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

11229

I N A S S E M B L Y

May 25, 2010

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to authorizing law enforcement officers to carry concealed handguns

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

Section 1. Subdivision 2 of section 400.00 of the penal law, as amended by chapter 189 of the laws of 2000, is amended to read as follows:

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a judge of the New York city civil court or the New York city criminal court; (e) have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, provided that application is made therefor by such commissioner, warden, superintendent or head keeper; (f) HAVE AND CARRY CONCEALED BY QUALIFIED LAW ENFORCEMENT PERSONNEL OF THIS STATE; (G) have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof; and [(g)] (H) have, possess, collect and carry antique pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before l898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and (ii)

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

LBD09888-02-0

any replica of any pistol described in clause (i) [hereof] OF THIS PARAGRAPH if such replica[--]:

(1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

S 2. Section 400.00 of the penal law is amended by adding a new subdivision 16-a to read as follows:

16-A. QUALIFIED LAW ENFORCEMENT PERSONNEL. (A) FOR THE PURPOSES OF PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION, QUALIFIED LAW ENFORCEMENT PERSONNEL MEANS ANY MEMBER OF LAW ENFORCEMENT, WHETHER CURRENTLY EMPLOYED IN, PREVIOUSLY EMPLOYED IN, OR RETIRED FROM SUCH EMPLOYMENT, WHO IS OR WAS AUTHORIZED TO CARRY A FIREARM DURING THE COURSE OF HIS OR HER EMPLOYMENT, AND WHO HAS A PHOTO IDENTIFICATION CARD OF HIMSELF OR HERSELF THAT WAS ISSUED BY HIS OR HER LAW ENFORCEMENT EMPLOYER. IN ADDITION, SUCH PERSON MUST NOT BE, IN ANY OTHER WAY, PROHIBITED FROM POSSESSING A FIREARM.

(B) FOR PURPOSES OF THIS SUBDIVISION, IF A LAW ENFORCEMENT OFFICER RETIRED FROM SERVICE DUE TO A DISABILITY, THEN IN ORDER TO BE DEEMED QUALIFIED LAW ENFORCEMENT PERSONNEL PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION:

(I) SUCH OFFICER MUST HAVE BEEN AN OFFICER FOR AT LEAST FIVE YEARS PRIOR TO HIS OR HER RETIREMENT;

(II) THE BASIS OF SUCH OFFICER'S DISABILITY MUST NOT HAVE BEEN DUE TO THE FACT THAT THE OFFICER WAS DECLARED MENTALLY INCAPACITATED OR MENTALLY UNFIT TO PERFORM HIS OR HER JOB DUTIES, OR FOR ANY OTHER REASON THAT WOULD LEGALLY PREVENT HIM OR HER FROM POSSESSING A FIREARM; AND

(III) SUCH OFFICER MUST ANNUALLY QUALIFY TO POSSESS A FIREARM, AT HIS OR HER OWN EXPENSE, AT THE SAME COURSE OF FIRE REQUIRED FOR ACTIVE LAW ENFORCEMENT OFFICERS.

(C) FOR PURPOSES OF THIS SUBDIVISION, IF A LAW ENFORCEMENT OFFICER RETIRED FROM SERVICE FOR ANY REASON OTHER THAN SPECIFIED IN PARAGRAPH (B) OF THIS SUBDIVISION, THEN IN ORDER TO BE DEEMED QUALIFIED LAW ENFORCEMENT PERSONNEL PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION:

(I) SUCH OFFICER MUST HAVE BEEN AN OFFICER FOR AT LEAST FIFTEEN YEARS PRIOR TO HIS OR HER RETIREMENT; AND

(II) SUCH OFFICER MUST ANNUALLY QUALIFY TO POSSESS A FIREARM, AT HIS OR HER OWN EXPENSE, AT THE SAME COURSE OF FIRE REQUIRED FOR ACTIVE LAW ENFORCEMENT OFFICERS. PRIOR TO TAKING ANY QUALIFICATION EXAMINATION, THE RETIRED LAW ENFORCEMENT OFFICER MUST CERTIFY TO THE QUALIFYING INSTRUCTOR THAT HE OR SHE:

(1) RETIRED FROM A LAW ENFORCEMENT AGENCY;

(2) RETIRED FOR REASONS OTHER THAN THOSE LISTED IN PARAGRAPH (B) OF THIS SUBDIVISION;

(3) WAS IN GOOD STANDING WITH HIS OR HER AGENCY AT THE TIME OF HIS OR HER RETIREMENT;

(4) WAS, PRIOR TO HIS OR HER RETIREMENT, AUTHORIZED BY LAW TO ENGAGE IN OR SUPERVISE THE PREVENTION, DETECTION, INVESTIGATION, OR PROSECUTION OF, OR THE INCARCERATION OF ANY PERSON FOR, ANY VIOLATION OF LAW, AND HAD STATUTORY POWER TO EFFECT AND ARREST;

(5) WAS EMPLOYED AS A LAW ENFORCEMENT OFFICER FOR AT LEAST FIFTEEN YEARS PRIOR TO HIS OR HER RETIREMENT;

(6) IS NOT PROHIBITED FROM POSSESSING A FIREARM UNDER ANY STATE OR FEDERAL LAW; AND

(7) CURRENTLY POSSESSES A VALID PERMIT TO CARRY A FIREARM.

(D) THERE IS A PRESUMPTION THAT ANY RETIRED LAW ENFORCEMENT PERSONNEL IN POSSESSION OF A PHOTO IDENTIFICATION CARD ISSUED BY HIS OR HER FORMER EMPLOYER RETIRED IN GOOD STANDING.

(E)(I) A QUALIFYING INSTRUCTOR SHALL PRESENT A CERTIFICATE SIGNED BY HIMSELF OR HERSELF TO ANY RETIRED LAW ENFORCEMENT OFFICER WHO MEETS THE QUALIFICATION REQUIREMENTS. SUCH CERTIFICATE SHALL DISPLAY THE DATE OF ISSUANCE AND SHALL ONLY BE VALID FOR A PERIOD OF ONE YEAR.

(II) THE RETIRED LAW ENFORCEMENT OFFICER MUST CARRY THE CERTIFICATE WITH HIMSELF OR HERSELF ANYTIME HE OR SHE ALSO HAS A FIREARM IN HIS OR HER POSSESSION. THE CERTIFICATE SHALL BE PRODUCED, ON DEMAND, TO ANY LAW ENFORCEMENT OFFICER.

(F) ANY RETIRED LAW ENFORCEMENT OFFICER WHO HAS HIS OR HER LICENSE TO CARRY A FIREARM REVOKED FOR ANY REASON IS PERMANENTLY DISQUALIFIED FROM POSSESSION SUCH A LICENSE WITHIN THE STATE.

S 3. Subdivision 11 of section 400.00 of the penal law, as amended by chapter 210 of the laws of 1999, is amended to read as follows:

11. License: revocation and suspension. The conviction of a licensee anywhere of a felony or serious offense shall operate as a revocation of the license. A license may be revoked or suspended as provided for in section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act. Except for a license issued pursuant to section 400.01 of this article, a license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record; a license issued pursuant to section 400.01 of this article may be revoked and cancelled at any time by the licensing officer or any judge or justice of a court of record. The official revoking a license shall give written notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality. ANY SUPREME COURT JUDGE MAY REVOKE A LICENSE ISSUED PURSUANT TO PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION FOR GOOD CAUSE SHOWN.

S 4. This act shall take effect immediately.