

7697

2011-2012 Regular Sessions

I N A S S E M B L Y

May 13, 2011

Introduced by M. of A. CUSICK, RAMOS, NOLAN, MURRAY -- read once and referred to the Committee on Veterans' Affairs

AN ACT to amend the general municipal law and the parks, recreation and historic preservation law, in relation to requiring permits for demonstrations at veteran funerals

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

1 Section 1. The article heading of article 7-A of the general municipal
2 law, as added by chapter 871 of the laws of 1948, is amended to read as
3 follows:

4 BURIAL OF VETERANS AND THEIR FAMILIES; CERTAIN PERMIT
5 REQUIREMENTS

6 S 2. The general municipal law is amended by adding a new section 149
7 to read as follows:

8 S 149. PERMITS IN CERTAIN CIRCUMSTANCES. 1. DEFINITIONS. FOR THE
9 PURPOSES OF THIS SECTION:

10 (A) "DEMONSTRATION" SHALL MEAN A PRE-PLANNED GATHERING OF TWELVE OR
11 MORE PERSONS WHO ARE INVITED OR ORGANIZED BY AN ORGANIZER TO CONVENE FOR
12 THE PURPOSE OF A PUBLIC EXHIBITION INCLUDING A PROCESSION, PARADE,
13 PROTEST, PICKET, MARCH OR RALLY ON PUBLIC PROPERTY CONCERNING AND IN THE
14 VICINITY OF A FUNERAL EVENT.

15 (B) "FUNERAL EVENT" SHALL MEAN A WAKE, FUNERAL, BURIAL OR MEMORIAL
16 SERVICE CONDUCTED WITHIN THIRTY DAYS AFTER THE DEATH OF THE PERSON WHO
17 IS THE SUBJECT OF SUCH EVENT.

18 (C) "ORGANIZER" SHALL MEAN THE PERSON OR ORGANIZATION THAT PLANS OR
19 COORDINATES A DEMONSTRATION FOR WHICH A PERMIT MAY BE REQUIRED PURSUANT
20 TO THIS SECTION.

21 (D) "PERMIT AUTHORITY" SHALL MEAN THE GOVERNMENTAL ENTITY HAVING
22 PRIMARY JURISDICTION FOR A LOCATION WHICH, IN THE CASE OF:

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

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1 (I) A PARK, PARKWAY OR PROPERTY THAT IS SUBJECT TO THE JURISDICTION OF
2 THE STATE UNIVERSITY OF NEW YORK, THE PERMIT AUTHORITY SHALL BE THE
3 STATE UNIVERSITY OF NEW YORK;

4 (II) A COUNTY PARK, PARKWAY OR PROPERTY SHALL BE THE COUNTY PARK
5 COMMISSION OR SUCH OTHER COUNTY AGENCY HAVING JURISDICTION, CONTROL
6 AND/OR OPERATION OF SUCH PARK, PARKWAY OR PROPERTY;

7 (III) A CITY PARK, PARKWAY OR PROPERTY SHALL BE THE DULY CONSTITUTED
8 LICENSING AGENCY THEREOF AND, IN THE ABSENCE OF SUCH AGENCY, SHALL BE AN
9 OFFICER DESIGNATED BY LOCAL LAW FOR SUCH PURPOSE BY THE LEGISLATIVE BODY
10 THEREOF;

11 (IV) A TOWN PARK, PARKWAY OR PROPERTY OUTSIDE OF THE TERRITORY OF A
12 VILLAGE, SHALL BE AN OFFICER DESIGNATED BY LOCAL LAW FOR SUCH PURPOSE BY
13 THE TOWN BOARD THEREOF; AND

14 (V) A VILLAGE PARK, PARKWAY OR PROPERTY SHALL BE AN OFFICER DESIGNATED
15 BY LOCAL LAW FOR SUCH PURPOSE BY THE BOARD OF TRUSTEES THEREOF.

