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:

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

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. **A license for a semiautomatic rifle, other than an assault weapon or disguised gun, shall be issued to purchase or take possession of such a firearm when such transfer of ownership occurs on or after the effective date of the chapter of the laws of two thousand twenty-two that amended this subdivision.** A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a judge of the New York city civil court or the New York city criminal court; (e) have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, provided that application is 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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er; (f) have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof; and (g) have, possess, collect and carry antique pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before l898, 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.

3. Applications. (a) Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver **or to purchase or take possession of a semiautomatic rifle**, 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.

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

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

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 possess a pistol or revolver, **or to purchase or take possession of a semiautomatic rifle,** 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 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. Notwithstanding any inconsistent provision of state or local law or rule or regulation, the premises limitation set forth in any license to have and possess a pistol or revolver in the licensee's dwelling or place of business pursuant to paragraph (a) or (b) of subdivision two of this section shall not prevent the transport of such pistol or revolver directly to or from (i) another dwelling or place of business of the licensee where the licensee is authorized to have and possess such pistol or revolver, (ii) an indoor or outdoor shooting range that is authorized by law to operate as such, (iii) a shooting competition at which the licensee may possess such pistol or revolver consistent with the provisions of subdivision a of section 265.20 of this chapter or consistent with the law applicable at the place of such competition, or (iv) any other location where the licensee is lawfully authorized to have and possess such pistol or revolver; provided however, that during such transport to or from a location specified in clauses (i) through (iv) of this paragraph, the pistol or revolver shall be unloaded and carried in a locked container, and the ammunition therefor shall be carried separately; provided further, however, that a license to have and possess a pistol or revolver in the licensee's dwelling or place of business pursuant to paragraph (a) or (b) of subdivision two of this section that is issued by a licensing officer other than the police commissioner of the city of New York shall not authorize transport of a pistol or revolver into the city of New York in the absence of written authorization to do so by the police commissioner of that city. The term "locked container" shall not include the glove compartment or console of a vehicle.

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 or possess a pistol or revolver **or to purchase or take possession of a semiautomatic rifle** 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~~] **A** license **to carry or possess a pistol or revolver** 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.

8. License: exhibition and display. Every licensee while carrying a pistol or revolver shall have on his or her person a license to carry the same. Every person licensed to possess a pistol or revolver on particular premises shall have the license for the same on such premises. **Every person licensed to purchase or take possession of a semiautomatic rifle shall have the license for the same on his or her person while purchasing or taking possession of such weapon.** Upon demand, the license shall be exhibited for inspection to any peace officer, who is

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

9. License: amendment. Elsewhere than in the city of New York, a person licensed to carry or possess a pistol or revolver **or to purchase or take possession of a semiautomatic rifle** 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 change of residence shall be made in writing by any licensee within ten days after such change occurs, and a record of such change shall be inscribed by such licensee on the reverse side of his or her license. Elsewhere than in the city of New York, and in the counties of Nassau and Suffolk, such notification shall be made to the executive department, division of state police, Albany, and in the city of New York to the police commissioner of that city, and in the county of Nassau to the police commissioner of that county, and in the county of Suffolk to the licensing officer of that county, who shall, within ten days after such notification shall be received by him or her, give notice in writing of such change to the executive department, division of state police, at Albany.

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 possess a pistol or revolver **or to purchase or take possession of a semiautomatic rifle** 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 possess a pistol or revolver **or to purchase or take possession of a semiautomatic rifle**, 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 for a duplicate license shall be five dollars. The fee for processing a license transfer between counties shall be five dollars. The fee for processing a license or renewal thereof for a qualified retired police officer as defined under subdivision thirty-four of section 1.20 of the criminal procedure law, or a qualified retired sheriff, undersheriff, or deputy sheriff of the city of New York as defined under subdivision two of section 2.10 of the criminal procedure law, or a qualified retired bridge and tunnel officer, sergeant or lieutenant of the triborough bridge and tunnel authority as defined under subdivision twenty of section 2.10 of the criminal procedure law, or a qualified retired uniformed court officer in the unified court system, or a qualified retired court clerk in the unified court system in the first and second judicial departments, as defined in paragraphs a and b of subdivision twenty-one of section 2.10 of the criminal procedure law or a retired correction officer as defined in subdivision twenty-five of section 2.10 of the criminal procedure law shall be waived in all counties throughout the state.

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

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

3. The provisions of this section shall only apply to license applications made or renewals which must be made on or after the effective date of this section. A license to carry or possess a pistol or revolver **or to purchase or take possession of a semiautomatic rifle** issued pursuant to the provisions of section 400.00 of this article to a person covered by the provisions of this section shall be valid until such license would have expired pursuant to the provisions of section 400.00 of this article; provided that, on or after the effective date of this section, an application or renewal of such license shall be made pursuant to the provisions of this section.

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

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

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

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

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

§ 265.65 Criminal purchase of a semiautomatic rifle.

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

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

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

§ 265.66 Criminal sale of a semiautomatic rifle.

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

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

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

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

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