

AN ACT TO AMEND THE NEW PENAL LAW AS  
ENACTED BY CHAPTER 1030 OF THE LAWS OF  
1965, IN RELATION TO THE POSSESSION OF  
DANGEROUS WEAPONS AND THE LICENSING  
THEREOF.

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

Section 1. Subdivision ten of section 265.00 of the Penal Law as  
revised by chapter ten hundred thirty of the laws of nineteen hundred  
sixty-five, is hereby amended to read as follows:

10. "Licensing officer" means in the city of New York the  
police commissioner of that city; in the county of Nassau the commis-  
sioner of police of that county; and elsewhere in the state a county  
judge [or justice of a court of record] having his office in the county  
of issuance.

Section 2. Subdivisions one, five and ten of section 265.05 of such law  
are hereby amended to read, respectively, as follows:

1. Any person who has in his possession any bomb, bombshell,  
firearm silencer, machine-gun or any other [firearm or] weapon simula-  
ting a machine-gun and which is adaptable for such use is guilty of a  
class D felony.

5. Any person not a citizen of the United States who has in  
his possession any dangerous or deadly weapon other than those prohibited  
to him in the first three [two] subdivisions of this section is guilty of a  
class A misdemeanor, and he is guilty of a class D felony if he has  
previously been convicted of any crime.

10. Whenever the director or physician in charge of any  
hospital or institution for mental illness, public or private, shall certify

Explanation - Matter underlined is new; matter in brackets [ ] is old law  
to be omitted.

to the superintendent of state police or to any organized police department of a county, city, town or village of this state, that a person who has been judicially adjudicated incompetent, or who has been [confined to] admitted to and received as a patient in such institution for mental illness [pursuant to judicial authority,] under any form of admission procedure specified in Article 5 of the Mental Hygiene Law, upon the release of such person from, or other termination of his stay in, such institution, is not suitable to possess a rifle or shotgun, a member of such police department or of the state police shall forthwith seize any rifle or shotgun possessed by such person. Any such person who refuses to yield possession of such rifle or shotgun to such police officer is guilty of a class A misdemeanor. A rifle or shotgun seized as herein provided shall not be destroyed, but shall be delivered to the headquarters of such police department, or state police, and there retained until the aforesaid certificate has been rescinded by the director of physician in charge, or other disposition of such rifle or shotgun has been ordered or authorized by a court of competent jurisdiction.

Section 3. Subdivision three of section 265.15 of such law is hereby amended to read as follows:

3. The presence in an automobile, other than a stolen one or a public omnibus, of any firearm, defaced firearm, firearm silencer, bomb, bombshell, gravity knife, switchblade knife, dagger, dirk, stiletto, billy, blackjack, metal knuckles, sandbag, sandclub, [or] slungshot or explosive substance is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon, instrument, [or] appliance or substance is found, except under the following circum-

stances: (a) if such weapon, instrument, [or] appliance or substance is found upon the person of one of the occupants therein; (b) if such weapon, instrument, [or] appliance or substance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his possession a valid license to have and carry concealed the same.

Section 4. Section 265.20 of such law is hereby amended to read as follows:

a. Sections 265.05, 265.10, [and] 265.15 and 270.05 shall not apply to:

1. Possession of any of the weapons, instruments, appliances or substances specified in section 265.05 or of noxious material specified in section 270.05 by the following:

(a) Persons in the military service of the state of New York when duly authorized by regulations issued by the chief of staff to the governor to possess the same, and peace officers as defined in section one hundred fifty-four of the code of criminal procedure.

(b) 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.

(c) 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.

(d) During the month of June only each year, a person voluntarily surrendering such weapon, instrument, appliance, [or] substance [,] or noxious material, provided that such surrender shall be made to the sheriff of the county in which such person resides and in the county of Nassau to the commissioner of police or a member of the police department thereof designated by him, or if such person resides in a city having a population of seventy-five thousand or more to the police commissioner or head of the police force or department, or to a member of the force or department designated by such commissioner or head; and provided, further, that the same shall be surrendered by such person only after he gives notice in writing to the appropriate authority, stating his name, address, the nature of the weapon to be surrendered, and the approximate time of day and the place where such surrender shall take place. Such notice shall be acknowledged immediately upon receipt thereof by such authority. Nothing in paragraph (d) of subdivision one hereof shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such weapons, instruments, appliances, [or] substances or noxious materials surrendered as herein provided.

2. Possession of a machine-gun, firearm, switchblade knife, gravity knife, billy or blackjack by a warden, superintendent, headkeeper or deputy of a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same.

3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under section 400.00.