16 2. PERMITS ISSUED BY PERMIT AUTHORITY. IN ADDITION TO ANY OTHER LAW
17 AUTHORIZING PERMITS, ANY PERMIT AUTHORITY MAY, BY LOCAL LAW OR REGU-
18 LATION, REQUIRE THAT A PERMIT BE OBTAINED FOR A DEMONSTRATION THAT WILL
19 TAKE PLACE WITHIN ONE THOUSAND FEET OF A FUNERAL EVENT AND DURING OR
20 WITHIN ONE HOUR BEFORE OR AFTER SUCH FUNERAL EVENT. THE EXISTENCE AND
21 REQUIREMENTS OF SUCH LOCAL LAW, AND ANY RELATED, LAWFUL REGULATIONS,
22 SHALL BE PROMINENTLY POSTED IN A PUBLIC AREA OF THE OFFICE OF THE
23 PERMITTING AUTHORITY, AND SHALL ALSO BE POSTED ON ANY WEBSITE ESTAB-
24 LISHED OR AVAILABLE FOR THE USE OF THE PERMITTING AUTHORITY OR, IF NO
25 SUCH WEBSITE IS AVAILABLE, BE POSTED BY ANNUAL PUBLICATION IN A NEWSPA-
26 PER OR NEWSPAPERS OF RECORD SERVING THE COMMUNITIES WITHIN THE JURISDIC-
27 TION OF THE PERMIT AUTHORITY. SUCH LOCAL LAW MAY REQUIRE:

28 (A) AN ORGANIZER OF SUCH A DEMONSTRATION SHALL BE REQUIRED TO APPLY
29 FOR A PERMIT CONCERNING SUCH DEMONSTRATION. SUCH PERMIT APPLICATION
30 PROCESS SHALL BE AVAILABLE FOR A REASONABLE PERIOD BEFORE SUCH FUNERAL
31 EVENT IS ACTUALLY SCHEDULED TO BEGIN.

32 (B) UPON THE FILING OF SUCH AN APPLICATION, THE PERMIT AUTHORITY SHALL
33 PROMPTLY REVIEW SUCH APPLICATION AND, IF THE APPLICATION SATISFIES THE
34 REQUIREMENTS OF THIS SUBDIVISION AS WELL AS ANY ADDITIONAL REQUIREMENTS
35 THE PERMIT AUTHORITY MAY, BY LAWFUL REGULATION, IMPOSE, THEN THE PERMIT
36 AUTHORITY SHALL ISSUE TO THE ORGANIZER A PERMIT UNDER THIS SUBDIVISION.
37 IN SUCH EVENT, THE PERMIT SHALL SPECIFY, EXPRESSLY AND IN DETAIL, THE
38 TIME AND PLACE AND ANY LAWFUL RESTRICTIONS THAT MAY BE IMPOSED REGARDING
39 SUCH DEMONSTRATION. IF SUCH PERMIT APPLICATION IS DENIED, THE PERMIT
40 AUTHORITY SHALL ISSUE A WRITTEN DENIAL THAT SPECIFIES IN DETAIL THE
41 MANNER IN WHICH THE APPLICATION IS DEFICIENT, TOGETHER WITH THE PROCE-
42 DURE BY WHICH THE ORGANIZER MAY OBTAIN TIMELY RECONSIDERATION OF SUCH
43 DETERMINATION UNDER THIS SUBDIVISION.

44 (C) THE PERMIT ISSUED BY A PERMIT AUTHORITY UNDER THIS SUBDIVISION
45 MAY, IN ACCORDANCE WITH APPLICABLE LAW, SPECIFY REASONABLE RESTRICTIONS
46 ON THE TIME, PLACE AND MANNER OF THE DEMONSTRATION FOR WHICH THE PERMIT
47 IS ISSUED.

