

STATE OF NEW YORK

1703

2023-2024 Regular Sessions

IN SENATE

January 13, 2023

Introduced by Sen. ORTT -- 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 Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 400.00 of the penal law, as
2 amended by chapter 371 of the laws of 2022, 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 semiautomat-
6 ic rifle, other than an assault weapon or disguised gun, shall be issued
7 to purchase or take possession of such a semiautomatic rifle when such
8 transfer of ownership occurs on or after the effective date of chapter
9 two hundred twelve of the laws of two thousand twenty-two [~~that amended~~
10 ~~this subdivision~~]. A license for a pistol or revolver, other than an
11 assault weapon or a disguised gun, shall be issued to [~~(a) have and~~]
12 possess [~~in his dwelling by a householder, (b) have and possess in his~~
13 ~~place of business by a merchant or storekeeper, (c) have~~] and carry
14 concealed [~~while so employed by a messenger employed by a banking insti-~~
15 ~~tution or express company, (d) have and carry concealed by a justice of~~
16 ~~the supreme court in the first or second judicial departments, or by a~~
17 ~~judge of the New York city civil court or the New York city criminal~~
18 ~~court, (e) have and carry concealed while so employed by a regular~~
19 ~~employee of an institution of the state, or of any county, city, town or~~
20 ~~village, under control of a commissioner of correction of the city or~~
21 ~~any warden, superintendent or head keeper of any state prison, peniten-~~
22 ~~tiary, workhouse, county jail or other institution for the detention of~~
23 ~~persons convicted or accused of crime or held as witnesses in criminal~~
24 ~~cases, provided that application is made therefor by such commissioner,~~
25 ~~warden, superintendent or head keeper, (f) have and carry concealed,~~]

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

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1 without regard to employment or place of possession [~~subject to the~~
2 ~~restrictions of state and federal law, by any person, and (g) have,~~
3 ~~possess, collect and carry antique pistols which are defined as follows:~~
4 ~~(i) any single shot, muzzle loading pistol with a matchlock, flintlock,~~
5 ~~percussion cap, or similar type of ignition system manufactured in or~~
6 ~~before 1898, which is not designed for using rimfire or conventional~~
7 ~~centerfire fixed ammunition, and (ii) any replica of any pistol~~
8 ~~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 § 2. Paragraph (a) of subdivision 3 of section 400.00 of the penal
15 law, as amended by chapter 212 of the laws of 2022, is amended to read
16 as follows:

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

49 § 3. Subdivision 6 of section 400.00 of the penal law, as amended by
50 chapter 212 of the laws of 2022, is amended to read as follows:

51 6. License: validity. Any license issued pursuant to this section
52 shall be valid notwithstanding the provisions of any local law or ordi-
53 nance. No license shall be transferable to any other person or premises.
54 A license to carry [~~or~~] and possess a pistol or revolver, or to purchase
55 or take possession of a semiautomatic rifle[~~, not otherwise limited as~~
56 ~~to place or time of possession,~~] shall be effective throughout the

