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

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S E N A T E - A S S E M B L Y

June 18, 2009

IN SENATE -- Introduced by Sen. STACHOWSKI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. MORELLE, LUPARDO, ZEBROWSKI -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- 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:

Section 1. Subdivision 1 of section 270.00 of the penal law, as amended by chapter 180 of the laws of 1997, is amended to read as follows:

1. Definition of "fireworks," "ARTICLES PYROTECHNIC" and "dangerous fireworks".

(A) The term "fireworks," as used in this section, [is defined and declared to be and to include any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, sparklers or other combustible or explosive of like construction, or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing

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

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nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, or other device containing any explosive substance and the] INCLUDES:

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

(II) ARTICLES PYROTECHNIC, WHICH MEANS PYROTECHNIC DEVICES FOR PROFESSIONAL USE SIMILAR TO CONSUMER FIREWORKS IN CHEMICAL COMPOSITION AND CONSTRUCTION BUT NOT INTENDED FOR CONSUMER USE AND WHICH ARTICLES MEET THE WEIGHT LIMITS FOR CONSUMER FIREWORKS BUT NOT LABELED AS SUCH AND CLASSIFIED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION IN 49 CFR 172.101 AS UN0431;

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

(IV) CONSUMER FIREWORKS WHICH ARE AERIAL IN PERFORMANCE AS DEFINED IN APA STANDARD 87-1, 2001 EDITION, 3.1.2 (3.1.2.1 THROUGH 3.1.2.6) AND AUDIBLE GROUND DEVICES AS DEFINED IN APA STANDARD 87-1, 2001 EDITION, 3.1.3 (3.1.3.1 THROUGH 3.1.3.2).

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

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

(I) flares of the type used by railroads or any warning lights commonly known as red flares, or marine distress signals of a type approved by the United States coast guard, or

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

[(3)] (III) bank security devices which contain not more than fifty grams of any compound or substance or any combination thereof, together with an igniter not exceeding 0.2 gram, capable of producing a lachrymating and/or visible or audible effect, where such device is stored or used only by banks, national banking associations, trust companies, savings banks, savings and loan associations, industrial banks, or credit unions, or by any manufacturer, wholesaler, dealer, jobber or common carrier for such devices and where the total storage on any one premises does not exceed one hundred devices, OR

(IV) SPARKING DEVICES WHICH ARE GROUND-BASED OR HAND-HELD AND ARE REMOVED FROM THE DEFINITION OF EXPLOSIVES AND PYROTECHNICS THROUGHOUT THE STATE IN THIS ARTICLE AND SECTION 405.00 OF THIS CHAPTER AND THAT ARE DEFINED IN APA STANDARD 87-1, 2001 EDITION, 3.1.1 (3.1.1.1 THROUGH 3.1.1.8) AND ALSO AS ALLOWED UNDER 3.5, OR

(V) NOVELTIES WHICH ARE REMOVED FROM THE DEFINITION OF EXPLOSIVES AND PYROTECHNICS THROUGHOUT THE STATE IN THIS ARTICLE AND SECTION 405.00 OF THIS CHAPTER AND THAT ARE DEFINED IN APA STANDARD 87-1, 2001 EDITION, 3.2 (3.2.1 THROUGH 3.2.5), OR

(VI) TOY CAPS WHICH ARE REMOVED FROM THE DEFINITION OF EXPLOSIVES AND PYROTECHNICS THROUGHOUT THE STATE IN THIS ARTICLE AND SECTION 405.00 AND THAT ARE DEFINED IN APA STANDARD 87-1, 2001 EDITION, 3.3, OR

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

S 2. The penal law is amended by adding a new article 271 to read as follows:

ARTICLE 271

OFFENSES RELATING TO POSSESSION OR SALE OF FIREWORKS AND AMMUNITION

SECTION 271.00 DEFINITIONS AND PENALTIES.
271.05 CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE SECOND DEGREE.
271.10 CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE FIRST DEGREE.
271.15 UNLAWFUL POSSESSION OF FIREWORKS.
271.20 AGGRAVATED SALE OF FIREWORKS TO A MINOR.
271.25 CRIMINAL POSSESSION OF FIREWORKS; PRESUMPTION.
271.30 LIMITATION OF APPLICATION.
271.35 SALE OF SPARKLING DEVICES REGULATED.
271.40 SALE OF AMMUNITION NOT PROHIBITED.
271.45 UNLAWFUL SALE OF AMMUNITION.

S 271.00 DEFINITIONS AND PENALTIES.

1. "PYROTECHNIC COMPOSITIONS" MEANS A MIXTURE OF CHEMICALS THAT PRODUCE A VISIBLE OR AUDIBLE EFFECT BY COMBUSTION RATHER THAN RAPID DEFLAGRATION OR DETONATION AND WHICH CANNOT EXPLODE ON IGNITION UNLESS SEVERELY CONFINED.

