

STATE OF NEW YORK

---

9006--A

2007-2008 Regular Sessions

IN ASSEMBLY

June 7, 2007

---

Introduced by M. of A. LANCMAN, JOHN -- (at request of the Department of Labor) -- read once and referred to the Committee on Labor -- recommitted to the Committee on Labor 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 labor law, in relation to explosives; to amend the labor law and the general business law, in relation to misdemeanor penalties; and to amend the penal law, in relation to permits for fireworks displays

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

1 Section 1. Subdivisions 1 and 2 of section 450 of the labor law,  
2 subdivision 1 as amended by chapter 809 of the laws of 1949 and subdivi-  
3 sion 2 as amended by chapter 1022 of the laws of 1970, are amended to  
4 read as follows:  
5 1. This article shall apply to persons engaged in the manufacture,  
6 ownership, possession, storage, use, transportation, purchase, sale or  
7 gift of explosives as defined in subdivision one of section four hundred  
8 fifty-one OF THIS ARTICLE.  
9 2. This article shall not apply to explosives while being transported  
10 in conformity with federal law or regulations, nor except as may be  
11 herein otherwise provided to persons who manufacture, own, possess,  
12 store, use, transport, purchase, sell or give explosives within the  
13 territorial boundaries of cities having more than one million inhabit-  
14 ants, nor to ANY OF THE FOLLOWING WHILE IN THE PERFORMANCE  
OF THEIR  
15 OFFICIAL DUTIES: the armed forces of the United States, the national  
16 guard, the state guard and duly constituted police and firefighting  
17 forces of the state and its civil and political subdivisions.

18 S 2. Section 451 of the labor law, as amended by chapter 809 of the  
19 laws of 1949, subdivision 1 as amended by chapter 220 of the laws of

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

LBD09890-08-8

A. 9006--A

2

1 1974 and subdivision 11 as renumbered by chapter 1022 of the laws of  
2 1970, is amended to read as follows:

3 S 451. Definitions. Whenever used in this article: 1. "Explosives"  
4 means gunpowder, powders used for blasting, high explosives, blasting  
5 materials, detonating fuses, detonators, PYROTECHNICS and other detonat-  
6 ing agents, FIREWORKS AND DANGEROUS FIREWORKS AS DEFINED  
IN SECTION  
7 270.00 OF THE PENAL LAW, smokeless powder and any chemical compound or  
8 any mechanical mixture containing any oxidizing and combustible units,  
9 or other ingredients in such proportions, quantities, or packing that  
10 ignition by fire, friction, concussion, percussion or detonation of any  
11 part thereof may CAUSE and is intended to cause an explosion, but shall  
12 not include gasoline, kerosene, naphtha, turpentine, benzine, acetone,  
13 ethyl ether, benzol {and all} OR quantities of black powder not exceed-  
14 ing five pounds for use in firing of antique firearms or artifacts or  
15 replicas thereof. Fixed ammunition and primers for small arms, {fire-  
16 crackers,} PYROTECHNIC DEVICES WHICH ARE DESIGNED FOR AND  
BEING USED FOR  
17 LEGITIMATE WILDLIFE MANAGEMENT OR CONTROLS, safety fuses  
and matches

18 shall not be deemed to be explosives when, {as may be determined by the  
19 board in its rules} AS PROVIDED BY REGULATION, the individual units  
20 contain any of the above-mentioned articles or substances in such limit-  
21 ed quantity, of such nature and so packed that it is impossible to  
22 produce an explosion of such units to the injury of life, limb or prop-  
23 erty.

24 2. "Highway" means any public street, public highway, public alley or  
25 navigable {stream} WATERWAY, which is open for traffic. Navigable  
26 {streams} WATERWAYS shall be considered as only those {streams} suscep-  
27 tible of being used, in their ordinary condition, as highways of  
28 commerce.

29 3. "Railroad" or "railway" means any railroad {which} THAT carries  
30 passengers OR FREIGHT for hire, but shall not include auxiliary tracks,  
31 spurs and sidings installed and primarily used in serving any mine,  
32 quarry or plant.

33 4. "Building" means any building regularly occupied in whole or in  
34 part as a habitation for human beings, and any church, school house,

35 railway station or other building or place where people are accustomed  
36 to live, work or assemble, but does not mean or include any of the  
37 buildings of a manufacturing plant where the business of manufacturing  
38 explosives is carried on.

39 5. "Explosives factory" means any building or other structure in which  
40 the manufacture of explosives or any part of the manufacture thereof is  
41 carried on.

42 6. "Magazine" means any building or other structure, other than an  
43 explosives factory, used to store explosives.

44 7. "Efficient barricade" means natural features of the ground, a dense  
45 woods, an artificial mound or a properly revetted wall of earth not less  
46 than three feet thick at the top, spaced at least three feet at the  
47 bottom from any explosives factory or magazine, the height of which is  
48 such that any straight line drawn from the top of any side wall of the  
49 explosives factory or magazine to the top of a building or to a point  
50 twelve feet above the center of a railroad or highway to be protected  
51 will pass through such intervening barricade.

52 8. "Person" includes any natural person, partnership, association or  
53 corporation.

54 9. "Manufacturer" means any person who is engaged in the manufacture  
55 or production of explosives.

A. 9006--A

3

1 10. "Dealer" means any person engaged in the business of buying and  
2 selling explosives.

3 11. {A "farmer" is a person who occupies and cultivates land.} "PYRO-  
4 TECHNICS" MEANS ANY COMBUSTIBLE OR EXPLOSIVE  
COMPOSITIONS OF MANUFAC-  
5 TURED ARTICLES DESIGNED AND PREPARED FOR THE PURPOSE OF  
PRODUCING AUDI-  
6 BLE OR VISIBLE EFFECTS THAT ARE COMMONLY REFERRED TO AS  
FIREWORKS.

7 S 3. Section 452 of the labor law, as amended by chapter 190 of the  
8 laws of 1989, is amended to read as follows:

9 S 452. Packing and labeling. No person shall own, possess, store, deal  
10 in, sell, give or purchase explosives unless the packing, or encasement,  
11 and the marking and labeling of such explosives shall comply with the  
12 {rules of the board} REGULATIONS PROMULGATED PURSUANT TO THIS  
ARTICLE.

