



New York State ASSEMBLY

Sheldon Silver - Speaker

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

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2007-2008 Regular Sessions

I N S E N A T E

March 20, 2007

Introduced by Sen. MAZIARZ -- (at request of the Department of Labor) --
read twice and ordered printed, and when printed to be committed to
the Committee on Labor

AN ACT to amend the labor law, in relation to explosives; and to amend
the labor law and the general business law, in relation to misdemeanor
penalties

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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} NOR TO ANY OF THE FOLLOWING WHILE IN THE PERFORMANCE OF
15 THEIR OFFICIAL DUTIES: the armed forces of the United States, the
16 national guard, the state guard and duly constituted police and fire-
17 fighting 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
20 1974 and subdivision 11 as renumbered by chapter 1022 of the laws of
21 1970, is amended to read as follows:

22 S 451. Definitions. Whenever used in this article: 1. "Explosives"
23 means gunpowder, powders used for blasting, high explosives, blasting

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets

{ } is old law to be omitted.

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1 materials, detonating fuses, detonators and other detonating agents,
2 smokeless powder and any chemical compound or any mechanical mixture
3 containing any oxidizing and combustible units, or other ingredients in
4 such proportions, quantities, or packing that ignition by fire, fric-
5 tion, concussion, percussion or detonation of any part thereof may CAUSE
6 and is intended to cause an explosion, but shall not include gasoline,
7 kerosene, naphtha, turpentine, benzine, acetone, ethyl ether, benzol
8 {and all} OR quantities of black powder not exceeding five pounds for
9 use in firing of antique firearms or artifacts or replicas thereof.
10 Fixed ammunition and primers for small arms, {fire-crackers,} safety
11 fuses and matches shall not be deemed to be explosives when, {as may be
12 determined by the board in its rules} AS PROVIDED BY REGULATION, the
13 individual units contain any of the above-mentioned articles or
14 substances in such limited quantity, of such nature and so packed that
15 it is impossible to produce an explosion of such units to the injury of
16 life, limb or property.

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

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

26 4. "Building" means any building regularly occupied in whole or in
27 part as a habitation for human beings, and any church, school house,
28 railway station or other building or place where people are accustomed
29 to live, work or assemble, but does not mean or include any of the
30 buildings of a manufacturing plant where the business of manufacturing
31 explosives is carried on.

32 5. "Explosives factory" means any building or other structure in which
33 the manufacture of explosives or any part of the manufacture thereof is
34 carried on.

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

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

45 8. "Person" includes any natural person, partnership, association or
46 corporation.

47 9. "{Manufacturer} EXPLOSIVES DEALER MANUFACTURER" means any person
48 who is engaged in the {manufacture} BUYING, SELLING, MANUFACTURING or
49 {production of} PRODUCING OF ANY CLASS OF explosives.

50 10. {"Dealer" means any person engaged in the business of buying and
51 selling explosives.

52 11. A "farmer" is a person who occupies and cultivates land.} "LOW
53 EXPLOSIVES DEALER MANUFACTURER" MEANS ANY PERSON WHO IS ENGAGED IN THE
54 BUYING AND SELLING OR MANUFACTURING OF LOW EXPLOSIVES SUCH AS BLACK OR
55 SMOKELESS POWDER FOR USE IN ANTIQUE WEAPONS OR REPLICAS OR FOR OTHER
56 SPORTING PURPOSES.

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1 11. "PYROTECHNICS DEALER MANUFACTURER" MEANS ANY PERSON WHO IS ENGAGED
2 IN THE MANUFACTURING, BUYING AND/OR SELLING OF LOW EXPLOSIVES FOR THE
3 PURPOSE OF MANUFACTURING OR SELLING PYROTECHNICS FOR THE PUBLIC DISPLAY
4 OF FIREWORKS, THE DISPLAY OF WHICH IS REGULATED PURSUANT TO ARTICLE FOUR
5 HUNDRED FIVE OF THE PENAL LAW.

6 12. "EXPLOSIVES HANDLER LICENSE" MEANS A CLASS OF EXPLOSIVE LICENSE
7 PURSUANT TO WHICH THE LICENSEE IS ALLOWED UNSUPERVISED ACCESS TO OR
8 UNSUPERVISED CUSTODY OF EXPLOSIVES IN THE POSSESSION OF HIS/HER EMPLOYER
9 WHEN SUCH EMPLOYER HAS A VALID OWN AND POSSESS EXPLOSIVES LICENSE OR
10 EXPLOSIVES DEALER MANUFACTURER LICENSE ISSUED BY THE COMMISSIONER.

11 13. "OWN AND POSSESS EXPLOSIVES LICENSE" MEANS A CLASS OF EXPLOSIVE
12 LICENSE PURSUANT TO WHICH THE LICENSEE MAY TRANSPORT, POSSESS, AND
13 DESTROY ANY CLASS OF EXPLOSIVE IN ACCORDANCE WITH THIS ARTICLE. AN OWN
14 AND POSSESS EXPLOSIVES LICENSE DOES NOT PERMIT THE LICENSEE TO MANUFAC-
15 TURE, SELL, GIVE OR TRANSFER OWNERSHIP OF ANY CLASS OF EXPLOSIVE.

16 14. "OWN AND POSSESS LOW EXPLOSIVES LICENSE" MEANS A CLASS OF
17 EXPLOSIVE LICENSE PURSUANT TO WHICH THE LICENSEE MAY TRANSPORT, POSSESS,
18 AND DESTROY ANY LOW EXPLOSIVE IN ACCORDANCE WITH THIS ARTICLE. AN OWN
19 AND POSSESS LOW EXPLOSIVES LICENSE DOES NOT PERMIT THE LICENSEE TO MANU-
20 FACTURE, SELL, GIVE OR TRANSFER OWNERSHIP OF ANY LOW EXPLOSIVE.

21 15. "HIGH EXPLOSIVES" MEANS EXPLOSIVE MATERIAL THAT CAN BE DETONATED
22 WITH A BLASTING CAP WHEN UNCONFINED AS, FOR EXAMPLE, DYNAMITE.

23 16. "LOW EXPLOSIVES" MEANS EXPLOSIVE MATERIALS THAT CAN BE CAUSED TO
24 DEFLAGRATE WHEN CONFINED AS, FOR EXAMPLE, SMOKELESS OR BLACK POWDER.