2. "EXPLOSIVE COMPOSITION" MEANS A CHEMICAL OR MIXTURE OF CHEMICALS THAT PRODUCES AN AUDIBLE EFFECT AND SUBSTANTIAL EXPLOSIVE FORCE BY DEFLAGRATION OR DETONATION WHEN IGNITED.

3. "LOCAL GOVERNMENTAL SUBDIVISION" MEANS A COUNTY, CITY, TOWN OR VILLAGE.

S 271.05 CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE SECOND DEGREE.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE SECOND DEGREE WHEN:

1. HE OR SHE SHALL OFFER OR EXPOSE FOR SALE, SELL OR FURNISH, ANY FIREWORKS OR DANGEROUS FIREWORKS EXCEPT WHERE A PERMIT IS OBTAINED PURSUANT TO SECTION 405.00 OF THIS CHAPTER; OR

2. HE OR SHE SHALL OFFER OR EXPOSE FOR SALE, SELL OR FURNISH ANY SPARKLING DEVICES, NOVELTIES OR SIMILAR DEVICES TO ANY PERSON WHO IS UNDER THE AGE OF EIGHTEEN.

CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE SECOND DEGREE IS A CLASS B MISDEMEANOR.

S 271.10 CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE FIRST DEGREE.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE FIRST DEGREE WHEN:

1. HE OR SHE SHALL OFFER OR EXPOSE FOR SALE, SELL OR FURNISH, ANY FIREWORKS OR DANGEROUS FIREWORKS VALUED AT FIVE HUNDRED DOLLARS OR MORE EXCEPT WHERE A PERMIT IS OBTAINED PURSUANT TO SECTION 405.00 OF THIS CHAPTER; OR

2. HE OR SHE SHALL OFFER OR EXPOSE FOR SALE, SELL OR FURNISH, ANY CONSUMER SPARKLING DEVICES, NOVELTIES OR SIMILAR DEVICES TO ANY PERSON WHO IS UNDER THE AGE OF EIGHTEEN.

CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE FIRST DEGREE IS A CLASS A MISDEMEANOR.

S 271.15 UNLAWFUL POSSESSION OF FIREWORKS.

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF FIREWORKS WHEN, EXCEPT AS OTHERWISE STATED IN THIS ARTICLE, OR EXCEPT WHERE A PERMIT IS OBTAINED PURSUANT TO SECTION 405.00 OF THIS CHAPTER HE OR SHE SHALL POSSESS, USE, EXPLODE OR CAUSE TO EXPLODE ANY FIREWORKS OR DANGEROUS FIREWORKS.

UNLAWFUL POSSESSION OF FIREWORKS IS A VIOLATION.

S 271.20 AGGRAVATED SALE OF FIREWORKS TO A MINOR.

A PERSON IS GUILTY OF AGGRAVATED SALE OF FIREWORKS TO A MINOR WHEN HE OR SHE COMMITS THE CRIME OF CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE FIRST DEGREE AS DEFINED IN SECTION 271.10 OF THIS ARTICLE OR THE CRIME OF CRIMINAL POSSESSION OR SALE OF FIREWORKS OR DANGEROUS FIREWORKS IN THE SECOND DEGREE AS DEFINED IN SECTION 271.05 OF THIS ARTICLE AND HAS WITHIN THE PAST FIVE YEARS BEEN PREVIOUSLY CONVICTED OF CRIMINAL POSSESSION OR SALE OF FIREWORKS IN THE FIRST DEGREE OR CRIMINAL POSSESSION OR SALE OF FIREWORKS IN THE SECOND DEGREE.

AGGRAVATED SALE OF FIREWORKS TO A MINOR IS A CLASS E FELONY.

S 271.25 CRIMINAL POSSESSION OF FIREWORKS; PRESUMPTION.

EXCEPT WHERE A PERMIT IS OBTAINED PURSUANT TO SECTION 405.00 OF THIS CHAPTER, POSSESSION OF FIREWORKS OR DISPLAY FIREWORKS VALUED AT ONE HUNDRED FIFTY DOLLARS OR MORE SHALL BE A PRESUMPTION THAT SUCH FIREWORKS WERE INTENDED TO BE OFFERED OR EXPOSED FOR SALE.

S 271.30 LIMITATION OF APPLICATION.

