

STATE OF NEW YORK

9458

IN SENATE

May 30, 2022

Introduced by Sen. THOMAS -- 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 the purchase or taking possession of a semiautomatic rifle

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

1 Section 1. Subdivisions 2, 3, 6, 7, 8, 9 and 14 of section 400.00 of
2 the penal law, subdivisions 2 and 8 as amended by chapter 189 of the
3 laws of 2000, paragraph (a) of subdivision 3 and subdivision 9 as
4 amended by chapter 1 of the laws of 2013, paragraph (b) of subdivision 3
5 as added by chapter 778 of the laws of 1985, subdivision 6 as amended by
6 chapter 104 of the laws of 2019, and subdivision 14 as amended by chap-
7 ter 195 of the laws of 2005, are amended to read as follows:

8 2. Types of licenses. A license for gunsmith or dealer in firearms
9 shall be issued to engage in such business. A license for a semiauto-
10 matic rifle, other than an assault weapon or disguised gun, shall be
11 issued to purchase or take possession of such a firearm when such trans-
12 fer of ownership occurs on or after the effective date of the chapter of
13 the laws of two thousand twenty-two that amended this subdivision. A
14 license for a pistol or revolver, other than an assault weapon or a
15 disguised gun, shall be issued to (a) have and possess in his dwelling
16 by a householder; (b) have and possess in his place of business by a
17 merchant or storekeeper; (c) have and carry concealed while so employed
18 by a messenger employed by a banking institution or express company; (d)
19 have and carry concealed by a justice of the supreme court in the first
20 or second judicial departments, or by a judge of the New York city civil
21 court or the New York city criminal court; (e) have and carry concealed
22 while so employed by a regular employee of an institution of the state,
23 or of any county, city, town or village, under control of a commissioner
24 of correction of the city or any warden, superintendent or head keeper
25 of any state prison, penitentiary, workhouse, county jail or other
26 institution for the detention of persons convicted or accused of crime
27 or held as witnesses in criminal cases, provided that application is
28 made therefor by such commissioner, warden, superintendent or head keep-

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

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1 er; (f) have and carry concealed, without regard to employment or place
2 of possession, by any person when proper cause exists for the issuance
3 thereof; and (g) have, possess, collect and carry antique pistols which
4 are defined as follows: (i) any single shot, muzzle loading pistol with
5 a matchlock, flintlock, percussion cap, or similar type of ignition
6 system manufactured in or before 1898, which is not designed for using
7 rimfire or conventional centerfire fixed ammunition; and (ii) any repli-
8 ca of any pistol described in clause (i) hereof if such replica--

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

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

14 3. Applications. (a) Applications shall be made and renewed, in the
15 case of a license to carry or possess a pistol or revolver or to
16 purchase or take possession of a semiautomatic rifle, to the licensing
17 officer in the city or county, as the case may be, where the applicant
18 resides, is principally employed or has his or her principal place of
19 business as merchant or storekeeper; and, in the case of a license as
20 gunsmith or dealer in firearms, to the licensing officer where such
21 place of business is located. Blank applications shall, except in the
22 city of New York, be approved as to form by the superintendent of state
23 police. An application shall state the full name, date of birth, resi-
24 dence, present occupation of each person or individual signing the same,
25 whether or not he or she is a citizen of the United States, whether or
26 not he or she complies with each requirement for eligibility specified
27 in subdivision one of this section and such other facts as may be
28 required to show the good character, competency and integrity of each
29 person or individual signing the application. An application shall be
30 signed and verified by the applicant. Each individual signing an appli-
31 cation shall submit one photograph of himself or herself and a duplicate
32 for each required copy of the application. Such photographs shall have
33 been taken within thirty days prior to filing the application. In case
34 of a license as gunsmith or dealer in firearms, the photographs submit-
35 ted shall be two inches square, and the application shall also state the
36 previous occupation of each individual signing the same and the location
37 of the place of such business, or of the bureau, agency, subagency,
38 office or branch office for which the license is sought, specifying the
39 name of the city, town or village, indicating the street and number and
40 otherwise giving such apt description as to point out reasonably the
41 location thereof. In such case, if the applicant is a firm, partnership
42 or corporation, its name, date and place of formation, and principal
43 place of business shall be stated. For such firm or partnership, the
44 application shall be signed and verified by each individual composing or
45 intending to compose the same, and for such corporation, by each officer
46 thereof.

