

# STATE OF NEW YORK

638

2019-2020 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. ROSENTHAL, JAFFEE, D'URSO, JEAN-PIERRE, GALEF, BLAKE, SIMON, ORTIZ -- Multi-Sponsored by -- M. of A. COOK, DE LA ROSA, HYNDMAN, NIOU, WRIGHT -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to restricting the locations of gunsmiths and dealers in firearms in relation to day cares, educational facilities, and places of worship

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 400.00 of the penal law is amended by adding a new  
2 subdivision 18 to read as follows:

3 18. No license shall be granted for any gunsmith or dealer in firearms  
4 to operate:

5 (a) on the same street or avenue and within five hundred feet of a  
6 building occupied as a child day care or educational facility, or exclu-  
7 sively occupied as a place of worship; or

8 (b) in a city, town or village having a population of twenty thousand  
9 or more within five hundred feet of three or more existing gunsmiths or  
10 dealers in firearms licensed and operating pursuant to this section; and

11 (c) the measurements in paragraphs (a) and (b) of this subdivision are  
12 to be taken in straight lines from the center of the nearest entrance of  
13 the premises sought to be licensed to the center of the nearest entrance  
14 of such child day care or educational facility, or other place of  
15 worship or to the center of the nearest entrance of each such premises  
16 of existing gunsmiths or dealers in firearms licensed and operating  
17 pursuant to this section; except, however, that no license shall be  
18 denied to any premises at which a license under this chapter has been in  
19 existence continuously from a date prior to the date when a building on  
20 the same street or avenue and within five hundred feet of said premises  
21 has been occupied as a child day care or educational facility, or exclu-

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

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1 sively occupied as a place of worship; and except that no license shall  
2 be denied to any premises, which is within five hundred feet of three or  
3 more existing gunsmiths or dealers in firearms licensed and operating  
4 pursuant to this section, at which a license under this chapter has been  
5 in existence continuously on or prior to November first, two thousand  
6 nineteen.

7 (d) Within the context of this subdivision, the word "entrance" shall  
8 mean a door regularly used to give ingress to a child day care or educa-  
9 tional facility, a house of worship, premises licensed and operating  
10 pursuant to this section by a gunsmith or dealer in firearms or of the  
11 premises sought to be licensed. Where a child day care or educational  
12 facility, a house of worship, or premises licensed and operating pursu-  
13 ant to this section by a gunsmith or dealer in firearms or the premises  
14 sought to be licensed is set back from a public thoroughfare, the walk-  
15 way or stairs leading to any such door shall be deemed an entrance and  
16 the measurement shall be taken to the center of the walkway or stairs at  
17 the point where it meets the building line or public thoroughfare. A  
18 door which has no exterior hardware, or which is used solely as an emer-  
19 gency or fire exit, or for maintenance purposes, or which leads directly  
20 to a part of a building not regularly used by the general public or  
21 patrons, is not deemed an "entrance".

22 (e) Within the context of this subdivision, a "child day care or  
23 educational facility" means (i) in or on or within any building, struc-  
24 ture, athletic playing field, a playground or land contained within the  
25 real property boundary line of a public or private child day care center  
26 as such term is defined in paragraph (c) of subdivision one of section  
27 three hundred ninety of the social services law, or nursery, pre-kinder-  
28 garten or kindergarten, or (ii) any area accessible to the public  
29 located within one thousand feet of the real property boundary line  
30 comprising any such facility. For the purposes of this section an "area  
31 accessible to the public" shall mean sidewalks, streets, parking lots,  
32 parks, playgrounds, stores and restaurants.

33 (f) Within the context of this subdivision, a building occupied as a  
34 place of worship does not cease to be "exclusively" occupied as a place  
35 of worship by incidental uses that are not of a nature to detract from  
36 the predominant character of the building as a place of worship, such  
37 uses which include, but which are not limited to: the conduct of legally  
38 authorized games of bingo or other games of chance held as a means of  
39 raising funds for the not-for-profit religious organization which  
40 conducts services at the place of worship or for other not-for-profit  
41 organizations or groups; use of the building for fund-raising perform-  
42 ances by or benefitting the not-for-profit religious organization which  
43 conducts services at the place of worship or other not-for-profit organ-  
44 izations or groups; the use of the building by other religious organiza-  
45 tions or groups for religious services or other purposes; the conduct of  
46 social activities by or for the benefit of the congregants; the use of  
47 the building for meetings held by organizations or groups providing  
48 bereavement counseling to persons having suffered the loss of a loved  
49 one, or providing advice or support for conditions or diseases includ-  
50 ing, but not limited to, alcoholism, drug addiction, cancer, cerebral  
51 palsy, Parkinson's disease, or Alzheimer's disease; the use of the  
52 building for blood drives, health screenings, health information meet-  
53 ings, yoga classes, exercise classes or other activities intended to  
54 promote the health of the congregants or other persons; and use of the  
55 building by non-congregant members of the community for private social  
56 functions. The building occupied as a place of worship does not cease

1 to be "exclusively" occupied as a place of worship where the not-for-  
2 profit religious organization occupying the place of worship accepts the  
3 payment of funds to defray costs related to another party's use of the  
4 building.

5 (g) Notwithstanding the provisions of paragraph (b) of this subdivi-  
6 sion, a license pursuant to this section for a premises which shall be  
7 within five hundred feet of three or more existing premises licensed and  
8 operating pursuant to this section may be issued if, after consultation  
9 with the municipality or community board, it determines that granting  
10 such license would be in the public interest. Before such license is  
11 issued, a hearing shall be conducted, upon notice to the applicant and  
12 the municipality or community board, and shall state its reasons there-  
13 for. The hearing may be rescheduled, adjourned or continued, and notice  
14 shall be given to the applicant and the municipality or community board  
15 of any such rescheduled, adjourned or continued hearing. Before any said  
16 license is issued, in addition to the hearing required by this para-  
17 graph, a public meeting regarding said license shall be conducted, upon  
18 notice to the applicant and the municipality or community board. The  
19 public meeting may be rescheduled, adjourned or continued, and notice  
20 shall be given to the applicant and the municipality or community board  
21 of any such rescheduled, adjourned or continued public meeting. Notice  
22 to the municipality or community board shall mean written notice mailed  
23 to such municipality or community board at least fifteen days in advance  
24 of any hearing scheduled pursuant to this paragraph. Any municipality or  
25 community board may waive the fifteen day notice requirement. No prem-  
26 ises having been granted a license pursuant to this section shall be  
27 denied a renewal of such license upon the grounds that such premises are  
28 within five hundred feet of a building or buildings wherein three or  
29 more premises are licensed and operating pursuant to this section.

30 § 2. This act shall take effect on the first of November next succeed-  
31 ing the date on which it shall have become a law.