

ASSEMBLY, No. 3943

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 25, 2007

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Salem, Cumberland and Gloucester)
Assemblyman FREDERICK SCALERA
District 36 (Bergen, Essex and Passaic)

Co-Sponsored by:

Assemblyman P. Barnes, III

SYNOPSIS

Increases fees and penalties under the "Explosives Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2007)

A3943 BURZICHELLI, SCALERA

2

1 AN ACT increasing fees and penalties with respect to the handling
2 of explosives and amending P.L.1960, c.55.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1960, c.55 (C.21:1A-134) is amended to read
8 as follows:

9 7. Upon receipt of an application for a permit to manufacture,
10 store, sell, transport or use explosives, and before the permit is
11 issued, the commissioner shall make or cause to be made an
12 investigation for the purpose of ascertaining if all applicable
13 requirements of this act have been met. The commissioner shall not
14 issue a permit to manufacture, sell, store, transport or use
15 explosives unless all the requirements of this act have been met.
16 All permits issued in accordance with the provisions of this act shall
17 be subject to any amendments hereafter made to this act.

18 A. An applicant for a permit shall, at his own expense, furnish
19 whatever pertinent information the commissioner may require in
20 addition to that specified herein. Application forms shall be
21 furnished by the Department of Labor and Workforce Development.

22 B. An applicant for a permit to manufacture, sell, transport,
23 store or use explosives must:

24 (a) be at least 21 years of age;

25 (b) have a reasonable understanding of the English language;

26 (c) present satisfactory evidence of experience in the
27 manufacture, sale, transportation, storage or use of explosives;

28 (d) demonstrate by written, oral or field examination, as the
29 commissioner may direct, adequate knowledge of the safe
30 manufacture, sale, transportation, storage or use of explosives and
31 of the provisions of this act; and

32 (e) be of good moral character and must never have been disloyal
33 to the United States; and

34 it shall be within the sole discretion of the commissioner to
35 determine whether an applicant who has been convicted of a crime
36 involving moral turpitude has the good moral character necessary
37 for a permit. It shall also be within the reasonable discretion of the
38 commissioner to deny the issuance of a permit where he concludes,
39 after a full examination of the qualifications of an applicant, that to
40 grant a permit would be dangerous to the health, safety and welfare
41 of the people of the State of New Jersey. The failure of a holder of a
42 permit to maintain the qualifications stated herein shall be good
43 cause for the revocation of the permit.

44 C. When the applicant for a permit to manufacture, sell,
45 transport, store or use explosives is a firm, association or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 corporation, the applicant must demonstrate that such activities with
2 regard to explosives will be under the direct supervision of a person
3 who meets the qualifications stated above.

4 D. Permits shall be valid for one year unless sooner revoked.
5 Permits which expire on July 1, 1960 may be renewed by the
6 commissioner at his discretion for a period of not less than three
7 months nor more than 15 months, and permits renewed after such a
8 period shall thereafter be valid for one year unless sooner revoked.
9 The fee for all permits shall be fixed by the commissioner on a
10 yearly basis or, for periods of less than a year, in amounts
11 proportionately less than the annual fee.

12 E. The application for any permit must be accompanied by a fee
13 established by regulation in accordance with the following
14 schedule:

15 (a) To manufacture--not less than \$200 nor more than ~~[\$1,000]~~
16 ~~\$2,000~~;

17 (b) To sell--not less than ~~[\$25.00]~~ ~~\$25~~ nor more ~~[that \$300]~~
18 ~~than \$600~~;

19 (c) (Deleted by amendment, P.L.1991, c.205).

20 (d) To store--not less than ~~[\$25.00]~~ ~~\$25~~ nor more than
21 ~~[\$150.00]~~ ~~\$300~~; but if the explosives are in excess of 30,000
22 pounds, then the fee shall be not less than ~~[\$150.00]~~ ~~\$150~~ nor more
23 than ~~[\$750]~~ ~~\$1,500~~;

24 (e) To use--not more than ~~[\$200]~~ ~~\$400~~;

25 (f) For storage, transportation, and use of smokeless powder in
26 amounts in excess of 36 pounds, but not in excess of 100 pounds
27 and black powder in amounts in excess of 5 pounds but not in
28 excess of 100 pounds which is used by private persons for the hand
29 loading of small arms ammunition and which is not for resale--not
30 less than ~~[\$2.00]~~ ~~\$2~~ nor more than ~~[\$10.00]~~ ~~\$20~~; where any such
31 smokeless and black powder is in excess of 100 pounds, the fee
32 shall be increased ~~[\$10.00]~~ ~~\$20~~ for each additional 100 pounds, or
33 fraction thereof.

