

# 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 Assem-  
bly, 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

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

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

7. License: form. Any license issued pursuant to this section shall, except in the city of New York, be approved as to form by the superintendent of state police. A license to carry ~~[ex]~~ and possess a pistol or revolver shall have attached the licensee's photograph, and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee. Such license shall specify the weapon covered by calibre, make, model, manufacturer's name and serial number, or if none, by any other distinguishing number or identification mark~~[, and shall indicate whether issued to carry on the person or possess on the premises, and if on the premises shall also specify the place where the licensee shall possess the same]~~. If such license is issued to an alien, or to a person not a citizen of and usually a resident in the state, the licensing officer shall state in the license the particular reason for the issuance and the names of the persons certifying to the good character of the applicant. Any license as gunsmith or dealer in firearms shall mention and describe the premises for which it is issued and shall be valid only for such premises.

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

9. License: amendment. Elsewhere than in the city of New York, a person licensed to carry ~~[ex]~~ and possess a pistol or revolver may apply at any time to his or her licensing officer for amendment of his or her license to include one or more such weapons or to cancel weapons held under license. If granted, a record of the amendment describing the weapons involved shall be filed by the licensing officer in the executive department, division of state police, Albany. The superintendent of state police may authorize that such amendment be completed and transmitted 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:

12. Records required of gunsmiths and dealers in firearms. Any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry ~~or~~ and possess the same, or proof of lawful authority as an exempt person pursuant to section 265.20. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry ~~or~~ and possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The superintendent of state police may designate that such record shall be completed and transmitted in electronic form. A dealer may be granted a waiver from transmitting such records in electronic form if the superintendent determines that such dealer is incapable of such transmission due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of the superintendent. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this article shall not be subject to disclosure pursuant to article six of the public officers law. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

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

14. Fees. In the city of New York and the county of Nassau, the annual license fee shall be twenty-five dollars for gunsmiths and fifty dollars for dealers in firearms. In such city, the city council and in the county of Nassau the Board of Supervisors shall fix the fee to be charged for a license to carry ~~or~~ and possess a pistol or revolver and provide for the disposition of such fees. Elsewhere in the state, the licensing officer shall collect and pay into the county treasury the following fees: for each license to carry ~~or~~ and possess a pistol or revolver, not less than three dollars nor more than ten dollars as may be determined by the legislative body of the county; for each amendment thereto, three dollars, and five dollars in the county of Suffolk; and for each 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.