13 S 4. Section 453 of the labor law, as added by chapter 809 of the laws  
14 of 1949, the second undesignated paragraph as amended by chapter 190 of  
15 the laws of 1989, is amended to read as follows:

16 S 453. Storage. No person shall store explosives except in a magazine  
17 constructed {and}, located AND CERTIFIED in accordance with the  
18 provisions of this article and the {rules of the board and unless a

19 certificate, which} REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

20 THE MAGAZINE CERTIFICATE shall be attached to the magazine on the inside  
21 {thereof, has been issued for} OF EACH such magazine. No person shall  
22 store more than three hundred thousand pounds of explosives in any one  
23 magazine at any time. EXPLOSIVES NOT STORED IN COMPLIANCE WITH THIS

24 SECTION SHALL BE DEEMED TO PRESENT A DANGER TO THE PUBLIC, INCLUDING BUT

25 NOT LIMITED TO, EMERGENCY RESPONDERS AND OTHER PERSONS LAWFULLY FREQUEN-

26 TING THE AREA AND AS SUCH, ARE SUBJECT TO SEIZURE AND DESTRUCTION PURSU-

27 ANT TO SUBDIVISION FIVE OF SECTION FOUR HUNDRED SIXTY OF THIS ARTICLE.

28 This section shall not apply to explosives while being legally blasted  
29 or while legally in the custody of a common carrier awaiting shipment or  
30 delivery to a consignee during the time permitted by federal law; nor to  
31 the storage of such limited amount of sporting or smokeless powders as  
32 may be permitted by the {rules of the board} REGULATIONS PROMULGATED

33 PURSUANT TO THIS ARTICLE.

34 S 5. Section 454 of the labor law, as amended by chapter 477 of the  
35 laws of 1943, is amended to read as follows:

36 S 454. Construction of magazines. Unless otherwise prescribed by the  
37 {board in its rules} REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE,

38 magazines in which explosives shall be lawfully kept or stored shall be  
39 constructed of brick, concrete, {iron} METAL or wood covered with {iron}  
40 METAL, and shall have no openings except for ventilation and entrance.

41 All EXPLOSIVE magazines, except those in mines and tunnels, shall be  
42 located above ground. All EXPLOSIVE magazines shall be kept clean and  
43 dry at all times.

44 S 6. Section 455 of the labor law, as amended by chapter 809 of the  
45 laws of 1949, is amended to read as follows:

46 S 455. Magazine precautions. 1. No {person} INDIVIDUAL shall unlock  
47 {or}, open the doors of, OR ACCESS THE CONTENTS OF, EXPLOSIVE magazines,

48 except for the lawful storage or removal of explosives AND IN ACCORDANCE  
49 WITH REGULATIONS OF THE COMMISSIONER. NO EMPLOYER SHALL ALLOW ANY INDI-

50 VIDUAL ACCESS TO THE EXPLOSIVE MAGAZINES OR EXPLOSIVES OF THE EMPLOYER

51 UNLESS A LICENSE HAS BEEN ISSUED TO THE INDIVIDUAL BY THE COMMISSIONER

52 AS PROVIDED IN THIS ARTICLE, OR THE INDIVIDUAL IS UNDER THE  
DIRECT

53 SUPERVISION OF THE LICENSE HOLDER.

54 No person shall have matches or fire of any kind in any magazine. No  
55 person shall store or keep blasting caps, detonating or fulminating  
56 caps, or detonators in a magazine in which any other type of explosive

A. 9006--A

4

1 is stored or kept. No person shall open any package of explosives within  
2 fifty feet of any magazine, nor shall any explosives be kept in a maga-  
3 zine except in the original containers, OR AS OTHERWISE PROVIDED BY  
4 REGULATIONS PROMULGATED UNDER THIS ARTICLE. No person shall  
discharge

5 firearms within five hundred feet of a magazine or explosives factory,  
6 or at or against any such building or magazine. Any theft or loss of  
7 explosives from a storage magazine or otherwise, shall immediately be  
8 reported to the {industrial} commissioner and the state or local police  
9 or county sheriff.

10 S 7. Section 456 of the labor law, as amended by chapter 461 of the  
11 laws of 1950, is amended to read as follows:

12 S 456. Location of magazines. The quantity of explosives that may be  
13 stored in any explosives factory or magazine shall depend upon its  
14 distances from the nearest building, railroad or highway or other maga-  
15 zine. The distances that a quantity of explosives may be stored from the  
16 nearest magazine, building, railroad or highway, shall be as determined  
17 by the {rules of the board} REGULATIONS PROMULGATED PURSUANT  
TO THIS

18 ARTICLE. All such distances may be reduced one-half when the magazine,  
19 building, railroad or highway to be protected is adequately screened  
20 from the explosives factory or magazine by an efficient barricade as  
21 defined in subdivision seven of section four hundred fifty-one OF THIS  
22 ARTICLE.

23 S 8. The labor law is amended by adding a new section 457 to read as  
24 follows:

25 S 457. RELOCATION OF MAGAZINES. 1. WHEN ANY MAGAZINE IS  
MOVED FROM THE  
26 LOCATION FOR WHICH IT WAS CERTIFIED ACCORDING TO SECTION  
FOUR HUNDRED  
27 FIFTY-SIX OF THIS ARTICLE, AND THE MAGAZINE IS OR IS INTENDED  
TO BE USED

28 FOR THE STORAGE OF EXPLOSIVES AND WILL BE IN THE NEW  
LOCATION FOR MORE

29 THAN TWENTY-FOUR HOURS, THE COMMISSIONER SHALL BE  
NOTIFIED AS TO THE NEW

30 LOCATION OF THE MAGAZINE. SUCH NOTIFICATION SHALL BE MADE  
NO LATER THAN

31 ONE BUSINESS DAY PRIOR TO THE MOVE. THE NOTIFICATION SHALL  
CONTAIN ALL

32 OF THE INFORMATION REQUIRED BY THE COMMISSIONER.

33 2. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL  
NOT APPLY

34 WHERE THE RELOCATION HAS BEEN ORDERED BY POLICE, FIRE OR  
OTHER AUTHOR-

35 IZED EMERGENCY PERSONNEL, OR WHERE THE CONTINUED  
STORAGE IN THE CURRENT

36 LOCATION WOULD CONSTITUTE A THREAT TO LIFE OR PROPERTY. IN  
SUCH CASES

37 THE COMMISSIONER SHALL BE NOTIFIED AS SOON AS  
PRACTICABLE AFTER THE

38 RELOCATION BUT IN NO CASE MORE THAN TWO BUSINESS DAYS  
FOLLOWING SUCH

39 RELOCATION.

40 3. WHEN A MAGAZINE IS ABANDONED, SOLD OR REMOVED FROM  
SERVICE, THE

41 CERTIFICATE HOLDER SHALL NOTIFY THE COMMISSIONER NO  
LATER THAN THREE

42 BUSINESS DAYS FROM THE DATE OF SUCH ACTION AND SHALL  
SURRENDER THE

43 CERTIFICATE TO THE COMMISSIONER.

44 S 9. Section 458 of the labor law, as added by chapter 809 of the laws  
45 of 1949, subdivisions 1 and 2 as amended by chapter 61 of the laws of  
46 1989, subdivision 3 as amended by section 10 of part A of chapter 57 of  
47 the laws of 2004, subdivision 4 as amended by chapter 164 of the laws of  
48 2003, subdivisions 5, 6, 7 and 9 as added and subdivisions 10 and 11 as  
49 renumbered by chapter 1022 of the laws of 1970 and subdivision 8 as  
50 added by chapter 150 of the laws of 1971, is amended to read as follows:

51 S 458. Licenses and certificates. 1. No person shall purchase, own,  
52 possess, transport or use explosives unless a license therefor shall  
53 have been issued as provided in this article.