1 state, except that the same shall not be valid within the city of New
2 York unless a special permit granting validity is issued by the police
3 commissioner of that city. Such license to carry ~~or~~ and possess shall
4 be valid within the city of New York in the absence of a permit issued
5 by the police commissioner of that city, provided that (a) the firearms
6 covered by such license have been purchased from a licensed dealer with-
7 in the city of New York and are being transported out of said city
8 forthwith and immediately from said dealer by the licensee in a locked
9 container during a continuous and uninterrupted trip; or provided that
10 (b) the firearms covered by such license are being transported by the
11 licensee in a locked container and the trip through the city of New York
12 is continuous and uninterrupted; or provided that (c) the firearms
13 covered by such license are carried by armored car security guards
14 transporting money or other valuables, in, to, or from motor vehicles
15 commonly known as armored cars, during the course of their employment;
16 or provided that (d) the licensee is a retired police officer as police
17 officer is defined pursuant to subdivision thirty-four of section 1.20
18 of the criminal procedure law or a retired federal law enforcement offi-
19 cer, as defined in section 2.15 of the criminal procedure law, who has
20 been issued a license by an authorized licensing officer as defined in
21 subdivision ten of section 265.00 of this chapter; provided, further,
22 however, that if such license was not issued in the city of New York it
23 must be marked "Retired Police Officer" or "Retired Federal Law Enforce-
24 ment Officer", as the case may be, and, in the case of a retired officer
25 the license shall be deemed to permit only police or federal law
26 enforcement regulations weapons; or provided that (e) the licensee is a
27 peace officer described in subdivision four of section 2.10 of the crim-
28 inal procedure law and the license, if issued by other than the city of
29 New York, is marked "New York State Tax Department Peace Officer" and in
30 such case the exemption shall apply only to the firearm issued to such
31 licensee by the department of taxation and finance. A license as
32 gunsmith or dealer in firearms shall not be valid outside the city or
33 county, as the case may be, where issued. Notwithstanding any inconsis-
34 tent provision of state or local law or rule or regulation, the premises
35 limitation set forth in any license to have and possess a pistol or
36 revolver in the licensee's dwelling or place of business pursuant to
37 paragraph (a) or (b) of subdivision two of this section shall not
38 prevent the transport of such pistol or revolver directly to or from (i)
39 another dwelling or place of business of the licensee where the licensee
40 is authorized to have and possess such pistol or revolver, (ii) an
41 indoor or outdoor shooting range that is authorized by law to operate as
42 such, (iii) a shooting competition at which the licensee may possess
43 such pistol or revolver consistent with the provisions of subdivision a
44 of section 265.20 of this chapter or consistent with the law applicable
45 at the place of such competition, or (iv) any other location where the
46 licensee is lawfully authorized to have and possess such pistol or
47 revolver; provided however, that during such transport to or from a
48 location specified in clauses (i) through (iv) of this paragraph, the
49 pistol or revolver shall be unloaded and carried in a locked container,
50 and the ammunition therefor shall be carried separately; provided
51 further, however, that a license to have and possess a pistol or revol-
52 ver in the licensee's dwelling or place of business pursuant to para-
53 graph (a) or (b) of subdivision two of this section that is issued by a
54 licensing officer other than the police commissioner of the city of New
55 York shall not authorize transport of a pistol or revolver into the city
56 of New York in the absence of written authorization to do so by the

1 police commissioner of that city. The term "locked container" shall not
2 include the glove compartment or console of a vehicle.

3 § 4. Subdivision 7 of section 400.00 of the penal law, as separately
4 amended by chapters 212 and 669 of the laws of 2022, is amended to read
5 as follows:

6 7. License: form. Any license issued pursuant to this section shall,
7 except in the city of New York, be approved as to form by the super-
8 intendent of state police. A license to carry [✗] and possess a pistol
9 or revolver or to purchase or take possession of a semiautomatic rifle
10 shall have attached the licensee's photograph, and a coupon which shall
11 be removed and retained by any person disposing of a firearm to the
12 licensee. A license to carry [✗] and possess a pistol or revolver shall
13 specify the weapon covered by calibre, make, model, manufacturer's name
14 and serial number, or if none, by any other distinguishing number or
15 identification mark~~[, and shall indicate whether issued to carry on the~~
16 ~~person or possess on the premises, and if on the premises shall also~~
17 ~~specify the place where the licensee shall possess the same]~~. If such
18 license is issued to a noncitizen, or to a person not a citizen of and
19 usually a resident in the state, the licensing officer shall state in
20 the license the particular reason for the issuance and the names of the
21 persons certifying to the good character of the applicant. Any license
22 as gunsmith or dealer in firearms shall mention and describe the prem-
23 ises for which it is issued and shall be valid only for such premises.