25 17. "PYROTECHNICS" MEANS ANY COMBUSTIBLE OR EXPLOSIVE COMPOSITIONS OF
26 MANUFACTURED ARTICLES DESIGNED AND PREPARED FOR THE PURPOSE OF PRODUCING
27 AUDIBLE OR VISIBLE EFFECTS THAT ARE COMMONLY REFERRED TO AS FIREWORKS,
28 INCLUDING SIGNALING DEVICES SUCH AS FLARES AND FUSES.

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

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

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

38 S 453. Storage. No person shall store explosives except in a magazine
39 constructed {and}, located AND CERTIFIED in accordance with the
40 provisions of this article and the {rules of the board and unless a
41 certificate, which} REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.
42 THE MAGAZINE CERTIFICATE shall be attached to the magazine on the inside
43 {thereof, has been issued for} OF EACH such magazine. No person shall
44 store more than three hundred thousand pounds of explosives in any one
45 magazine at any time. EXPLOSIVES NOT STORED IN COMPLIANCE WITH THIS
46 SECTION SHALL BE DEEMED TO PRESENT A DANGER TO PUBLIC SAFETY AND, AS
47 SUCH, ARE SUBJECT TO SEIZURE AND DESTRUCTION PURSUANT TO SUBDIVISION
48 FIVE OF SECTION FOUR HUNDRED SIXTY OF THIS ARTICLE.

49 This section shall not apply to explosives while being legally blasted
50 or while legally in the custody of a common carrier awaiting shipment or
51 delivery to a consignee during the time permitted by federal law; nor to
52 the storage of such limited amount of sporting or smokeless powders as
53 may be permitted by the {rules of the board} REGULATIONS PROMULGATED
54 PURSUANT TO THIS ARTICLE.

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

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1 S 454. Construction of magazines. Unless otherwise prescribed by the
2 {board in its rules} REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE,
3 magazines in which explosives shall be lawfully kept or stored shall be

4 constructed of brick, concrete, iron or wood covered with iron, and
 5 shall have no openings except for ventilation and entrance. All
 6 EXPLOSIVE magazines, except those in mines and tunnels, shall be located
 7 above ground. All EXPLOSIVE magazines shall be kept clean and dry at all
 8 times.

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

11 S 455. Magazine precautions. 1. No {person} INDIVIDUAL shall unlock
 12 {or}, open the doors of, OR ACCESS THE CONTENTS OF, EXPLOSIVE magazines,
 13 {except} UNLESS A LICENSE HAS BEEN ISSUED THEREFOR TO THE INDIVIDUAL BY
 14 THE COMMISSIONER AS PROVIDED FOR IN THIS ARTICLE OR THE INDIVIDUAL IS
 15 UNDER THE DIRECT SUPERVISION OF A LICENSE HOLDER. NO EMPLOYER SHALL
 16 ALLOW ANY INDIVIDUAL ACCESS TO THE EMPLOYER`S EXPLOSIVE MAGAZINES OR
 17 EXPLOSIVES UNLESS A LICENSE HAS BEEN ISSUED THEREFOR TO THE INDIVIDUAL
 18 BY THE COMMISSIONER AS PROVIDED FOR IN THIS ARTICLE OR THE INDIVIDUAL IS
 19 UNDER THE DIRECT SUPERVISION OF A LICENSE HOLDER.

20 2. EXCEPTIONS. (A) IN THE CASE OF EMPLOYEES OF RETAIL ESTABLISHMENTS
 21 WHERE BLACK AND/OR SMOKELESS POWDER IS SOLD AND WHERE STORAGE IS LIMITED
 22 TO FIFTY POUND INDOOR STORAGE MAGAZINES AND AN ON-SITE EMPLOYEE, MANAGER
 23 OR OWNER HAS A VALID EXPLOSIVES DEALER MANUFACTURER LICENSE ISSUED BY
 24 THE COMMISSIONER, SUCH EMPLOYEES OF RETAIL ESTABLISHMENTS, WHILE
 25 PERFORMING THEIR ASSIGNED DUTIES FOR SUCH RETAIL ESTABLISHMENT, SHALL
 26 NOT BE REQUIRED TO HAVE A LICENSE. THE MATERIAL SHALL BE STORED IN A
 27 MAGAZINE CERTIFIED BY THE COMMISSIONER AND SUCH EXPLOSIVES SHALL BE
 28 CONSIDERED AT ALL TIMES TO BE IN THE POSSESSION OF THE EMPLOYER. THE
 29 LICENSEE SHALL BE RESPONSIBLE FOR TRAINING EMPLOYEES IN THE PROPER STOR-
 30 AGE AND HANDLING OF THE EXPLOSIVE MATERIAL AND SHALL BE RESPONSIBLE FOR
 31 ENSURING THAT EMPLOYEES COMPLY WITH THE PROVISIONS OF THIS ARTICLE.

32 (B) IN THE CASE OF EMPLOYEES OF AN EXPLOSIVE MANUFACTURER WHO WORK
 33 WITH EXPLOSIVE MATERIAL, WHILE PERFORMING THEIR ASSIGNED DUTIES WITHIN
 34 AND UPON THE GROUNDS OF A MANUFACTURING FACILITY UNDER THE SUPERVISION
 35 OF A PERSON POSSESSING A VALID EXPLOSIVE DEALER MANUFACTURER LICENSE
 36 ISSUED BY THE COMMISSIONER, SUCH EXPLOSIVE MATERIAL SHALL BE CONSIDERED
 37 TO BE IN THE POSSESSION OF THE EMPLOYER AND SUCH EMPLOYEES SHALL NOT BE
 38 REQUIRED TO POSSESS A LICENSE.

39 (C) EXPLOSIVE MAGAZINES SHALL ONLY BE OPENED TO ALLOW for the lawful
 40 storage or removal of explosives.

41 (D) No person shall have matches or fire of any kind in any magazine.
 42 No person shall store or keep blasting caps, detonating or fulminating
 43 caps, or detonators in a magazine in which any other type of explosive
 44 is stored or kept. No person shall open any package of explosives within
 45 fifty feet of any magazine, nor shall any explosives be kept in a maga-
 46 zine except in the original containers. No person shall discharge
 47 firearms within five hundred feet of a magazine or explosives factory,
 48 or at or against any such building or magazine. Any theft or loss of
 49 explosives from a storage magazine or otherwise, shall immediately be
 50 reported to the {industrial} commissioner and the state or local police
 51 or county sheriff.

