

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
Shui W. Kwong, et al.,	:	Civil Action Number:
	:	11 cv 2356
Plaintiffs,	:	
	:	(Hon. John G. Koeltl)
-against-	:	
	:	
Michael Bloomberg, et al.,	:	<b>DECLARATION OF</b>
	:	<b>MONICA A. CONNELL</b>
Defendants.	:	
-----X		

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am an Assistant Attorney General in the office of New York State Attorney General Eric T. Schneiderman. The Attorney General was named as a defendant in the Complaint, but by Stipulation of Dismissal and Intervention entered on May 23, 2011 was dismissed as a defendant and permitted to intervene to defend the constitutionality of New York Penal Law § 400.00(14) pursuant to Rule 24(a)(1) of the Federal Rules of Civil Procedure and 28 U.S.C. § 2403(b).

2. I make this declaration in support of the Attorney General's Motion for Summary Judgment and in opposition to Plaintiffs' Motion for Summary Judgment for the purpose of providing certain documents referenced in the Attorney General's summary judgment papers.

3. A true and accurate copy of Plaintiffs' Complaint is annexed hereto as Exhibit A.

4. The Sullivan Law, first enacted as an amendment to the New York Penal Law on May 25<sup>th</sup>, 1911, is the first New York state statute that regulates the carrying of handguns by requiring a license in order to carry concealed handguns in public. A true and accurate copy of

Laws of New York, Chapter 195, §1897 (1911) is annexed hereto as Exhibit B.

5. The Sullivan Law was intended to curb the "scourge" of handgun violence that was then sweeping the state, particularly New York City. The Sullivan Law was the product of a push by public officials, including the New York City Coroner George P. LeBrun, to address New York's burgeoning handgun violence problem. True and accurate copies of newspaper articles relating to handgun violence in New York in 1911 through 1913 are attached collectively as Exhibit C. See also, Peter Duffy, 100 Years Ago, the Shot That Spurred New York's Gun-Control Law, (N.Y. Times, Jan. 24, 2011), available at <http://cityroom.blogs.nytimes.com/2011/01/23/100-years-ago-the-shot-that-spurred-new-yorks-gun-control-law/?scp=1&sq=sullivan%20law&st=cse>.

6. In 1922, the Legislature amended § 1897 to include a fee provision which imposed a fee of fifty cents for each gun license. A true and accurate copy of 1922 N.Y. Laws Ch. 198, §1897 is annexed hereto as Exhibit D.

7. In 1938, Penal Law § 1897 was amended to increase licensing fees from 50 cents to not less than 50 cents and not more than \$1.50, with the actual amount to be determined by the local legislature. A true and accurate copy of Laws of New York, 1938, N.Y. Laws, Chapter 195, §1897 and the bill jacket for Assembly 1586-1382 are collectively annexed hereto as Exhibit E.

8. In 1947, Penal Law § 1897 was again amended in response to complaints that the then-current maximum fee of \$1.50 for a gun license was not sufficient to cover licensing costs in New York City. A true and accurate copy of Laws of New York, 1947, Chapter 147 and the bill jacket for Assembly 499-497 are collectively annexed hereto as Exhibit F.

9. In 1973, the Legislature amended the gun licensing provisions in the Penal Law, which had by then been gathered into Penal Law § 400.00, to similarly exempt Nassau County

from the statutory cap when officials there complained that administering licenses was time-intensive and expensive and that the \$5.00 fee then charged in Nassau County was insufficient to cover the costs of the licensing program. At that time, the State Police voiced support for the bill, calling the process of licensing time consuming and expensive and the fee then charged in Nassau County "totally unrealistic" in light of the significant expenses. A true and accurate copy of Laws of New York, 1973, Chapter 546 with the accompanying bill jacket is annexed hereto as Exhibit G.

10. In 1984, the fee range applicable to most of the State was increased to its current limits in an attempt to make the fee more closely approximate actual cost of administration which can, "in some cases", actually be as high as \$250 and to lessen the vast disparity in some counties between the cost of gun licensing and the fees collected. A true and accurate copy of Laws of New York, 1984, Chapter 546 with the accompanying bill jacket is annexed hereto as Exhibit H, p. 34-40.

11. A true and accurate copy of the Attorney General's Pleading in Intervention is annexed hereto as Exhibit I.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 28, 2011

/s/

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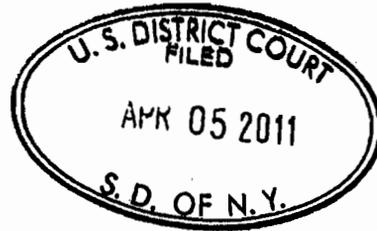
Monica A. Connell



# Exhibit A

11 CV 2356

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



SHUI W. KWONG; GEORGE GRECO; GLENN HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY; DANIELA GRECO; NUNZIO CALCE; SECOND AMENDMENT FOUNDATION, INC.; and THE NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official Capacity as Mayor of the City of New York; CITY OF NEW YORK; and ERIC SCHNEIDERMAN, in his Official Capacity as Attorney General of the State of New York,

Defendants.

**COMPLAINT FOR DEPRIVATION OF CIVIL RIGHTS UNDER COLOR OF LAW**

Plaintiffs SHUI W. KWONG; GEORGE GRECO; GLENN HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY; DANIELA GRECO; NUNZIO CALCE; SECOND AMENDMENT FOUNDATION, INC.; and THE NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., by and through their undersigned counsel, as and for their Complaint against Defendants MICHAEL BLOOMBERG ("Mayor Bloomberg"), the CITY OF NEW YORK (the "City"), and ERIC SCHNEIDERMAN, allege as follows:

1. This action for deprivation of civil rights concerns the City's \$340 fee for issuance or renewal of a 3-year "Residence Premises" handgun license pursuant to § 400.00(14) of the New York Penal Law and § 10-131(a)(2) of the New York City Administrative Code. This fee is excessive and is not used to defray administrative costs, and hence, it impermissibly burdens the Second Amendment right to keep and bear arms.

2. This suit also challenges Penal Law § 400.00(14), which limits the maximum fee for issuing a New York State handgun license to \$10, but exempts New York State citizens who happen to reside in New York City from its protection. The right to keep and bear arms is a fundamental civil right, and this disparate State law treatment violates the Equal Protection Clause.

3. Plaintiffs seek declaratory and injunctive relief and attorney's fees and costs.

### INTRODUCTION

4. It is illegal to possess or carry a handgun in the State of New York, including within one's home, unless one holds a handgun license issued pursuant to § 400.00 of the New York Penal Law. See N.Y. Penal Law §§ 265.01(1), 265.20(a)(3).

5. The City issues Residence Premises handgun licenses to applicants who reside in the City of New York pursuant to § 400.00 of the Penal Law. See N.Y.C. Admin. Code § 10-131(a)(1); 38 RCNY 5-02. A Residence Premises handgun license allows a person to possess and carry a handgun within a specified residence, and also to transport the handgun (locked, cased, and unloaded) directly to and from a target range. See 38 RCNY 5-23(a). A Residence Premises license is the only license that a private citizen living in New York City can obtain without showing special "need" or "cause." See generally 38 RCNY 5-01.

6. A person applying for a handgun license anywhere in New York State must submit fingerprints for a background investigation that is conducted by the New York State Division of Criminal Justice Services ("DCJS"). See N.Y. Penal Law § 400.00(4). DCJS notifies the licensing official (*i.e.* the City of New York, or elsewhere in the State, generally a designated county judge) of the results of the investigation. See id.

7. All applicants in New York State must pay a fingerprint and investigation fee to DCJS that is (presently) \$94.25. See N.Y. Exec. Law § 837(8-a); 9 NYCRR 6051.3(a)-(b). This lawsuit does not challenge this fee.

8. This lawsuit challenges *only* § 10-131(a)(2) of the New York City Administrative Code, which requires applicants in New York City to pay an additional \$340 fee, and § 400.00(14) of the New York Penal Law, which authorizes the City to charge different fees than the other licensing authorities throughout the State. This lawsuit does not otherwise challenge the laws of the City and State governing the issuance of handgun licenses.

#### JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983.

10. This Court has personal jurisdiction over each of the Defendants because, *inter alia*, they acted under the color of laws of the City and/or State of New York and/or within the geographic confines of the State of New York.

11. Venue is proper pursuant to 28 U.S.C. § 1391.

#### PARTIES AND STANDING

12. Plaintiff Shui W. Kwong (“Mr. Kwong”) is a citizen and resident of the State of New York residing in Brooklyn.

13. Mr. Kwong is a 43 year-old Chinese-American who is married and has two children, and who is employed as a union electrical worker.

14. Mr. Kwong holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

15. Mr. Kwong will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

16. Furthermore, Mr. Kwong has paid the \$340 fee prior to the filing of this lawsuit.

17. Plaintiff George Greco ("Mr. Greco") is a citizen and resident of the State of New York residing in Rockaway.

18. Mr. Greco is a 51 year-old man who is married and has 2 children. Mr. Greco is a principal of Midhattan Woodworking Co. Mr. Greco is a board member of Plaintiff New York State Rifle & Pistol Association.

