

S4816A SPONSOR'S MEMO (2006)

STATUS:

S4816-A WINNER

Labor Law

TITLE....Relates to explosives

04/18/05 REFERRED TO LABOR

05/18/05 AMEND AND RECOMMIT TO LABOR

05/18/05 PRINT NUMBER 4816A

01/04/06 REFERRED TO LABOR

SUMMARY:

WINNER

Amd Lab L, generally

Relates to explosives; establishes that a license to own and possess explosives shall not permit the licensee to manufacture, sell, give or transfer ownership of any class of explosive; defines pyrotechnics dealer manufacturer, low explosives dealer manufacturer; establishes regulations to own and possess low explosives and explosives handlers licenses and establishes applications and fees; establishes civil penalties related to explosives.

CRIMINAL SANCTION IMPACT.

SPONSORS MEMO:

NEW YORK STATE SENATE

INTRODUCER'S MEMORANDUM IN SUPPORT

submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S4816A

SPONSOR: WINNER

TITLE OF BILL: An act to amend the labor law, in relation to explosives

PURPOSE: To amend Article 16 of the Labor Law with regard to the ownership, manufacture, possession, storage, use, transportation, purchase, sale or gift of explosives.

SUMMARY OF PROVISIONS: This bill would amend various sections of Article 16 of the Labor Law as follows:

Amends Section 450 to permit members of duly constituted police and firefighters to take possession of explosives without a license while in the performance of their official duties in order to remove the explosives from an unsafe location.

Amends Section 450 to exempt persons holding current federal pyrotechnics or explosives license or permit issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Amends Section 451 to add definitions for explosives dealer manufacturer; low explosives dealer manufacturer; explosives handler license; own and possess explosives license; own and possess low explosives license; high explosives; low explosives; and pyrotechnics. Defines display fireworks, public display of fireworks, and private display of fireworks.

Amends Section 453 to provide that explosives that are not stored in a magazine will be deemed to present an imminent hazard and are subject to seizure and destruction under Section 460.5. Amends Section 453 to exempt persons and businesses holding current federal pyrotechnics or explosives license or permit issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives, and such materials are stored in an appropriate magazine as specified, approved and inspected by the permitting authority. Harmonizes state magazine requirements with federal safety and security requirements.

Amends Section 455 to provide that no individual shall access the contents of a magazine unless they have a license or are under the direct supervision of a license holder. It provides for two exceptions employees of retail establishments where black and/or smokeless powder is sold will not be required to have a license where a responsible employee, manager or owner has a valid license. In addition, employees of an explosive manufacturer, while on the grounds of activities in this area. Prior to implementation of the Safe Explosives Act, a federal permit to purchase explosive materials was necessary if a person wished to transport, ship, or receive explosives in interstate commerce. A permit, however, was not necessary for persons acquiring or using

explosives within their own State of residence. The new federal legislation, which took effect on May 24, 2003, now requires that any person who wishes to transport, ship, cause to be transported, or receive explosive materials in either interstate or intrastate commerce must first obtain a federal permit issued by ATF.

The new federal legislation also requires all applicants for explosives licenses or permits, and their employees, if any, submit photographs and fingerprints of responsible persons to ATF for the purpose of performing background checks. Additionally a person receiving explosive material in interstate or intrastate commerce will have to undergo a background check conducted by ATF.

Under the new federal regulations many of the existing State of New York licensing provisions have become duplicative of existing federal requirements. State licensing can be a significant burden on pyrotechnic display businesses and professional display subcontractors operating in the State. Elimination of duplicative State pyrotechnic licensing removes this burden from businesses operating in New York State, in turn promoting business growth and employment. Federal explosives licensing now fully encompasses licensee qualification and storage safety issues and the deletion of State pyrotechnic regulation will have no appreciable impact on industry or individuals' safety.

The State DOL licensing scheme is also deficient with regard to low explosive use, such as black powder. Under the current state licensing structure, anyone who has a state Own and Possess license can purchase any type of explosives that they wish. For example, an individual can represent himself to be a gun dealer who wishes to sell black powder in his shop. Once that individual has a license he is free to buy and sell dynamite or any other type of high or low explosive desired. This change would restrict the gunshop owner to only purchase low explosives. By providing for differing classes of license, persons will be able to engage in the businesses they have historically operated, while recognizing that there is a difference between low and high explosives. In addition, by requiring that anyone that handles or transports explosives for their employer to have a license, the department will be required to perform a background check and be assured that the individuals who are handling or transporting such material do not have a criminal background.

LEGISLATIVE HISTORY: New bill.

FISCAL IMPLICATIONS: There may be some increase in fees collected due to changes in the Section 458 fee structure. The significant costs associated with duplicating federal oversight for low explosives users will be eliminated.

EFFECTIVE DATE: This act shall take effect on the one hundred eightieth day after it shall have become a law, however, all licenses and certificates issued pursuant to article 16 of this chapter prior to the effective date of this act shall remain in full force until such licenses and certificates expire.