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

54 S 456. Location of magazines. The quantity of explosives that may be
 55 stored in any explosives factory or magazine shall depend upon its
 56 distances from the nearest building, railroad or highway or other maga-

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1 zine. The distances that a quantity of explosives may be stored from the
 2 nearest magazine, building, railroad or highway, shall be as determined
 3 by the {rules of the board} REGULATIONS PROMULGATED PURSUANT TO THIS
 4 ARTICLE. All such distances may be reduced one-half when the magazine,
 5 building, railroad or highway to be protected is adequately screened
 6 from the explosives factory or magazine by an efficient barricade as
 7 defined in subdivision seven of section four hundred fifty-one OF THIS

8 ARTICLE.

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

11 S 457. RELOCATION OF MAGAZINES. 1. WHEN ANY MAGAZINE IS MOVED FROM THE
12 LOCATION FOR WHICH IT WAS CERTIFIED ACCORDING TO SECTION FOUR HUNDRED
13 FIFTY-EIGHT OF THIS ARTICLE, AND THE MAGAZINE IS OR IS INTENDED TO BE
14 USED FOR THE STORAGE OF EXPLOSIVES AND WILL BE IN THE NEW LOCATION FOR
15 MORE THAN TWENTY-FOUR HOURS, THE COMMISSIONER SHALL BE NOTIFIED AS TO
16 THE NEW LOCATION OF THE MAGAZINE. SUCH NOTIFICATION SHALL BE MADE NO
17 LATER THAN ONE BUSINESS DAY PRIOR TO THE MOVE. THE NOTIFICATION SHALL
18 CONTAIN ALL OF THE INFORMATION REQUIRED BY THE COMMISSIONER.

19 2. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY
20 WHERE THE RELOCATION HAS BEEN ORDERED BY POLICE, FIRE OR OTHER AUTHOR-
21 IZED EMERGENCY PERSONNEL, OR WHERE THE CONTINUED STORAGE IN THE CURRENT
22 LOCATION WOULD CONSTITUTE A THREAT TO LIFE OR PROPERTY. IN SUCH CASES
23 THE COMMISSIONER SHALL BE NOTIFIED AS SOON AS PRACTICABLE AFTER THE
24 RELOCATION BUT IN NO CASE MORE THAN TWO BUSINESS DAYS FOLLOWING SUCH
25 RELOCATION.

26 3. WHEN A MAGAZINE IS MOVED TO STORAGE, ABANDONED, SOLD OR REMOVED
27 FROM SERVICE, THE CERTIFICATE HOLDER SHALL NOTIFY THE COMMISSIONER WITH-
28 IN FIVE BUSINESS DAYS FROM THE DATE SUCH MAGAZINE WAS ABANDONED, MOVED
29 TO STORAGE, SOLD, OR REMOVED FROM SERVICE AND SHALL SURRENDER THE
30 CERTIFICATE TO THE COMMISSIONER.

31 S 9. Section 458 of the labor law, as added by chapter 809 of the laws
32 of 1949, subdivisions 1 and 2 as amended by chapter 61 of the laws of
33 1989, subdivision 3 as amended by section 10 of part A of chapter 57 of
34 the laws of 2004, subdivision 4 as amended by chapter 164 of the laws of
35 2003, subdivisions 5, 6, 7 and 9 as added and subdivisions 10 and 11 as
36 renumbered by chapter 1022 of the laws of 1970 and subdivision 8 as
37 added by chapter 150 of the laws of 1971, is amended to read as follows:

38 S 458. Licenses and certificates. 1. "OWN AND POSSESS EXPLOSIVES
39 LICENSE." No person shall purchase, own, possess, transport, DESTROY or
40 use explosives, EXCEPT FOR LOW EXPLOSIVES, unless a license therefor
41 shall have been issued as provided in this article. SUCH LICENSE SHALL
42 NOT PERMIT THE LICENSEE TO MANUFACTURE, SELL, GIVE OR TRANSFER OWNERSHIP
43 OF ANY CLASS OF EXPLOSIVE.

44 {Application for such a license shall be made to the commissioner on
45 forms provided and shall contain such information as the commissioner
46 may require. Where the commissioner finds that the applicant has
47 complied with the requirements of this article and the rules promulgated
48 hereunder, the commissioner shall issue a license or renewal thereof
49 which shall be valid for one year from the date of issuance. Such appli-
50 cation and each renewal thereof shall be accompanied by a fee of fifty
51 dollars non-refundable to be payable to the commissioner.}

52 2. "EXPLOSIVES DEALER MANUFACTURER LICENSE." No person shall {manufac-
53 ture, deal in, sell, give or dispose} BUY, SELL, MANUFACTURE OR PRODUCE
54 ANY CLASS of explosives, EXCEPT FOR PYROTECHNICS OR LOW EXPLOSIVES,
55 unless a license therefor shall have been issued to such person for that
56 purpose by the commissioner as provided in this article, nor shall any

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1 person sell, give or dispose of explosives to, or manufacture explosives
2 for any person who does not hold a license as provided by {subdivision
3 one of} this section.

4 {Application for such a license, which shall be renewed annually,
5 shall be made to the commissioner on forms provided and shall contain
6 such information as the commissioner may require. The commissioner,
7 after investigation of the application, shall issue a license or renewal
8 thereof, which shall be valid for one year from the date of issuance,
9 where the commissioner finds that the applicant has complied with the
10 requirements of this article and the rules promulgated hereunder. Each
11 application for such a license, or for its renewal, shall be accompanied

12 by a fee of one hundred dollars non-refundable to be payable to the
13 commissioner.}

14 3. "PYROTECHNICS DEALER MANUFACTURER LICENSE." NO PERSON SHALL MANU-
15 FACTURE, BUY AND/OR SELL FINISHED PYROTECHNICS OR THEIR EXPLOSIVE COMPO-
16 NENTS, UNLESS A LICENSE THEREFORE, OR AN EXPLOSIVES DEALER MANUFACTURE
17 LICENSE, HAS BEEN ISSUED FOR THAT PURPOSE BY THE COMMISSIONER AS
18 PROVIDED FOR IN THIS ARTICLE.

19 4. "LOW EXPLOSIVES DEALER MANUFACTURER LICENSE." NO PERSON SHALL BUY,
20 SELL OR MANUFACTURE LOW EXPLOSIVES SUCH AS BLACK OR SMOKELESS POWDER
21 UNLESS A LICENSE HAS BEEN ISSUED THEREFOR BY THE COMMISSIONER AS
22 PROVIDED FOR IN THIS ARTICLE.