19. Mr. Greco holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

20. Mr. Greco will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

21. Furthermore, Mr. Greco has paid the \$340 fee prior to the filing of this lawsuit.

22. Plaintiff Glenn Herman ("Mr. Herman") is a citizen and resident of the State of New York residing in New York, New York.

23. Mr. Herman is a 43 year-old married man. Mr. Herman is a firearms safety instructor certified by the National Rifle Association of America.

24. Mr. Herman holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

25. Mr. Herman will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

26. Furthermore, Mr. Herman has paid the \$340 fee prior to the filing of this lawsuit.

27. Plaintiff Nick Lidakis ("Mr. Lidakis") is a citizen and resident of the State of New York residing in Queens.

28. Mr. Lidakis is a 37 year-old single man who lives with his girlfriend. Mr. Lidakis is a paramedic who serves the people of the City of New York who require emergency medical assistance.

29. Mr. Lidakis holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

30. Mr. Lidakis will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

31. Furthermore, Mr. Lidakis has paid the \$340 fee prior to the filing of this lawsuit.

32. Plaintiff Timothy Furey ("Mr. Furey") is a citizen and resident of the State of New York residing in Queens.

33. Mr. Furey holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

34. Mr. Furey's current Residence Premises handgun license will expire on April 27, 2011. The City sent Mr. Furey renewal paperwork that required, *inter alia*, payment of the \$340 fee specified by N.Y.C. Admin. Code § 10-131(a)(2).

35. Mr. Furey paid the \$340 fee, under protest, on March 21, 2011.

36. Plaintiff Daniela Greco ("Mrs. Greco") is a citizen and resident of the State of New York residing in Rockaway.

37. Mrs. Greco is married and has two children. She is a New York City public school teacher.

38. Mrs. Greco holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

39. Mrs. Greco will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

40. Furthermore, Mrs. Greco has paid the \$340 fee prior to the filing of this lawsuit.

41. Plaintiff Nunzio Calce ("Mr. Calce") is a citizen and resident of the State of New York residing in Bronx County.

42. Mr. Calce is a 37 year-old married man with children. He is a Certified Public Accountant and is first generation Italian-American.

43. Mr. Calce holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

44. Mr. Calce will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

45. Furthermore, Mr. Calce has paid the \$340 fee prior to the filing of this lawsuit.

46. Plaintiff Second Amendment Foundation, Inc. ("SAF") is a non-profit member organization incorporated under the laws of the State of Washington with its principal place of business in Bellevue, Washington.

47. Plaintiff SAF has over 650,000 members and supporters nationwide, including in the City and State of New York. The purposes of SAF include promoting both the exercise of

the right to keep and bear arms and education, research, publishing, and legal action focusing on the constitutional right to privately own and possess firearms. SAF also promotes research and education on the consequences of abridging the right to keep and bear arms and on the historical grounding and importance of the right to keep and bear arms as one of the core civil rights of United States citizens.

48. Members of SAF have paid the \$340 fee required for a New York City Residence Premises handgun license, and members of SAF would apply for a Residence Premises handgun license but for the prohibitive \$340 fee.

49. SAF brings this action on behalf of itself and its members.

50. Plaintiff The New York State Rifle & Pistol Association, Inc. ("NYSRPA") is a non-profit membership corporation incorporated under the laws of the State of New York with its principal place of business in Troy, New York.

51. Plaintiff NYSRPA was first organized in 1871 and is the State's largest, and the nation's oldest, firearms advocacy organization.

52. NYSRPA is dedicated to the preservation of Second Amendment rights, firearm safety, education and training, and the shooting sports. NYSRPA's membership consists of individuals and clubs throughout New York State.

53. Members of NYSRPA have paid the \$340 fee required for issuance or renewal of a Residence Premises handgun license, and members of NYSRPA would apply for a Residence Premises handgun license but for the prohibitive \$340 fee.

54. NYSRPA brings this action on behalf of itself and its members.

55. Defendant Mayor Michael Bloomberg (“Mayor Bloomberg”) is sued in his official capacity as Mayor of the City of New York, responsible for executing and administering the laws of the City of New York, including New York City Administrative Code § 10-131.

56. Defendant City of New York (the “City”) is a municipal corporation incorporated under the laws of the State of New York.

57. Defendant Attorney General Eric Schneiderman is sued in his official capacity as the Attorney General of the State of New York, responsible for executing and administering the laws of the State of New York, including Penal Law § 400.00(14).

#### CONSTITUTIONAL PROVISIONS

58. The Second Amendment provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

U.S. Const. amend. II.

59. The Fourteenth Amendment provides in pertinent part:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV, § 1.

**NEW YORK STATE LAWS**

60. Section 400.00 of the New York Penal Law governs the issuance of permits to possess and carry handguns.

61. Section 400.00(2) provides in pertinent part:

Types of Licenses. . . . A license for a pistol or revolver . . . shall be issued to (a) have and possess in his dwelling by a householder[.] . . .

N.Y. Penal Law § 400.00(2).

62. Section 400.00(14) provides in pertinent part:

Fees. . . . In [New York C]ity, 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 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, not less than three dollars nor more than ten dollars as may be determined by the legislative body of the county. . . .

N.Y. Penal Law § 400.00(14).

**NEW YORK CITY LAWS**

63. Section 10-131 of the New York City Administrative Code provides:

Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of three hundred forty dollars for each original or renewal application for a three year license period or part thereof, a fee of ten dollars for each replacement application of a lost license.

N.Y.C. Admin. Code § 10-131(a)(2).

FIRST CAUSE OF ACTION

**THE \$340 FEE REQUIRED BY N.Y.C. ADMIN. CODE § 10-131(a)(2)  
IMPERMISSIBLY BURDENS THE RIGHT TO KEEP AND BEAR ARMS**

64. The Second Amendment “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” District of Columbia v. Heller, 554 U.S. 570, 592 (2008).

65. If a state or municipality requires its citizens to obtain licenses or registrations in order to possess handguns, then it may not refuse to issue the requisite licenses and registrations to people who are otherwise qualified. See Heller, 554 U.S. at 635 (“Assuming that Heller is not disqualified from the exercise of Second Amendment rights, the District must permit him to register his handgun and must issue him a license to carry it in the home.”).

66. The \$340 fee required for issuance or renewal of a 3-year Residence Premises handgun license – in addition to the \$94.25 already charged for fingerprints and the DCJS background check – is unreasonable, burdensome, and prohibitive.

67. Furthermore, the fees obtained by the City for issuance of Residence Premises handgun licenses are not used to defray expenses related to the issuance of handgun licenses.

68. The \$340 fee required by Defendants City and Mayor Bloomberg for issuance or renewal of a Residence Premises handgun license impermissibly burdens the exercise of Second Amendment rights.

69. The \$340 fee requirement of § 10-131(a)(2) is invalid in that and to the extent that it pertains to private citizens seeking to obtain or renew Residence Premises handgun licenses.

SECOND CAUSE OF ACTION

**N.Y. PENAL LAW § 400.00(14) DENIES EQUAL PROTECTION OF THE LAW  
TO CITIZENS OF NEW YORK STATE WHO RESIDE IN NEW YORK CITY**

70. Section 400.00(14) of the Penal Law protects New York citizens who wish to obtain handgun licenses by limiting the fee that a licensing authority may charge to a maximum of \$10. However, the statute exempts New York City (and Nassau County) and instead authorizes them to “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.” N.Y. Penal Law § 400.00(14).

71. On June 28, 2010 the Supreme Court held that “the right to keep and bear arms [is] among those fundamental rights necessary to our system of ordered liberty.” McDonald v. Chicago, 130 S. Ct. 3020, 3042 (2010).

72. When state laws burden the exercise fundamental constitutional rights, “a State must establish that its classification is necessary to serve a compelling interest,” and it must “adopt the least drastic means to achieve [its] ends.” Illinois State Bd. of Elections v. Socialist Workers Party, 440 U.S. 173, 185 (1979).

73. State laws that unequally burden the exercise of fundamental constitutional rights for citizens who live in a particular municipality can only be upheld where the disparate burden is itself narrowly tailored to serve a compelling government interest. See Illinois State Bd. of Elections, 440 U.S. at 186 (“appellant has advance no reason, much less a compelling one, why the State needs a more stringent requirement for Chicago”).