54 Application for such a license shall be made to the commissioner on  
55 forms provided and shall contain such information as the commissioner  
56 may require. Where the commissioner finds that the applicant has

A. 9006--A

5

1 complied with the requirements of this article and the rules promulgated  
2 hereunder, the commissioner shall issue {a} SUCH license or renewal  
3 thereof which shall be valid for NOT LESS THAN one year from the date of  
4 issuance. Such application and each renewal thereof shall be accompanied  
5 by a fee of NOT LESS THAN fifty dollars non-refundable to be payable to

6 the commissioner.

7 2. No person shall manufacture, deal in, sell, give, TEST, or dispose  
8 of explosives unless a license therefor shall have been issued to such  
9 person for that purpose by the commissioner as provided in this article,  
10 nor shall any person sell, give, TEST, or dispose of explosives to, or  
11 manufacture explosives for any person who does not hold a license as  
12 provided by subdivision one of this section.

13 Application for such a license{, which shall be renewed annually,}  
14 shall be made to the commissioner on forms provided and shall contain  
15 such information as the commissioner may require. The commissioner,  
16 after investigation of the application, shall issue a license or renewal  
17 thereof, which shall be valid for NOT LESS THAN one year from the date  
18 of issuance, where the commissioner finds that the applicant has  
19 complied with the requirements of this article and the rules promulgated  
20 hereunder. Each application for such a license, or for its renewal,  
21 shall be accompanied by a fee of NOT LESS THAN one hundred dollars non-  
22 refundable to be payable to the commissioner.

23 3. No person shall keep or store explosives unless a certificate  
24 therefor shall have been issued by the commissioner as {herein}  
25 provided{, but this requirement shall not apply to the storage at any  
26 one time by farmers of two hundred pounds or less of blasting explosives  
27 for agricultural purposes} IN THIS SECTION.

28 Application for such a certificate shall be made to the commissioner  
29 on forms provided and shall contain such information as the commissioner  
30 may require. The commissioner, where it is found that the applicant has  
31 complied with the requirements of this article, {and}, the rules promul-  
32 gated hereunder and all other applicable sections of this chapter and  
33 regulations promulgated by the commissioner, shall issue a certificate  
34 or a renewal thereof, which shall be valid for NOT LESS THAN one year  
35 from the date of issuance. In addition to any other causes for revoca-  
36 tion of a certificate hereinafter provided, the commissioner may revoke  
37 or modify such certificate because of any change in the conditions under  
38 which it was granted, or for failure to pay the {annual} REQUIRED fee  
39 {hereinafter provided}. The owner or user of a magazine shall {annually}  
40 pay to the commissioner {in advance} a fee{, subject to the discretion  
41 of the commissioner and} OF not less than fifty dollars, which shall be  
42 proportioned according to the quantity and type of explosives authorized  
43 by the certificate to be stored in the magazine.

44 4. An application for a license or a certificate pursuant to {subdivi-  
45 sion one, two or three of} this section {shall be sworn to under oath  
46 and} shall contain information sufficient to identify the applicant, and  
47 the purpose for which and the place where the explosives are to be used,  
48 manufactured, dealt in, given, disposed of or stored, as the case may  
49 be, and to demonstrate the eligibility of such applicant for the license  
50 or certificate requested. The commissioner may require that the applica-  
51 tion include, among other things, photographs, fingerprints and personal

52 references. Such fingerprints shall be submitted to the division of  
53 criminal justice services for a state criminal history record check, as  
54 defined in subdivision one of section three thousand thirty-five of the  
55 education law, and may be submitted to the federal bureau of investi-  
56 gation for a national criminal history record check. AN APPLICATION FOR

A. 9006--A

6

1 A LICENSE OR CERTIFICATE REQUIRED TO BE FILED WITH THE  
DEPARTMENT PURSU-

2 ANT TO THIS SECTION SHALL BE SIGNED BY THE APPLICANT AND  
AFFIRMED BY HIM

3 OR HER AS TRUE UNDER PENALTY OF PERJURY.

4 5. Before a license or certificate is issued, the commissioner shall  
5 investigate the eligibility of the applicant. The commissioner shall  
6 have the authority to request and receive from any department, division,  
7 board, bureau, commission or agency of the state or local government  
8 thereof such assistance and information as will enable {him} THE COMMIS-  
9 SIONER TO properly and effectively {to} carry out {his} THE powers and  
10 duties under this article.

11 6. (a) The investigation prescribed in subdivision five of this  
12 section may include, but is not limited to the following:

13 (1) a personal interview of the applicant by a designated agent of the  
14 commissioner if the commissioner is unable to make a determination on  
15 the basis of the factors contained in the application;

16 (2) an examination as to the applicant's knowledge and ability with  
17 respect to basic safety precautions in the possession, handling, stor-  
18 age, MANUFACTURE and transportation of explosives, and for such purpose  
19 the commissioner may prescribe tests which the applicant shall be  
20 required to pass as a prerequisite to the issuance of the license or  
21 certificate. The test may be administered by any person or agency  
22 designated by the commissioner.

23 (b) The investigation prescribed in subdivision five of this section  
24 shall include a report from the New York state identification and intel-  
25 ligence system, and such other identification services of the state or  
26 federal government as may be necessary or appropriate for this purpose.

27 7. The commissioner may waive any of the procedures set forth in PARA-  
28 GRAPH (B) OF subdivision six {(a)} of this section with respect to any  
29 applicant {who has a license or certificate which was issued pursuant to  
30 this section at any time prior to March first, nineteen hundred seventy,  
31 and which was legally valid and effective on such date. The commissioner  
32 also may waive fingerprinting of an applicant who has a valid license  
33 for a pistol or revolver in accordance with section 400.00 of the penal  
34 law} FOR WHOM CRIMINAL HISTORY OR OTHER INFORMATION HAS  
BEEN OBTAINED

35 FROM ANY FEDERAL BUREAU OR AGENCY.

36 8. {Exceptions.} Except for the provisions of subdivision eleven OF  
37 THIS SECTION, this section shall not apply to smokeless powder.

38 9. Within thirty days after the issuance of a license or certificate  
39 under this section, the commissioner shall notify the chief executive  
40 officer of the municipality where the licensee resides or where the  
41 certificate holder has his OR HER place of business of the issuance of  
42 such license or certificate, and provide such officer with such other  
43 information pertaining thereto {as the board may from time to time  
44 prescribe} AS THE COMMISSIONER MAY PRESCRIBE.

45 10. Agencies of the United States, the state and its political and  
46 civil subdivisions which are subject to the requirements of this article  
47 and which, in the exercise of their functions, are required to purchase,  
48 own, store, use or transport explosives shall not be liable for the  
49 payment of any fee required by this section.