23 5. "OWN AND POSSESS LOW EXPLOSIVES LICENSE." NO PERSON SHALL TRANS-
24 PORT, POSSESS OR DESTROY ANY LOW EXPLOSIVE UNLESS A LICENSE HAS BEEN
25 ISSUED THEREFOR BY THE COMMISSIONER AS PROVIDED FOR IN THIS ARTICLE.
26 SUCH LICENSE SHALL NOT PERMIT THE LICENSEE TO MANUFACTURE, SELL, GIVE OR
27 TRANSFER OWNERSHIP OF ANY LOW EXPLOSIVE.

28 6. "EXPLOSIVES HANDLER`S LICENSE." NO INDIVIDUAL SHALL HAVE UNSUPER-
29 VISED ACCESS TO OR UNSUPERVISED CUSTODY OF EXPLOSIVES ON BEHALF OF A
30 LICENSE HOLDER UNLESS HE OR SHE HAS BEEN ISSUED AN EXPLOSIVE HANDLERS
31 LICENSE BY THE COMMISSIONER AS PROVIDED FOR IN THIS ARTICLE. SUCH
32 LICENSE SHALL NOT PERMIT THE LICENSEE TO PURCHASE, OWN, POSSESS, AND/OR
33 USE EXPLOSIVES.

34 7. "APPLICATIONS." APPLICATION FOR ALL EXPLOSIVE LICENSES SHALL BE
35 MADE TO THE COMMISSIONER ON FORMS PROVIDED AND SHALL CONTAIN SUCH INFOR-
36 MATION AS THE COMMISSIONER MAY REQUIRE. WHERE THE COMMISSIONER FINDS
37 THAT THE APPLICANT HAS COMPLIED WITH THE REQUIREMENTS OF THIS ARTICLE,
38 THE RULES PROMULGATED HEREUNDER AND ALL OTHER APPLICABLE SECTIONS OF
39 THIS CHAPTER AND REGULATIONS PROMULGATED BY THE COMMISSIONER, THE
40 COMMISSIONER SHALL ISSUE A LICENSE OR RENEWAL THEREOF WHICH SHALL BE
41 VALID FOR ONE YEAR FROM THE DATE OF ISSUANCE. SUCH APPLICATION AND EACH
42 RENEWAL THEREOF SHALL BE ACCOMPANIED BY A NON-REFUNDABLE FEE TO BE PAYA-
43 BLE TO THE COMMISSIONER. THE LICENSE FEE SCHEDULE SHALL BE SUBJECT TO
44 THE DISCRETION OF THE COMMISSIONER AND NOT LESS THAN THE FOLLOWING
45 AMOUNTS:

- 46 (A) OWN AND POSSESS EXPLOSIVES LICENSE - ONE HUNDRED DOLLARS;
- 47 (B) EXPLOSIVES DEALER MANUFACTURER LICENSE - ONE THOUSAND DOLLARS;
- 48 (C) PYROTECHNICS DEALER MANUFACTURER LICENSE - ONE HUNDRED DOLLARS;
- 49 (D) LOW EXPLOSIVES DEALER MANUFACTURER LICENSE - FIFTY DOLLARS;
- 50 (E) OWN AND POSSESS LOW EXPLOSIVES LICENSE - FIFTY DOLLARS;
- 51 (F) EXPLOSIVE HANDLER`S LICENSE - FIFTY DOLLARS;

52 {3.} 8. "EXPLOSIVE MAGAZINE CERTIFICATE." No person shall keep or
53 store explosives unless a certificate therefor shall have been issued by
54 the commissioner as herein provided, but this requirement shall not
55 apply to the storage at any one time by farmers of two hundred pounds or
56 less of blasting explosives for agricultural purposes.

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1 Application for such a certificate shall be made to the commissioner
2 on forms provided and shall contain such information as the commissioner
3 may require. The commissioner, where it is found that the applicant has
4 complied with the requirements of this article, {and}, the rules promul-
5 gated hereunder and all other applicable sections of this chapter and
6 regulations promulgated by the commissioner, shall issue a certificate
7 or a renewal thereof, which shall be valid for one year from the date of
8 issuance. In addition to any other causes for revocation of a certifi-
9 cate hereinafter provided, the commissioner may revoke or modify such
10 certificate because of any change in the conditions under which it was
11 granted, or for failure to pay the annual fee hereinafter provided. The
12 owner or user of a magazine shall annually pay to the commissioner in
13 advance a fee, subject to the discretion of the commissioner and not
14 less than fifty dollars, which shall be proportioned according to the
15 quantity and type of explosives authorized by the certificate to be

16 stored in the magazine.

17 {4.} 9. An application for a license or a certificate pursuant to
18 {subdivision one, two or three of} this section {shall be sworn to under
19 oath and} shall contain information sufficient to identify the appli-
20 cant, and the purpose for which and the place where the explosives are
21 to be used, manufactured, dealt in, given, disposed of or stored, as the
22 case may be, and to demonstrate the eligibility of such applicant for
23 the license or certificate requested. The commissioner may require that
24 the application include, among other things, photographs, fingerprints
25 and personal references. Such fingerprints shall be submitted to the
26 division of criminal justice services for a state criminal history
27 record check, as defined in subdivision one of section three thousand
28 thirty-five of the education law, and may be submitted to the federal
29 bureau of investigation for a national criminal history record check.
30 AN APPLICATION FOR A LICENSE, CERTIFICATE OR REGISTRATION REQUIRED TO BE
31 FILED WITH THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE SIGNED BY
32 THE APPLICANT AND AFFIRMED BY HIM OR HER AS TRUE UNDER PENALTIES OF
33 PERJURY.

34 {5.} 10. Before a license or certificate is issued, the commissioner
35 shall investigate the eligibility of the applicant. The commissioner
36 shall have the authority to request and receive from any department,
37 division, board, bureau, commission or agency of the state or local
38 government thereof such assistance and information as will enable {him}
39 THE COMMISSIONER TO properly and effectively to carry out {his} THE
40 powers and duties ASSIGNED under this article.

41 {6.} 11. (a) The investigation prescribed in subdivision {five} TEN of
42 this section may include, but is not limited to the following:

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

46 (2) an examination as to the applicant's knowledge and ability with
47 respect to basic safety precautions in the possession, handling, stor-
48 age, and transportation of explosives, AND THAT CERTIFIED STORAGE FACIL-
49 ITIES ARE PROVIDED FOR, and for such purpose the commissioner may
50 prescribe tests which the applicant shall be required to pass as a
51 prerequisite to the issuance of the license or certificate. The test
52 may be administered by any person or agency designated by the commis-
53 sioner.