74. Section 400.00(14) of the New York Penal Law is invalid as applied to allow the imposition of a fee in excess of \$10 for the issuance or renewal of a Residence Premises handgun license.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

- i. declaratory judgment that the \$340 fee required by N.Y.C. Admin. Code § 10-131(a)(2) is invalid in that and to the extent that it is applied to private citizens seeking Residence Premises handgun licenses;
- ii. a permanent injunction restraining Defendants City and Mayor Bloomberg, and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of this injunction, from enforcing N.Y.C. Admin. Code § 10-131(a)(2) so as to require private citizens seeking to obtain or renew Residence Premises handgun license to pay the \$340 fee set forth therein;
- iii. declaratory judgment that N.Y. Penal Law § 400.00(14) is invalid as applied to allow the imposition of a fee in excess of \$10 for the issuance or renewal of a Residence Premises handgun license under § 400.00 of the Penal Law;
- iv. a permanent injunction restraining Defendants City and Mayor Bloomberg, and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of this injunction, from requiring private citizens seeking Residence Premises handgun licenses pursuant to N.Y. Penal Law § 400.00 to pay a fee in excess of \$10 to issue or renew a Residence Premises handgun license;
- v. such other and further relief, including injunctive relief, against all Defendants, as may be necessary to effectuate the Court's judgment, or as the Court otherwise deems just and equitable; and
- vi. attorney's fees and costs pursuant to 42 U.S.C. § 1988.

Dated: New York, New York  
April 5, 2011

DAVID JENSEN PLLC

By: 

David D. Jensen, Esq.  
708 Third Avenue  
New York, New York 10017  
Tel: 212.380.6615  
Fax: 917.591.1318  
david@djensenpllc.com  
*Attorney for Plaintiffs*

JUDGE KOELT

CIVIL COVER SHEET 11 CV 2356 PR 05 2011

JS 44C/SDNY REV. 5/2010

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS SHUI W. KWONG; GEORGE GRECO; GLENN HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY; DANIELA GRECO; NUNZI CALCE - SECOND AMENDMENT FOUNDATION ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) DEFENDANTS MICHAEL BLOOMBERG, in his Official Capacity as Mayor of the City of New York; CITY OF NEW YORK; and ERIC SCHNEIDERMAN in his Official Capacity as Attorney General ATTORNEYS (IF KNOWN)

David D. Jensen, DAVID JENSEN PLLC, 708 Third Avenue, Sixth Floor, New York, New York 10017 212.380.6615

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE) (DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

42 U.S.C. §1983; Deprivation of Civil Rights Under Color of Law

Has this or a similar case been previously filed in SDNY at any time? No [x] Yes [ ] Judge Previously Assigned

If yes, was this case Vol. [ ] Invol. [ ] Dismissed. No [ ] Yes [ ] If yes, give date & Case No.

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, IMMIGRATION, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like AIRPLANE PRODUCT LIABILITY, MOTOR VEHICLE, TORTS TO LAND, etc.

003290

Check if demanded in complaint:

[ ] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ Declaratory OTHER Injunctive JUDGE DOCKET NUMBER

Check YES only if demanded in complaint JURY DEMAND: [ ] YES [x] NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN **x** IN ONE BOX ONLY)

**ORIGIN**

1 Original Proceeding    
  2a. Removed from State Court    
  2b. Removed from State Court AND at least one party is pro se.    
  3 Remanded from Appellate Court    
  4 Reinstated or Reopened    
  5 Transferred from (Specify District)    
  6 Multidistrict Litigation    
  7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN **x** IN ONE BOX ONLY)

**BASIS OF JURISDICTION**

1 U.S. PLAINTIFF    
  2 U.S. DEFENDANT    
 3 FEDERAL QUESTION (U.S. NOT A PARTY)    
 4 DIVERSITY

**IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1322, 1441)**

**CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)**

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF	DEF	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF	DEF	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF	DEF
	[ ]	[ ]		[ ]	[ ]		[ ]	[ ]
CITIZEN OF ANOTHER STATE	[ ]	[ ]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ]	[ ]	FOREIGN NATION	[ ]	[ ]
	[ ]	[ ]		[ ]	[ ]		[ ]	[ ]

**PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)**

SHUI W. KWONG, Brooklyn, Kings County; GEORGE GRECO, Rockaway, Queens County  
 GLENN HERMAN, New York, New York County; NICK LIDAKIS, New York, New York County  
 TIMOTHY S. FUREY, Queens, Queens County; DANIELA GRECO, Rockaway, Queens County  
 NUNZE CALCE, Queens, Queens County  
 SECOND AMENDMENT FOUNDATION, INC., Bellevue (Washington), King County  
 THE NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., Troy, Rensselaer County

**DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)**

MICHAEL BLOOMBERG, in his Official Capacity as Mayor of the City of New York, City Hall, New York, NY 10007  
 CITY OF NEW YORK, City Hall, New York, NY 10007  
 ERIC SCHNEIDERMAN, in his Official Capacity as Attorney General of the State of New York, The Capital, Albany, NY 12224

**DEFENDANT(S) ADDRESS UNKNOWN**

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO:      WHITE PLAINS      MANHATTAN  
 (DO NOT check either box if this a PRISONER PETITION.)

DATE 05 Apr 2011 SIGNATURE OF ATTORNEY OF RECORD



ADMITTED TO PRACTICE IN THIS DISTRICT  
 NO      YES (DATE ADMITTED Mo. Nov. Yr. 2004)  
 Attorney Bar Code # D-12261

RECEIPT #

**MAG. JUDGE FREEMAN**

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

# Exhibit B

## Chap. 195.

AN ACT to amend the penal law, in relation to the sale and carrying of dangerous weapons.

Became a law May 25, 1911, with the approval of the Governor. Passed, three-fifths being present.

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

L. 1909,  
ch. 88,  
§§ 1896,  
1897, 1899  
amended.

Section 1. Sections eighteen hundred and ninety-six, eighteen hundred and ninety-seven and eighteen hundred and ninety-nine of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," are hereby amended to read as follows:

§ 1896. Making and disposing of dangerous weapons. A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a blackjack,<sup>1</sup> slungshot, billy, sandclub, sandbag, bludgeon,<sup>2</sup> or metal knuckles, to any person; or a person who offers, sells, loans, leases, or gives any gun, revolver, pistol or other firearm or any airgun, spring-gun or other instrument or weapon in which the propelling force is a spring or air or any instrument or weapon commonly known as a toy pistol or in or upon which any loaded or blank cartridges are used, or may be used, or any loaded or blank cartridges or ammunition therefor, to any person under the age of sixteen years, is guilty of a misdemeanor.

§ 1897. Carrying and use of dangerous weapons. A person who attempts to use against another, or who carries, or possesses, any instrument or weapon of the kind commonly known as a blackjack,<sup>1</sup> slungshot, billy, sandclub, sandbag,<sup>2</sup> metal knuckles or bludgeon,<sup>2</sup> or who, with intent to use the same unlawfully<sup>3</sup> against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon,<sup>4</sup> is guilty of a felony.

<sup>1</sup> Word "blackjack" new.

<sup>2</sup> Words "sandbag, bludgeon" new.

<sup>3</sup> Word "unlawfully" new.

<sup>4</sup> Words "razor, stiletto, or any other dangerous or deadly instrument or weapon," new.

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LAWS OF NEW YORK, 1911.

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Any person under the age of sixteen years, who shall have, carry, or have in his possession,<sup>5</sup> any of the articles named or described in the last section, which it is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

<sup>6</sup>Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be \*prescribel by ordinance in such city, village or town, shall be guilty of a misdemeanor.

~~Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony.~~<sup>7</sup>

<sup>8</sup>Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any public place, at any time, shall be guilty of a felony. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the places of meeting of their respective organizations.

§ 1899. Destruction of dangerous weapons. The unlawful<sup>9</sup> carrying of a pistol, revolver, or other firearm<sup>10</sup> or of an instrument or weapon of the kind usually known as blackjack, bludgeon,<sup>11</sup> slung-shot, billy, sandclub, sandbag,<sup>12</sup> metal knuckles, or of a dagger,

\* So in original.

<sup>5</sup> Words " in any public place " omitted.

<sup>6</sup> Following sentence new.

<sup>7</sup> Formerly " misdemeanor."

<sup>8</sup> Following sentence formerly read: " No person not a citizen of the United States, shall have or carry firearms or dangerous weapons in any public place at any time."

<sup>9</sup> Word " unlawful " new.

<sup>10</sup> Words " or other firearm " new.

<sup>11</sup> Words " blackjack, bludgeon " new.

<sup>12</sup> Word " sandbag " new.

dirk, dangerous knife, or any other dangerous or deadly weapon,<sup>12</sup> by any person save a peace officer, is a nuisance, and such weapons are hereby declared to be nuisances, and when any one or more of the above described instruments or weapons shall be taken from the possession of any person the same shall be surrendered to the sheriff of the county wherein the same shall be taken, except that in cities of the first class the same shall be surrendered to the head of the police force or department of said city. The officer to whom the same may be so surrendered shall, except upon certificate of a judge of a court of record, or of the district attorney, that the nondestruction thereof is necessary or proper in the ends of justice, proceed at such time or times as he deems proper, and at least once in each year, to destroy or cause to be destroyed any and all such weapons or instruments, in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which destined and harmless to human life or limb.

§ 1914  
added.

