

STATE OF NEW YORK

9137

IN SENATE

April 30, 2024

Introduced by Sens. GIANARIS, CLEARE, GONZALEZ, GOUNARDES, HOYLMAN-SIGAL, JACKSON, STAVISKY, 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 openly carrying a rifle or shotgun

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

1 Section 1. Subdivisions 9, 9, and 10 of section 265.01 of the penal
2 law, subdivision 9 as added by chapter 519 of the laws of 2021, subdivi-
3 sion 9 as amended by chapter 149 of the laws of 2022, and subdivision 10
4 as amended by chapter 94 of the laws of 2022, are amended and a new
5 subdivision 12 is added to read as follows:
6 (9) Such person possesses a major component of a firearm, rifle, or
7 shotgun and such person is prohibited from possessing a firearm, shotgun
8 or rifle pursuant to:
9 (i) this article;
10 (ii) subsection (g) of section 922 of title 18 of the United States
11 Code; or
12 (iii) a temporary or final extreme risk protection order issued under
13 article sixty-three-A of the civil practice law and rules; or
14 [~~9~~] (10) Such person is not licensed as a gunsmith or a dealer in
15 firearms pursuant to section 400.00 of this chapter and, knowing it is a
16 ghost gun, such person possesses a ghost gun, provided that a person
17 shall not be guilty under this subdivision when [~~he or she~~] such person
18 (a) voluntarily surrenders such ghost gun to any law enforcement offi-
19 cial designated pursuant to subparagraph (f) of paragraph one of subdivi-
20 sion [~~a~~] a of section 265.20 of this article; or (b) for a period of
21 six months after the effective date of this section possesses a ghost
22 gun prior to serialization and registration of such ghost gun pursuant
23 to section 265.07 of this article[~~-~~]; or
24 [~~10~~] (11) Such person is not licensed as a gunsmith or dealer in
25 firearms pursuant to section 400.00 of this chapter and, knowing it is
26 an unserialized frame or receiver or unfinished frame or receiver, such
27 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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1 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

17 (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.

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

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

25 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;

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

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

32 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;

35 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;

39 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;

42 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;

45 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;

51 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

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

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

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

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

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

15 14. Persons while in their homes, places of business, or private prop-
16 erty under such person's control; and

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

22 § 3. This act shall take effect immediately.