

# STATE OF NEW YORK

1192--B

Cal. No. 862

2021-2022 Regular Sessions

## IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, BRESLIN, KAPLAN, KRUEGER, RIVERA, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, in relation to requiring persons possessing a firearm to hold a firearms safety certificate

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

1 Section 1. Subdivisions 6, 7 and 8 of section 265.01 of the penal law,  
2 as amended by chapter 1 of the laws of 2013, are amended and a new  
3 subdivision 9 is added to read as follows:

4 (6) He or she is a person who has been certified not suitable to  
5 possess a rifle or shotgun, as defined in subdivision sixteen of section  
6 265.00 of this article, and refuses to yield possession of such rifle or  
7 shotgun upon the demand of a police officer. Whenever a person is certi-  
8 fied not suitable to possess a rifle or shotgun, a member of the police  
9 department to which such certification is made, or of the state police,  
10 shall forthwith seize any rifle or shotgun possessed by such person. A  
11 rifle or shotgun seized as [~~herein~~] provided in this subdivision shall  
12 not be destroyed, but shall be delivered to the headquarters of such  
13 police department, or state police, and there retained until the afore-  
14 said certificate has been rescinded by the director or physician in  
15 charge, or other disposition of such rifle or shotgun has been ordered  
16 or authorized by a court of competent jurisdiction[~~-~~]; or

17 (7) He or she knowingly possesses a bullet containing an explosive  
18 substance designed to detonate upon impact[~~-~~]; or

19 (8) He or she possesses any armor piercing ammunition with intent to  
20 use the same unlawfully against another[~~-~~]; or

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

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1 (9) He or she possesses a firearm, not being the holder of a valid  
2 firearms safety certificate issued pursuant to section 400.15 of this  
3 chapter.

4 § 2. The penal law is amended by adding a new section 400.15 to read  
5 as follows:

6 § 400.15 Firearms safety certificate.

7 1. For the purposes of this section:

8 (a) "Commissioner" means the commissioner of the police department of  
9 a city having a population of one million or more.

10 (b) "Sheriff" means the sheriff of the county in which an applicant  
11 resides, except in a city having a population of one million or more.

12 2. No person shall possess a firearm unless such person holds a  
13 firearms safety certificate issued pursuant to this section.

14 3. Every person applying for a firearms safety certificate shall  
15 submit an application to the sheriff or the commissioner if such person  
16 resides in a city with a population of one million or more. Such appli-  
17 cation shall be in such form and content as shall be established by the  
18 sheriff or the commissioner, and shall include:

19 (a) the applicant's name, address, residence telephone number, gender,  
20 race, height, weight, date of birth, citizenship, thumbprint and driv-  
21 er's license or non-driver identification card number;

22 (b) the applicant's signature; and

23 (c) an oath that all information in the application is true, subject  
24 to the penalties of perjury.

25 4. The course of instruction for the issuance of a firearms safety  
26 certificate shall include the successful completion by the applicant of:

27 (a) not less than five hours of classroom instruction on:

28 (i) the safe use and handling of firearms;

29 (ii) the methods for safely storing and securing firearms, and keeping  
30 children safe when such weapons are present; and

31 (iii) the applicable federal, state and local laws relating to the  
32 purchase, sale, possession, transportation and storage of firearms;

33 (b) not less than two hours of live firing instruction at a shooting  
34 range using the type of firearm the applicant anticipates purchasing,  
35 possessing or acquiring. Notwithstanding any other provision of law, a  
36 person attending a course of instruction for the issuance of a firearm  
37 safety certificate may possess a firearm for the limited purpose of  
38 fulfilling the requirements of this paragraph while under the super-  
39 vision of his or her instructor; and

40 (c) a safe-handling of a firearm demonstration as attested to by a  
41 duly authorized instructor.

42 5. Every firearms safety course, for the completion of which an appli-  
43 cant is granted a firearms safety certificate, shall be approved by the  
44 sheriff or the commissioner and shall be conducted by a duly authorized  
45 instructor. The sheriff or the commissioner may, for the purposes of  
46 firearms safety courses required by this section, provide for the  
47 approval of firearm safety courses required or provided for pursuant to  
48 any federal or state law.

