

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:

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
21 SUCH SERVICE, DUE TO A SERVICE-CONNECTED DISABILITY, AS DETERMINED BY
22 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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1 FOUND BY A QUALIFIED MEDICAL PROFESSIONAL EMPLOYED BY SUCH AGENCY TO BE
2 UNQUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; OR (II) HAS NOT
3 ENTERED INTO AN AGREEMENT WITH SUCH AGENCY FROM WHICH THE INDIVIDUAL IS
4 SEPARATING FROM SERVICE IN WHICH THAT INDIVIDUAL ACKNOWLEDGES HE OR SHE
5 IS NOT QUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; AND (E) IS NOT
6 OTHERWISE PROHIBITED BY NEW YORK OR FEDERAL LAW FROM POSSESSING ANY
7 FIREARM.

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

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

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

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

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