24 § 5. Subdivision 9 of section 400.00 of the penal law, as amended by
25 chapter 212 of the laws of 2022, is amended to read as follows:

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

48 § 6. Paragraph (a) of subdivision 10 of section 400.00 of the penal
49 law, as amended by chapter 371 of the laws of 2022, is amended to read
50 as follows:

51 (a) Any license for gunsmith or dealer in firearms and, in the city of
52 New York, any license to carry [✗] and possess a pistol or revolver,
53 issued at any time pursuant to this section or prior to the first day of
54 July, nineteen hundred sixty-three and not limited to expire on an
55 earlier date fixed in the license, shall, except as otherwise provided
56 in paragraph (d) of this subdivision, expire not more than three years

1 after the date of issuance. In the counties of Nassau, Suffolk and West-
2 chester, any license to carry ~~or~~ and possess a pistol or revolver,
3 issued at any time pursuant to this section or prior to the first day of
4 July, nineteen hundred sixty-three and not limited to expire on an
5 earlier date fixed in the license, shall expire not more than five years
6 after the date of issuance; however, in the county of Westchester, any
7 such license shall be certified prior to the first day of April, two
8 thousand, in accordance with a schedule to be contained in regulations
9 promulgated by the commissioner of the division of criminal justice
10 services, and every such license shall, except as otherwise provided in
11 paragraph (d) of this subdivision, be recertified every five years ther-
12 eafter. For purposes of this section certification shall mean that the
13 licensee shall provide to the licensing officer the following informa-
14 tion only: current name, date of birth, current address, and the make,
15 model, caliber and serial number of all firearms currently possessed.
16 Such certification information shall be filed by the licensing officer
17 in the same manner as an amendment. Elsewhere than in the city of New
18 York and the counties of Nassau, Suffolk and Westchester, any license to
19 carry ~~or~~ and possess a pistol or revolver, issued at any time pursuant
20 to this section or prior to the first day of July, nineteen hundred
21 sixty-three and not previously revoked or cancelled, shall be in force
22 and effect until revoked as herein provided. Any license not previously
23 cancelled or revoked shall remain in full force and effect for thirty
24 days beyond the stated expiration date on such license. Any application
25 to renew a license that has not previously expired, been revoked or
26 cancelled shall thereby extend the term of the license until disposition
27 of the application by the licensing officer. In the case of a license
28 for gunsmith or dealer in firearms, in counties having a population of
29 less than two hundred thousand inhabitants, photographs and fingerprints
30 shall be submitted on original applications and upon renewal thereafter
31 at three year intervals. Upon satisfactory proof that a currently valid
32 original license has been despoiled, lost or otherwise removed from the
33 possession of the licensee and upon application containing an additional
34 photograph of the licensee, the licensing officer shall issue a dupli-
35 cate license.

36 § 7. Subdivision 12 of section 400.00 of the penal law, as amended by
37 chapter 207 of the laws of 2022, is amended to read as follows:

38 12. Records required of gunsmiths and dealers in firearms. In addition
39 to the requirements set forth in article thirty-nine-BB of the general
40 business law, any person licensed as gunsmith or dealer in firearms
41 shall keep a record book approved as to form, except in the city of New
42 York, by the superintendent of state police. In the record book shall be
43 entered at the time of every transaction involving a firearm the date,
44 name, age, occupation and residence of any person from whom a firearm is
45 received or to whom a firearm is delivered, and the calibre, make,
46 model, manufacturer's name and serial number, or if none, any other
47 distinguishing number or identification mark on such firearm. Before
48 delivering a firearm to any person, the licensee shall require him to
49 produce either a license valid under this section to carry ~~or~~ and
50 possess the same, or proof of lawful authority as an exempt person
51 pursuant to section 265.20 of this chapter and either (a) the National
52 Instant Criminal Background Check System (NICS) or its successor has
53 issued a "proceed" response to the licensee, or (b) thirty calendar days
54 have elapsed since the date the licensee contacted NICS to initiate a
55 national instant criminal background check and NICS has not notified the
56 licensee that the transfer of the firearm to such person should be