1. THIS ARTICLE SHALL NOT APPLY TO:

(A) FIREWORKS, DANGEROUS FIREWORKS, SPARKLING DEVICES AND NOVELTIES WHILE IN POSSESSION OF RAILROADS, COMMON OR CONTRACT CARRIERS, RETAILERS, WHOLESALERS, DISTRIBUTORS, JOBBERS AND TRANSPORTATION COMPANIES OR TRANSPORTATION AGENCIES FOR THE PURPOSE OF TRANSPORTATION TO POINTS WITHOUT THE STATE, THE SHIPMENT OF WHICH IS NOT PROHIBITED BY INTERSTATE COMMERCE COMMISSION REGULATIONS AS FORMULATED AND PUBLISHED FROM

TIME TO TIME, UNLESS THEY BE HELD VOLUNTARILY BY SUCH RAILROADS, COMMON OR CONTRACT CARRIERS, RETAILERS, WHOLESALERS, DISTRIBUTORS, JOBBERS AND TRANSPORTATION AGENCIES OR TRANSPORTATION COMPANIES AS WAREHOUSEMEN FOR DELIVERY TO POINTS WITHIN THE STATE;

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

(C) HIGH EXPLOSIVES FOR BLASTING OR SIMILAR PURPOSES;

(D) FIREWORKS, FOR THE USE THEREOF BY THE UNITED STATES MILITARY, AND DEPARTMENTS OF THE STATE AND FEDERAL GOVERNMENT; OR

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

(F) THE USE, TRANSPORTATION AND STORAGE OF EXPLOSIVES IN THE PRODUCTION OF MOTION PICTURES, TELEVISION PROGRAMS, COMMERCIALS AND SIMILAR ENTERTAINMENT MEDIA PRODUCTION PROVIDED THE USE, TRANSPORTATION AND STORAGE OF EXPLOSIVES ARE UNDER THE CONTROL OF ONE OR MORE INDIVIDUALS AUTHORIZED BY FEDERAL LAW OR REGULATION TO HANDLE SUCH MATERIAL AND THAT SUCH EXPLOSIVE MATERIAL IS USED, TRANSPORTED AND STORED AND OTHERWISE HANDLED IN ACCORDANCE WITH FEDERAL LAW OR REGULATION.

2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT:

(A) ANY MANUFACTURER, WHOLESALER, RETAILER, DEALER OR JOBBER FROM MANUFACTURING, POSSESSING OR SELLING AT WHOLESALE SUCH SPARKLING DEVICES, NOVELTIES, OR TOY CAPS OR SIMILAR DEVICES TO MUNICIPALITIES, RELIGIOUS OR CIVIC ORGANIZATIONS, FAIR ASSOCIATIONS, AMUSEMENT PARKS, OR OTHER ORGANIZATIONS AUTHORIZED BY THE STATE TO STORE, TRANSPORT, POSSESS AND USE OR TO INDIVIDUALS TO STORE, TRANSPORT, POSSESS AND USE;

(B) THE SALE OR USE OF BLANK CARTRIDGES FOR A MOTION PICTURE, TELEVISION PROGRAM, COMMERCIAL AND ALL ENTERTAINMENT MEDIA, OR FOR SIGNAL PURPOSES IN ATHLETIC SPORTS, OR FOR DOG TRIALS OR DOG TRAINING;

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

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

EXCEPT AS SPECIFICALLY PROHIBITED BY ANY OTHER PROVISION OF THIS ARTICLE, THE SALE, DISTRIBUTION, USE, STORAGE, TRANSPORTATION AND POSSESSION OF SPARKLING DEVICES, NOVELTIES, TOY CAPS AND SIMILAR DEVICES THROUGHOUT THE STATE.

3. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE MANUFACTURE, SALE, OR USE OF SPARKLING DEVICES IS PROHIBITED IN CITIES WITH A POPULATION OF ONE MILLION OR MORE.

S 271.35 SALE OF SPARKLING DEVICES REGULATED.

SPARKLING DEVICES, NOVELTIES, TOY CAPS OR SIMILAR DEVICES WHICH ARE AUTHORIZED FOR SALE UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 270.00 OF THIS CHAPTER MAY NOT BE SOLD BY A RETAILER OR SEASONAL RETAILER UNLESS THE PRODUCT WAS OBTAINED FROM A MANUFACTURER, DISTRIBUTOR, OR

WHOLESALER REGISTERED WITH THE OFFICE OF FIRE PREVENTION AND CONTROL PURSUANT TO SECTION ONE HUNDRED FIFTY-SIX-H OF THE EXECUTIVE LAW. EACH RETAILER AND SEASONAL RETAILER SHALL KEEP, AT EVERY LOCATION WHERE SPARKLING DEVICES ARE SOLD, A COPY OF AN INVOICE OR OTHER EVIDENCE OF PURCHASE FROM THE MANUFACTURER, DISTRIBUTOR, OR WHOLESALER, WHICH STATES THE REGISTRATION CERTIFICATE NUMBER FOR THE PARTICULAR MANUFACTURER, DISTRIBUTOR, OR WHOLESALER AND THE SPECIFIC ITEMS COVERED BY THE INVOICE. EACH SEASONAL RETAILER SHALL, IN ADDITION, EXHIBIT A COPY OF HIS OR HER REGISTRATION CERTIFICATE AT EACH SEASONAL RETAIL LOCATION.