49 6. Upon the successful completion of a firearms safety course by an  
50 applicant, the duly authorized instructor of such course shall provide  
51 the applicant with a signed affidavit attesting to the applicant's  
52 successful completion of the course. Such affidavit shall include the  
53 name, address and telephone number of the duly authorized instructor;  
54 the name of the applicant; and the dates and places that the course was  
55 conducted.

1 7. Upon receipt of the affidavit required by subdivision six of this  
2 section, the applicant shall submit a copy of such affidavit to the  
3 sheriff or the commissioner and he or she shall administer a written  
4 examination, established by him or her, demonstrating knowledge of  
5 firearms safety and laws applicable to firearms.

6 (a) A firearms safety certificate shall be issued to an applicant who  
7 scores seventy-five percent or higher on such examination.

8 (b) If an applicant fails such written examination, he or she may  
9 retake such examination at least twenty-four hours after a prior  
10 attempt. The same version of such written examination shall not be given  
11 to an applicant upon any two consecutive takings thereof. No applicant  
12 shall be offered the written examination more than three times. After  
13 the third failure by an applicant, he or she shall be required to again  
14 successfully complete the requirements of subdivisions four and six of  
15 this section.

16 (c) Applicants may be charged a fee to cover the costs of administer-  
17 ing the written examination.

18 8. Upon successful completion of the requirements of subdivision seven  
19 of this section by an applicant, the sheriff or the commissioner shall  
20 issue such applicant a firearms safety certificate. Firearms safety  
21 certificates shall not be transferable. The holder thereof shall store  
22 such certificate in the place where his or her firearms are stored,  
23 except that such certificate shall be carried on the person of the hold-  
24 er if a firearm is possessed outside of the holder's residence or place  
25 of business. Upon request of a police officer, a firearms safety certifi-  
26 cate shall be displayed by the holder to such officer.

27 9. Every firearms safety certificate issued pursuant to this section  
28 shall be valid for a period of two years, and may be renewed upon  
29 completion of the requirements of this section.

30 10. No person shall sell or transfer possession of a firearm to any  
31 person who does not hold a firearms safety certificate.

32 11. A firearms safety certificate shall be revoked:

33 (a) for the violation of any provision of law relating to firearms;

34 (b) for fraud, misrepresentation or bribery in the application for and  
35 issuance of the firearms safety certificate;

36 (c) if the holder is disqualified from possessing a firearm; or

37 (d) the occurrence of any circumstance which would have disqualified  
38 the holder from being issued a firearms safety certificate.

39 12. This section shall not apply to:

40 (a) police officers as defined in subdivision thirty-four of section  
41 1.20 of the criminal procedure law, or retired police officer, who upon  
42 separation from a law enforcement agency was immediately entitled to  
43 receive retirement benefits pursuant to the retirement and social secu-  
44 rity law or the administrative code of the city of New York;

45 (b) peace officers as defined in section 2.10 of the criminal proce-  
46 dure law;

47 (c) licensed manufacturers, transporters and sellers of firearms who  
48 possess such weapons for purposes of wholesale or retail sales, while  
49 engaged in the scope of their licensed activities;

50 (d) nonresidents of the state participating in any lawful recreational  
51 firearms related activity, and while in the course of traveling to and  
52 from such recreation activity; or

53 (e) any person who temporarily possesses a firearm in the residence or  
54 place of business of the holder of a firearms safety certificate, and  
55 such possession occurs in the course of using deadly physical force  
56 authorized by article thirty-five of this chapter.

1 § 3. This act shall take effect on the first of January next succeed-  
2 ing the date on which it shall have become a law; provided, however,  
3 that the provisions of subdivision 9 of section 265.01 of the penal law,  
4 as added by section one of this act, and subdivision 2 of section 400.15  
5 of the penal law, as added by section two of this act, shall not apply  
6 to any person who possesses a firearm on the effective date of this act,  
7 until such person recertifies his or her license pursuant to subdivision  
8 10 of section 400.00 of the penal law.