1 denied. In addition, before delivering a firearm to a peace officer, the
2 licensee shall verify that person's status as a peace officer with the
3 division of state police. After completing the foregoing, the licensee
4 shall remove and retain the attached coupon and enter in the record book
5 the date of such license, number, if any, and name of the licensing
6 officer, in the case of the holder of a license to carry ~~[ex]~~ and
7 possess, or the shield or other number, if any, assignment and depart-
8 ment, unit or agency, in the case of an exempt person. The original
9 transaction report shall be forwarded to the division of state police
10 within ten days of delivering a firearm to any person, and a duplicate
11 copy shall be kept by the licensee. The superintendent of state police
12 may designate that such record shall be completed and transmitted in
13 electronic form. A dealer may be granted a waiver from transmitting such
14 records in electronic form if the superintendent determines that such
15 dealer is incapable of such transmission due to technological limita-
16 tions that are not reasonably within the control of the dealer, or other
17 exceptional circumstances demonstrated by the dealer, pursuant to a
18 process established in regulation, and at the discretion of the super-
19 intendent. Records assembled or collected for purposes of inclusion in
20 the database created pursuant to section 400.02 of this article shall
21 not be subject to disclosure pursuant to article six of the public offi-
22 cers law. The record book shall be maintained on the premises mentioned
23 and described in the license and shall be open at all reasonable hours
24 for inspection by any peace officer, acting pursuant to his special
25 duties, or police officer. In the event of cancellation or revocation of
26 the license for gunsmith or dealer in firearms, or discontinuance of
27 business by a licensee, such record book shall be immediately surren-
28 dered to the licensing officer in the city of New York, and in the coun-
29 ties of Nassau and Suffolk, and elsewhere in the state to the executive
30 department, division of state police.

31 § 8. Subdivision 14 of section 400.00 of the penal law, as amended by
32 chapter 212 of the laws of 2022, is amended to read as follows:

33 14. Fees. In the city of New York and the county of Nassau, the annual
34 license fee shall be twenty-five dollars for gunsmiths and fifty dollars
35 for dealers in firearms. In such city, the city council and in the coun-
36 ty of Nassau the Board of Supervisors shall fix the fee to be charged
37 for a license to carry ~~[ex]~~ and possess a pistol or revolver or to
38 purchase or take possession of a semiautomatic rifle and provide for the
39 disposition of such fees. Elsewhere in the state, the licensing officer
40 shall collect and pay into the county treasury the following fees: for
41 each license to carry ~~[ex]~~ and possess a pistol or revolver or to
42 purchase or take possession of a semiautomatic rifle, not less than
43 three dollars nor more than ten dollars as may be determined by the
44 legislative body of the county; for each amendment thereto, three
45 dollars, and five dollars in the county of Suffolk; and for each license
46 issued to a gunsmith or dealer in firearms, ten dollars. The fee for a
47 duplicate license shall be five dollars. The fee for processing a
48 license transfer between counties shall be five dollars. The fee for
49 processing a license or renewal thereof for a qualified retired police
50 officer as defined under subdivision thirty-four of section 1.20 of the
51 criminal procedure law, or a qualified retired sheriff, undersheriff, or
52 deputy sheriff of the city of New York as defined under subdivision two
53 of section 2.10 of the criminal procedure law, or a qualified retired
54 bridge and tunnel officer, sergeant or lieutenant of the triborough
55 bridge and tunnel authority as defined under subdivision twenty of
56 section 2.10 of the criminal procedure law, or a qualified retired

1 uniformed court officer in the unified court system, or a qualified
2 retired court clerk in the unified court system in the first and second
3 judicial departments, as defined in paragraphs a and b of subdivision
4 twenty-one of section 2.10 of the criminal procedure law or a retired
5 correction officer as defined in subdivision twenty-five of section 2.10
6 of the criminal procedure law shall be waived in all counties throughout
7 the state.

8 § 9. This act shall take effect immediately and shall apply to all
9 licenses held and issued on and after such date.