

552

2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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Introduced by M. of A. LENTOL -- read once and referred to the Committee  
on Codes

AN ACT to amend the penal law, in relation to authorizing law enforcement officers to carry concealed handguns

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

1     Section 1. Subdivision 2 of section 400.00 of the penal law, as  
2 amended by chapter 189 of the laws of 2000, is amended to read as  
3 follows:  
4     2. Types of licenses. A license for gunsmith or dealer in firearms  
5 shall be issued to engage in such business. A license for a pistol or  
6 revolver, other than an assault weapon or a disguised gun, shall be  
7 issued to (a) have and possess in his dwelling by a householder; (b)  
8 have and possess in his place of business by a merchant or storekeeper;  
9 (c) have and carry concealed while so employed by a messenger employed  
10 by a banking institution or express company; (d) have and carry  
11 concealed by a justice of the supreme court in the first or second judicial  
12 departments, or by a judge of the New York city civil court or the  
13 New York city criminal court; (e) have and carry concealed while so  
14 employed by a regular employee of an institution of the state, or of any  
15 county, city, town or village, under control of a commissioner of  
16 correction of the city or any warden, superintendent or head keeper of  
17 any state prison, penitentiary, workhouse, county jail or other institution  
18 for the detention of persons convicted or accused of crime or held  
19 as witnesses in criminal cases, provided that application is made there-  
20 for by such commissioner, warden, superintendent or head keeper; (f)  
21 HAVE AND CARRY CONCEALED BY QUALIFIED LAW ENFORCEMENT PERSONNEL OF THIS  
22 STATE; (G) have and carry concealed, without regard to employment or  
23 place of possession, by any person when proper cause exists for the  
24 issuance thereof; and [(g)] (H) have, possess, collect and carry antique

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

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pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and (ii) any replica of any pistol described in clause (i) [hereof] OF THIS PARAGRAPH if such replica[--]:

(1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

S 2. Section 400.00 of the penal law is amended by adding a new subdivision 16-c to read as follows:

16-C. QUALIFIED LAW ENFORCEMENT PERSONNEL. (A) FOR THE PURPOSES OF PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION, QUALIFIED LAW ENFORCEMENT PERSONNEL MEANS ANY MEMBER OF LAW ENFORCEMENT, WHETHER CURRENTLY EMPLOYED IN, PREVIOUSLY EMPLOYED IN, OR RETIRED FROM SUCH EMPLOYMENT, WHO IS OR WAS AUTHORIZED TO CARRY A FIREARM DURING THE COURSE OF HIS OR HER EMPLOYMENT, AND WHO HAS A PHOTO IDENTIFICATION CARD OF HIMSELF OR HERSELF THAT WAS ISSUED BY HIS OR HER LAW ENFORCEMENT EMPLOYER. IN ADDITION, SUCH PERSON MUST NOT BE, IN ANY OTHER WAY, PROHIBITED FROM POSSESSING A FIREARM.

(B) FOR PURPOSES OF THIS SUBDIVISION, IF A LAW ENFORCEMENT OFFICER RETIRED FROM SERVICE DUE TO A DISABILITY, THEN IN ORDER TO BE DEEMED QUALIFIED LAW ENFORCEMENT PERSONNEL PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION:

(I) SUCH OFFICER MUST HAVE BEEN AN OFFICER FOR AT LEAST FIVE YEARS PRIOR TO HIS OR HER RETIREMENT;

(II) THE BASIS OF SUCH OFFICER'S DISABILITY MUST NOT HAVE BEEN DUE TO THE FACT THAT THE OFFICER WAS DECLARED MENTALLY INCAPACITATED OR MENTALLY UNFIT TO PERFORM HIS OR HER JOB DUTIES, OR FOR ANY OTHER REASON THAT WOULD LEGALLY PREVENT HIM OR HER FROM POSSESSING A FIREARM; AND

(III) SUCH OFFICER MUST ANNUALLY QUALIFY TO POSSESS A FIREARM, AT HIS OR HER OWN EXPENSE, AT THE SAME COURSE OF FIRE REQUIRED FOR ACTIVE LAW ENFORCEMENT OFFICERS.