54 (b) The investigation prescribed in subdivision {five} TEN of this
55 section shall include a report from the New York state identification
56 and intelligence system, and such other identification services of the

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1 state or federal government as may be necessary or appropriate for this
2 purpose. STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS SHALL BE
3 PERFORMED CONSISTENT WITH THE PROCEDURE ESTABLISHED IN SUBDIVISION NINE
4 OF THIS SECTION.

5 {7.} The commissioner may waive any of the procedures set forth in
6 subdivision six (a) of this section with respect to any applicant who
7 has a license or certificate which was issued pursuant to this section
8 at anytime prior to March first, nineteen hundred seventy, and which was
9 legally valid and effective on such date. The commissioner also may
10 waive fingerprinting of an applicant who has a valid license for a
11 pistol or revolver in accordance with section 400.00 of the penal law.

12 8.) 12. Exceptions. Except for the provisions of subdivision {eleven,}
13 FIFTEEN, this section shall not apply to {smokeless powder} INDIVIDUALS
14 WHO ARE STORING LIMITED AMOUNTS OF SMOKELESS POWDER FOR PERSONAL SPORT-
15 ING OR RECREATIONAL PURPOSES, AS DETERMINED BY THE COMMISSIONER.

16 {9.} 13. Within thirty days after the issuance of a license or certifi-
17 cate under this section, the commissioner shall notify the chief execu-
18 tive officer of the municipality where the licensee resides or where the
19 certificate holder has his OR HER place of business of the issuance of

20 such license or certificate, and provide such officer with such other
21 information pertaining thereto {as the board may from time to time
22 prescribe} AS THE COMMISSIONER MAY PRESCRIBE. FURTHERMORE, THE COMMIS-
23 SIONER SHALL DIRECT THE CHIEF ELECTED OFFICIAL OF EACH SUCH MUNICIPALITY
24 TO PROVIDE SUCH NOTIFICATION TO THE FIRE, POLICE AND EMERGENCY MEDICAL
25 SERVICES OF SUCH MUNICIPALITY.

26 {10.} 14. Agencies of the United States, the state and its political
27 and civil subdivisions which are subject to the requirements of this
28 article and which, in the exercise of their functions, are required to
29 purchase, own, store, use or transport explosives shall not be liable
30 for the payment of any fee required by this section.

31 {11.} 15. No explosives shall be sold, given or delivered to any
32 {person} INDIVIDUAL under eighteen years of age, whether such {person}
33 INDIVIDUAL is acting for himself, HERSELF or for another person, nor
34 shall any such {person} INDIVIDUAL be eligible to obtain any license or
35 certificate required under this section.

36 S 10. Section 459 of the labor law, as added by chapter 809 of the
37 laws of 1949, subdivision 1 as amended by chapter 1022 of the laws of
38 1970, is amended to read as follows:

39 S 459. Denial or revocation of license or certificate. 1. DENIAL. A
40 license or certificate, its renewal or continuation may be denied where
41 the commissioner has probable reason to believe, based on knowledge or
42 reliable information, or finds, after {due} investigation, that the
43 applicant or any officer, servant, agent or employee of the applicant is
44 not sufficiently reliable and experienced to be authorized to own,
45 possess, store, transport, use, manufacture, deal in, sell, purchase or
46 otherwise handle, as the case may be, explosives, lacks suitable facili-
47 ties therefor, has been convicted of a {crime for which he has been
48 sentenced to serve one or more years in prison} FELONY, is disloyal or
49 hostile to the United States or has been confined as a patient or inmate
50 in a public or private institution for the treatment of mental diseases.
51 Whenever the commissioner denies an application for a license or certifi-
52 cate or the renewal thereof, {he shall,} within five days of such
53 denial, {give} notice thereof and the reasons therefor SHALL BE PROVIDED
54 in writing to the applicant {personally or by mail to the address given
55 in the application}. Such denial may be appealed to the commissioner who

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1 shall follow the procedure provided by subdivision three of this
2 section.

3 2. REVOCATION. The commissioner may revoke any certificate or license
4 on any ground or grounds authorized in subdivision one of this section
5 for the denial of a license or certificate, or for a violation of the
6 terms of such license or certificate, or for a violation of any
7 provision of this article or {of the rules of the board} REGULATIONS
8 PROMULGATED HEREUNDER, or for non-compliance with any order issued by
9 the commissioner within the time specified in such order.

10 {Where the} THE commissioner MAY, WHERE HE OR SHE has probable reason
11 to believe, based on knowledge or reliable information, that a licensee
12 or certificate holder is disloyal to the United States, {he may} summar-
13 ily revoke the license or certificate or may{, in his discretion,} give
14 such licensee or certificate holder notice and opportunity to be heard
15 as provided in subdivision three of this section. Revocation of a
16 license or certificate for any other ground may be ordered only after
17 giving written notice and an opportunity to be heard to the holder ther-
18 eof. Such notice {may be given to the holder personally or by mail and}
19 shall specify the ground or grounds on which it is proposed to revoke
20 the license or certificate. When a license or certificate is revoked,
21 the commissioner may direct the SEIZURE AND/OR disposition of explosives
22 held by such licensee or certificate holder. Upon revocation of a
23 license or certificate by the commissioner, the holder thereof shall
24 surrender {his} THE license or certificate to the commissioner at once.

25 3. Hearings. Unless, within fifteen days from the date of notice, the
26 applicant for a license or certificate or the recipient of a notice
27 stating that the commissioner proposes to revoke a license or certifi-
28 cate held by him OR HER, shall file a written answer with the commis-
29 sioner denying the ground or grounds on which a license or certificate
30 has been denied or ground or grounds on which revocation of a license or
31 certificate is sought, and shall request a hearing, the commissioner may
32 make a final determination respecting the application for a license or
33 certificate, or may revoke a license or certificate forthwith. If, with-
34 in such fifteen days, the applicant, licensee or certificate holder
35 files such answer and request for hearing, the commissioner shall sched-
36 ule a hearing. The notice of hearing shall state the time, place, and
37 subject of the hearing, and shall be mailed to the applicant, certifi-
38 cate holder or licensee at his OR HER last known address at least five
39 days before the date of hearing. Hearings shall be held by the commis-
40 sioner or his OR HER representative, and the applicant, certificate
41 holder or licensee may appear in person or may be represented by an
42 agent. After such hearing, the commissioner shall render {his} A deci-
43 sion in writing.

