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

4536--A

2013-2014 Regular Sessions

I N S E N A T E

April 8, 2013

Introduced by Sens. GOLDEN, BALL, BOYLE, GRISANTI, LANZA, MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to exempting qualified retired law enforcement officers from certain limitations related to the possession of firearms

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

Section 1. Section 265.00 of the penal law is amended by adding a new subdivision 25 to read as follows:

25. "QUALIFIED RETIRED NEW YORK OR FEDERAL LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL WHO IS A RETIRED POLICE OFFICER AS POLICE OFFICER IS DEFINED IN SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, A RETIRED PEACE OFFICER AS PEACE OFFICER IS DEFINED IN SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW OR A RETIRED FEDERAL LAW ENFORCEMENT OFFICER AS FEDERAL LAW ENFORCEMENT OFFICER IS DEFINED IN SECTION 2.15 OF THE CRIMINAL PROCEDURE LAW, WHO: (A) SEPARATED FROM SERVICE IN GOOD STANDING FROM A PUBLIC AGENCY LOCATED IN NEW YORK STATE IN WHICH SUCH PERSON SERVED AS EITHER A POLICE OFFICER, PEACE OFFICER OR FEDERAL LAW ENFORCEMENT OFFICER; AND (B) BEFORE SUCH SEPARATION, WAS 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 POWERS OF ARREST, PURSUANT TO THEIR OFFICIAL DUTIES, UNDER THE CRIMINAL PROCEDURE LAW; AND (C) (I) BEFORE SUCH SEPARATION, SERVED AS EITHER A POLICE OFFICER, PEACE OFFICER OR FEDERAL LAW ENFORCEMENT OFFICER FOR FIVE YEARS OR MORE AND AT THE TIME OF SEPARATION, IS SUCH AN OFFICER; OR (II) SEPARATED FROM SERVICE WITH SUCH AGENCY, AFTER COMPLETING ANY APPLICABLE PROBATIONARY PERIOD OF SUCH SERVICE, DUE TO A SERVICE-CONNECTED DISABILITY, AS DETERMINED BY SUCH AGENCY AT OR BEFORE THE TIME OF SEPARATION; AND (D)(I) HAS NOT BEEN

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

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FOUND BY A QUALIFIED MEDICAL PROFESSIONAL EMPLOYED BY SUCH AGENCY TO BE UNQUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; OR (II) HAS NOT ENTERED INTO AN AGREEMENT WITH SUCH AGENCY FROM WHICH THE INDIVIDUAL IS SEPARATING FROM SERVICE IN WHICH THAT INDIVIDUAL ACKNOWLEDGES HE OR SHE IS NOT QUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; AND (E) IS NOT OTHERWISE PROHIBITED BY NEW YORK OR FEDERAL LAW FROM POSSESSING ANY FIREARM.

S 2. Section 265.20 of the penal law is amended by adding a new subdivision e to read as follows:

E. SUBDIVISION EIGHT OF SECTION 265.02 AND SECTIONS 265.36 AND 265.37 OF THIS CHAPTER SHALL NOT APPLY TO A QUALIFIED RETIRED NEW YORK OR FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN SUBDIVISION TWENTY-FIVE OF SECTION 265.00 OF THIS ARTICLE, WITH RESPECT TO LARGE CAPACITY AMMUNITION FEEDING DEVICES ISSUED TO SUCH OFFICER OR PURCHASED BY SUCH OFFICER IN THE COURSE OF HIS OR HER OFFICIAL DUTIES AND OWNED BY SUCH OFFICER AT THE TIME OF HIS OR HER RETIREMENT OR COMPARABLE REPLACEMENTS FOR SUCH DEVICES, IF: (I) THE AGENCY THAT EMPLOYED THE OFFICER QUALIFIED SUCH OFFICER IN THE USE OF THE WEAPON WHICH ACCEPTS SUCH DEVICE IN ACCORDANCE WITH APPLICABLE STATE OR FEDERAL STANDARDS FOR ACTIVE DUTY LAW ENFORCEMENT OFFICERS WITHIN TWELVE MONTHS PRIOR TO HIS OR HER RETIREMENT; AND (II) SUCH RETIRED OFFICER MEETS, AT HIS OR HER OWN EXPENSE, SUCH APPLICABLE STANDARDS FOR SUCH WEAPON AT LEAST ONCE WITHIN THREE YEARS AFTER HIS OR HER RETIREMENT DATE AND AT LEAST ONCE EVERY THREE YEARS THEREAFTER, PROVIDED, HOWEVER, THAT ANY SUCH QUALIFIED OFFICER WHO HAS BEEN RETIRED FOR EIGHTEEN MONTHS OR MORE ON THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL HAVE EIGHTEEN MONTHS FROM SUCH EFFECTIVE DATE TO QUALIFY IN THE USE OF THE WEAPON WHICH ACCEPTS SUCH LARGE CAPACITY AMMUNITION FEEDING DEVICE ACCORDING TO THE PROVISIONS OF THIS SUBDIVISION, NOTWITHSTANDING THAT SUCH OFFICER DID NOT QUALIFY WITHIN THREE YEARS AFTER HIS OR HER RETIREMENT DATE, PROVIDED THAT SUCH OFFICER IS OTHERWISE QUALIFIED AND MAINTAINS COMPLIANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

S 3. Subdivision 16-a of section 400.00 of the penal law is amended by adding a new paragraph (a-1) to read as follows:

(A-1) NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, AN OWNER OF AN ASSAULT WEAPON AS DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 265.00 OF THIS CHAPTER, WHO IS A QUALIFIED RETIRED NEW YORK OR FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN SUBDIVISION TWENTY-FIVE OF SECTION 265.00 OF THIS CHAPTER, WHERE SUCH WEAPON WAS ISSUED TO OR PURCHASED BY SUCH OFFICER PRIOR TO RETIREMENT AND IN THE COURSE OF HIS OR HER OFFICIAL DUTIES, AND FOR WHICH SUCH OFFICER WAS QUALIFIED BY THE AGENCY THAT EMPLOYED SUCH OFFICER WITHIN TWELVE MONTHS PRIOR TO HIS OR HER RETIREMENT, MUST REGISTER SUCH WEAPON WITHIN SIXTY DAYS OF RETIREMENT.

S 4. This act shall take effect immediately; provided, however, that section three of this act shall take effect on the same date and in the same manner as section 48 of chapter 1 of the laws of 2013 takes effect.