

4536

2013-2014 Regular Sessions

I N   S E N A T E

April 8, 2013

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Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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 TEN YEARS OR MORE AND AT THE TIME  
19    OF SEPARATION, IS SUCH AN OFFICER; OR (II) SEPARATED FROM SERVICE WITH  
20    SUCH AGENCY, AFTER COMPLETING ANY APPLICABLE PROBATIONARY PERIOD OF SUCH  
21    SERVICE, DUE TO A SERVICE-CONNECTED DISABILITY, AS DETERMINED BY SUCH  
22    AGENCY AT OR BEFORE THE TIME OF SEPARATION; AND (D)(I) HAS NOT BEEN  
23    FOUND BY A QUALIFIED MEDICAL PROFESSIONAL EMPLOYED BY SUCH AGENCY TO BE  
24    UNQUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; OR (II) HAS NOT

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

LBD10050-02-3

1 ENTERED INTO AN AGREEMENT WITH SUCH AGENCY FROM WHICH THE INDIVIDUAL IS  
2 SEPARATING FROM SERVICE IN WHICH THAT INDIVIDUAL ACKNOWLEDGES HE OR SHE  
3 IS NOT QUALIFIED UNDER THIS SECTION FOR REASONS RELATING TO MENTAL  
4 HEALTH; AND (E) IS NOT OTHERWISE PROHIBITED BY NEW YORK OR FEDERAL LAW  
5 FROM POSSESSING ANY FIREARM.

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

8 E. SUBDIVISION EIGHT OF SECTION 265.02 AND SECTIONS 265.36 AND 265.37  
9 OF THIS CHAPTER SHALL NOT APPLY TO A QUALIFIED RETIRED NEW YORK OR  
10 FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN SUBDIVISION TWENTY-FIVE OF  
11 SECTION 265.00 OF THIS ARTICLE, WITH RESPECT TO LARGE CAPACITY AMMUNI-  
12 TION FEEDING DEVICES ISSUED TO SUCH OFFICER OR PURCHASED BY SUCH OFFICER  
13 IN THE COURSE OF HIS OR HER OFFICIAL DUTIES AND OWNED BY SUCH OFFICER AT  
14 THE TIME OF HIS OR HER RETIREMENT OR COMPARABLE REPLACEMENTS FOR SUCH  
15 DEVICES, IF: THE AGENCY THAT EMPLOYED THE OFFICER HAS QUALIFIED SUCH  
16 OFFICER IN THE USE OF THE WEAPON WHICH ACCEPTS SUCH DEVICE IN ACCORDANCE  
17 WITH APPLICABLE STATE OR FEDERAL STANDARDS FOR ACTIVE DUTY LAW ENFORCE-  
18 MENT OFFICERS WITHIN TWELVE MONTHS PRIOR TO HIS OR HER RETIREMENT AND  
19 SUCH RETIRED OFFICER MEETS, AT HIS OR HER OWN EXPENSE, SUCH APPLICABLE  
20 STANDARDS FOR SUCH WEAPON AT LEAST ONCE WITHIN THREE YEARS AFTER HIS OR  
21 HER RETIREMENT DATE AND AT LEAST ONCE EVERY THREE YEARS THEREAFTER.

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

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

34 S 4. This act shall take effect immediately; provided, however, that:

35 (a) sections one and two of this act shall be deemed to have been in  
36 full force and effect on the same date as chapter 1 of the laws of 2013  
37 took effect; and

38 (b) section three of this act shall take effect on the same date and  
39 in the same manner as section 48 of chapter 1 of the laws of 2013 takes  
40 effect.