

6389--B

2013-2014 Regular Sessions

I N A S S E M B L Y

March 26, 2013

Introduced by M. of A. GARBARINO, TENNEY, SALADINO, WALTER, McDONOUGH, BORELLI, NOJAY, RA, McKEVITT, GRAF, BUTLER, RAIA, DIPIETRO, GOODELL -- Multi-Sponsored by -- M. of A. BARCLAY, CERETTO, CROUCH, LUPINACCI -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to certain exemptions for licensed gunsmiths, manufacturers and dealers employed in the fulfillment of government, law enforcement, or other state and municipal contracts

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

1 Section 1. The opening paragraph and paragraph 1 of subdivision a of
2 section 265.20 of the penal law, the opening paragraph as amended by
3 section 1 of part FF of chapter 57 of the laws of 2013, paragraph 1 as
4 amended by chapter 1041 of the laws of 1974, subparagraph (a) of para-
5 graph 1 as amended by chapter 141 of the laws of 1988, subparagraphs (b)
6 and (c) of paragraph 1 as added and subparagraphs (d) and (e) of para-
7 graph 1 as relettered by chapter 843 of the laws of 1980 and subpara-
8 graph (f) of paragraph 1 as amended by chapter 578 of the laws of 2006,
9 are amended to read as follows:
10 Paragraph (h) of subdivision twenty-two of section 265.00 and sections
11 265.01, 265.01-a, [subdivision one of section] 265.01-b, 265.02, 265.03,
12 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36, 265.37
13 and 270.05 shall not apply to:
14 1. Possession of any of the weapons, instruments, appliances or
15 substances specified in sections 265.01, 265.02, 265.03, 265.04, 265.05
16 and 270.05 by the following:

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

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1 (a) Persons in the military service of the state of New York when duly
2 authorized by regulations issued by the adjutant general to possess the
3 same.

4 (b) Police officers as defined in subdivision thirty-four of section
5 1.20 of the criminal procedure law.

6 (c) Peace officers as defined by section 2.10 of the criminal proce-
7 dure law.

8 (d) Persons in the military or other service of the United States, in
9 pursuit of official duty or when duly authorized by federal law, regu-
10 lation or order to possess the same.

11 (D-1) LICENSED GUNSMITHS, MANUFACTURERS AND DEALERS NOT SEEKING TO
12 OFFER FOR SALE WEAPONS, INSTRUMENTS, APPLIANCES OR SUBSTANCES WITHIN THE
13 STATE WHERE SUCH SALE IS OTHERWISE PROHIBITED BY STATE LAW.

14 (e) Persons employed in fulfilling defense, LAW ENFORCEMENT, OR OTHER
15 contracts with the government of the United States, STATES, MUNICI-
16 PALITIES or agencies thereof OR COMMERCIAL CONTRACTS WITH LICENSED
17 GUNSMITHS, MANUFACTURERS, AND DEALERS when possession of the same is
18 necessary for manufacture, transport, installation and testing under the
19 requirements of such contract.

20 (f) A person voluntarily surrendering such weapon, instrument, appli-
21 ance or substance, provided that such surrender shall be made to the
22 superintendent of the division of state police or a member thereof
23 designated by such superintendent, or to the sheriff of the county in
24 which such person resides, or in the county of Nassau or in the towns of
25 Babylon, Brookhaven, Huntington, Islip and Smithtown in the county of
26 Suffolk to the commissioner of police or a member of the police depart-
27 ment thereof designated by such commissioner, or if such person resides
28 in a city, town other than one named in this subparagraph, or village to
29 the police commissioner or head of the police force or department there-
30 of or to a member of the force or department designated by such commis-
31 sioner or head; and provided, further, that the same shall be surren-
32 dered by such person in accordance with such terms and conditions as may
33 be established by such superintendent, sheriff, police force or depart-
34 ment. Nothing in this paragraph shall be construed as granting immunity
35 from prosecution for any crime or offense except that of unlawful
36 possession of such weapons, instruments, appliances or substances
37 surrendered as herein provided. A person who possesses any such weapon,
38 instrument, appliance or substance as an executor or administrator or
39 any other lawful possessor of such property of a decedent may continue
40 to possess such property for a period not over fifteen days. If such
41 property is not lawfully disposed of within such period the possessor
42 shall deliver it to an appropriate official described in this paragraph
43 or such property may be delivered to the superintendent of state police.
44 Such officer shall hold it and shall thereafter deliver it on the writ-
45 ten request of such executor, administrator or other lawful possessor of
46 such property to a named person, provided such named person is licensed
47 to or is otherwise lawfully permitted to possess the same. If no request
48 to deliver the property is received by such official within one year of
49 the delivery of such property, such official shall dispose of it in
50 accordance with the provisions of section 400.05 of this chapter.

51 S 2. This act shall take effect immediately.