50 11. No explosives shall be sold, given or delivered to any {person}  
51 INDIVIDUAL under eighteen years of age, whether such {person} INDIVIDUAL  
52 is acting for himself, HERSELF or for another person, nor shall any such  
53 {person} INDIVIDUAL be eligible to obtain any license or certificate  
54 required under this section.

A. 9006--A

7

1 S 10. Section 459 of the labor law, as added by chapter 809 of the  
2 laws of 1949, subdivision 1 as amended by chapter 1022 of the laws of  
3 1970, is amended to read as follows:

4 S 459. Denial or revocation of license or certificate. 1. A license  
5 or certificate, {its} OR THE renewal {or continuation} THEREOF may be  
6 denied where the commissioner has probable reason to believe, based on  
7 knowledge or reliable information, or finds, after {due} investigation,  
8 that the applicant or any officer, servant, agent or employee of the  
9 applicant is not sufficiently reliable and experienced to be authorized  
10 to own, possess, store, transport, use, manufacture, deal in, sell,  
11 purchase or otherwise handle, as the case may be, explosives, lacks  
12 suitable facilities therefor, has been convicted of a {crime for which  
13 he has been sentenced to serve one or more years in prison} FELONY, is  
14 disloyal or hostile to the United States {or}, has been confined as a  
15 patient or inmate in a public or private institution for the treatment  
16 of mental diseases OR HAS BEEN CONVICTED UNDER SECTION FOUR  
HUNDRED

17 EIGHTY-FOUR OF THE GENERAL BUSINESS LAW. Whenever the  
commissioner

18 denies an application for a license or certificate or the renewal there-  
19 of, {he shall,} within five days of such denial, {give} notice thereof  
20 and the reasons therefor SHALL BE PROVIDED in writing to the applicant  
21 {personally or by mail to the address given in the application}. Such  
22 denial may be appealed to the commissioner who shall follow the proce-

23 dure provided by subdivision {three} FOUR of this section.

24 2. The commissioner may revoke any certificate or license on any  
25 ground or grounds authorized in subdivision one of this section for the  
26 denial of a license or certificate, or for a violation of the terms of  
27 such license or certificate, or for a violation of any provision of this  
28 article or {of the rules of the board} REGULATIONS PROMULGATED  
29 HEREUNDER, or for non-compliance with any order issued by the commis-  
30 sioner within the time specified in such order.

31 {Where the} THE commissioner MAY, WHERE HE OR SHE has probable  
reason

32 to believe, based on knowledge or reliable information, that a licensee  
33 or certificate holder is disloyal to the United States, {he may} summar-  
34 ily revoke the license or certificate or may{, in his discretion,} give  
35 such licensee or certificate holder notice and opportunity to be heard  
36 as provided in subdivision {three} FOUR of this section. Revocation of a  
37 license or certificate for any other ground may be ordered only after  
38 giving written notice and an opportunity to be heard to the holder ther-  
39 eof. Such notice {may be given to the holder personally or by mail and}  
40 shall specify the ground or grounds on which it is proposed to revoke  
41 the license or certificate. When a license or certificate is revoked,  
42 the commissioner may direct the SEIZURE AND/OR disposition of explosives  
43 held by such licensee or certificate holder. Upon revocation of a  
44 license or certificate by the commissioner, the holder thereof shall  
45 surrender {his} THE license or certificate to the commissioner at once.

46 3. THE COMMISSIONER MAY SUMMARILY SUSPEND THE LICENSE OR  
CERTIFICATE

47 PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION,  
WHERE HE OR SHE HAS

48 REASON TO BELIEVE, BASED ON KNOWLEDGE OR RELIABLE  
INFORMATION, THAT THE

49 CONTINUED POSSESSION OF A LICENSE OR CERTIFICATE POSES A  
DANGER TO

50 PUBLIC HEALTH, SAFETY OR WELFARE, AND INCORPORATES A  
FINDING TO THAT

51 EFFECT IN HIS OR HER ORDER. THESE PROCEEDINGS SHALL BE  
PROMPTLY INSTI-

52 TUTED AND DETERMINED. SUCH SUSPENSION SHALL BE EFFECTIVE  
ON THE DATE

53 SPECIFIED IN THE ORDER OR UPON SERVICE OF A CERTIFIED COPY OF  
SUCH ORDER

54 ON THE LICENSE OR CERTIFICATE HOLDER, WHICHEVER SHALL BE  
LATER.

55 {3. Hearings} 4. Unless, within fifteen days from the date of notice,  
56 the applicant for a license or certificate or the recipient of a notice

1 stating that the commissioner proposes to revoke a license or certifi-  
2 cate held by him OR HER, shall file a written answer with the commis-  
3 sioner denying the ground or grounds on which a license or certificate  
4 has been denied OR NOT RENEWED or ground or grounds on which revocation  
5 of a license or certificate is sought, and shall request a hearing, the  
6 commissioner may make a final determination respecting the application  
7 for a license or certificate, or may revoke a license or certificate  
8 forthwith. If, within such fifteen days, the applicant, licensee or  
9 certificate holder files such answer and request for hearing, the  
10 commissioner shall schedule a hearing. The notice of hearing shall state  
11 the time, place, and subject of the hearing, and shall be mailed to the  
12 applicant, certificate holder or licensee at his OR HER last known  
13 address at least five days before the date of hearing. Hearings shall be  
14 held by the commissioner or his OR HER representative, and the appli-  
15 cant, certificate holder or licensee may appear in person or may be  
16 represented by an agent. After such hearing, the commissioner shall  
17 render {his} A decision in writing.

18 S 11. Section 460 of the labor law, as added by chapter 809 of the  
19 laws of 1949, is amended to read as follows:

20 S 460. Seizure, impounding, destruction or disposition of explosives.

21 1. The commissioner is hereby authorized and empowered, without applica-  
22 tion to any court, to seize and impound any explosives found within this  
23 state, except in cities having a population of more than one million  
24 inhabitants, which are in apparent violation of any of the provisions of  
25 this article, {rules of the board} REGULATIONS PROMULGATED  
HEREUNDER or

26 laws or regulations of the federal government, or which have been aban-  
27 doned or lost, or where the commissioner has reason to believe that  
28 public safety is endangered by such explosives. Such explosives may be  
29 removed and transported by the commissioner and stored in magazines  
30 provided or obtained for that purpose by the state or by the commission-  
31 er.

32 2. The owner of such explosives may, within five days of such seizure,  
33 make written demand upon the commissioner for a hearing. Upon such  
34 demand, the commissioner shall give the owner written notice {in person  
35 or by mail,} of the time and place of such hearing to be held not less  
36 than ten days thereafter.