34 The above schedule of fees may be adjusted by the commissioner
35 by regulation commencing with the second fiscal year next
36 following enactment of P.L. _____, c. _____ (pending before the
37 Legislature as this bill).

38 All fees derived from the operation of this act shall be applied
39 toward enforcement and administration costs of the Division of
40 Workplace Standards in the Department of Labor and Workforce
41 Development.

42 (cf: P.L.1991, c.205, s.16)

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44 2. Section 13 of P.L.1960, c.55 (C.21:1A-140) is amended to
45 read as follows:

46 13. It shall be unlawful for any person, partnership, firm,
47 association or corporation, and any officer, agent or employee

1 thereof, to violate or proximately contribute to the violation of any
2 of the provisions of this act or of the regulations made hereunder.
3 The violation of this act by an employee, acting within the scope of
4 his authority, of any person, partnership, firm, association, or
5 corporation shall be deemed also to be the violation of such person,
6 partnership, firm, association or corporation. Violations of the
7 provisions of this act or rules and regulations made hereunder shall
8 be punishable for the first offense by a penalty of not less than \$100
9 nor more than ~~[\$5,000]~~ \$25,000, for the second offense by a
10 penalty of not less than \$300 nor more than ~~[\$5,000]~~ \$50,000 and
11 for the third and each succeeding offense by a penalty of not less
12 than \$500 nor more than ~~[\$10,000]~~ \$100,000. The penalties shall
13 be collected by a ~~[civil action in the name of the commissioner, to~~
14 ~~be instituted in the Special Civil Part, Law Division, of the Superior~~
15 ~~Court of the county, or in municipal court of the municipality where~~
16 ~~the offense was committed]~~ summary proceeding pursuant to the
17 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
18 et seq.). Where the violation consists of a refusal to obey an order
19 of the commissioner made under this act, each day during which the
20 violation continues shall constitute a separate and distinct offense
21 except during the time an appeal from said order may be taken or is
22 pending.

23 Any sum collected as a penalty pursuant to this section shall be
24 applied toward enforcement and administration costs of the
25 Division of Workplace Standards in the Department of Labor and
26 Workforce Development.

27 A. The Commissioner of Labor and Workforce Development, in
28 his discretion, is hereby authorized and empowered to compromise
29 and settle any claim for a penalty under this section for an amount
30 that appears appropriate and equitable under all of the
31 circumstances.

32 B. Permits to sell, transport, store or use explosives are
33 revocable for cause by the commissioner. In any case where the
34 commissioner revokes a permit, he shall notify the permittee of the
35 revocation and shall provide, upon written request, for a hearing
36 within 10 days of the date of the revocation. Within 30 days from
37 the termination of the hearing, the commissioner shall issue an
38 order approving, disapproving or modifying the revocation. Permits
39 to manufacture are exempt from revocation, but the holders of such
40 permits shall be subject in every other respect to the provisions of
41 this act and the rules and regulations promulgated hereunder.

42 C. The requirements of this act concerning the distances of
43 explosives manufacturing buildings and magazines from each other
44 shall not be construed to apply to permanent buildings or magazines
45 that exist at the time that this act becomes effective and which
46 buildings and magazines have been used under authority of the laws
47 formerly governing the manufacture and storage of explosives.

1 This provision designating such explosives manufacturing buildings
2 and magazines already existing at the effective date of this act as
3 nonconforming uses shall not apply to any explosives
4 manufacturing buildings or magazines constructed subsequent to
5 the passage of this act nor to extensions or additions to such
6 buildings and magazines that are made subsequent to the passage of
7 this act.

8 (cf: P.L.1991, c.205, s.17)

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10 3. This act shall take effect immediately.

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STATEMENT

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15 This bill increases the fees and penalties for permits under the
16 “Explosives Act” and authorizes the Commissioner of Labor and
17 Workforce Development to implement future increases by
18 regulation. In most cases, the maximum fee amount for each type
19 of permit is doubled. For example, the maximum fee for a permit to
20 manufacture explosives is increased from \$1,000 to \$2,000. The
21 current fee structure has not been revised since 1991, and the
22 current maximum amounts have been charged since 1998.

23 Additionally, the bill increases the maximum penalty amounts
24 for violations of the “Explosives Act,” from \$5,000 to \$25,000 for a
25 first offense, from \$5,000 to \$50,000 for a second offense, and from
26 \$10,000 to \$100,000 for any succeeding offenses.

27 According to the Department of Labor and Workforce
28 Development, the fee increases are necessary to partially support
29 public safety and occupational safety and health program costs.