§ 2. Such chapter is hereby amended by adding at the end of article one hundred and seventy-two thereof a new section to be section nineteen hundred and fourteen and to read as follows:

§ 1914. **Sale of pistols, revolvers and other firearms.** Every person selling a pistol, revolver or other firearm of a size which may be concealed upon the person whether such seller is a retail dealer, pawnbroker or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calibre, make, model, manufacturer's number or other mark of identification on such pistol, revolver or other firearm. Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a permit for possessing or carrying the same as required by law, and shall also enter in such register the date of such permit, the number thereon, if any, and the name of the magistrate or other officer by whom the same was issued. Every person who shall fail to keep a register and to enter therein the facts required by this section, or who shall fail to exact the production of a permit to possess or carry such pistol, revolver or other firearm, if such permit is required by law, shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for

<sup>12</sup> Words "or any other dangerous or deadly weapon," new. Words "without lawful permission, license or authority so to do," omitted.

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the inspection of any peace officer. Every person becoming the lawful possessor of such a pistol, revolver or other firearm, who shall sell, give or transfer the same to another person without first notifying the police authorities, shall be guilty of a misdemeanor. This section shall not apply to wholesale dealers.

§ 3. This act shall take effect September first, nineteen hundred and eleven.

In effect  
 Sept. 1,  
 1911.

Chap. 196.

AN ACT to amend chapter fifty-two, laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," in relation to officers taking acknowledgments.

Became a law May 29, 1911, with the approval of the Governor. Passed, three-fifths being present.

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

Section 1. Section three hundred and ten of chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," is hereby amended so as to read as follows:

L. 1909, ch.  
 52, § 310  
 amended.

§ 310.<sup>1</sup> A certificate of acknowledgment or proof, made within the state, by a commissioner of deeds, justice of the peace, or, except as otherwise provided by law, by a notary public, does not entitle the conveyance to be read in evidence or recorded, except within the county in which the officer making the same is authorized to act<sup>2</sup> at the time of making such certificate, unless authenticated by a certificate of the clerk of the same county; provided, however, that all certificates of acknowledgments or proof, made by or before a commissioner of deeds of the city of New York residing in any part therein, shall be authenticated by the<sup>3</sup> clerk of any county within said city, in whose office such commissioner of deeds shall have filed a certificate under the hand and seal of the city clerk of said city, showing the appointment and

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 necessary.

<sup>1</sup> Section heading amended out.

<sup>2</sup> Words "making the same is authorized to act" substituted for word "resides."

<sup>3</sup> Words "city clerk of said city, that the said commissioner of deeds was duly appointed and qualified as such," omitted.

# Exhibit C

REVOLVER KILLINGS FAST INCREASING  
 New York Times (1857-1922); Jan 30, 1911;  
 ProQuest Historical Newspapers The New York Times (1851 - 2007)  
 pg. 4

# REVOLVER KILLINGS FAST INCREASING

Legislative Measure to be Urged  
 for Curbing the Sale of  
 Firearms.

## LAW NOT NOW ADEQUATE

Carrying of Concealed Weapons May  
 Be Made a Felony—What Crimi-  
 nal Statistics Show.

A marked increase in the number of homicides and suicides in this city by shooting has led officials of the Coroner's office to start a movement which they hope will lead to a law governing the carrying of firearms, especially revolvers. Based upon a study of conditions concerning homicides and suicides for the last thirteen years, George Peter Brun, one of the Coroner's clerks, has just completed a list of recommendations to the Legislature, which he and his fellow officials believe will result in materially decreasing acts of violence in which revolvers figure.

These recommendations will be embodied in a bill to be prepared shortly probably by State Senator Timothy D. Sullivan, who is deeply interested in the subject. He announced before election that during the present session of the Legislature he would introduce a bill making it a State prison offense to carry concealed weapons.

"The increase of deaths by shooting in murder and suicide cases in this city, according to the statistics of the Coroner's office for the past year, the shooting down of Maynor Gaynor, and the recent murder of David Graham Phillips, should arouse the public to the immediate necessity of a law governing the sale of revolvers," said Mr. le Brun yesterday. "The law applying to the carrying of concealed weapons is farcical, and does not meet present conditions.

"The other day we had an example of that, when a man ran out of his house, on one of the crowded avenues, shooting off a revolver at imaginary foes, but fortunately no one was hurt. He was arrested and fined \$10 by a Magistrate. Had the revolver been found concealed on the man's person, he could have been punished by not only a fine, but a jail sentence.

"We should have a law, whereby a person having a revolver in his possession, either concealed or displayed, unless for some legitimate purpose, could be punished by a severe jail sentence."

"Thirteen years' experience in the Coroner's office, where I have personally investigated hundreds of homicide and suicide cases, convinces me that a rigid law, making it difficult to buy revolvers, would be the means of saving hundreds of lives. From statistics compiled in the Coroner's office we find that in 1900, 183 persons committed suicide by carbolic acid.

"Within the last few years, since the sale of poisons has been regulated by law and they cannot be purchased as easily as

name and address, and be questioned as to what use he would make of the revolver."

The annual report of the Coroner's office, made public yesterday, also urges action against the indiscriminate sale of firearms.

"The increase of homicide by shooting," says the report, "indicates the urgent necessity of the proper authorities taking some measures for the regulation of the indiscriminate sale and carrying of firearms."

The total number of Manhattan homicides, 1910, as shown by the report, was 136, an increase of 13 over those of 1909, and the number of those who committed suicide was 183, an increase of only 3 over the number in 1909. Gas was used by 142 of the suicides and 133 took their lives by shooting. Fifty leaped from windows and 23 used poison.

The total number of deaths from all causes reported to the Coroners in 1910 was 5,408, an increase of 180 over 1909, and of this total 2,488 were of a violent character, following wounds by shooting, stabbing, assault, and self-inflicted wounds (suicide and accidental) and injuries received by falls and other mishaps.

There were also 251 deaths from accident during the year, which were originally charged to the acts of others. The largest percentage of these were caused by automobiles.

## FINED FOR SAVING A LIFE.

Tourist Tells What Happened to a  
 Humane German Subject.

Walter Hallamby, a Chicago broker, just returned from Europe, who was at the Waldorf-Astoria yesterday, said that, while Germany had made great strides commercially, he found much red tape in the Government service.

"Here is an instance," Mr. Hallamby said, "that came under my notice while I was in Berlin. A workman going home caught sight of a man lying on the railroad tracks, evidently with the intention of committing suicide. A train was rapidly approaching, and if the man was to be saved immediate action was necessary.

"Waving his handkerchief to stop the train, the workman threw down his basket of tools, climbed a fence, ran along the track, and dragged the would-be suicide out of danger. Then, feeling, no doubt, that he had done his duty to his fellow-man, the workman shouldered his bag and went home.

"Two days afterward he received a letter from the police. It did not contain a medal, a testimonial to his courage and presence of mind, or words of thanks. What it did contain was a schedule of fines to which the humane workman had made himself liable. It read:

Marks.	
Damaging fence by climbing over it.....	3
Trespassing on railway.....	4
Stopping express train without first informing station master or the signalman on duty....	10
Leaving bag of tools to the danger of the public.....	2
Total.....	19

"The mark is about equal to 25 cents of United States currency, so that the fines amounted to about \$4.75 for saving the life of a fellow-being, and in Germany the police have supreme power over the life and property of the law-abiding citizen. A German friend who related the incident to me prided himself on the fact that his nation was so businesslike in its methods, and gave the above incident as an apt illustration."

## Chinatown Celebrates Its New Year.

Yesterday was New Year's Day in Chinatown. The festivities inaugurated at midnight on Saturday will be continued

they were some years ago, there has been a marked decrease in suicide by poison. "I would recommend, first, that a shopkeeper selling revolvers should be made to pay a high license. Second, any one desiring to purchase a revolver should be compelled to go to the police to get a permit. He would there have to give his

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for a week. Dating from the birth of Confucius as they do, 551 B. C., the Chinese are now celebrating the birth of the New Year 2462. All day the heads of the various Chinese firms were exchanging visits. The visitors followed their usual formal customs, presenting colored strips of paper with New Year's greetings written on them in India ink, and entering the inner rooms of their hosts with hands clasped as in prayer. Extra police were detailed to the quarter last night.

INCREASE IN HOMICIDES  
 Graphic by Tribune  
 New York Tribune (1911-1922) Feb. 17, 1911.  
 Published Historical Newspapers: The New York Tribune (1841-1922)  
 p. 3

## INCREASE IN HOMICIDES

### Argument in Favor of Anti-Dangerous Weapon Bill.

(By Telegraph to The Tribune.)  
 Albany, Feb. 16.—At the hearing this afternoon on the anti-dangerous weapon bill of Senator "Tim" Sullivan before the Senate Code Committee, O. P. Lebrun, representing the New York City coroners' office, gave statistics showing that in 1910 there was an increase of 50 per cent in homicides in New York over 1909. The biggest part of these homicides, he said, took place in gang fights. He declared that many of these shootings could have been prevented under the provisions of the Sullivan bill, amended to require a person to obtain a license before he can purchase a revolver and the registration of the purchase by the store selling it. Mr. Lebrun submitted to the committee letters favoring the measure from Dr. Lyman Abbott, Henry Claws, Jacob H. Schiff, Marcus M. Marks, Bishop Greer, Isaac N. Seligman, Hudson Maxim and other prominent citizens.

