

6356--A

Cal. No. 165

2013-2014 Regular Sessions

I N A S S E M B L Y

March 25, 2013

Introduced by M. of A. LENTOL, ABBATE, CYMBROWITZ, RAMOS, SKOUFIS, SANTABARBARA, RABBITT, BUCHWALD, RUSSELL, WEPRIN, BRINDISI, GRAF, SCHIMEL, LUPINACCI, TENNEY -- Multi-Sponsored by -- M. of A. RA -- read once and referred to the Committee on Codes -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

1 Section 1. Section 265.00 of the penal law is amended by adding a new  
2 subdivision 25 to read as follows:  
3 25. "QUALIFIED RETIRED NEW YORK OR FEDERAL LAW ENFORCEMENT OFFICER"  
4 MEANS AN INDIVIDUAL WHO IS A RETIRED POLICE OFFICER AS POLICE OFFICER IS  
5 DEFINED IN SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL  
6 PROCEDURE LAW, A RETIRED PEACE OFFICER AS PEACE OFFICER IS DEFINED IN  
7 SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW OR A RETIRED FEDERAL LAW  
8 ENFORCEMENT OFFICER AS FEDERAL LAW ENFORCEMENT OFFICER IS DEFINED IN  
9 SECTION 2.15 OF THE CRIMINAL PROCEDURE LAW, WHO: (A) SEPARATED FROM  
10 SERVICE IN GOOD STANDING FROM A PUBLIC AGENCY LOCATED IN NEW YORK STATE  
11 IN WHICH SUCH PERSON SERVED AS EITHER A POLICE OFFICER, PEACE OFFICER OR  
12 FEDERAL LAW ENFORCEMENT OFFICER; AND (B) BEFORE SUCH SEPARATION, WAS  
13 AUTHORIZED BY LAW TO ENGAGE IN OR SUPERVISE THE PREVENTION, DETECTION,  
14 INVESTIGATION, OR PROSECUTION OF, OR THE INCARCERATION OF ANY PERSON  
15 FOR, ANY VIOLATION OF LAW, AND HAD STATUTORY POWERS OF ARREST, PURSUANT  
16 TO THEIR OFFICIAL DUTIES, UNDER THE CRIMINAL PROCEDURE LAW; AND (C) (I)  
17 BEFORE SUCH SEPARATION, SERVED AS EITHER A POLICE OFFICER, PEACE OFFICER  
18 OR FEDERAL LAW ENFORCEMENT OFFICER FOR FIVE YEARS OR MORE AND AT THE  
19 TIME OF SEPARATION, IS SUCH AN OFFICER; OR (II) SEPARATED FROM SERVICE  
20 WITH SUCH AGENCY, AFTER COMPLETING ANY APPLICABLE PROBATIONARY PERIOD OF

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

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1 SUCH SERVICE, DUE TO A SERVICE-CONNECTED DISABILITY, AS DETERMINED BY  
2 SUCH AGENCY AT OR BEFORE THE TIME OF SEPARATION; AND (D)(I) HAS NOT BEEN  
3 FOUND BY A QUALIFIED MEDICAL PROFESSIONAL EMPLOYED BY SUCH AGENCY TO BE  
4 UNQUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; OR (II) HAS NOT  
5 ENTERED INTO AN AGREEMENT WITH SUCH AGENCY FROM WHICH THE INDIVIDUAL IS  
6 SEPARATING FROM SERVICE IN WHICH THAT INDIVIDUAL ACKNOWLEDGES HE OR SHE  
7 IS NOT QUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; AND (E) IS NOT  
8 OTHERWISE PROHIBITED BY NEW YORK OR FEDERAL LAW FROM POSSESSING ANY  
9 FIREARM.

10 S 2. Section 265.20 of the penal law is amended by adding a new subdi-  
11 vision e to read as follows:

12 E. SUBDIVISION EIGHT OF SECTION 265.02 AND SECTIONS 265.36 AND 265.37  
13 OF THIS CHAPTER SHALL NOT APPLY TO A QUALIFIED RETIRED NEW YORK OR  
14 FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN SUBDIVISION TWENTY-FIVE OF  
15 SECTION 265.00 OF THIS ARTICLE, WITH RESPECT TO LARGE CAPACITY AMMUNI-  
16 TION FEEDING DEVICES ISSUED TO SUCH OFFICER OR PURCHASED BY SUCH OFFICER  
17 IN THE COURSE OF HIS OR HER OFFICIAL DUTIES AND OWNED BY SUCH OFFICER AT  
18 THE TIME OF HIS OR HER RETIREMENT OR COMPARABLE REPLACEMENTS FOR SUCH  
19 DEVICES, IF: (I) THE AGENCY THAT EMPLOYED THE OFFICER QUALIFIED SUCH  
20 OFFICER IN THE USE OF THE WEAPON WHICH ACCEPTS SUCH DEVICE IN ACCORDANCE  
21 WITH APPLICABLE STATE OR FEDERAL STANDARDS FOR ACTIVE DUTY LAW ENFORCE-  
22 MENT OFFICERS WITHIN TWELVE MONTHS PRIOR TO HIS OR HER RETIREMENT; AND  
23 (II) SUCH RETIRED OFFICER MEETS, AT HIS OR HER OWN EXPENSE, SUCH APPLI-  
24 CABLE STANDARDS FOR SUCH WEAPON AT LEAST ONCE WITHIN THREE YEARS AFTER  
25 HIS OR HER RETIREMENT DATE AND AT LEAST ONCE EVERY THREE YEARS THEREAFT-  
26 ER, PROVIDED, HOWEVER, THAT ANY SUCH QUALIFIED OFFICER WHO HAS BEEN  
27 RETIRED FOR EIGHTEEN MONTHS OR MORE ON THE EFFECTIVE DATE OF THIS SUBDI-  
28 VISION SHALL HAVE EIGHTEEN MONTHS FROM SUCH EFFECTIVE DATE TO QUALIFY IN  
29 THE USE OF THE WEAPON WHICH ACCEPTS SUCH LARGE CAPACITY AMMUNITION FEED-  
30 ING DEVICE ACCORDING TO THE PROVISIONS OF THIS SUBDIVISION, NOTWITH-  
31 STANDING THAT SUCH OFFICER DID NOT QUALIFY WITHIN THREE YEARS AFTER HIS  
32 OR HER RETIREMENT DATE, PROVIDED THAT SUCH OFFICER IS OTHERWISE QUALI-  
33 FIED AND MAINTAINS COMPLIANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

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

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

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