48 3. PERMIT REQUIREMENT. A CITY, TOWN, VILLAGE OR COUNTY THAT, BY LOCAL
49 LAW, ENACTS A PERMIT REQUIREMENT IN ACCORDANCE WITH SUBDIVISION TWO OF
50 THIS SECTION MAY BY SUCH LAW ESTABLISH A REASONABLE CIVIL PENALTY FOR
51 ANY PERSON WHO, AFTER PROPER NOTICE AND AN OPPORTUNITY FOR AN ADJUDICA-
52 TORY HEARING, IS FOUND TO HAVE INTENTIONALLY ORGANIZED AND CONDUCTED A
53 DEMONSTRATION WITHIN ONE THOUSAND FEET OF A FUNERAL EVENT, WITHOUT FIRST
54 HAVING OBTAINED A REQUIRED PERMIT IN ACCORDANCE WITH SUCH LAW. SUCH
55 LOCAL LAW MAY INCLUDE AN INCREASED MAXIMUM CIVIL PENALTY FOR A SECOND OR
56 SUBSEQUENT VIOLATION.

1 4. PUBLIC SAFETY. THE STATE POLICE POWER AND THAT OF ITS LOCALITIES
2 MAY BE EMPLOYED TO PROVIDE ADEQUATE PUBLIC SAFETY AND PROTECTION AT SUCH
3 A FUNERAL EVENT AND THE PROCESSION TO OR FROM SUCH A FUNERAL EVENT.

4 S 3. The parks, recreation and historic preservation law is amended by
5 adding a new section 13.31 to read as follows:

6 S 13.31 PERMITS FOR ACTIVITIES NEAR CERTAIN FUNERAL EVENTS. 1. FOR
7 THE PURPOSES OF THIS SECTION:

8 (A) "DEMONSTRATION" SHALL MEAN A PRE-PLANNED GATHERING OF TWELVE OR
9 MORE PERSONS WHO ARE INVITED OR ORGANIZED BY AN ORGANIZER TO CONVENE FOR
10 THE PURPOSE OF A PUBLIC EXHIBITION INCLUDING A PROCESSION, PARADE,
11 PROTEST, PICKET, MARCH OR RALLY ON PUBLIC PROPERTY CONCERNING AND IN THE
12 VICINITY OF A FUNERAL EVENT.

13 (B) "FUNERAL EVENT" SHALL MEAN A WAKE, FUNERAL, BURIAL OR MEMORIAL
14 SERVICE CONDUCTED WITHIN THIRTY DAYS AFTER THE DEATH OF THE PERSON WHO
15 IS THE SUBJECT OF SUCH EVENT.

16 (C) "ORGANIZER" SHALL MEAN THE PERSON OR ORGANIZATION THAT PLANS OR
17 COORDINATES A DEMONSTRATION FOR WHICH A PERMIT MAY BE REQUIRED PURSUANT
18 TO THIS SECTION.

19 2. THE COMMISSIONER MAY PROMULGATE REGULATIONS TO REQUIRE THAT A
20 PERMIT BE OBTAINED FOR A DEMONSTRATION THAT WILL TAKE PLACE IN A STATE
21 PARK, STATE PARKWAY OR OTHER STATE PROPERTY, WITHIN ONE THOUSAND FEET OF
22 A FUNERAL EVENT, AND DURING OR WITHIN ONE HOUR BEFORE OR AFTER SUCH
23 FUNERAL EVENT. THE EXISTENCE AND REQUIREMENTS OF SUCH LAWFUL REGULATIONS
24 SHALL BE PROMINENTLY POSTED IN A PUBLIC AREA OF THE OFFICE OR HEADQUAR-
25 TERS OF EACH PARK UNDER THE JURISDICTION OF THE STATE DEPARTMENT OF
26 PARKS AND RECREATION AND SHALL ALSO BE POSTED ON ANY WEBSITE ESTABLISHED
27 OR AVAILABLE FOR THE USE OF THE OFFICE. SUCH REGULATIONS MAY REQUIRE:

28 (A) AN ORGANIZER OF SUCH A DEMONSTRATION TO APPLY FOR A PERMIT
29 CONCERNING SUCH DEMONSTRATION PROVIDED, HOWEVER, THAT SUCH PERMIT APPLI-
30 CATION PROCESS SHALL BE AVAILABLE FOR A REASONABLE PERIOD BEFORE SUCH
31 FUNERAL EVENT IS ACTUALLY SCHEDULED TO BEGIN.