In his letter Mr. Maxim said that since the shooting of Mayor Gaynor and the murder of his friend, David Graham Phillips, he had been paying a good deal of attention to proposed legislation to regulate and restrict carrying and possessing firearms and other dangerous weapons. He believed the Sullivan bill would bring about a much needed reform.

Dr. Albert T. Weston, coroners' physician in New York City, gave many incidents to show that persons guilty of murder could not have escaped punishment if the sale of the revolver had been registered. He referred particularly to the murder of Oscar Young, for which Nan Patterson was tried and acquitted. He declared that if the sale of the gun found in the cab in which Young was shot could have been traced, the person responsible for his death could easily have been convicted.

A number of representatives of hardware stores and arms manufacturing companies appeared against the measure. The objections of the hardware men were directed against both the licensing and registration features, while the attorneys for the manufacturers confined themselves to protesting against the requiring of licenses. They held that this requirement would not reach those whom it sought to prevent from carrying—that is, the burglars and thugs—but that it would deter from purchasing revolvers men who sought only to protect their homes with them. The result would be, they said, that the criminals would have a greater advantage over the law-abiding householder than they do now.

Ex-District Attorney Willis, of Utica, said:

"You cannot legislate murder out of a man's heart. There are seven thousand murders in the United States each year, while in Germany, where there is no restriction on the sale or possession of firearms, the average is only six hundred. But in Germany the percentage of convictions is much higher."

He contended that the men who shot Mayor Gaynor, the murderer of David Graham Phillips or the assassin of President McKinley would have carried out their purpose by some other means even if they had had no revolvers.

It was brought out at the hearing that there is now being prepared in New York by Chief Magistrate McAdoo and the Merchants' Association a bill even more drastic than the Sullivan measure. Among other things, this would require that on applying for a license to procure a revolver one's character would have to be vouched for.

**CALLS BILL LIFE SAVER**  
Telegraph to The Tribune  
New York Tribune (1911-1922); May 16, 1911;  
Preserved Historical Newspapers The New York Tribune (1841-1922)  
JG-4

## CALLS BILL LIFE SAVER

**Weston Says Sullivan's Will Prevent 50 Homicides Here a Year.**

### PLAN TO AMEND MEASURE

**George Lebrun Declares New York Police Can Round Up 1,500 to 2,000 Revolvers.**

(By Telegram to The Tribune.)

Albany, March 8.—At a third hearing this afternoon before the Senate Codes Committee on the anti-dangerous weapon bill of Senator "Tim" Sullivan, Dr. A. T. Weston, who has had a wide experience as a coroner's physician, estimated that with this bill on the statute books at least fifty lives a year would be saved in New York City alone.

"The argument against this measure," he said, "is merely staking a few dollars' profits for the hardware dealers against human lives."

George Lebrun, representing a committee of citizens and the New York coroner's office, expressed the belief that the bill would have the effect of enabling the New York police to round up between 1,500 and 2,000 revolvers, now being carried in the city by men of criminal tendencies. Those men would then be unable to buy other revolvers, at least in this state, as men of that character could not procure licenses. He said that even if they did buy them outside the state the tendency to carry them here would be greatly lessened, as the bill makes it a felony to carry a revolver and a misdemeanor to have a revolver in one's house without a license.

It is intended to amend the bill so it will be a misdemeanor for a person having a license to carry a revolver to transfer the weapon without giving notice to the proper authorities.

Representatives of manufacturers and dealers appeared again to oppose the bill. They also presented for the consideration of the committee a bill the provisions of which were less rigid than the Sullivan bill. It is expected that the committee will report the Sullivan measure early next week.

The hearing which was to be given this afternoon on Senator Stillwell's bill preventing short sales and stock speculation, was postponed for two weeks.

THE NEW PISTOL LAW.  
HENRY W. POLLOCK  
New York Times (1837-1877), Sep. 1, 1911.  
ProQuest Historical Newspapers The New York Times (1831 - 2007)  
pg. 6

## THE NEW PISTOL LAW.

Senator Pollock from First-Hand  
Knowledge Explains Its Purpose.

To the Editor of The New York Times:

A part of your editorial comment on Senator Sullivan's Pistol bill conveys to the reader an impression that, through carelessness and haste in the drafting and passage of this bill, its effectiveness is doubtful. In view of the support which THE TIMES gave to this measure, and which was appreciated by me as a member of the Senate Codes Committee and as one interested in this reform, I wish to call your readers' attention to the following:

This bill received undoubtedly as much consideration and deliberation in the Senate as any other measure which it passed. The bill was introduced by Senator Sullivan on Jan. 4, and was reported out of the Codes Committee March 31; in the interim numerous public hearings were given by the Codes Committee. The bill was amended three times to conform to various suggestions made by persons in interest and by members of the Codes Committee in executive session. Similar careful deliberation was given to the bill in the Assembly, and likewise by the Governor before his approval was given thereto.

The bill had two objects. One object was to punish for the unlawful possession of dangerous firearms. In addition, the bill served the equally important object of aiding the authorities in the identification of the owner of a firearm used in the commission of a crime.

In order to bring this about, it was necessary that the law provide for an immediate registration of every firearm in the State, and not merely firearms purchased subsequently to Sept. 1, the date when the law goes into effect. It is for the former object that the carrying of a firearm concealed on one's person without a license was made a felony, thereby giving the power to our courts to impose a severer penalty for this offense than in the past, when such unlawful carrying was a misdemeanor. To accomplish the second object of the bill, the possession of a concealable firearm on one's premises was made a misdemeanor. There is no danger that any one desiring to have a revolver in his house for his protection need subject himself to prosecution for a misdemeanor. A citizen will have no more difficulty in obtaining a permit to keep a pistol on his premises than he has had in the past in obtaining a dog license for the privilege of having a dog on his premises to protect them against intruders.

The provisions of the Sullivan bill as to registration and its regulations as to the sale or other disposition of revolvers and pistols will enable our police authorities to trace firearms used in the commission of crimes, which could not be done if no provision had been made for their registration if in the possession of individuals on the 1st day of September. Statistics will perhaps show that the average life of a firearm in the hands of a citizen is a great number of years, and therefore if those now owned by citizens were not registered the full benefit of the Sullivan bill would not be appre-

ciated for many years to come.

I might say that the only opposition to any of the provisions of this bill urged before either of the committees of the Legislature was that of representatives of manufacturers and dealers in firearms.

HENRY W. POLLOCK.

New York, Aug. 30, 1911.

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**STREETS PERILOUS AS A BATTLEFIELD**

*New York Times (1857-1922); Feb 4, 1912;*

ProQuest Historical Newspapers The New York Times (1851 - 2007)

pg. 5

**STREETS PERILOUS  
AS A BATTLEFIELD**

**Coroners Will So Report in  
Speaking of Violent Deaths  
in the City.**

**PISTOL LAW NOT ENFORCED**

**61  
5** Murders Last Year Than Year  
ore, Though Fewer Deaths Were  
Caused by Firearms.

George P. Le Brun, clerk of the Coroner's office, said yesterday the figures in his office showed that there had been 6,701 violent deaths in Manhattan last year which came under the jurisdiction of the office. This is an increase of 293 over 1910.

There were 32 homicides by shooting, a decrease of 18 over 1910. Mr. Le Brun also called attention to the decrease in the number of suicides by this means. Both decreases he attributed to the Sullivan weapon law, which was introduced at the request of the Board of Coroners. Mr. Le Brun said:

"The Sullivan law is, however, not being properly enforced. For instance, this office has investigated numbers of suicides where the gun was brand new. In

some of the cases the suicide had pawned his overcoat or a piece of jewelry to get money to buy the gun. We could not prove that the gun was bought in the same pawnshop, but all the circumstances point to that conclusion. I believe a strict enforcement of the law will, also, greatly reduce the number of killings.

Mr. Le Brun said that while only 400 gun permits under the law had been issued, he was morally sure that several times that number of revolvers had been sold since the law went into effect, and that these sales without permits were to persons without respect for law.

At the next session of the Legislature, Mr. Le Brun said that he would work for the passage of a law compelling the adoption of safety devices on elevators. He said 68 persons were killed in 1911 in elevator accidents in Manhattan. This is an increase of 38 over last year. He said:

**Unnecessary Deaths in Elevators.**

"Evidence brought out in these cases at the inquests shows that at least 75 per cent. of the deaths might have been avoided had proper precautions been taken in equipping the elevators with safety devices.

"Coroner's juries in the majority of these cases have censured the owners of buildings, and recommended the passage of a law in this State for the proper safeguard of human life in the operation of elevators. Two hundred and sixty-seven persons were killed by falling or moving elevators in the past five years. Pennsylvania, which has a law compelling the use of safety devices, has reduced the number of deaths from this cause."

The records of the Coroner's office last year show that the figures of Police Commissioner Waldo for homicides are below the actual number. Of 2,858 violent deaths in Manhattan last year, the Coroner's office classes 193 as homicides by shooting and assault. This is an increase of 8 over last year, and does not include 33 deaths from malpractice.

