

1758

2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

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:

1 Section 1. Subdivision 2 of section 400.00 of the penal law, as
2 amended by chapter 189 of the laws of 2000, is amended to read as
3 follows:
4 2. Types of licenses. A license for gunsmith or dealer in firearms
5 shall be issued to engage in such business. A license for a pistol or
6 revolver, other than an assault weapon or a disguised gun, shall be
7 issued to (a) have and possess in his dwelling by a householder; (b)
8 have and possess in his place of business by a merchant or storekeeper;
9 (c) have and carry concealed while so employed by a messenger employed
10 by a banking institution or express company; (d) have and carry
11 concealed by a justice of the supreme court in the first or second judicial
12 departments, or by a judge of the New York city civil court or the
13 New York city criminal court; (e) have and carry concealed while so
14 employed by a regular employee of an institution of the state, or of any
15 county, city, town or village, under control of a commissioner of
16 correction of the city or any warden, superintendent or head keeper of
17 any state prison, penitentiary, workhouse, county jail or other institution
18 for the detention of persons convicted or accused of crime or held
19 as witnesses in criminal cases, provided that application is made there-
20 for by such commissioner, warden, superintendent or head keeper; (f)
21 HAVE AND CARRY CONCEALED BY QUALIFIED LAW ENFORCEMENT PERSONNEL OF THIS
22 STATE; (G) have and carry concealed, without regard to employment or
23 place of possession, by any person when proper cause exists for the
24 issuance thereof; and [(g)] (H) have, possess, collect and carry antique
25 pistols which are defined as follows: (i) any single shot, muzzle load-

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

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1 ing pistol with a matchlock, flintlock, percussion cap, or similar type
2 of ignition system manufactured in or before 1898, which is not designed
3 for using rimfire or conventional centerfire fixed ammunition; and (ii)
4 any replica of any pistol described in clause (i) [hereof] OF THIS PARA-
5 GRAPH if such replica[--]:

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

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

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

13 16-A. QUALIFIED LAW ENFORCEMENT PERSONNEL. (A) FOR THE PURPOSES OF
14 PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION, QUALIFIED LAW ENFORCE-
15 MENT PERSONNEL MEANS ANY MEMBER OF LAW ENFORCEMENT, WHETHER CURRENTLY
16 EMPLOYED IN, PREVIOUSLY EMPLOYED IN, OR RETIRED FROM SUCH EMPLOYMENT,
17 WHO IS OR WAS AUTHORIZED TO CARRY A FIREARM DURING THE COURSE OF HIS OR
18 HER EMPLOYMENT, AND WHO HAS A PHOTO IDENTIFICATION CARD OF HIMSELF OR
19 HERSELF THAT WAS ISSUED BY HIS OR HER LAW ENFORCEMENT EMPLOYER. IN ADDI-
20 TION, SUCH PERSON MUST NOT BE, IN ANY OTHER WAY, PROHIBITED FROM
21 POSSESSING A FIREARM.

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

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

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

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

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

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

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

46 (1) RETIRED FROM A LAW ENFORCEMENT AGENCY;

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

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

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

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

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

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

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

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

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

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

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

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

37 S 4. This act shall take effect immediately.