37 3. Where no hearing is demanded within the time herein prescribed or  
38 where, after hearing, the commissioner finds that there has been a  
39 violation of the provisions of this article, {rules of the board} REGU-  
40 LATIONS PROMULGATED HEREUNDER or laws or regulations of the  
federal

41 government, or that public safety is endangered, {he} THE COMMISSIONER  
42 may destroy or order the destruction of such explosives WITHOUT LIABIL-  
43 ITY, or direct such other disposition of the explosives {as he deems

44 proper}. If the commissioner finds there has been no such violation and  
45 that public safety has not been endangered, {he shall return} such  
46 explosives SHALL BE RETURNED to the owner thereof.  
47 4. Where such explosives have been abandoned or lost, and no claimant  
48 has appeared within thirty days, demanded the return of the explosives  
49 and proved, to the satisfaction of the commissioner, {his} THE CLAIM-  
50 ANT`S title to and right of possession of such explosives, the commis-  
51 sioner may destroy or direct the destruction thereof, or direct such  
52 other disposition thereof as {he deems} IS DEEMED proper.  
53 5. Any provision herein to the contrary notwithstanding, where, in the  
54 opinion of the commissioner, the manufacture, condition, STORAGE, pack-  
55 ing or location of explosives is such that its continued existence or  
56 transportation is a danger to public safety, {he} THE COMMISSIONER may,

A. 9006--A

9

1 without hearing and without liability therefor to the owner thereof,  
2 seize and destroy or direct the seizure and destruction of such  
3 explosives.

4 S 12. Section 461 of the labor law, as added by chapter 809 of the  
5 laws of 1949, subdivision 1 as amended by chapter 150 of the laws of  
6 1971 and subdivision 3 as amended by chapter 1022 of the laws of 1970,  
7 is amended to read as follows:

8 S 461. Record and notice of sales, deliveries or gifts. 1. Every  
9 person selling, delivering {or}, giving away {an explosive} OR OTHERWISE  
10 TRANSFERRING OR DISPOSING OF EXPLOSIVES shall keep at his OR HER  
princi-

11 pal office or place of business within the state, a record of the trans-  
12 action, including the name or type and quantity of the explosive, such  
13 identification of the explosive as may be required by {rules of the  
14 board} THE REGULATIONS PROMULGATED PURSUANT TO THIS  
ARTICLE, the date of

15 each sale, delivery {or}, gift, TRANSFER OR DISPOSITION, the name and  
16 business address of the purchaser, donee, RECIPIENT or person to whom  
17 delivered, the number of the license {to own or possess explosives}, if  
18 such license is required by section four hundred fifty-eight of this  
19 article, and the name and address of the person taking the explosives  
20 away. A report of all such transactions, when requested {by him}, shall  
21 be submitted to the commissioner. Such record shall be open to  
22 inspection by the commissioner or by federal, state and local enforce-  
23 ment officers at all times. No person shall have in his OR HER  
24 possession any explosives unless he OR SHE has a bill of sale or other  
25 evidence of title thereto.

26 2. Any provision in this article to the contrary notwithstanding, no  
27 person in a city having more than one million inhabitants shall ship or  
28 transport or cause to be shipped or transported explosives from such

29 city to any other place within the state, unless such person shall, at  
30 least twenty-four hours prior to such shipment, transmit to the commis-  
31 sioner a statement in writing giving the weight, name or brand and type  
32 of explosives, the name and address of the person to whom such  
33 explosives are to be sold, shipped, transported or delivered and the  
34 date thereof. UPON RECEIPT OF SUCH STATEMENT, THE  
COMMISSIONER SHALL  
35 PROVIDE IMMEDIATE WRITTEN NOTICE OF SUCH SHIPMENT OR  
TRANSPORTATION OF  
36 EXPLOSIVES TO THE MAYOR OF A CITY HAVING MORE THAN ONE  
MILLION INHABIT-  
37 ANTS, OR TO THE DESIGNEE OF THE MAYOR. No person shall make any  
such  
38 shipment except to a holder of a license issued hereunder.  
39 3. No person within the state shall purchase, receive or accept deliv-  
40 ery of explosives from any place outside the state, and no person shall  
41 bring explosives into the state from any place outside the state,  
42 unless, {in addition to holding a license issued hereunder, such person  
43 shall, not more than twenty-four hours thereafter, transmit to the  
44 commissioner by mail a written statement giving} HE OR SHE IS IN  
45 POSSESSION OF A VALID LICENSE ISSUED BY THE COMMISSIONER.  
THE LICENSEE  
46 RECEIVING THE EXPLOSIVES SHALL MAINTAIN A RECORD  
INCLUDING THE weight,  
47 name or brand and type of the explosives, the name and address of the  
48 shipper and the date of shipment, FOR A PERIOD OF THREE YEARS FROM  
THE  
49 DATE OF RECEIPT OR TWO YEARS FROM THE DATE OF FINAL  
DISPOSITION OF THE  
50 EXPLOSIVES WHICHEVER OCCURS LAST.  
51 S 13. Section 462 of the labor law, as amended by chapter 190 of the  
52 laws of 1989, is amended to read as follows:  
53 S 462. Rules and regulations. The commissioner may make rules supple-  
54 mental to this article as {he shall deem} DEEMED necessary or desirable  
55 to assure the public safety as well as to provide reasonable and  
56 adequate protection of the lives, health and safety of persons employed

A. 9006--A

10

1 in the manufacture, storage, handling {and}, use, PURCHASE, SALE, DISPO-  
2 SITION AND OWNERSHIP of explosives. The commissioner may prescribe such  
3 regulations as {he may deem} ARE DEEMED necessary and proper for the  
4 administration of this article. THE COMMISSIONER SHALL BY RULE  
ADOPT  
5 THE CODES, STANDARDS AND RECOMMENDED PRACTICES  
PROMULGATED BY THE MOST

6 RECENT EDITION OF NATIONAL FIRE PROTECTION ASSOCIATION,  
1123 AND 1126

7 STANDARDS ON FIREWORKS DISPLAYS AND USE OF PYROTECHNICS  
BEFORE A PROXI-

8 MATE AUDIENCE, IN ACCORDANCE WITH THE PROVISIONS OF THIS  
ARTICLE AND

9 ARTICLE TWENTY-EIGHT-D OF THE GENERAL BUSINESS LAW.

10 S 14. Section 463 of the labor law, as added by chapter 809 of the  
11 laws of 1949, is amended to read as follows:

12 S 463. Review. All questions of fact arising under this article shall  
13 be decided by the commissioner and there shall be no appeal from {his}  
14 SUCH decision on any such question of fact{, but there shall be a right  
15 of review by the board of standards and appeals of any decision of the  
16 commissioner denying an application for a license or certificate, or  
17 denying the renewal thereof, or revoking a license or certificate, as  
18 provided in section one hundred ten, article three of the labor law}.