32 (B) UPON FILING SUCH AN APPLICATION, THE OFFICE SHALL PROMPTLY REVIEW
33 SUCH APPLICATION AND, IF THE APPLICATION SATISFIES THE REQUIREMENTS OF
34 THIS SUBDIVISION AS WELL AS ANY ADDITIONAL REQUIREMENTS THE COMMISSIONER
35 MAY, BY LAWFUL REGULATION, IMPOSE, THEN THE OFFICE SHALL ISSUE TO THE
36 ORGANIZER A PERMIT UNDER THIS SUBDIVISION. IN SUCH EVENT, THE PERMIT
37 SHALL SPECIFY, EXPRESSLY AND IN DETAIL, THE TIME AND PLACE AND ANY
38 LAWFUL RESTRICTIONS THAT MAY BE IMPOSED REGARDING SUCH DEMONSTRATION. IF
39 SUCH PERMIT APPLICATION IS DENIED, THE OFFICE SHALL ISSUE A WRITTEN
40 DENIAL THAT SPECIFIES IN DETAIL THE MANNER IN WHICH THE APPLICATION IS
41 DEFICIENT, TOGETHER WITH THE PROCEDURE BY WHICH THE ORGANIZER MAY OBTAIN
42 TIMELY RECONSIDERATION OF SUCH DETERMINATION UNDER THIS SUBDIVISION.

43 (C) THE PERMIT ISSUED BY THE OFFICE UNDER THIS SUBDIVISION MAY, IN
44 ACCORDANCE WITH APPLICABLE LAW, SPECIFY REASONABLE RESTRICTIONS ON THE
45 TIME, PLACE AND MANNER OF THE DEMONSTRATION FOR WHICH THE PERMIT IS
46 ISSUED.

47 (D) THE COMMISSIONER MAY REQUIRE THE ORGANIZER TO PAY A REASONABLE FEE
48 WITH THE PERMIT APPLICATION IN ORDER TO REDUCE ADMINISTRATIVE AND PROC-
49 ESSING COSTS.

50 3. ANY PERSON WHO, AFTER PROPER NOTICE AND OPPORTUNITY FOR AN ADJUDI-
51 CATORY HEARING, IS FOUND TO HAVE INTENTIONALLY ORGANIZED AND CONDUCTED A
52 DEMONSTRATION WITHIN ONE THOUSAND FEET OF A FUNERAL EVENT WITHOUT FIRST
53 HAVING OBTAINED A REQUIRED PERMIT UNDER THIS SECTION SHALL BE SUBJECT TO
54 A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR THE FIRST SUCH
55 VIOLATION DETERMINED TO HAVE BEEN COMMITTED, UP TO ONE THOUSAND DOLLARS
56 FOR A SECOND SUCH VIOLATION DETERMINED TO HAVE BEEN COMMITTED WITHIN

1 THREE YEARS OF THE FIRST SUCH VIOLATION, AND UP TO TWO THOUSAND DOLLARS
2 FOR A THIRD SUCH VIOLATION DETERMINED TO HAVE BEEN COMMITTED WITHIN SUCH
3 THREE YEAR PERIOD. THE STATE POLICE POWER AND THAT OF ITS LOCALITIES MAY
4 BE EMPLOYED TO PROVIDE ADEQUATE PUBLIC SAFETY AND PROTECTION AT SUCH A
5 FUNERAL EVENT AND THE PROCESSION TO OR FROM SUCH FUNERAL EVENT.
6 S 4. This act shall take effect on the sixtieth day after it shall
7 have become a law.