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

46 S 460. Seizure, impounding, destruction or disposition of explosives.
47 1. The commissioner is hereby authorized and empowered, without applica-
48 tion to any court, to seize and impound any explosives found within this
49 state, except in cities having a population of more than one million
50 inhabitants, which are in apparent violation of any of the provisions of
51 this article, {rules of the board} REGULATIONS PROMULGATED HEREUNDER or
52 laws or regulations of the federal government, or which have been aban-
53 doned or lost, or where the commissioner has reason to believe that
54 public safety is endangered by such explosives. Such explosives may be
55 removed and transported by the commissioner and stored in magazines

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1 provided or obtained for that purpose by the state or by the commission-
2 er.

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

8 3. Where no hearing is demanded within the time herein prescribed or
9 where, after hearing, the commissioner finds that there has been a
10 violation of the provisions of this article, {rules of the board} REGU-
11 LATIONS PROMULGATED HEREUNDER or laws or regulations of the federal
12 government, or that public safety is endangered, {he} THE COMMISSIONER
13 may destroy or order the destruction of such explosives WITHOUT PRIOR
14 HEARING, or direct such other disposition of the explosives {as he deems
15 proper}. If the commissioner finds there has been no such violation and
16 that public safety has not been endangered, {he shall return} such
17 explosives SHALL BE RETURNED to the owner thereof.

18 4. Where such explosives have been abandoned or lost, and no claimant
19 has appeared within thirty days, demanded the return of the explosives
20 and proved, to the satisfaction of the commissioner, {his} THE CLAIM-
21 ANT`S title to and right of possession of such explosives, the commis-
22 sioner may destroy or direct the destruction thereof, or direct such
23 other disposition thereof as {he deems} IS DEEMED proper.

24 5. Any provision herein to the contrary notwithstanding, where, in the
25 opinion of the commissioner, the manufacture, condition, packing or
26 location of explosives is such that its continued existence or transpor-
27 tation is a danger to public safety, {he} THE COMMISSIONER may, without
28 hearing and without liability therefor to the owner thereof, seize and
29 destroy or direct the seizure and destruction of such explosives.

30 S 12. Section 461 of the labor law, as added by chapter 809 of the
31 laws of 1949, subdivision 1 as amended by chapter 150 of the laws of
32 1971 and subdivision 3 as amended by chapter 1022 of the laws of 1970,
33 is amended to read as follows:

34 S 461. Record and notice of sales, deliveries or gifts. 1. Every
35 person selling, delivering {or}, giving away {an explosive} OR OTHERWISE
36 TRANSFERRING OR DISPOSING OF EXPLOSIVES shall keep at his OR HER princi-
37 pal office or place of business within the state, a record of the trans-
38 action, including the name or type and quantity of the explosive, such
39 identification of the explosive as may be required by {rules of the
40 board} THE REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, the date of
41 each sale, delivery {or}, gift, TRANSFER OR DISPOSITION, the name and
42 business address of the purchaser, donee, RECIPIENT or person to whom
43 delivered, the number of the license {to own or possess explosives, if
44 such license is} required by section four hundred fifty-eight of this
45 article, and the name and address of the person taking the explosives
46 away. A report of all such transactions, when requested {by him}, shall
47 be submitted to the commissioner. Such record shall be open to
48 inspection by the commissioner or by federal, state and local enforce-
49 ment officers at all times. No person shall have in his OR HER
50 possession any explosives unless he OR SHE has a bill of sale or other
51 evidence of title thereto.

52 2. Any provision in this article to the contrary notwithstanding, no
53 person in a city having more than one million inhabitants shall ship or
54 transport or cause to be shipped or transported explosives from such
55 city to any other place within the state, unless such person shall, at
56 least twenty-four hours prior to such shipment, transmit to the commis-

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1 sioner a statement in writing giving the weight, name or brand and type
2 of explosives, the name and address of the person to whom such
3 explosives are to be sold, shipped, transported or delivered and the
4 date thereof. UPON RECEIPT OF SUCH STATEMENT, THE COMMISSIONER SHALL
5 PROVIDE WRITTEN NOTICE TO THE CITY HAVING MORE THAN ONE MILLION INHABIT-
6 ANTS OF SUCH SHIPMENT OR TRANSPORTATION OF EXPLOSIVES. No person shall
7 make any such shipment except to a holder of a license issued hereunder.

8 3. No person within the state shall purchase, receive or accept deliv-
9 ery of explosives from any place outside the state, and no person shall
10 bring explosives into the state from any place outside the state,
11 unless, {in addition to holding a license issued hereunder, such person
12 shall, not more than twenty-four hours thereafter, transmit to the
13 commissioner by mail a written statement giving} HE OR SHE IS IN
14 POSSESSION OF A VALID LICENSE ISSUED BY THE COMMISSIONER. THE LICENSEE
15 IN RECEIVING THE EXPLOSIVES SHALL MAINTAIN A RECORD INCLUDING THE
16 weight, name or brand and type of the explosives, the name and address
17 of the shipper and the date of shipment, FOR A PERIOD OF THREE YEARS
18 FROM THE DATE OF RECEIPT OR TWO YEARS FROM THE DATE OF FINAL DISPOSITION
19 OF THE EXPLOSIVES WHICHEVER OCCURS LAST.

20 S 13. Section 462 of the labor law, as amended by chapter 190 of the
21 laws of 1989, is amended to read as follows:

22 S 462. Rules and regulations. The commissioner may make rules supple-
23 mental to this article as {he shall deem} ARE DEEMED necessary or desir-
24 able to assure the public safety as well as to provide reasonable and
25 adequate protection of the lives, health and safety of persons employed
26 in the manufacture, storage, handling and use of explosives. The commis-
27 sioner may prescribe such regulations as {he may deem} ARE DEEMED neces-
28 sary and proper for the administration of this article.

