

# STATE OF NEW YORK

739

2017-2018 Regular Sessions

## IN SENATE

January 4, 2017

Introduced by Sens. ORTT, SEWARD -- 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 licenses to carry and possess firearms

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 judi-~~  
12 ~~cial 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 institu-~~  
18 ~~tion 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,~~] without regard to employment or place of  
22 possession[, ~~by any person when proper cause exists for the issuance~~  
23 ~~thereof; and (g) have, possess, collect and carry antique pistols which~~  
24 ~~are defined as follows: (i) any single shot, muzzle loading pistol with~~  
25 ~~a matchlock, flintlock, percussion cap, or similar type of ignition~~

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

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~~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 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].~~

§ 2. Paragraph (a) of subdivision 3 of section 400.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(a) Applications shall be made and renewed, in the case of a license to carry ~~[or]~~ **and** possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his or her principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the superintendent of state police. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he or she is a citizen of the United States, whether or not he or she complies with each requirement for eligibility specified in subdivision one of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application shall submit one photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof.

§ 3. Subdivision 6 of section 400.00 of the penal law, as amended by chapter 318 of the laws of 2002, is amended to read as follows:

6. License: validity. Any license issued pursuant to this section shall be valid notwithstanding the provisions of any local law or ordinance. No license shall be transferable to any other person or premises. A license to carry ~~[or]~~ **and** possess a pistol or revolver~~[, not otherwise limited as to place or time of possession,]~~ shall be effective throughout the state, except that the same shall not be valid within the city of New York unless a special permit granting validity is issued by the police commissioner of that city. Such license to carry ~~[or]~~ **and** possess shall be valid within the city of New York in the absence of a permit issued by the police commissioner of that city, provided that (a) the firearms covered by such license have been purchased from a licensed dealer within the city of New York and are being transported out of said

1 city forthwith and immediately from said dealer by the licensee in a  
2 locked container during a continuous and uninterrupted trip; or provided  
3 that (b) the firearms covered by such license are being transported by  
4 the licensee in a locked container and the trip through the city of New  
5 York is continuous and uninterrupted; or provided that (c) the firearms  
6 covered by such license are carried by armored car security guards  
7 transporting money or other valuables, in, to, or from motor vehicles  
8 commonly known as armored cars, during the course of their employment;  
9 or provided that (d) the licensee is a retired police officer as police  
10 officer is defined pursuant to subdivision thirty-four of section 1.20  
11 of the criminal procedure law or a retired federal law enforcement offi-  
12 cer, as defined in section 2.15 of the criminal procedure law, who has  
13 been issued a license by an authorized licensing officer as defined in  
14 subdivision ten of section 265.00 of this chapter; provided, further,  
15 however, that if such license was not issued in the city of New York it  
16 must be marked "Retired Police Officer" or "Retired Federal Law Enforce-  
17 ment Officer", as the case may be, and, in the case of a retired officer  
18 the license shall be deemed to permit only police or federal law  
19 enforcement regulations weapons; or provided that (e) the licensee is a  
20 peace officer described in subdivision four of section 2.10 of the crim-  
21 inal procedure law and the license, if issued by other than the city of  
22 New York, is marked "New York State Tax Department Peace Officer" and in  
23 such case the exemption shall apply only to the firearm issued to such  
24 licensee by the department of taxation and finance. A license as  
25 gunsmith or dealer in firearms shall not be valid outside the city or  
26 county, as the case may be, where issued.

27 § 4. Subdivision 7 of section 400.00 of the penal law is amended to  
28 read as follows:

29 7. License: form. Any license issued pursuant to this section shall,  
30 except in the city of New York, be approved as to form by the super-  
31 intendent of state police. A license to carry [~~or~~] and possess a pistol  
32 or revolver shall have attached the licensee's photograph, and a coupon  
33 which shall be removed and retained by any person disposing of a firearm  
34 to the licensee. Such license shall specify the weapon covered by cali-  
35 bre, make, model, manufacturer's name and serial number, or if none, by  
36 any other distinguishing number or identification mark[~~, and shall indi-~~  
37 ~~cate whether issued to carry on the person or possess on the premises,~~  
38 ~~and if on the premises shall also specify the place where the licensee~~  
39 ~~shall possess the same]. If such license is issued to an alien, or to a  
40 person not a citizen of and usually a resident in the state, the licens-  
41 ing officer shall state in the license the particular reason for the  
42 issuance and the names of the persons certifying to the good character  
43 of the applicant. Any license as gunsmith or dealer in firearms shall  
44 mention and describe the premises for which it is issued and shall be  
45 valid only for such premises.~~

