

CHAPTER 274

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

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

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

C.21:1A-134 Investigation of applicant; permit issued, subject to amendment; information furnished; qualifications; expiration; fees.

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

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

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

- (a) be at least 21 years of age;
- (b) have a reasonable understanding of the English language;
- (c) present satisfactory evidence of experience in the manufacture, sale, transportation, storage or use of explosives;
- (d) demonstrate by written, oral or field examination, as the commissioner may direct, adequate knowledge of the safe manufacture, sale, transportation, storage or use of explosives and of the provisions of this act; and

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

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

C. When the applicant for a permit to manufacture, sell, transport, store or use explosives is a firm, association or corporation, the applicant must demonstrate that such activities with regard to explosives will be under the direct supervision of a person who meets the qualifications stated above.

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

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

- (a) To manufacture--not less than \$200 nor more than \$2,000;
- (b) To sell--not less than \$25 nor more than \$600;
- (c) (Deleted by amendment, P.L.1991, c.205).
- (d) To store--not less than \$25 nor more than \$300; but if the explosives are in excess of 30,000 pounds, then the fee shall be not less than \$150 nor more than \$1,500;
- (e) To use--not more than \$400;
- (f) For storage, transportation, and use of smokeless powder in amounts in excess of 36 pounds, but not in excess of 100 pounds and black powder in amounts in excess of 5 pounds but not in excess of 100 pounds which is used by private persons for the hand loading of small arms ammunition and which is not for resale--not less than \$2 nor more than \$20; where any such smokeless and black powder is in excess of 100 pounds, the fee shall be increased \$20 for each additional 100 pounds, or fraction thereof.

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

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

C.21:1A-140 Violations; penalties; revocation of permits; nonconforming uses.

13. It shall be unlawful for any person, partnership, firm, association or corporation, and any officer, agent or employee thereof, to violate or proximately contribute to the violation of any of the provisions of this act or of the regulations made hereunder. The violation of this act by an employee, acting within the scope of his authority, of any person, partnership, firm, association, or corporation shall be deemed also to be the violation of such person, partnership, firm, association or corporation. Violations of the provisions of this act or rules and regulations made hereunder shall be punishable for the first offense by a penalty of not less than \$100 nor more than \$5,000, for the second offense by a penalty of not less than \$300 nor more than \$10,000 and for the third and each succeeding offense by a penalty of not less than \$500 nor more than \$20,000. The penalties shall be collected by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Where the violation consists of a refusal to obey an order of the commissioner made under this act, each day during which the violation continues shall constitute a separate and distinct offense except during the time an appeal from said order may be taken or is pending.

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

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

B. Permits to sell, transport, store or use explosives are revocable for cause by the commissioner. In any case where the commissioner revokes a permit, he shall notify the permittee of the revocation and shall provide, upon written request, for a hearing within 10 days of the date of the revocation. Within 30 days from the termination of the hearing, the commissioner shall issue an order approving, disapproving or modifying the revocation. Permits to manufacture are exempt from revocation, but the holders of such permits shall be

subject in every other respect to the provisions of this act and the rules and regulations promulgated hereunder.

C. The requirements of this act concerning the distances of explosives manufacturing buildings and magazines from each other shall not be construed to apply to permanent buildings or magazines that exist at the time that this act becomes effective and which buildings and magazines have been used under authority of the laws formerly governing the manufacture and storage of explosives. This provision designating such explosives manufacturing buildings and magazines already existing at the effective date of this act as nonconforming uses shall not apply to any explosives manufacturing buildings or magazines constructed subsequent to the passage of this act nor to extensions or additions to such buildings and magazines that are made subsequent to the passage of this act.

3. This act shall take effect immediately.

Approved January 13, 2008.