19 UPON THE ENTRY OF AN ORDER ISSUED UNDER SECTIONS FOUR  
HUNDRED FIFTY-NINE

20 AND FOUR HUNDRED SIXTY OF THIS ARTICLE, ANY PARTY  
AGGRIEVED THEREBY MAY

21 COMMENCE A PROCEEDING FOR REVIEW THEREOF PURSUANT  
TO ARTICLE

22 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES WITHIN  
THIRTY DAYS

23 FROM THE NOTICE OF THE FILING OF THE SAID ORDER IN THE  
OFFICE OF THE

24 COMMISSIONER. SAID PROCEEDING SHALL BE COMMENCED  
DIRECTLY IN THE APPEL-

25 LATE DIVISION OF THE SUPREME COURT. NOTHING IN THIS SECTION  
SHALL IN ANY

26 WAY LIMIT, QUALIFY OR PREVENT THE COMMISSIONER FROM  
DESTROYING

27 EXPLOSIVES AS PROVIDED UNDER SECTION FOUR HUNDRED SIXTY  
OF THIS ARTICLE.

28 S 15. Section 464 of the labor law, as amended by chapter 307 of the  
29 laws of 1984, is amended to read as follows:

30 S 464. {Penalties} COSTS AND PENALTIES. 1. IF THE COMMISSIONER  
DIRECTS

31 THE STORAGE, DESTRUCTION OR OTHER DISPOSITION OF  
EXPLOSIVES PURSUANT TO

32 THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY-NINE OR FOUR  
HUNDRED SIXTY

33 OF THIS ARTICLE, THE COMMISSIONER MAY ISSUE AN ORDER  
WHICH SHALL SET

34 FORTH THE COSTS OF SUCH STORAGE, TRANSPORTATION,  
HANDLING, DESTRUCTION

35 OR OTHER DISPOSITION AND ASSESS SUCH COSTS AGAINST THE  
OWNER OF SUCH  
36 EXPLOSIVES, WHICH SHALL BE IN ADDITION TO ANY OTHER  
PENALTIES IMPOSED.  
37 2. (A) IF THE COMMISSIONER DETERMINES THAT ANY PERSON HAS  
VIOLATED ANY  
38 PROVISION OF THIS ARTICLE, SECTION FOUR HUNDRED EIGHTY-TWO  
OF THE GENER-  
39 AL BUSINESS LAW, OR ANY RULE OR REGULATION PROMULGATED  
THEREUNDER, THE  
40 COMMISSIONER MAY ISSUE AN ORDER WHICH SHALL DESCRIBE  
THE NATURE OF THE  
41 VIOLATION AND ASSESS SUCH PERSON A CIVIL PENALTY OF UP TO  
TEN THOUSAND  
42 DOLLARS PER VIOLATION PER DAY UNTIL THE VIOLATION IS  
CORRECTED. THE  
43 PENALTY AUTHORIZED PURSUANT TO THIS PARAGRAPH SHALL BE  
PAID TO THE  
44 COMMISSIONER FOR DEPOSIT IN THE TREASURY OF THE STATE. IN  
ASSESSING THE  
45 AMOUNT OF THE PENALTY, THE COMMISSIONER SHALL GIVE DUE  
CONSIDERATION TO  
46 THE SIZE OF THE PERSON'S BUSINESS, THE GOOD FAITH EFFORT OF  
THE PERSON,  
47 THE GRAVITY OF THE VIOLATION, AND THE HISTORY OF PREVIOUS  
VIOLATIONS.  
48 (B) WHENEVER THE COMMISSIONER ISSUES AN ORDER UNDER  
THIS SECTION  
49 AGAINST A PERSON, THE COMMISSIONER SHALL SERVE NOTICE OF  
THE ORDER BY  
50 REGISTERED MAIL UPON THE PERSON AT HIS OR HER LAST KNOWN  
ADDRESS. WITHIN  
51 FIVE DAYS OF SERVICE OF THE ORDER, THE PERSON MAY MAKE  
WRITTEN DEMAND  
52 UPON THE COMMISSIONER FOR A HEARING WHEREUPON THE  
COMMISSIONER SHALL  
53 GIVE SUCH PERSON WRITTEN NOTICE OF THE TIME AND PLACE OF  
THE HEARING TO  
54 BE HELD NOT LESS THAN TEN DAYS THEREAFTER.  
55 (C) UPON THE ENTRY OF AN ORDER ISSUED FOLLOWING A  
HEARING UNDER THIS  
56 SECTION, ANY PARTY AGGRIEVED BY AN ORDER ISSUED UNDER  
THIS SUBDIVISION

1 OR SUBDIVISION ONE OF THIS SECTION MAY COMMENCE A  
PROCEEDING FOR REVIEW  
2 THEREOF PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL  
PRACTICE LAW AND  
3 RULES WITHIN THIRTY DAYS FROM THE NOTICE OF THE FILING OF  
THE SAID ORDER  
4 IN THE OFFICE OF THE COMMISSIONER. SAID PROCEEDING SHALL  
BE COMMENCED  
5 DIRECTLY IN THE APPELLATE DIVISION OF THE SUPREME COURT.  
6 (D) PROVIDED THAT NO PROCEEDING FOR JUDICIAL REVIEW AS  
PROVIDED FOR IN  
7 THIS SECTION SHALL THEN BE PENDING AND THE TIME FOR  
INITIATION OF SUCH  
8 PROCEEDING SHALL HAVE EXPIRED, THE COMMISSIONER MAY FILE  
WITH THE COUNTY  
9 CLERK OF THE COUNTY WHERE THE PERSON RESIDES OR HAS A  
PLACE OF BUSINESS,  
10 THE ORDER OF THE COMMISSIONER, CONTAINING THE AMOUNT OF  
THE CIVIL PENAL-  
11 TY. THE FILING OF SUCH ORDER OR DECISION SHALL HAVE THE  
FULL FORCE AND  
12 EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF SUCH  
CLERK, THE  
13 ORDER OR DECISION MAY BE ENFORCED BY AND IN THE NAME OF  
THE COMMISSIONER  
14 IN THE SAME MANNER, AND WITH LIKE EFFECT, AS THAT  
PRESCRIBED BY THE  
15 CIVIL PRACTICE LAW AND RULES FOR THE ENFORCEMENT OF A  
MONEY JUDGMENT.  
16 (E) A CIVIL PENALTY PROVIDED FOR IN THIS SUBDIVISION SHALL BE  
IN ADDI-  
17 TION TO AND MAY BE IMPOSED CONCURRENTLY WITH ANY OTHER  
PENALTY OR REMEDY  
18 PROVIDED FOR IN THIS ARTICLE.  
19 3. Any person violating any provision of this article, or any rule or  
20 regulation made hereunder, shall be guilty of a class E felony;  
21 provided, however, that any person who possesses an explosive without  
22 being duly licensed or otherwise authorized to do so under the  
23 provisions of this article shall be guilty of a class D felony. Whenev-  
24 er, as a result of a plea bargaining agreement the charge is reduced to  
25 a lesser offense, such offense may, in addition to any term of imprison-  
26 ment prescribed by such offense, be punishable by a fine not to exceed  
27 twenty-five hundred dollars.  
28 S 16. Section 480 of the general business law, as added by chapter 754  
29 of the laws of 1975, is amended to read as follows:  
30 S 480. Legislative findings. The legislature hereby finds that the use

31 of lasers and radioactive materials, the operation of cranes {and}, the  
32 detonation of explosives, AND THE PREPARATION AND FIRING OF  
PYROTECHNICS

33 involve such elements of potential danger to the lives, health and safe-  
34 ty of the citizens of this state and to their property that special  
35 regulations are necessary to insure that only persons of proper ability  
36 and experience shall engage in such uses and operations.