Mr. Le Brun is inclined to include a

number of so-called accidental deaths from gas asphyxiation among the number of homicides, though they are not so listed in the Coroner's tables.

"Some of these cases of so-called accidental death from gas have a very gruesome aspect," he said. "We had 80 of them last year, mostly in cheap lodging houses. The majority of the men were foreigners on their way home to Europe. They had nothing in their pockets but a few coins and their passage tickets. It is known that they don't usually start back without \$500 or a \$1,000 saved. They have been in this country too long not to know more than to blow out the gas. Every one knows that when the gas is turned on in the room of a sleeping man he never wakes up."

Of the 93 cases of homicide by shooting, the police made no arrests in 23 cases, and in 30 others the men arrested were discharged by the Coroners after an inquest.

**Killing by Automobiles.**

There were 68 cases of homicide by assault and the police made 60 arrests. Thirty-one of those arrested were discharged. Mr. Le Brun said that the Coroners would ask for a special laboratory equipment to make investigations in cases of suspected homicide by poison, which are now difficult to handle.

There were 480 suicides in the borough last year, 18 less than in 1910, and 430 persons were killed by casualties in which another person was blamed. Of these, 80 were killed by automobiles, an increase of 28 over 1910. On this point the Coroners, Israel L. Felsberg, James E. Winterbottom, Herman Helicstein, and Herman W. Holtshauer, are agreed that:

"Evidence adduced in the majority of these cases shows that the killing of human beings by automobiles in the streets of this city are due to carelessness of chauffeurs, excessive speed, and failure to give proper warning to pedestrians of the approach of a car. The Coroners' juries in many of these cases have censured the chauffeurs for such carelessness. This office has referred all of these cases to the District Attorney for the session of the Grand Jury.

"The streets of the city are becoming

more perilous than a battlefield, and it is high time that some change in the laws governing the operation of automobiles in this city be enacted which may be the means of preventing loss of life."

**Other Deaths by Accident.**

Not only was there an increase in the number of automobile killings last year, but there were 139 persons killed by horse-drawn vehicles—46 more than in 1910. Ten persons each were killed by the elevated railroads and the subways, a decrease of seven from the elevated record of last year and a decrease of five in the subway record. Thirteen persons were killed on the New York Central's surface tracks on the west side, a decrease of one.

A total of 194 persons were killed while at work on new buildings, 219 persons were accidentally drowned, 98 from illuminating gas, and 50 from accidental poisoning.

Five persons choked to death on their food, and 363 died from accidental falls from windows, downstairs, into basements, from roofs, and so forth. The Washington Place fire brought up the list of deaths from conflagration to 161 last year.

Some of the deaths will cause the following comment in the annual report soon to be issued:

"Autopsies made by the Coroners' Physicians disclose in many cases that a good deal of wood alcohol and other deleterious liquids are sold in various sections of the city as whisky; we therefore strongly recommend that the proper authorities take some action to put a stop to this wholesale poisoning."

Mr. Le Brun said yesterday: "The alertness of the Coroners' Physicians in performing their autopsies resulted in the conviction of a man who killed his wife and later attempted to conceal a story of a suicide compact."

may be to have in his possession such a weapon without a license will render a man guilty of a misdemeanor, and to carry it without a license will be a felony. A specially stringent clause relates to aliens. It is

Any person not a citizen of the United States, who shall have or carry firearms or any dangerous or deadly weapon in any public place, at any time, shall be guilty of a felony.

It is, however, stipulated that none of these provisions shall affect firearms that are being transported as merchandise, nor public officers whose duties necessitate their carrying weapons.

Weapons, the possession of which has been proved to be unlawful, must be surrendered to the Sheriff of the county or the head of the police force to be destroyed or rendered useless. The section governing the sale of revolvers and other firearms has been so drawn as to make it possible to identify the original owner of any firearm that may figure in a crime, and deals with every phase of the situation. Here it is:

Every person selling a pistol, revolver, or other firearm of a size which may be concealed upon the person, whether such seller is a retail dealer, pawn broker, or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation, and residence of every purchaser of such a pistol, revolver, or other firearm, together with the caliber, make, model, manufacturer's number, or other marks of identification on such pistol, revolver, or other firearm.

Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a permit for possess-

house last night, charged with assault on Otto Jochin, who keeps an ice cream and candy store at 66 Vernon Avenue, within a block of the station house. Loughlin was arrested by Detective Kennedy of his precinct.

It was said by bystanders that Loughlin entered the store, got into an argument with the proprietor, whom he struck, and then smashed two ice cream tables and one of the front windows of the store. Jochin called for help and Kennedy was called in.

# Exhibit D



**1922**

Year

**198**

Chapter

The New York State Library  
Legislative Reference Section  
Albany, N. Y.

---

Bill Jacket Collection

MICROFILMED

Date 8/14/58  
No. of printed bills 1  
No. of exposures 3  
exclusive of bills 3

3d Rdg. 36.

Nos. 246, 1434.

# IN SENATE,

January 23, 1922.

Introduced by Mr. THAYER — read twice and ordered printed, and when printed to be committed to the Committee on Codes — reported favorably from said committee, committed to the Committee of the Whole, amended in said committee, ordered to a third reading and to be reprinted as amended.

## AN ACT

To amend the penal law, in relation to licenses to have, possess or carry a pistol or revolver.

Notes

Jurats and Enacting Clause

Compared by

Kelley & McCone  
Roller

Approved

March 23 1922

**State of New York**

**In Senate**

MAR - 9 1922

*Ordered, That the Clerk deliver the bill entitled*

**AN ACT**

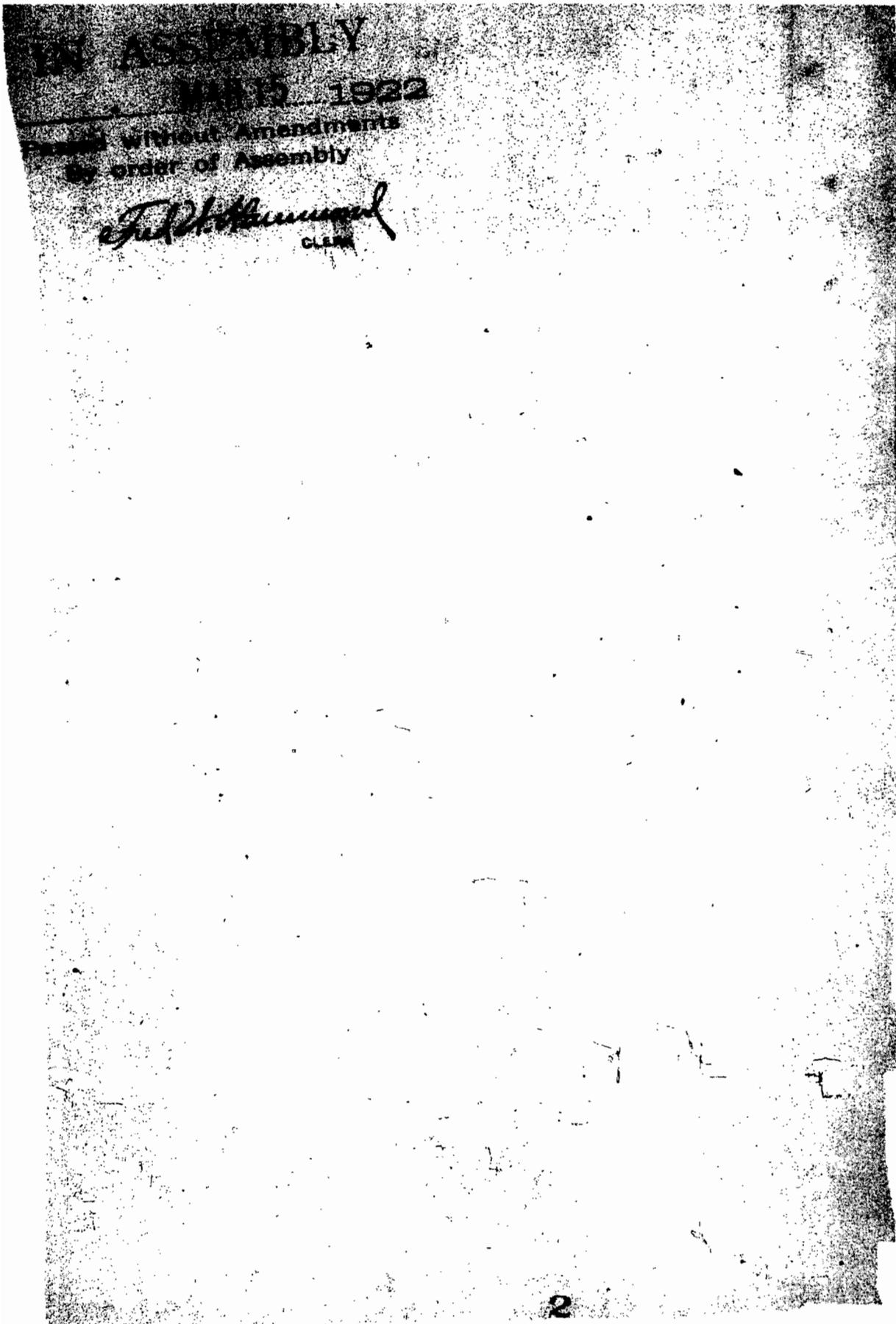
To amend the penal law, in relation to licenses to have, possess  
or carry a pistol or revolver.

