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

761

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

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

AN ACT to amend the penal law and the state finance law, in relation to an examination for firearm proficiency

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

Section 1. Section 400.00 of the penal law is amended by adding a new subdivision 14-a to read as follows:

14-A. (A) NO PERSON SHALL HAVE OR POSSESS A FIREARM AS DEFINED IN SUBDIVISION THREE OF SECTION 265.00 OF THIS CHAPTER UNLESS HE OR SHE SHALL HAVE SUCCESSFULLY COMPLETED AN EXAMINATION AND MET THE APPROPRIATE STANDARDS AS ESTABLISHED BY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES HEREINAFTER REFERRED TO AS THE COMMISSIONER IN THE EXECUTIVE DEPARTMENT PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION.

(B) THE COMMISSIONER SHALL, IN COOPERATION WITH THE SUPERINTENDENT OF THE DIVISION OF THE STATE POLICE, ESTABLISH MINIMUM STANDARDS FOR FIREARM PROFICIENCY AND DEVELOP AN EXAMINATION TO MEASURE FIREARM PROFICIENCY.

(C) THE COMMISSIONER SHALL IN COOPERATION WITH THE SUPERINTENDENT OF THE DIVISION OF STATE POLICE PROVIDE THE STANDARDS AND EXAMINATIONS ON REQUEST TO ANY QUALIFIED FIREARM INSTRUCTOR AND ALL LAW ENFORCEMENT AGENCIES WITHIN THE STATE. THE PROFICIENCY EXAMINATION MAY BE CONDUCTED BY ANY QUALIFIED FIREARM INSTRUCTOR APPROVED BY THE COMMISSIONER OR LAW ENFORCEMENT AGENCY AND SHALL INCLUDE BUT NOT BE LIMITED TO:

(I) A WRITTEN SECTION ON THE LAWS RELATING TO FIREARMS;

(II) A PHYSICAL DEMONSTRATION OF PROFICIENCY IN THE USE OF FIREARMS AND IN FIREARMS SAFETY PROCEDURES;

(III) A LEVEL OF KNOWLEDGE CONCERNING A LICENSEE'S DUTIES, RESPONSIBILITIES AND LIABILITIES PURSUANT TO THIS CHAPTER AND CIVIL STATUTES OF THE STATE OF NEW YORK AND OF THE UNITED STATES; AND

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

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(IV) A LEVEL OF PROFICIENCY IN FIREARM SAFETY.

IN ESTABLISHING SUCH STANDARDS, THE COMMISSIONER SHALL ESTABLISH FIREARM PROFICIENCY STANDARDS CONSISTENT WITH THE AVERAGE FIREARM OWNER OF THE STATE.

(D) THE COMMISSIONER SHALL DEVELOP AND DISTRIBUTE DIRECTIONS FOR TEST ADMINISTRATION AND RECORD KEEPING. ALL TEST RESULTS SHALL BE FORWARDED TO THE COMMISSIONER WHO SHALL MAINTAIN A RECORD OF SUCH RESULTS.

(E) THE COMMISSIONER SHALL DEVELOP A FIREARM PROFICIENCY CERTIFICATE WHICH SHALL BE DISTRIBUTED TO ALL QUALIFIED FIREARM INSTRUCTORS AND LAW ENFORCEMENT AGENCIES.

(F) UPON SUCCESSFUL COMPLETION OF SUCH FIREARM PROFICIENCY EXAMINATION THE INSTRUCTOR SHALL ENDORSE THE FIREARM PROFICIENCY CERTIFICATE REFLECTING SUCCESSFUL PASSAGE OF THE EXAMINATION.

(G) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO A PERSON:

(I) IN THE DISCHARGE OF HIS OR HER ACTUAL DUTIES AS A MEMBER OF THE ARMED FORCES, THE NATIONAL GUARD OR CORRECTIONS OFFICER EMPLOYED IN A CORRECTIONAL FACILITY; OR

(II) WHO IS A DULY AUTHORIZED MEMBER OF A LAW ENFORCEMENT AGENCY OF THE STATE OF NEW YORK OR OF THE UNITED STATES; OR

(III) WHO IS A POLICE OFFICER AS DEFINED IN SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW OR A RETIRED POLICE OFFICER.

(H) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBDIVISION OR ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, NO LICENSE TO HAVE AND POSSESS A FIREARM SHALL BE ISSUED OR RENEWED PURSUANT TO THIS SECTION OR ANY OTHER APPLICABLE PROVISION OF LAW RELATING THERETO, UNLESS THE LICENSEE OR APPLICANT SHALL SUBMIT TO THE ISSUING OFFICER A FIREARM PROFICIENCY CERTIFICATE APPROVED BY THE COMMISSIONER AND ENDORSED BY THE FIREARM INSTRUCTOR.

(I) THE COMMISSIONER SHALL ADOPT A SCHEDULE OF FEES NECESSARY TO ADMINISTER THE PROVISIONS OF THIS SUBDIVISION WHICH SHALL BE COLLECTED BY THE INSTRUCTORS AND LAW ENFORCEMENT AGENCIES CONDUCTING SUCH EXAMINATIONS WHICH SHALL BE TRANSMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES WITHIN THIRTY DAYS OF THE RECEIPT OF SUCH FEES FOR DEPOSIT IN THE FIREARM PROFICIENCY EXAMINATION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-O OF THE STATE FINANCE LAW.

S 2. The state finance law is amended by adding a new section 92-o to read as follows:

S 92-O. FIREARM PROFICIENCY EXAMINATION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A FUND TO BE KNOWN AS THE FIREARM PROFICIENCY EXAMINATION FUND.

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED FROM FEES RECEIVED PURSUANT TO SUBDIVISION FOURTEEN-A OF SECTION 400.00 OF THE PENAL LAW FOR FIREARM PROFICIENCY EXAMINATIONS, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE FUND SHALL BE EXPENDED FOR THE EXPENSES OF CARRYING OUT THE FIREARM PROFICIENCY EXAMINATIONS PURSUANT TO SUBDIVISION FOURTEEN-A OF SECTION 400.00 OF THE PENAL LAW.

4. MONEY SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES OR HIS OR HER DESIGNEE IN THE MANNER PRESCRIBED BY LAW.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act

on their effective date is authorized to be made, by the commissioner of the division of criminal justice services, on or before such effective date.