37 The legislature hereby declares that this article shall be deemed an  
38 exercise of the police power of this state for the protection of the  
39 lives, health and safety of citizens in this state and of their proper-  
40 ty.

41 S 17. Section 481 of the general business law, as added by chapter  
42 754 of the laws of 1975, subdivision 3 as amended by chapter 569 of the  
43 laws of 1982 and subdivision 5 as amended by section 1 of part B of  
44 chapter 58 of the laws of 2006, is amended to read as follows:

45 S 481. Definitions. As used in this article:

46 1. "Laser" means light amplification by simulated emission of radi-  
47 ation.

48 2. "Radioactive material" means any material in any form that emits  
49 ionizing radiation spontaneously. "Radiation equipment" means any equip-  
50 ment or device which can emit ionizing or non-ionizing radiation.

51 3. "Crane" includes but is not limited to cranes and equipment of the  
52 following types: a mobile, carrier-mounted, power-operated hoisting  
53 machine utilizing a power-operated boom which moves laterally by rota-  
54 tion of the machine on the carrier, tower cranes, hydraulic cranes and  
55 power-operated derricks; provided, however, that "crane" shall not  
56 include public utility company line trucks used by a public utility

A. 9006--A

12

1 company in the construction and maintenance of its generation, trans-  
2 mission and distribution facilities.

3 4. "Blaster" means a person who performs the act of preparation for  
4 detonation and the detonation of an explosive.

5 5. "PYROTECHNICIAN" MEANS A PERSON WHO PERFORMS THE  
PREPARATION FOR

6 AND THE FIRING OF PYROTECHNICS, AS DEFINED IN ARTICLE  
SIXTEEN OF THE

7 LABOR LAW.

8 6. "Commissioner" means the commissioner of labor of the state of New  
9 York, except that any reference to the commissioner with respect to  
10 radioactive material, as defined in this article, or radiation equip-  
11 ment, as defined in this article, shall be a reference to the commis-  
12 sioner of health of the state of New York.

13 S 18. Section 482 of the general business law, as amended by section 2  
14 of part B of chapter 58 of the laws of 2006, is amended to read as

15 follows:

16 S 482. Licensing and registration. 1. No individual shall use lasers,  
17 operate a crane {or}, act as a blaster OR AS A PYROTECHNICIAN without  
18 holding a valid certificate of competence issued by the commissioner of  
19 labor.

20 2. No person shall possess or use any radioactive material without a  
21 valid license issued by the commissioner of health. Every installation  
22 and mobile source consisting of radiation equipment shall be registered  
23 with the commissioner of health.

24 3. No employer, contractor or agent thereof shall knowingly permit any  
25 individual to use lasers, operate a crane or act as a blaster OR AS A  
26 PYROTECHNICIAN without holding a valid certificate of competence issued  
27 by the commissioner of labor.

28 S 19. Paragraph a of subdivision 1 and subdivision 2 of section 483 of  
29 the general business law, paragraph a of subdivision 1 as amended by  
30 section 3 of part B of chapter 58 of the laws of 2006, subdivision 2 as  
31 added by chapter 754 of the laws of 1975, are amended to read as  
32 follows:

33 a. The commissioner of labor is hereby authorized and directed to  
34 prescribe such rules and regulations as may be necessary and proper for  
35 the administration and enforcement of this article with respect to  
36 lasers, crane operators {and}, blasters AND PYROTECHNICIANS.

37 2. Such regulations may provide for examinations, categories of  
38 certificates, licenses, or registrations, age and experience require-  
39 ments, payment of fees, and may also provide for such limitations and  
40 exemptions as the commissioner finds necessary and proper. In the case  
41 of blasters AND PYROTECHNICIANS, such regulations may require finger-  
42 printing, and in the case of users of radioactive material, such regu-  
43 lations may require the posting of a bond or other security.

44 S 20. Section 484 of the general business law, as added by chapter 754  
45 of the laws of 1975, subdivision 1 as amended by section 4 of part B of  
46 chapter 58 of the laws of 2006 and subdivision 2 as amended and subdivi-  
47 sion 3 as added by chapter 569 of the laws of 1982, is amended to read  
48 as follows:

49 S 484. Enforcement. 1. a. For the purpose of administering and enforc-  
50 ing the provisions of this article with respect to lasers, cranes {and},  
51 blasters AND PYROTECHNICIANS, the commissioner of labor shall have and  
52 may use all of the powers conferred upon him or her by the labor law, in  
53 addition to the powers conferred herein.

54 b. For the purpose of administering and enforcing the provisions of  
55 this article with respect to radioactive material and radiation equip-  
56 ment the commissioner of health shall have and may use all of the powers

2 powers conferred in this article.

3 2. {A violation of} ANY PERSON WHO VIOLATES any provision of this  
4 article or of any rule or regulation of the commissioner promulgated  
5 hereunder or of any rule or regulation promulgated pursuant to paragraph  
6 b of subdivision two of section four hundred eighty-five of this article  
7 shall be GUILTY OF a misdemeanor, AND UPON CONVICTION SHALL BE  
PUNISHED,

8 BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS; FOR A  
SECOND OFFENSE BY

9 A FINE OF NOT LESS THAN ONE THOUSAND NOR MORE THAN  
THREE THOUSAND

10 DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR  
OR BY BOTH SUCH

11 FINE AND IMPRISONMENT; FOR A SUBSEQUENT OFFENSE BY A FINE  
OF NOT LESS

12 THAN THREE THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT  
MORE THAN ONE

13 YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

14 3. Where the employer, contractor or agent thereof permitting a  
15 violation of any provision of this article or of any rule or regulation  
16 of the commissioner promulgated hereunder or of any rule or regulation  
17 promulgated pursuant to paragraph b of subdivision two of section four  
18 hundred eighty-five of this article shall be a corporation, then in  
19 addition to the corporation, the officer or agent of such corporation  
20 who knowingly permits the corporation to violate such provisions is  
21 guilty of a misdemeanor; and upon conviction thereof shall be punished  
22 for a first offense by a fine of not more than one {hundred} THOUSAND  
23 dollars; for a second offense by a fine of not less than one {hundred}  
24 THOUSAND nor more than {five hundred} THREE THOUSAND dollars, or  
by

25 imprisonment for not more than {thirty days} ONE YEAR or by both such  
26 fine and imprisonment; for a subsequent offense by a fine of not less  
27 than three {hundred} THOUSAND dollars or by imprisonment for not more  
28 than {sixty days} ONE YEAR, or by both such fine and imprisonment.