47 (b) Application for an exemption under paragraph seven-b of subdivi-
48 sion a of section 265.20 of this chapter. Each applicant desiring to
49 obtain the exemption set forth in paragraph seven-b of subdivision a of
50 section 265.20 of this chapter shall make such request in writing of the
51 licensing officer with whom his application for a license is filed, at
52 the time of filing such application. Such request shall include a signed
53 and verified statement by the person authorized to instruct and super-
54 vise the applicant, that has met with the applicant and that he has
55 determined that, in his judgment, said applicant does not appear to be
56 or poses a threat to be, a danger to himself or to others. He shall

1 include a copy of his certificate as an instructor in small arms, if he
2 is required to be certified, and state his address and telephone number.
3 He shall specify the exact location by name, address and telephone
4 number where such instruction will take place. Such licensing officer
5 shall, no later than ten business days after such filing, request the
6 duly constituted police authorities of the locality where such applica-
7 tion is made to investigate and ascertain any previous criminal record
8 of the applicant pursuant to subdivision four of this section. Upon
9 completion of this investigation, the police authority shall report the
10 results to the licensing officer without unnecessary delay. The licens-
11 ing officer shall no later than ten business days after the receipt of
12 such investigation, determine if the applicant has been previously
13 denied a license, been convicted of a felony, or been convicted of a
14 serious offense, and either approve or disapprove the applicant for
15 exemption purposes based upon such determinations. If the applicant is
16 approved for the exemption, the licensing officer shall notify the
17 appropriate duly constituted police authorities and the applicant. Such
18 exemption shall terminate if the application for the license is denied,
19 or at any earlier time based upon any information obtained by the
20 licensing officer or the appropriate police authorities which would
21 cause the license to be denied. The applicant and appropriate police
22 authorities shall be notified of any such terminations.

23 6. License: validity. Any license issued pursuant to this section
24 shall be valid notwithstanding the provisions of any local law or ordi-
25 nance. No license shall be transferable to any other person or prem-
26 ises. A license to carry or possess a pistol or revolver, or to purchase
27 or take possession of a semiautomatic rifle, not otherwise limited as to
28 place or time of possession, shall be effective throughout the state,
29 except that the same shall not be valid within the city of New York
30 unless a special permit granting validity is issued by the police
31 commissioner of that city. Such license to carry or possess shall be
32 valid within the city of New York in the absence of a permit issued by
33 the police commissioner of that city, provided that (a) the firearms
34 covered by such license have been purchased from a licensed dealer with-
35 in the city of New York and are being transported out of said city
36 forthwith and immediately from said dealer by the licensee in a locked
37 container during a continuous and uninterrupted trip; or provided that
38 (b) the firearms covered by such license are being transported by the
39 licensee in a locked container and the trip through the city of New York
40 is continuous and uninterrupted; or provided that (c) the firearms
41 covered by such license are carried by armored car security guards
42 transporting money or other valuables, in, to, or from motor vehicles
43 commonly known as armored cars, during the course of their employment;
44 or provided that (d) the licensee is a retired police officer as police
45 officer is defined pursuant to subdivision thirty-four of section 1.20
46 of the criminal procedure law or a retired federal law enforcement offi-
47 cer, as defined in section 2.15 of the criminal procedure law, who has
48 been issued a license by an authorized licensing officer as defined in
49 subdivision ten of section 265.00 of this chapter; provided, further,
50 however, that if such license was not issued in the city of New York it
51 must be marked "Retired Police Officer" or "Retired Federal Law Enforce-
52 ment Officer", as the case may be, and, in the case of a retired officer
53 the license shall be deemed to permit only police or federal law
54 enforcement regulations weapons; or provided that (e) the licensee is a
55 peace officer described in subdivision four of section 2.10 of the crim-
56 inal procedure law and the license, if issued by other than the city of