(C) FOR PURPOSES OF THIS SUBDIVISION, IF A LAW ENFORCEMENT OFFICER RETIRED FROM SERVICE FOR ANY REASON OTHER THAN SPECIFIED IN PARAGRAPH (B) OF THIS SUBDIVISION, THEN IN ORDER TO BE DEEMED QUALIFIED LAW ENFORCEMENT PERSONNEL PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION:

(I) SUCH OFFICER MUST HAVE BEEN AN OFFICER FOR AT LEAST FIFTEEN YEARS PRIOR TO HIS OR HER RETIREMENT; AND

(II) SUCH OFFICER MUST ANNUALLY QUALIFY TO POSSESS A FIREARM, AT HIS OR HER OWN EXPENSE, AT THE SAME COURSE OF FIRE REQUIRED FOR ACTIVE LAW ENFORCEMENT OFFICERS. PRIOR TO TAKING ANY QUALIFICATION EXAMINATION, THE RETIRED LAW ENFORCEMENT OFFICER MUST CERTIFY TO THE QUALIFYING INSTRUCTOR THAT HE OR SHE:

(1) RETIRED FROM A LAW ENFORCEMENT AGENCY;

(2) RETIRED FOR REASONS OTHER THAN THOSE LISTED IN PARAGRAPH (B) OF THIS SUBDIVISION;

(3) WAS IN GOOD STANDING WITH HIS OR HER AGENCY AT THE TIME OF HIS OR HER RETIREMENT;

(4) WAS, PRIOR TO HIS OR HER RETIREMENT, AUTHORIZED BY LAW TO ENGAGE IN OR SUPERVISE THE PREVENTION, DETECTION, INVESTIGATION, OR PROSECUTION OF, OR THE INCARCERATION OF ANY PERSON FOR, ANY VIOLATION OF LAW, AND HAD STATUTORY POWER TO EFFECT AND ARREST;

1 (5) WAS EMPLOYED AS A LAW ENFORCEMENT OFFICER FOR AT LEAST FIFTEEN  
2 YEARS PRIOR TO HIS OR HER RETIREMENT;

3 (6) IS NOT PROHIBITED FROM POSSESSING A FIREARM UNDER ANY STATE OR  
4 FEDERAL LAW; AND

5 (7) CURRENTLY POSSESSES A VALID PERMIT TO CARRY A FIREARM.

6 (D) THERE IS A PRESUMPTION THAT ANY RETIRED LAW ENFORCEMENT PERSONNEL  
7 IN POSSESSION OF A PHOTO IDENTIFICATION CARD ISSUED BY HIS OR HER FORMER  
8 EMPLOYER RETIRED IN GOOD STANDING.

9 (E)(I) A QUALIFYING INSTRUCTOR SHALL PRESENT A CERTIFICATE SIGNED BY  
10 HIMSELF OR HERSELF TO ANY RETIRED LAW ENFORCEMENT OFFICER WHO MEETS THE  
11 QUALIFICATION REQUIREMENTS. SUCH CERTIFICATE SHALL DISPLAY THE DATE OF  
12 ISSUANCE AND SHALL ONLY BE VALID FOR A PERIOD OF ONE YEAR.

13 (II) THE RETIRED LAW ENFORCEMENT OFFICER MUST CARRY THE CERTIFICATE  
14 WITH HIMSELF OR HERSELF ANYTIME HE OR SHE ALSO HAS A FIREARM IN HIS OR  
15 HER POSSESSION. THE CERTIFICATE SHALL BE PRODUCED, ON DEMAND, TO ANY LAW  
16 ENFORCEMENT OFFICER.

17 (F) ANY RETIRED LAW ENFORCEMENT OFFICER WHO HAS HIS OR HER LICENSE TO  
18 CARRY A FIREARM REVOKED FOR ANY REASON IS PERMANENTLY DISQUALIFIED FROM  
19 POSSESSION OF SUCH A LICENSE WITHIN THE STATE.

20 S 3. Paragraph (a) of subdivision 11 of section 400.00 of the penal  
21 law, as amended by chapter 1 of the laws of 2013, is amended to read as  
22 follows:

23 (a) The conviction of a licensee anywhere of a felony or serious  
24 offense or a licensee at any time becoming ineligible to obtain a  
25 license under this section shall operate as a revocation of the license.  
26 A license may be revoked or suspended as provided for in section 530.14  
27 of the criminal procedure law or section eight hundred forty-two-a of  
28 the family court act. Except for a license issued pursuant to section  
29 400.01 of this article, a license may be revoked and cancelled at any  
30 time in the city of New York, and in the counties of Nassau and Suffolk,  
31 by the licensing officer, and elsewhere than in the city of New York by  
32 any judge or justice of a court of record; a license issued pursuant to  
33 section 400.01 of this article may be revoked and cancelled at any time  
34 by the licensing officer or any judge or justice of a court of record.  
35 The official revoking a license shall give written notice thereof with-  
36 out unnecessary delay to the executive department, division of state  
37 police, Albany, and shall also notify immediately the duly constituted  
38 police authorities of the locality. ANY SUPREME COURT JUDGE MAY REVOKE  
39 A LICENSE ISSUED PURSUANT TO PARAGRAPH (F) OF SUBDIVISION TWO OF THIS  
40 SECTION FOR GOOD CAUSE SHOWN.

41 S 4. This act shall take effect immediately.