4. Possession of a rifle or shotgun by a person who has been convicted as specified in section 265.05, subdivision six to whom a certificate of good conduct has been issued pursuant to section two hundred forty-two, subdivision three of the executive law.

5. Possession of a switchblade or gravity knife for use while hunting, trapping or fishing by a person carrying a valid license issued to him pursuant to article four, part four of the conservation law.

6. Possession, at an indoor or outdoor rifle range for the purpose of loading and firing the same, of a rifle of not more than twenty-two calibre rim fire, the propelling force of which may be either gunpowder, air or springs, by a person under sixteen years of age but not under twelve, who is a duly enrolled member of any club, team or society organized for educational purposes and maintaining as a part of its facilities, or having written permission to use, such rifle range under the supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a membership corporation duly organized under the laws of this state.

7. The manufacturer of machine-guns, switchblade or gravity knives, billies, [or] blackjacks or noxious materials as merchandise and the disposal and shipment thereof direct to a regularly constituted or appointed state or municipal police department, sheriff, policeman or other

peace officer, or to a 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, or to the military service of this state or of the United States:

3. The regular and ordinary transport of firearms as merchandise, provided that the person transporting such firearms, where he knows or has reasonable means of ascertaining what he is transporting, notifies in writing the police commissioner, police chief or other law enforcement officer performing such functions at the place of delivery, of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by such police commissioner, police chief or other law enforcement officer as such official may deem necessary for investigation as to whether the consignee may lawfully receive and possess such firearms.

9. Engaging in the business of gunsmith or dealer in firearms by a person to whom a valid license therefor has been issued pursuant to section 400.00.

b. At any time, any person who voluntarily delivers to a peace officer any weapon, instrument, appliance or substance specified in section 265.05 [.] or noxious material specified under section 270.05, under circumstances not suspicious, peculiar or involving the commission of any crime, shall not be arrested. Instead, the officer who might make the arrest shall issue or cause to be issued in a proper case a summons or other legal process to the person for investigation of the source of the weapon, instrument, appliance, [or] substance [.] or noxious material.

Section 5. Subdivisions one, four, ten, eleven and fourteen of section 400.00 of such law are hereby amended to read, respectively, as follows:

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) over the age of twenty-one; [(a)] (b) of good moral character; [(b)] (c) who has not been convicted anywhere of a felony or any one of the misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure; [(c)] (d) who has stated whether he has ever suffered any mental illness or [been confined to] received any treatment by a psychiatrist, privately or at a clinic, or been a patient, under any form of admission procedure, in any hospital or institution, public or private, for mental illness; and [d] (e) concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply.

4. Investigation. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made. For that purpose the application shall constitute an

express waiver of privilege and a consent that the records of any treating psychiatrist, clinic, private hospital or [the records ] of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police authority. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation. When completed, one standard card shall be forwarded to and retained by the division of criminal identification, department of correction, at Albany. A search of the files of such division and written notification of the results of the search to the investigating officer shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police authority shall report the results to the licensing officer

without unnecessary delay.

10. License: expiration and renewal. Any license for gunsmith or dealer in firearms and, [in the city of New York and the counties of Nassau and Suffolk,] any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-[three] eight and not limited to expire on an earlier date fixed in the license, shall expire on the first day of the second January after the date of issuance. [Elsewhere than in the city of New York and the counties of Nassau and Suffolk, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not previously revoked or cancelled, shall be in force and effect until revoked as herein provided.] Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition of the application by the licensing officer. In the case of a license for gunsmith or dealer in firearms, in counties having a population of less than two hundred thousand inhabitants, photographs and fingerprints shall be submitted on original applications and upon renewal thereafter only at six year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license.

11. License: revocation. The conviction of a licensee anywhere of a felony or any one of the misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure shall operate as a revocation of the license. A license may be revoked and cancelled at any time in the city of New York and county of Nassau by the licensing officer, and elsewhere [than in the city of New York] by [any] a County judge [or justice of a court of record]. The official revoking a license shall give written notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality.

14. Fees. In the city of New York, the annual license fee shall be twenty-five dollars for gunsmiths and fifty dollars for dealers in firearms. In such city, the city council shall fix the fee to be charged for a license to carry or possess a pistol or revolver 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 renewal thereof, [not less than three dollars nor more than] five dollars [as may be determined by the board of supervisors of the county]; for each amendment thereto, [one dollar, and] two dollars [in the county of Suffolk]; and for each license issued to a gunsmith or dealer in firearms, [four] ten dollars. The fee for a duplicate license shall be two dollars.