1 New York, is marked "New York State Tax Department Peace Officer" and in
2 such case the exemption shall apply only to the firearm issued to such
3 licensee by the department of taxation and finance. A license as
4 gunsmith or dealer in firearms shall not be valid outside the city or
5 county, as the case may be, where issued. Notwithstanding any inconsis-
6 tent provision of state or local law or rule or regulation, the premises
7 limitation set forth in any license to have and possess a pistol or
8 revolver in the licensee's dwelling or place of business pursuant to
9 paragraph (a) or (b) of subdivision two of this section shall not
10 prevent the transport of such pistol or revolver directly to or from (i)
11 another dwelling or place of business of the licensee where the licensee
12 is authorized to have and possess such pistol or revolver, (ii) an
13 indoor or outdoor shooting range that is authorized by law to operate as
14 such, (iii) a shooting competition at which the licensee may possess
15 such pistol or revolver consistent with the provisions of subdivision a
16 of section 265.20 of this chapter or consistent with the law applicable
17 at the place of such competition, or (iv) any other location where the
18 licensee is lawfully authorized to have and possess such pistol or
19 revolver; provided however, that during such transport to or from a
20 location specified in clauses (i) through (iv) of this paragraph, the
21 pistol or revolver shall be unloaded and carried in a locked container,
22 and the ammunition therefor shall be carried separately; provided
23 further, however, that a license to have and possess a pistol or revol-
24 ver in the licensee's dwelling or place of business pursuant to para-
25 graph (a) or (b) of subdivision two of this section that is issued by a
26 licensing officer other than the police commissioner of the city of New
27 York shall not authorize transport of a pistol or revolver into the city
28 of New York in the absence of written authorization to do so by the
29 police commissioner of that city. The term "locked container" shall not
30 include the glove compartment or console of a vehicle.

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

49 8. License: exhibition and display. Every licensee while carrying a
50 pistol or revolver shall have on his or her person a license to carry
51 the same. Every person licensed to possess a pistol or revolver on
52 particular premises shall have the license for the same on such prem-
53 ises. Every person licensed to purchase or take possession of a semiau-
54 tomatic rifle shall have the license for the same on his or her person
55 while purchasing or taking possession of such weapon. Upon demand, the
56 license shall be exhibited for inspection to any peace officer, who is

1 acting pursuant to his or her special duties, or police officer. A
2 license as gunsmith or dealer in firearms shall be prominently displayed
3 on the licensed premises. A gunsmith or dealer of firearms may conduct
4 business temporarily at a location other than the location specified on
5 the license if such temporary location is the location for a gun show or
6 event sponsored by any national, state, or local organization, or any
7 affiliate of any such organization devoted to the collection, competi-
8 tive use or other sporting use of firearms. Any sale or transfer at a
9 gun show must also comply with the provisions of article thirty-nine-DD
10 of the general business law. Records of receipt and disposition of
11 firearms transactions conducted at such temporary location shall include
12 the location of the sale or other disposition and shall be entered in
13 the permanent records of the gunsmith or dealer of firearms and retained
14 on the location specified on the license. Nothing in this section shall
15 authorize any licensee to conduct business from any motorized or towed
16 vehicle. A separate fee shall not be required of a licensee with respect
17 to business conducted under this subdivision. Any inspection or exam-
18 ination of inventory or records under this section at such temporary
19 location shall be limited to inventory consisting of, or records related
20 to, firearms held or disposed at such temporary locations. Failure of
21 any licensee to so exhibit or display his or her license, as the case
22 may be, shall be presumptive evidence that he or she is not duly
23 licensed.

24 9. License: amendment. Elsewhere than in the city of New York, a
25 person licensed to carry or possess a pistol or revolver or to purchase
26 or take possession of a semiautomatic rifle may apply at any time to his
27 or her licensing officer for amendment of his or her license to include
28 one or more such weapons or to cancel weapons held under license. If
29 granted, a record of the amendment describing the weapons involved shall
30 be filed by the licensing officer in the executive department, division
31 of state police, Albany. The superintendent of state police may author-
32 ize that such amendment be completed and transmitted to the state police
33 in electronic form. Notification of any change of residence shall be
34 made in writing by any licensee within ten days after such change
35 occurs, and a record of such change shall be inscribed by such licensee
36 on the reverse side of his or her license. Elsewhere than in the city of
37 New York, and in the counties of Nassau and Suffolk, such notification
38 shall be made to the executive department, division of state police,
39 Albany, and in the city of New York to the police commissioner of that
40 city, and in the county of Nassau to the police commissioner of that
41 county, and in the county of Suffolk to the licensing officer of that
42 county, who shall, within ten days after such notification shall be
43 received by him or her, give notice in writing of such change to the
44 executive department, division of state police, at Albany.