S 271.40 SALE OF AMMUNITION NOT PROHIBITED.

NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT, OR INTERFERE IN ANY WAY WITH, THE SALE OF AMMUNITION FOR REVOLVERS OR PISTOLS OF ANY KIND, OR FOR RIFLES, SHOTGUNS, OR OTHER ARMS, BELONGING OR WHICH MAY BELONG TO ANY PERSONS WHETHER AS SPORTING OR HUNTING WEAPONS OR FOR THE PURPOSE OF PROTECTION TO THEM IN THEIR HOMES, OR, AS THEY MAY GO ABROAD; AND MANUFACTURERS ARE AUTHORIZED TO CONTINUE TO MANUFACTURE, AND WHOLESALERS AND DEALERS TO CONTINUE TO DEAL IN AND FREELY TO SELL AMMUNITION TO ALL SUCH PERSONS FOR SUCH PURPOSES.

S 271.45 UNLAWFUL SALE OF AMMUNITION.

NOTWITHSTANDING THE PROVISIONS OF SECTION 271.40 OF THIS ARTICLE, IT SHALL BE UNLAWFUL FOR ANY DEALER IN FIREARMS TO SELL ANY AMMUNITION DESIGNED EXCLUSIVELY FOR USE IN A PISTOL OR REVOLVER TO ANY PERSON NOT AUTHORIZED TO POSSESS A PISTOL OR REVOLVER.

UNLAWFUL SALE OF AMMUNITION IS A CLASS B MISDEMEANOR.

S 3. Subdivision 4 of section 270.05 of the penal law, as added by chapter 286 of the laws of 1978, is amended to read as follows:

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

S 4. Subdivision 19 of section 156 of the executive law, as renumbered by chapter 615 of the laws of 2006, is renumbered subdivision 20 and a new subdivision 19 is added to read as follows:

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

S 5. The executive law is amended by adding a new section 156-h to read as follows:

S 156-H. REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, WHOLESALERS, AND RETAILERS OF SPARKLERS. 1. REGISTRATION REQUIREMENTS. ANY MANUFACTURER, DISTRIBUTOR, WHOLESALER, RETAILER, OR SEASONAL RETAILER OF SPARKLING DEVICES, NOVELTIES, TOY CAPS OR SIMILAR DEVICES AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 270.00 OF THE PENAL LAW WHO WISHES TO DO BUSINESS IN THIS STATE OR TO OTHERWISE SELL, SHIP, OR ASSIGN FOR SALE ITS PRODUCTS IN THIS STATE MUST REGISTER ANNUALLY WITH THE OFFICE OF FIRE PREVENTION AND CONTROL ON FORMS PRESCRIBED BY THE OFFICE. ANY RETAILER WHO SELLS SPARKLING DEVICES, NOVELTIES, TOY CAPS OR SIMILAR DEVICES AT MORE THAN ONE RETAIL LOCATION MAY SUBMIT ONE REGISTRATION FORM FOR ALL SUCH LOCATIONS BUT MUST PROVIDE THE ADDRESS OF EACH

LOCATION WITH THE REGISTRATION FORM; HOWEVER, ANY RETAILER MAY SUBMIT MULTIPLE REGISTRATION FORMS.

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

3. FEES. (A) EACH MANUFACTURER, DISTRIBUTOR, OR WHOLESALER MUST PAY AN ANNUAL REGISTRATION FEE TO BE SET BY THE OFFICE NOT TO EXCEED ONE THOUSAND DOLLARS. EACH SEASONAL RETAILER MUST PAY AN ANNUAL REGISTRATION FEE TO BE SET BY THE OFFICE NOT TO EXCEED TWO HUNDRED DOLLARS. EACH RETAILER SHALL PAY AN ANNUAL REGISTRATION FEE TO BE SET BY THE OFFICE NOT TO EXCEED FIFTEEN DOLLARS FOR EACH RETAIL LOCATION REGISTERED. EACH CERTIFICATE-HOLDER WISHING TO HAVE A DUPLICATE CERTIFICATE ISSUED FOR ONE WHICH IS LOST OR TO REFLECT A CHANGE OF ADDRESS SHALL REQUEST SUCH DUPLICATE IN WRITING AND SHALL PAY A FEE OF FIVE DOLLARS.

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

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

S 6. This act shall take effect immediately.