*to the Assembly and request their concurrence in  
the same.*

*By order,*

**ERNEST A. FAY,**

*Clerk.*



IN ASSEMBLY

MAY 15 1922

Passed without Amendments  
By order of Assembly

*J. P. [Signature]*  
CLERK

SENATE INT. 1243 - PR. 1434

Senator Thayer

Subdivisions 8 and 9 of Section 1897 of the Penal Law now provide for the issuance of pistol licenses by the Police Commissioner in the City of New York, and elsewhere by a Judge or Justice of the Court of Records. The statute at present, however, contains no provision relative to the exaction of a fee, nor was any provision made for the expense of providing the officer with blank applications, license, and record books.

The present bill provides that application blanks, license, and record books shall be a charge against the County or City of New York, and that a fee of Fifty Cents shall be collected for each license and paid into the treasury of the County or City, as the case may be. It is also provided that the application for the license shall be filed by the Judge in in the office of the County Clerk.

These are desirable amendments.



March 22, 1932.

# Exhibit E

carcass or part transported; or the taker may take one carcass of a deer with head attached, to a member of the state police, a forest ranger or a game protector, other than a special game protector, who shall witness the cutting up of the deer into as many parts as the taker desires and shall mark each part for identification as the department may provide. Any part so marked may be transported in any manner except by parcel post.

The untanned hide of a deer shall not be treated so as to destroy evidence of sex except in process of tanning. If evidence of sex has been removed such hide shall not be possessed, bought or sold.

4. Antlerless deer: No open season except by order. The department may by order declare an open season on antlerless deer. Before the effective date of such order a copy thereof certified by the secretary of the department shall be filed in the office of the clerk of each county affected. The department shall have power to issue a special license for the taking of such deer, and to fix the terms thereof. The provisions of section one hundred eighty and of this section shall apply to licenses issued and deer taken under this subdivision in so far as the same are applicable. "Antlerless deer" includes deer without horns or having horns less than three inches in length.

§ 2. This act shall take effect immediately.

## CHAPTER 374

AN ACT to amend the penal law, in relation to fees for the issuance of licenses to carry and use dangerous weapons

Became a law April 2, 1938, with the approval of the Governor. Passed, three-fifths being present

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

Section 1. Subdivision ten of section eighteen hundred ninety-seven of the penal law is hereby amended to read as follows:

10. The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the city of New York in the case of the police commissioner of such city, which blank applications, licenses and record books shall, except in the city of New York, be approved as to form by the superintendent of state police. Such judge, justice or officer shall collect a fee for each license issued of not less than fifty cents or more than one dollar and fifty cents as may be determined by the board of supervisors where such license is issued or, in the case of the city of New York, as may be determined by the

<sup>1</sup> Words "of fifty cents" omitted.

city council,<sup>2</sup> and shall pay the same into the treasury of the county or of such city, as the case may be. The application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the city or county clerk of the city or county, as the case may be, where the applicant resides, and in addition, a duplicate copy of the application shall be filed in the office of the executive department, division of state police, within ten days after the issuance of the license. Every such license shall specify the weapon or weapons for which the license is issued and whether to be carried on the person or possessed on the premises. Elsewhere than in the city of New York every such license shall be in force and effect until revoked as herein provided. In the city of New York every such license shall expire on the ensuing first day of January, provided, however, that any such license may be limited as to time to expire on a date fixed in the license prior to such date. Each license issued to possess a weapon not to be carried on the person shall specify the place where the licensee shall possess the same. Each application for a license to carry a weapon on the person shall be accompanied by a photograph of the applicant in duplicate which photograph shall have been taken within thirty days prior to the filing of such application and one copy of which shall be attached to the license and the other remain with the application. Before a license is issued as provided in this section the officer to whom the application is made shall ascertain if the applicant has been convicted of crime and shall cause the finger prints of such applicant, except he be a householder, to be taken in duplicate. One original of such finger prints shall be filed in the office of the executive department, division of state police, within ten days after the license is issued and one shall remain on file in the office of the officer taking the same. No such finger print may be inspected by any person, other than a peace officer, except on order of a judge or justice of a court of record on such notice, if any, to the person to whom the license was issued as the judge or justice may determine. A person who has been convicted in this state or elsewhere of a felony or any one of the seven misdemeanors mentioned in section five hundred and fifty-two of the code of criminal procedure shall not be entitled to a license under this section. At any time a license may be revoked and cancelled in the city of New York by the police commissioner and in the county of Nassau by the chief of police of such county. Elsewhere than in the city of New York a license also may be revoked and cancelled at any time by any judge or justice of a court of record. In the city of New York if, before the date of the expiration thereof, providing the license shall not have been cancelled or revoked, the licensee apply for a renewal, the term of such license shall thereby be extended until the application for

<sup>2</sup> Words "of not less than fifty cents or more than one dollar and fifty cents as may be determined by the board of supervisors where such license is issued or, in the case of the city of New York, as may be determined by the city council" inserted.

renewal shall have been disposed of by such commissioner, chief of police, judge or justice.

§ 2. This act shall take effect July first, nineteen hundred thirty-eight.

### CHAPTER 375

AN ACT to incorporate the Volunteer and Exempt Firemen's Benevolent Association of Floral Park, Long Island, New York, and providing for its powers and duties

Became a law April 2, 1938, with the approval of the Governor. Passed, three-fifths being present.

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

Section 1. **Incorporation; membership.** A membership corporation by the name of "Volunteer and Exempt Firemen's Benevolent Association of Floral Park, Long Island, New York," is hereby created. It shall be composed of such persons eligible to membership therein as hereinafter provided as shall (a) notify the secretary of the Floral Park fire department in writing prior to the organization meeting of such corporation hereinafter provided for of their desire to become members, or (b) shall attend such meeting or an adjournment thereof, or (c) shall notify the secretary of such corporation in writing within sixty days after his election of their desire to become members thereof, and also such persons so eligible as may become members of such corporation pursuant to its by-laws.

§ 2. **Persons eligible to membership.** All persons who are now, or have been, or who hereafter shall be volunteer members of Floral Park fire department, or of any fire engine, hook and ladder, patrol, emergency rescue squad or hose company in the village of Floral Park, and all persons resident in the village of Floral Park who are entitled to the general exemptions of volunteer firemen therein as provided in the general municipal law, the village law or any other applicable law, shall be eligible to membership therein.

§ 3. **Purposes.** The purposes of such corporation shall be the maintenance of suitable headquarters for the members of such corporation, and the relief, aid and assistance of such members and their families who are disabled or indigent.

§ 4. **Powers and duties.** Such corporation shall have all of the powers of a membership corporation, and the provisions of law relating to membership corporations shall apply to such corporation except where they conflict with the provisions of this act.

§ 5. **Organization meeting; by-laws.** The secretary of the Floral Park fire department shall call a meeting for the organization of such corporation to be held not later than sixty days after this act takes effect, notice of which shall be given by him by posting or

causing to be posted a notice thereof in five conspicuous places within the village of Floral Park, and also by publication of notice thereof in one or more newspapers having a general circulation within such territory, and such posting and publication shall be effected at least ten days prior to the date of such meeting. At such meeting or any adjournment thereof the members of such corporation present shall adopt by-laws and elect officers and trustees to serve until the first annual meeting, which shall be held on a date to be fixed by the by-laws. Any member failing to comply with the by-laws, rules or regulations duly adopted by such corporation shall be subject to suspension and expulsion in such manner as may be provided for in such by-laws. Any member who ceases to be such, voluntarily or otherwise, shall forfeit all interest in the property of such corporation.

§ 6. **Control and disposal of funds and property.** The control and disposal of the funds, property and estate of the said association, the exercise of its powers, and the management and control of its affairs shall be vested in and exercised by a board of trustees which shall consist of twelve members of such corporation, viz.: the president, the vice-president, the secretary, the treasurer and eight other members having the title of trustee. Such officers and trustees shall be elected at the annual meeting of such corporation in the manner prescribed by its by-laws.

§ 7. **Precept for payment of foreign fire insurance premium taxes.** Such corporation shall collect and there shall be paid to it all tax imposed by section one hundred thirty-three of the insurance law upon premiums on policies of insurance covering property situated within the village of Floral Park in the town of Hempstead, Nassau county, New York, or within any duly organized territory in which the Floral Park fire department is obligated to render fire protection, except that said corporation shall remit such percentage of all such taxes so collected or paid to it, to the treasurer of the Firemen's Association of the State of New York, as may be required by the insurance law. The officer of said corporation designated by its by-laws to collect and receive the aforesaid tax shall have all the powers and be subject to all the provisions of section one hundred thirty-three of the insurance law, relating to treasurers of fire departments. Such corporation shall also be entitled to receive a share of the tax imposed by section one hundred forty-nine-a of the insurance law, based upon the business written in the territory with respect to which it is entitled to collect and receive the tax under section one hundred thirty-three of the insurance law. Such taxes shall only be used for the care and relief of disabled or indigent volunteer and exempt firemen and their families.