46 § 5. Subdivision 9 of section 400.00 of the penal law, as amended by  
47 chapter 1 of the laws of 2013, is amended to read as follows:

48 9. License: amendment. Elsewhere than in the city of New York, a  
49 person licensed to carry [~~or~~] and possess a pistol or revolver may apply  
50 at any time to his or her licensing officer for amendment of his or her  
51 license to include one or more such weapons or to cancel weapons held  
52 under license. If granted, a record of the amendment describing the  
53 weapons involved shall be filed by the licensing officer in the execu-  
54 tive department, division of state police, Albany. The superintendent of  
55 state police may authorize that such amendment be completed and trans-  
56 mitted to the state police in electronic form. Notification of any

1 change of residence shall be made in writing by any licensee within ten  
2 days after such change occurs, and a record of such change shall be  
3 inscribed by such licensee on the reverse side of his or her license.  
4 Elsewhere than in the city of New York, and in the counties of Nassau  
5 and Suffolk, such notification shall be made to the executive depart-  
6 ment, division of state police, Albany, and in the city of New York to  
7 the police commissioner of that city, and in the county of Nassau to the  
8 police commissioner of that county, and in the county of Suffolk to the  
9 licensing officer of that county, who shall, within ten days after such  
10 notification shall be received by him or her, give notice in writing of  
11 such change to the executive department, division of state police, at  
12 Albany.

13 § 6. Paragraph (a) of subdivision 10 of section 400.00 of the penal  
14 law, as amended by chapter 1 of the laws of 2013, is amended to read as  
15 follows:

16 (a) Any license for gunsmith or dealer in firearms and, in the city of  
17 New York, any license to carry ~~[ex]~~ and possess a pistol or revolver,  
18 issued at any time pursuant to this section or prior to the first day of  
19 July, nineteen hundred sixty-three and not limited to expire on an  
20 earlier date fixed in the license, shall expire not more than three  
21 years after the date of issuance. In the counties of Nassau, Suffolk and  
22 Westchester, any license to carry ~~[ex]~~ and possess a pistol or revolver,  
23 issued at any time pursuant to this section or prior to the first day of  
24 July, nineteen hundred sixty-three and not limited to expire on an  
25 earlier date fixed in the license, shall expire not more than five years  
26 after the date of issuance; however, in the county of Westchester, any  
27 such license shall be certified prior to the first day of April, two  
28 thousand, in accordance with a schedule to be contained in regulations  
29 promulgated by the commissioner of the division of criminal justice  
30 services, and every such license shall be recertified every five years  
31 thereafter. For purposes of this section certification shall mean that  
32 the licensee shall provide to the licensing officer the following infor-  
33 mation only: current name, date of birth, current address, and the  
34 make, model, caliber and serial number of all firearms currently  
35 possessed. Such certification information shall be filed by the licens-  
36 ing officer in the same manner as an amendment. Elsewhere than in the  
37 city of New York and the counties of Nassau, Suffolk and Westchester,  
38 any license to carry ~~[ex]~~ and possess a pistol or revolver, issued at  
39 any time pursuant to this section or prior to the first day of July,  
40 nineteen hundred sixty-three and not previously revoked or cancelled,  
41 shall be in force and effect until revoked as herein provided. Any  
42 license not previously cancelled or revoked shall remain in full force  
43 and effect for thirty days beyond the stated expiration date on such  
44 license. Any application to renew a license that has not previously  
45 expired, been revoked or cancelled shall thereby extend the term of the  
46 license until disposition of the application by the licensing officer.  
47 In the case of a license for gunsmith or dealer in firearms, in counties  
48 having a population of less than two hundred thousand inhabitants,  
49 photographs and fingerprints shall be submitted on original applications  
50 and upon renewal thereafter only at six year intervals. Upon satisfac-  
51 tory proof that a currently valid original license has been despoiled,  
52 lost or otherwise removed from the possession of the licensee and upon  
53 application containing an additional photograph of the licensee, the  
54 licensing officer shall issue a duplicate license.

