARD.  
4 5. ANY PERMIT ISSUED PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO  
5 PERMIT:  
6 (A) THE USE OF FIRECRACKERS, ROCKETS, MISSILES, AERIAL SHELL KITS,  
7 RELOADABLE MORTARS OR WIRE SPARKLERS; OR  
8 (B) THE HOLDER TO VIOLATE ANY LOCAL ORDINANCES.  
9 6. THIS SECTION SHALL NOT APPLY TO CITIES WITH A POPULATION OVER ONE  
10 MILLION OR MORE PEOPLE.  
11 S 2. This act shall take effect on the first of November next succeed-  
12 ing the date on which it shall have become a law.