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 or possess a pistol or revolver or to purchase or
50 take possession of a semiautomatic rifle and provide for the disposition
51 of such fees. Elsewhere in the state, the licensing officer shall
52 collect and pay into the county treasury the following fees: for each
53 license to carry or possess a pistol or revolver or to purchase or take
54 possession of a semiautomatic rifle, not less than three dollars nor
55 more than ten dollars as may be determined by the legislative body of
56 the county; for each amendment thereto, three dollars, and five dollars

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

19 § 2. Subdivisions 1 and 3 of section 400.01 of the penal law, subdivi-
20 sion 1 as amended by chapter 511 of the laws of 2014 and subdivision 3
21 as added by chapter 210 of the laws of 1999, are amended to read as
22 follows:

23 1. A license to carry or possess a firearm or to purchase or take
24 possession of a semiautomatic rifle for a retired sworn member of the
25 division of state police shall be granted in the same manner and upon
26 the same terms and conditions as licenses issued under section 400.00 of
27 this article provided, however, that applications for such license may
28 be made to, and the licensing officer may be, the superintendent of
29 state police.

30 3. The provisions of this section shall only apply to license applica-
31 tions made or renewals which must be made on or after the effective date
32 of this section. A license to carry or possess a pistol or revolver or
33 to purchase or take possession of a semiautomatic rifle issued pursuant
34 to the provisions of section 400.00 of this article to a person covered
35 by the provisions of this section shall be valid until such license
36 would have expired pursuant to the provisions of section 400.00 of this
37 article; provided that, on or after the effective date of this section,
38 an application or renewal of such license shall be made pursuant to the
39 provisions of this section.

40 § 3. Subdivision 9 of section 265.00 of the penal law, as amended by
41 chapter 189 of the laws of 2000, is amended to read as follows:

42 9. "Dealer in firearms" means any person, firm, partnership, corpo-
43 ration or company who engages in the business of purchasing, selling,
44 keeping for sale, loaning, leasing, or in any manner disposing of, any
45 assault weapon, large capacity ammunition feeding device, pistol ~~[or]~~,
46 revolver, or semiautomatic rifle.

47 § 4. Subdivision 7 of section 265.10 of the penal law, as amended by
48 chapter 189 of the laws of 2000, is amended to read as follows:

49 7. Any person, other than a wholesale dealer, or gunsmith or dealer in
50 firearms duly licensed pursuant to section 400.00 of this chapter,
51 lawfully in possession of a firearm or semiautomatic rifle, who disposes
52 of the same without first notifying in writing the licensing officer in
53 the city of New York and counties of Nassau and Suffolk and elsewhere in
54 the state the executive department, division of state police, Albany, is
55 guilty of a class A misdemeanor.

1 § 5. The penal law is amended by adding a new section 265.65 to read
2 as follows:

3 § 265.65 Criminal purchase of a semiautomatic rifle.

4 A person is guilty of criminal purchase of a semiautomatic rifle when
5 he or she purchases or takes possession of a semiautomatic rifle and
6 does not possess a license to purchase or take possession of a semiauto-
7 matic rifle as provided in subdivision two of section 400.00 of this
8 chapter.

9 Criminal purchase of a semiautomatic rifle is a class A misdemeanor for
10 the first offense and a class E felony for subsequent offenses.

11 § 6. The penal law is amended by adding a new section 265.66 to read
12 as follows:

13 § 265.66 Criminal sale of a semiautomatic rifle.

14 A person is guilty of criminal sale of a semiautomatic rifle when,
15 knowing or having reason to know it is a semiautomatic rifle, he or she
16 sells, exchanges, gives or disposes of a semiautomatic rifle to another
17 person and such other person does not possess a license to purchase or
18 take possession of a semiautomatic rifle as provided in subdivision two
19 of section 400.00 of this chapter.

20 Criminal sale of a semiautomatic rifle is a class E felony.

21 § 7. Subdivision 10 of section 400.00 of the penal law is amended by
22 adding a new paragraph (c) to read as follows:

23 (c) A license to purchase or take possession of a semiautomatic rifle
24 as defined in subdivision two of this section shall be recertified to
25 the applicable licensing officer every five years following the issuance
26 of such license. Failure to renew such a license shall be a violation
27 punishable by a fine not to exceed two hundred fifty dollars, and such
28 failure to renew shall be considered by the licensing officer when
29 reviewing future license applications by the license holder pursuant to
30 this chapter.

31 § 8. This act shall take effect on the ninetieth day after it shall
32 have become a law and shall apply only to purchases or transfers of
33 ownership made on or after such effective date.