55 § 7. Subdivision 12 of section 400.00 of the penal law, as amended by  
56 chapter 1 of the laws of 2013, is amended to read as follows:

1 12. Records required of gunsmiths and dealers in firearms. Any person  
2 licensed as gunsmith or dealer in firearms shall keep a record book  
3 approved as to form, except in the city of New York, by the superinten-  
4 dent of state police. In the record book shall be entered at the time of  
5 every transaction involving a firearm the date, name, age, occupation  
6 and residence of any person from whom a firearm is received or to whom a  
7 firearm is delivered, and the calibre, make, model, manufacturer's name  
8 and serial number, or if none, any other distinguishing number or iden-  
9 tification mark on such firearm. Before delivering a firearm to any  
10 person, the licensee shall require him to produce either a license valid  
11 under this section to carry ~~[e]~~ and possess the same, or proof of  
12 lawful authority as an exempt person pursuant to section 265.20. In  
13 addition, before delivering a firearm to a peace officer, the licensee  
14 shall verify that person's status as a peace officer with the division  
15 of state police. After completing the foregoing, the licensee shall  
16 remove and retain the attached coupon and enter in the record book the  
17 date of such license, number, if any, and name of the licensing officer,  
18 in the case of the holder of a license to carry ~~[e]~~ and possess, or the  
19 shield or other number, if any, assignment and department, unit or agen-  
20 cy, in the case of an exempt person. The original transaction report  
21 shall be forwarded to the division of state police within ten days of  
22 delivering a firearm to any person, and a duplicate copy shall be kept  
23 by the licensee. The superintendent of state police may designate that  
24 such record shall be completed and transmitted in electronic form. A  
25 dealer may be granted a waiver from transmitting such records in elec-  
26 tronic form if the superintendent determines that such dealer is incapa-  
27 ble of such transmission due to technological limitations that are not  
28 reasonably within the control of the dealer, or other exceptional  
29 circumstances demonstrated by the dealer, pursuant to a process estab-  
30 lished in regulation, and at the discretion of the superintendent.  
31 Records assembled or collected for purposes of inclusion in the database  
32 created pursuant to section 400.02 of this article shall not be subject  
33 to disclosure pursuant to article six of the public officers law. The  
34 record book shall be maintained on the premises mentioned and described  
35 in the license and shall be open at all reasonable hours for inspection  
36 by any peace officer, acting pursuant to his special duties, or police  
37 officer. In the event of cancellation or revocation of the license for  
38 gunsmith or dealer in firearms, or discontinuance of business by a  
39 licensee, such record book shall be immediately surrendered to the  
40 licensing officer in the city of New York, and in the counties of Nassau  
41 and Suffolk, and elsewhere in the state to the executive department,  
42 division of state police.

43 § 8. Subdivision 14 of section 400.00 of the penal law, as amended by  
44 chapter 195 of the laws of 2005, is amended to read as follows:

45 14. Fees. In the city of New York and the county of Nassau, the annual  
46 license fee shall be twenty-five dollars for gunsmiths and fifty dollars  
47 for dealers in firearms. In such city, the city council and in the coun-  
48 ty of Nassau the Board of Supervisors shall fix the fee to be charged  
49 for a license to carry ~~[e]~~ and possess a pistol or revolver and provide  
50 for the disposition of such fees. Elsewhere in the state, the licensing  
51 officer shall collect and pay into the county treasury the following  
52 fees: for each license to carry ~~[e]~~ and possess a pistol or revolver,  
53 not less than three dollars nor more than ten dollars as may be deter-  
54 mined by the legislative body of the county; for each amendment thereto,  
55 three dollars, and five dollars in the county of Suffolk; and for each  
56 license issued to a gunsmith or dealer in firearms, ten dollars. The fee

1 for a duplicate license shall be five dollars. The fee for processing a  
2 license transfer between counties shall be five dollars. The fee for  
3 processing a license or renewal thereof for a qualified retired police  
4 officer as defined under subdivision thirty-four of section 1.20 of the  
5 criminal procedure law, or a qualified retired sheriff, undersheriff, or  
6 deputy sheriff of the city of New York as defined under subdivision two  
7 of section 2.10 of the criminal procedure law, or a qualified retired  
8 bridge and tunnel officer, sergeant or lieutenant of the triborough  
9 bridge and tunnel authority as defined under subdivision twenty of  
10 section 2.10 of the criminal procedure law, or a qualified retired  
11 uniformed court officer in the unified court system, or a qualified  
12 retired court clerk in the unified court system in the first and second  
13 judicial departments, as defined in paragraphs a and b of subdivision  
14 twenty-one of section 2.10 of the criminal procedure law or a retired  
15 correction officer as defined in subdivision twenty-five of section 2.10  
16 of the criminal procedure law shall be waived in all counties throughout  
17 the state.

18 § 9. This act shall take effect immediately and shall apply to all  
19 licenses held and issued on and after such date.