STATE OF NEW YORK

10052

IN ASSEMBLY

May 2, 2024

Introduced by M. of A. SILLITTI -- Multi-Sponsored by -- M. of A. EPSTEIN, GALLAGHER, GONZALEZ-ROJAS, LAVINE, LEVENBERG, SEAWRIGHT, SHIMSKY, ZACCARO -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to openly carrying a rifle or shotgun

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

Section 1. Subdivisions 9, 9, and 10 of section 265.01 of the penal law, subdivision 9 as added by chapter 519 of the laws of 2021, subdivision 9 as amended by chapter 149 of the laws of 2022, and subdivision 10 as amended by chapter 94 of the laws of 2022, are amended and a new subdivision 12 is added to read as follows:

(9) Such person possesses a major component of a firearm, rifle, or shotgun and such person is prohibited from possessing a **firearm,** shotgun or rifle pursuant to:

(i) this article;

(ii) subsection (g) of section 922 of title 18 of the United States Code; or

(iii) a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules; or

[~~(9)~~] **(10)** Such person is not licensed as a gunsmith or a dealer in firearms pursuant to section 400.00 of this chapter and, knowing it is a ghost gun, such person possesses a ghost gun, provided that a person shall not be guilty under this subdivision when [~~he or she~~] **such person** (a) voluntarily surrenders such ghost gun to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision [~~(a)~~] **a** of section 265.20 of this article; or (b) for a period of six months after the effective date of this section possesses a ghost gun prior to serialization and registration of such ghost gun pursuant to section 265.07 of this article[~~.~~]**; or**

[~~(10)~~] **(11)** Such person is not licensed as a gunsmith or dealer in firearms pursuant to section 400.00 of this chapter and, knowing it is an unserialized frame or receiver or unfinished frame or receiver, such person possesses an unserialized frame or receiver or unfinished frame

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

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or receiver, provided that for a period of six months after the effective date of this subdivision, a person shall not be guilty under this subdivision when such person: (a) voluntarily surrenders such unserialized frame or receiver or unfinished frame or receiver to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision [~~(a)~~] a of section 265.20 of this article; or (b) possesses such unserialized frame or receiver or unfinished frame or receiver prior to serialization of such unserialized frame or receiver or unfinished frame or receiver in accordance with the requirements imposed on licensed importers and licensed manufacturers pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto, except for antique firearms as defined in subdivision fourteen of section 265.00 of this article, as added by chapter nine hundred eighty-six of the laws of nineteen hundred seventy-four, or any firearm, rifle or shotgun manufactured prior to nineteen hundred sixty-eight[~~.~~]; or

(12) Such person openly carries a rifle or shotgun on or about such person. For the purposes of this subdivision, "openly carries" means to carry a rifle or shotgun in a manner that renders such rifle or shotgun, or any portion thereof, visible to others.

§ 2. Section 265.20 of the penal law is amended by adding a new subdivision f to read as follows:

f. Subdivision twelve of section 265.01 of this article shall not apply to:

1. Persons in the military service of the state of New York when duly authorized by regulations issued by the adjutant general to possess the same;

2. Police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law;

3. Peace officers as defined by section 2.10 of the criminal procedure law;

4. Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same;

5. Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract;

6. Persons licensed under paragraph (c), (d) or (e) of subdivision two of section 400.00 of this chapter while in the course of their official duties;

7. A government employee under the express written consent of such employee's supervising government entity for the purposes of natural resource protection and management;

8. Persons while lawfully engaged in taking of wildlife or attempts to take wildlife pursuant to a hunting permit or license issued by the department of environmental conservation, or as otherwise authorized pursuant to the environmental conservation law, and persons while lawfully engaged in hunter education training, marksmanship practice, marksmanship competition or training, or training in the safe handling and use of firearms, in accordance with all applicable local, state, and federal laws, rules, and regulations;

9. Persons, while acting in the scope of their official duties, who are employed in the revenue control and security departments of the metropolitan transportation authority, or the New York city transit

authority or an affiliate or subsidiary thereof, who are authorized to carry a firearm as part of their employment;

10. Persons while lawfully engaged in historical reenactments, educational programming involving historical weapons of warfare, or motion picture or theatrical productions, in accordance with all applicable local, state, and federal laws, rules and regulations;

11. Persons, while acting within the scope of their official duties, who are responsible for the storage or display of antique firearms, rifles or shotguns at museums and historic sites;

12. Persons while participating in military ceremonies, funerals, and honor guards;

13. Persons while lawfully engaged in learning, practicing, training for, or competing in the sport of biathlon, in accordance with all applicable local, state, and federal laws, rules, and regulations;

14. Persons while in their homes, places of business, or private property under such person's control; and

15. Persons on the private property of another, provided that the owner or lessee of such property has given the person permission to openly carry a rifle or shotgun by clear and conspicuous signage indicating that the open carry of rifles and shotguns on their property is permitted or by otherwise giving express consent.

§ 3. This act shall take effect immediately.