29 S 21. Subdivisions 2, 3, 3-a and 4 of section 405.00 of the penal law,  
30 subdivision 3-a as added by chapter 151 of the laws of 2002, are amended  
31 to read as follows:

32 2. Permits for {public} FIREWORKS displays. Notwithstanding the  
33 provisions of section 270.00 OF THIS CHAPTER, the permit authority of a  
34 state park, county park, city, village or town may {upon application in  
35 writing,} grant a permit for the {public} display of fireworks {by} TO  
36 municipalities, fair associations, amusement parks, PERSONS, or organ-  
37 izations of individuals THAT SUBMIT AN APPLICATION IN WRITING.

The

38 application for such permit shall set forth:

39 (a) The name of the body sponsoring the display and the names of the

40 persons actually to be in charge of the firing of the display WHO SHALL  
41 POSSESS A VALID CERTIFICATE OF COMPETENCE AS A  
PYROTECHNICIAN AS  
42 REQUIRED UNDER THE GENERAL BUSINESS LAW AND ARTICLE  
SIXTEEN OF THE LABOR  
43 LAW. THE PERMIT APPLICATION SHALL FURTHER CONTAIN A  
VERIFIED STATEMENT  
44 FROM THE APPLICANT IDENTIFYING THE INDIVIDUALS WHO ARE  
AUTHORIZED TO  
45 FIRE THE DISPLAY INCLUDING THEIR CERTIFICATE NUMBERS, AND  
THAT SUCH  
46 INDIVIDUALS POSSESS A VALID CERTIFICATE OF COMPETENCE AS A  
PYROTECHNI-  
47 CIAN.

48 (b) The date and time of day at which the display is to be held.

49 (c) The exact location planned for the display.

50 (d) {The age, experience and physical characteristics of the persons  
51 who are to do the actual discharging of the fireworks.

52 (e)} The number and kind of fireworks to be discharged.

53 {(f)} (E) The manner and place of storage of such fireworks prior to  
54 the display.

55 {(g)} (F) A diagram of the grounds on which the display is to be held  
56 showing the point at which the fireworks are to be discharged, the

A. 9006--A

14

1 location of all buildings, highways and other lines of communication,  
2 the lines behind which the audience will be restrained and the location  
3 of all nearby trees, telegraph or telephone lines or other overhead  
4 obstructions.

5 {(h)} (G) Such other information as the permit authority may deem  
6 necessary to protect persons or property.

7 3. Applications for permits. All applications for permits for the  
8 {public} display of fireworks shall be made at least five days in  
9 advance of the date of the display and the permit shall contain  
10 provisions that the actual point at which the fireworks are to be fired  
11 {shall be at least two hundred feet from the nearest permanent building,  
12 public highway or railroad or other means of travel and at least fifty  
13 feet from the nearest above ground telephone or telegraph line, tree or  
14 other overhead obstruction, that the audience at such display shall be  
15 restrained behind lines at least one hundred and fifty feet from the  
16 point at which the fireworks are discharged and only persons in active  
17 charge of the display shall be allowed inside these lines, that all  
18 fireworks that fire a projectile shall be so set up that the projectile  
19 will go into the air as nearby as possible in a vertical direction,  
20 unless such fireworks are to be fired from the shore of a lake or other

21 large body of water, when they may be directed in such manner that the  
22 falling residue from the deflagration will fall into such lake or body  
23 of water, that any fireworks that remain unfired after the display is  
24 concluded shall be immediately disposed of in a way safe for the partic-  
25 ular type of fireworks remaining, that no fireworks display shall be  
26 held during any wind storm in which the wind reaches a velocity of more  
27 than thirty miles per hour,} BE IN ACCORDANCE WITH THE RULES  
PROMULGATED

28 BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION FOUR  
HUNDRED SIXTY-TWO

29 OF THE LABOR LAW AND that all the persons in actual charge of firing the  
30 fireworks shall be over the age of eighteen years, competent and phys-  
31 ically fit for the task, that there shall be at least two such operators  
32 constantly on duty during the discharge and that at least two {sodaacid  
33 or other} approved type fire extinguishers {of at least two and one-half  
34 gallons capacity each} shall be kept at as widely separated points as  
35 possible within the actual area of the display. The legislative body of  
36 a state park, county park, city, village or town may provide for  
37 approval of such permit by the head of the police or fire department or  
38 both where there are such departments. No permit granted and issued  
39 hereunder shall be transferable. After such permit shall have been  
40 granted, sales, possession, use and distribution of fireworks for such  
41 display shall be lawful solely therefor.

42 3-a. Notwithstanding the provisions of subdivision three of this  
43 section, no permit may be issued to conduct a {public} display of fire-  
44 works upon any property where the boundary line of such property is less  
45 than five hundred yards from the boundary line of any property which is  
46 owned, leased or operated by any breeder as defined in subdivision four  
47 of section {two hundred forty-four} TWO HUNDRED FIFTY-ONE of the racing,  
48 pari-mutuel wagering and breeding law.

49 4. Bonds. Before granting and issuing a permit for a {public} display  
50 of fireworks as herein provided, the permit authority shall require an  
51 adequate bond from the applicant therefor, unless it is a state park,  
52 county park, city, village or town, {or from the person to whom a  
53 contract for such display shall be awarded,} in a sum to be fixed by the  
54 permit authority, which, however, shall not be less than {five thousand}  
55 ONE MILLION dollars, conditioned for the payment of all damages, which  
56 may be caused to a person or persons or to property, by reason of the

A. 9006--A

15

1 display so permitted and arising from any acts of the permittee, his  
2 agents, employees, contractors or subcontractors. Such bond shall run to  
3 the state park, county park, city, village or town in which the permit  
4 is granted and issued and shall be for the use and benefit of any person  
5 or persons or any owner or owners of any property so injured or damaged,

6 and such person or persons or such owner or owners are hereby authorized  
7 to maintain an action thereon, which right of action also shall accrue  
8 to the heirs, executors, administrators, successors or assigns of such  
9 person or persons or such owner or owners. The permit authority may  
10 accept, in lieu of such bond, an indemnity insurance policy with liabil-  
11 ity coverage and indemnity protection equivalent to the terms and condi-  
12 tions upon which such bond is predicated and for the purposes {herein}  
13 provided IN THIS SECTION.

14 S 22. This act shall take effect immediately; provided that:

15 1. sections one, two, three, four, five, six, seven, eight, nine, ten,  
16 eleven, twelve, thirteen, fourteen, fifteen and twenty-one of this act  
17 shall take effect on the one hundred eightieth day after it shall have  
18 become a law; and

19 2. all licenses and certificates issued pursuant to article 16 of the  
20 labor law prior to the effective date of this act shall remain in full  
21 force and effect until such licenses and certificates expire.