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

1774

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

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, DUPREY, LUPINACCI -- read once and referred to the Committee on Codes

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:

Section 1. The opening paragraph and paragraph 1 of subdivision a of section 265.20 of the penal law, the opening paragraph as amended by section 1 of part FF of chapter 57 of the laws of 2013, paragraph 1 as amended by chapter 1041 of the laws of 1974, subparagraph (a) of paragraph 1 as amended by chapter 141 of the laws of 1988, subparagraphs (b) and (c) of paragraph 1 as added and subparagraphs (d) and (e) of paragraph 1 as relettered by chapter 843 of the laws of 1980 and subparagraph (f) of paragraph 1 as amended by chapter 578 of the laws of 2006, are amended to read as follows:

Paragraph (h) of subdivision twenty-two of section 265.00 and sections 265.01, 265.01-a, [subdivision one of section] 265.01-b, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36, 265.37 and 270.05 shall not apply to:

1. Possession of any of the weapons, instruments, appliances or substances specified in sections 265.01, 265.02, 265.03, 265.04, 265.05 and 270.05 by the following:

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

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

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

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(c) Peace officers as defined by section 2.10 of the criminal procedure law.

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

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

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

(f) A person voluntarily surrendering such weapon, instrument, appliance or substance, provided that such surrender shall be made to the superintendent of the division of state police or a member thereof designated by such superintendent, or to the sheriff of the county in which such person resides, or in the county of Nassau or in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown in the county of Suffolk to the commissioner of police or a member of the police department thereof designated by such commissioner, or if such person resides in a city, town other than one named in this subparagraph, or village to the police commissioner or head of the police force or department thereof or to a member of the force or department designated by such commissioner or head; and provided, further, that the same shall be surrendered by such person in accordance with such terms and conditions as may be established by such superintendent, sheriff, police force or department. Nothing in this paragraph shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such weapons, instruments, appliances or substances surrendered as herein provided. A person who possesses any such weapon, instrument, appliance or substance as an executor or administrator or any other lawful possessor of such property of a decedent may continue to possess such property for a period not over fifteen days. If such property is not lawfully disposed of within such period the possessor shall deliver it to an appropriate official described in this paragraph or such property may be delivered to the superintendent of state police. Such officer shall hold it and shall thereafter deliver it on the written request of such executor, administrator or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the property is received by such official within one year of the delivery of such property, such official shall dispose of it in accordance with the provisions of section 400.05 of this chapter.

S 2. This act shall take effect immediately.