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

31 S 463. Review. All questions of fact arising under this article shall
32 be decided by the commissioner and there shall be no appeal from {his}
33 SUCH decision on any such question of fact{, but there shall be a right

34 of review by the board of standards and appeals of any decision of the
35 commissioner denying an application for a license or certificate, or
36 denying the renewal thereof, or revoking a license or certificate, as
37 provided in section one hundred ten, article three of the labor law}.
38 UPON THE ENTRY OF AN ORDER ISSUED UNDER THIS ARTICLE, ANY PARTY
39 AGGRIEVED THEREBY MAY COMMENCE A PROCEEDING FOR REVIEW THEREOF PURSUANT
40 TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES WITHIN
41 THIRTY DAYS FROM THE NOTICE OF THE FILING OF THE SAID ORDER IN THE
42 OFFICE OF THE COMMISSIONER. SAID PROCEEDING SHALL BE COMMENCED DIRECTLY
43 IN THE APPELLATE DIVISION OF THE SUPREME COURT.

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

46 S 464. {Penalties} COSTS AND PENALTIES. 1. COSTS. IF THE COMMISSIONER
47 DIRECTS THE STORAGE, DESTRUCTION OR OTHER DISPOSITION OF EXPLOSIVES
48 PURSUANT TO THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY-NINE OR FOUR
49 HUNDRED SIXTY OF THIS ARTICLE, THE COMMISSIONER MAY ISSUE AN ORDER WHICH
50 SHALL SET FORTH THE COSTS OF SUCH STORAGE, TRANSPORTATION, HANDLING,
51 DESTRUCTION OR OTHER DISPOSITION AND ASSESS SUCH COSTS AGAINST THE OWNER
52 OF SUCH EXPLOSIVES, WHICH SHALL BE IN ADDITION TO ANY OTHER PENALTIES
53 IMPOSED.

54 2. CIVIL PENALTIES. (A) IF THE COMMISSIONER DETERMINES THAT ANY PERSON
55 HAS VIOLATED ANY PROVISION OF THIS ARTICLE, SECTION FOUR HUNDRED EIGHT-
56 Y-TWO OF THE GENERAL BUSINESS LAW, OR ANY RULE OR REGULATION PROMULGATED

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1 THEREUNDER, THE COMMISSIONER MAY ISSUE AN ORDER WHICH SHALL DESCRIBE THE
2 NATURE OF THE VIOLATION AND ASSESS SUCH PERSON A CIVIL PENALTY OF UP TO
3 TEN THOUSAND DOLLARS PER VIOLATION PER DAY UNTIL THE VIOLATION IS
4 CORRECTED. THE PENALTY AUTHORIZED PURSUANT TO THIS PARAGRAPH SHALL BE
5 PAID TO THE COMMISSIONER FOR DEPOSIT IN THE TREASURY OF THE STATE. IN
6 ASSESSING THE AMOUNT OF THE PENALTY, THE COMMISSIONER SHALL GIVE DUE
7 CONSIDERATION TO THE SIZE OF THE PERSON'S BUSINESS, THE GOOD FAITH
8 EFFORT OF THE PERSON, THE GRAVITY OF THE VIOLATION, AND THE HISTORY OF
9 PREVIOUS VIOLATIONS.

10 (B) ANY PARTY AGGRIEVED BY AN ORDER ISSUED UNDER THIS SUBDIVISION MAY
11 COMMENCE A PROCEEDING FOR REVIEW THEREOF PURSUANT TO ARTICLE
12 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES WITHIN THIRTY DAYS
13 FROM THE NOTICE OF THE FILING OF THE SAID ORDER IN THE OFFICE OF THE
14 COMMISSIONER. SAID PROCEEDING SHALL BE COMMENCED DIRECTLY IN THE APPEL-
15 LATE DIVISION OF THE SUPREME COURT.

16 (C) PROVIDED THAT NO PROCEEDING FOR JUDICIAL REVIEW AS PROVIDED FOR IN
17 THIS SECTION SHALL THEN BE PENDING AND THE TIME FOR INITIATION OF SUCH
18 PROCEEDING SHALL HAVE EXPIRED, THE COMMISSIONER MAY FILE WITH THE COUNTY
19 CLERK OF THE COUNTY WHERE THE PERSON RESIDES OR HAS A PLACE OF BUSINESS,
20 THE ORDER OF THE COMMISSIONER, CONTAINING THE AMOUNT OF THE CIVIL PENAL-
21 TY. THE FILING OF SUCH ORDER OR DECISION SHALL HAVE THE FULL FORCE AND
22 EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF SUCH CLERK, THE
23 ORDER OR DECISION MAY BE ENFORCED BY AND IN THE NAME OF THE COMMISSIONER
24 IN THE SAME MANNER, AND WITH LIKE EFFECT, AS THAT PRESCRIBED BY THE
25 CIVIL PRACTICE LAW AND RULES FOR THE ENFORCEMENT OF A MONEY JUDGMENT.

26 (D) A CIVIL PENALTY PROVIDED FOR IN THIS SUBDIVISION SHALL BE IN ADDI-
27 TION TO AND MAY BE IMPOSED CONCURRENTLY WITH ANY OTHER PENALTY OR REMEDY
28 PROVIDED FOR IN THIS ARTICLE.

29 3. CRIMINAL PENALTIES. Any person violating any provision of this
30 article, or any rule or regulation made hereunder, shall be guilty of a
31 class E felony; provided, however, that any person who possesses an
32 explosive without being duly licensed or otherwise authorized to do so
33 under the provisions of this article shall be guilty of a class D felo-
34 ny. Whenever, as a result of a plea bargaining agreement the charge is
35 reduced to a lesser offense, such offense may, in addition to any term
36 of imprisonment prescribed by such offense, be punishable by a fine not
37 to exceed twenty-five hundred dollars.

38 S 16. Section 213 of the labor law, as amended by chapter 729 of the
39 laws of 1980, is amended to read as follows:

40 S 213. Violations of provisions of labor law; the rules, regulations
41 or orders of the {industrial} commissioner and the industrial board of
42 appeals. Any person who violates or does not comply with any provision
43 of the labor law, any rule, regulation or lawful order of the {indus-
44 trial} commissioner or the industrial board of appeals, and the officers
45 and agents of any corporation who knowingly permit the corporation to
46 violate such provisions, are guilty of a misdemeanor and upon conviction
47 shall be punished, except as in this chapter or in the penal law other-
48 wise provided, for a first offense by a fine of not more than one
49 {hundred} THOUSAND dollars, provided, however, that if the first offense
50 is a violation of a rule or provision for the protection of the safety
51 or health of employees or persons lawfully frequenting a place to which
52 this chapter applies, the punishment shall be a fine of not more than
53 one {hundred} THOUSAND dollars or by imprisonment for not more than
54 {fifteen days} ONE YEAR or by both such fine and imprisonment; for a
55 second offense by a fine of not less than one {hundred} THOUSAND nor
56 more than {five hundred} THREE THOUSAND dollars, or by imprisonment for

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1 not more than {thirty days} ONE YEAR or by both such fine and imprison-
2 ment; for a subsequent offense by a fine of not less than three
3 {hundred} THOUSAND dollars, or by imprisonment for not more than {sixty
4 days} ONE YEAR, or by both such fine and imprisonment. This section
5 shall not apply to any person covered by section twenty-seven-a of this
6 chapter.

