

3786

2009-2010 Regular Sessions

I N   S E N A T E

March 31, 2009

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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:

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  
25    COMMERCIAL PRACTICE, OR ANY SUCCESSOR REGULATION, AND WHICH COMPLIES

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

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1 WITH THE PROVISIONS FOR "CONSUMER FIREWORKS" AS DEFINED IN THE AMERICAN  
2 PYROTECHNICS ASSOCIATION (APA) STANDARD 87-1, OR ANY SUCCESSOR STANDARD.  
3 5. ANY PERMIT ISSUED PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO  
4 PERMIT:  
5 (A) THE USE OF FIRECRACKERS, ROCKETS, MISSILES, AERIAL SHELL KITS,  
6 RELOADABLE MORTARS OR WIRE SPARKLERS; OR  
7 (B) THE HOLDER TO VIOLATE ANY LOCAL ORDINANCES.  
8 6. THIS SECTION SHALL NOT APPLY TO CITIES WITH A POPULATION OVER ONE  
9 MILLION OR MORE PEOPLE.  
10 S 2. This act shall take effect on the first of November next succeed-  
11 ing the date on which it shall have become a law.