7 S 17. Section 480 of the general business law, as added by chapter 754
8 of the laws of 1975, is amended to read as follows:

9 S 480. Legislative findings. The legislature hereby finds that the use
10 of lasers and radioactive materials, the operation of cranes {and}, the
11 detonation of explosives, AND THE PREPARATION AND FIRING OF PYROTECHNICS
12 involve such elements of potential danger to the lives, health and safe-
13 ty of the citizens of this state and to their property that special
14 regulations are necessary to insure that only persons of proper ability
15 and experience shall engage in such uses and operations.

16 The legislature hereby declares that this article shall be deemed an
17 exercise of the police power of this state for the protection of the
18 lives, health and safety of citizens in this state and of their proper-
19 ty.

20 S 18. Section 481 of the general business law, as added by chapter
21 754 of the laws of 1975, subdivision 3 as amended by chapter 569 of the
22 laws of 1982 and subdivision 5 as amended by section 1 of part B of
23 chapter 58 of the laws of 2006, is amended to read as follows:

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

25 1. "Laser" means light amplification by simulated emission of radi-
26 ation.

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

30 3. "Crane" includes but is not limited to cranes and equipment of the
31 following types: a mobile, carrier-mounted, power-operated hoisting
32 machine utilizing a power-operated boom which moves laterally by rota-
33 tion of the machine on the carrier, tower cranes, hydraulic cranes and
34 power-operated derricks; provided, however, that "crane" shall not
35 include public utility company line trucks used by a public utility
36 company in the construction and maintenance of its generation, trans-
37 mission and distribution facilities.

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

40 5. "PYROTECHNICIAN" MEANS A PERSON WHO PERFORMS THE PREPARATION FOR
41 AND THE FIRING OF PYROTECHNICS, AS DEFINED IN ARTICLE SIXTEEN OF THE

42 LABOR LAW.

43 6. "Commissioner" means the commissioner of labor of the state of New
44 York, except that any reference to the commissioner with respect to
45 radioactive material, as defined in this article, or radiation equip-
46 ment, as defined in this article, shall be a reference to the commis-
47 sioner of health of the state of New York.

48 S 19. Section 482 of the general business law, as amended by section 2
49 of part B of chapter 58 of the laws of 2006, is amended to read as
50 follows:

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

55 2. No person shall possess or use any radioactive material without a
56 valid license issued by the commissioner of health. Every installation

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1 and mobile source consisting of radiation equipment shall be registered
2 with the commissioner of health.

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

7 S 20. Subdivision 2 of section 483 of the general business law, as
8 added by chapter 754 of the laws of 1975, is amended to read as follows:

9 2. Such regulations may provide for examinations, categories of
10 certificates, licenses, or registrations, age and experience require-
11 ments, payment of fees, and may also provide for such limitations and
12 exemptions as the commissioner finds necessary and proper. In the case
13 of blasters AND PYROTECHNICIANS, such regulations may require finger-
14 printing, and in the case of users of radioactive material, such regu-
15 lations may require the posting of a bond or other security.

16 S 21. Section 484 of the general business law, as added by chapter 754
17 of the laws of 1975, subdivision 1 as amended by section 4 of part B of
18 chapter 58 of the laws of 2006 and subdivision 2 as amended and subdivi-
19 sion 3 as added by chapter 569 of the laws of 1982, is amended to read
20 as follows:

21 S 484. Enforcement. 1. a. For the purpose of administering and enforc-
22 ing the provisions of this article with respect to lasers, cranes and
23 blasters, the commissioner of labor shall have and may use all of the
24 powers conferred upon him or her by the labor law, in addition to the
25 powers conferred herein.

26 b. For the purpose of administering and enforcing the provisions of
27 this article with respect to radioactive material and radiation equip-
28 ment the commissioner of health shall have and may use all of the powers
29 conferred upon him or her by the public health law, in addition to the
30 powers conferred in this article.

31 2. {A violation of} ANY PERSON WHO VIOLATES any provision of this
32 article or of any rule or regulation of the commissioner promulgated
33 hereunder or of any rule or regulation promulgated pursuant to paragraph
34 b of subdivision two of section four hundred eighty-five of this article
35 shall be GUILTY OF a misdemeanor, AND UPON CONVICTION SHALL BE PUNISHED,
36 BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS; FOR A SECOND OFFENSE BY
37 A FINE OF NOT LESS THAN ONE THOUSAND NOR MORE THAN THREE THOUSAND
38 DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY BOTH SUCH
39 FINE AND IMPRISONMENT; FOR A SUBSEQUENT OFFENSE BY A FINE OF NOT LESS
40 THAN THREE THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE
41 YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

42 3. Where the employer, contractor or agent thereof permitting a
43 violation of any provision of this article or of any rule or regulation
44 of the commissioner promulgated hereunder or of any rule or regulation
45 promulgated pursuant to paragraph b of subdivision two of section four

46 hundred eighty-five of this article shall be a corporation, then in
47 addition to the corporation, the officer or agent of such corporation
48 who knowingly permits the corporation to violate such provisions is
49 guilty of a misdemeanor; and upon conviction thereof shall be punished
50 for a first offense by a fine of not more than one {hundred} THOUSAND
51 dollars; for a second offense by a fine of not less than one {hundred}
52 THOUSAND nor more than {five hundred} THREE THOUSAND dollars, or by
53 imprisonment for not more than {thirty days} ONE YEAR or by both such
54 fine and imprisonment; for a subsequent offense by a fine of not less
55 than three {hundred} THOUSAND dollars or by imprisonment for not more
56 than {sixty days} ONE YEAR, or by both such fine and imprisonment.

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

2 1. sections one, two, three, four, five, six, seven, eight, nine, ten,
3 eleven, twelve, thirteen, fourteen and fifteen of this act shall take
4 effect on the one hundred eightieth day after it shall have become a
5 law; and

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

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