§ 8. This act shall take effect immediately.

1938

374

Year

Chapter

The New York State Library  
Legislative Reference Section  
Albany, N. Y.

Bill Jacket Collection

NEW YORK STATE LIBRARY

MICROFILMED

DATE 7-11-60  
NO. OF PRINTED BILLS 2  
NO. OF EXPOSURES  
EXCLUSIVE OF BILLS 10

CHAPTER 374

No. 1526

Int. 1382

IN ASSEMBLY

February 16, 1938

Introduced by Mr. CONWAY—read once and referred to the Committee on Codes

AN ACT

To amend the penal law, in relation to fees for the issuance of licenses to carry and use dangerous weapons

Notes

Jurats and Enacting Clause

Compared by

APPROVED

APR. 2. 1938

Approved by

# State of New York

**ASSEMBLY BILL**  
 Rec. 186  
 Ref. COBES  
 This bill to be returned  
 to desk with report.

No. 1526

Int. 1382

## IN ASSEMBLY

February 16, 1938

IN SENATE  
 MAR 14 1938  
 To Committee of Whole

Introduced by Mr. CONWAY—read once and referred to the Committee on Codes

STATE OF NEW YORK  
 MAR 1-1938  
 IN SENATE

### AN ACT

To amend the penal law, in relation to fees for the issuance of licenses to carry and use dangerous weapons

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

- 1 Section 1. Subdivision ten of section eighteen hundred ninety-
- 2 seven of the penal law is hereby amended to read as follows:
- 3 10. The expense of providing a judge, justice or officer with
- 4 blank applications, licenses and record books for carrying out the
- 5 provisions of this section, shall be a charge against the county, or
- 6 the city of New York in the case of the police commissioner of
- 7 such city, which blank applications, licenses and record books shall,
- 8 except in the city of New York, be approved as to form by the
- 9 superintendent of state police. Such judge, justice or officer shall
- 10 collect a fee [of fifty cents] for each license issued of not less than
- 11 fifty cents or more than one dollar and fifty cents as may be deter-

EXPLANATION — Matter in *Italics* is new; matter in brackets [ ] is old law to be omitted.

1 mined by the board of supervisors where such license is issued or,  
2 in the case of the city of New York, as may be determined by the  
3 city council, and shall pay the same into the treasury of the county  
4 or of such city, as the case may be. The application for any such  
5 license, if the license be granted, shall be filed by such judge,  
6 justice or officer in the office of the city or county clerk of the  
7 city or county, as the case may be, where the applicant resides, and  
8 in addition, a duplicate copy of the application shall be filed in  
9 the office of the executive department, division of state police,  
10 within ten days after the issuance of the license. Every such license  
11 shall specify the weapon or weapons for which the license is issued  
12 and whether to be carried on the person or possessed on the  
13 premises. Elsewhere than in the city of New York every such  
14 license shall be in force and effect until revoked as herein provided.  
15 In the city of New York every such license shall expire on the  
16 ensuing first day of January, provided, however, that any such  
17 license may be limited as to time to expire on a date fixed in the  
18 license prior to such date. Each license issued to possess a weapon  
19 not to be carried on the person shall specify the place where the  
20 licensee shall possess the same. Each application for a license to  
21 carry a weapon on the person shall be accompanied by a photograph  
22 of the applicant in duplicate which photograph shall have been  
23 taken within thirty days prior to the filing of such application and  
24 one copy of which shall be attached to the license and the other  
25 remain with the application. Before a license is issued as pro-  
26 vided in this section the officer to whom the application is made  
27 shall ascertain if the applicant has been convicted of crime and

1 shall cause the finger prints of such applicant, except he be a house-  
2 holder, to be taken in duplicate. One original of such finger prints  
3 shall be filed in the office of the executive department, division of  
4 state police, within ten days after the license is issued and one shall  
5 remain on file in the office of the officer taking the same. No such  
6 finger print may be inspected by any person, other than a peace  
7 officer, except on order of a judge or justice of a court of record  
8 on such notice, if any, to the person to whom the license was issued  
9 as the judge or justice may determine. A person who has been  
10 convicted in this state or elsewhere of a felony or any one of the  
11 seven misdemeanors mentioned in section five hundred and fifty-  
12 two of the code of criminal procedure shall not be entitled to a  
13 license under this section. At any time a license may be revoked  
14 and cancelled in the city of New York by the police commissioner  
15 and in the county of Nassau by the chief of police of such county.  
16 Elsewhere than in the city of New York a license also may be  
17 revoked and cancelled at any time by any judge, or justice of a  
18 court of record. In the city of New York if before the date of  
19 the expiration thereof, providing the license shall not have been  
20 cancelled or revoked, the licensee apply for a renewal, the term  
21 of such license shall thereby be extended until the application for  
22 renewal shall have been disposed of by such commissioner, chief of  
23 police, judge or justice.

24 § 2. This act shall take effect July first, nineteen hundred thirty-  
25 eight.

SECOND READING No. 287

THIS BILL TO BE RETURNED WITH REPORT.

Reported by said committee without amendment and ordered to a second reading

# State of New York

THIRD READING No. 282

No. 1526

Int. 1382

Read a second time, ordered placed on the order of third reading and referred to the Committee on Revision

## IN ASSEMBLY

February 16, 1938

Introduced by Mr. CONWAY—read once and referred to the Committee on Codes

### AN ACT

To amend the penal law, in relation to fees for the issuance of licenses to carry and use dangerous weapons

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

- 1 Section 1. Subdivision ten of section eighteen hundred ninety-
- 2 seven of the penal law is hereby amended to read as follows:
- 3 10. The expense of providing a judge, justice or officer with
- 4 blank applications, licenses and record books for carrying out the
- 5 provisions of this section, shall be a charge against the county, or
- 6 the city of New York in the case of the police commissioner of
- 7 such city, which blank applications, licenses and record books shall,
- 8 except in the city of New York, be approved as to form by the
- 9 superintendent of state police. Such judge, justice or officer shall
- 10 collect a fee [of fifty cents] for each license issued of not less than
- 11 fifty cents or more than one dollar and fifty cents as may be deter-

EXPLANATION — Matter in italics is new; matter in brackets [ ] is old law to be omitted.

Passed

1 *mined by the board of supervisors where such license is issued or,*  
2 *in the case of the city of New York, as may be determined by the*  
3 *city council, and shall pay the same into the treasury of the county*  
4 *or of such city, as the case may be. The application for any such*  
5 *license, if the license be granted, shall be filed by such judge,*  
6 *justice or officer in the office of the city or county clerk of the*  
7 *city or county, as the case may be, where the applicant resides, and*  
8 *in addition, a duplicate copy of the application shall be filed in*  
9 *the office of the executive department, division of state police,*  
10 *within ten days after the issuance of the license. Every such license*  
11 *shall specify the weapon or weapons for which the license is issued*  
12 *and whether to be carried on the person or possessed on the*  
13 *premises. Elsewhere than in the city of New York every such*  
14 *license shall be in force and effect until revoked as herein provided.*  
15 *In the city of New York every such license shall expire on the*  
16 *ensuing first day of January, provided, however, that any such*  
17 *license may be limited as to time to expire on a date fixed in the*  
18 *license prior to such date. Each license issued to possess a weapon*  
19 *not to be carried on the person shall specify the place where the*  
20 *licensee shall possess the same. Each application for a license to*  
21 *carry a weapon on the person shall be accompanied by a photograph*  
22 *of the applicant in duplicate which photograph shall have been*  
23 *taken within thirty days prior to the filing of such application and*  
24 *one copy of which shall be attached to the license and the other*  
25 *remain with the application. Before a license is issued as pro-*  
26 *vided in this section the officer to whom the application is made*  
27 *shall ascertain if the applicant has been convicted of crime and*

1 shall cause the finger prints of such applicant, except he be a house-  
2 holder, to be taken in duplicate. One original of such finger prints  
3 shall be filed in the office of the executive department, division of  
4 state police, within ten days after the license is issued and one shall  
5 remain on file in the office of the officer taking the same. No such  
6 finger print may be inspected by any person, other than a peace  
7 officer, except on order of a judge or justice of a court of record  
8 on such notice, if any, to the person to whom the license was issued  
9 as the judge or justice may determine. A person who has been  
10 convicted in this state or elsewhere of a felony or any one of the  
11 seven misdemeanors mentioned in section five hundred and fifty-  
12 two of the code of criminal procedure shall not be entitled to a  
13 license under this section. At any time a license may be revoked  
14 and cancelled in the city of New York by the police commissioner  
15 and in the county of Nassau by the chief of police of such county.  
16 Elsewhere than in the city of New York a license also may be  
17 revoked and cancelled at any time by any judge, or justice of a  
18 court of record. In the city of New York if before the date of  
19 the expiration thereof, providing the license shall not have been  
20 cancelled or revoked, the licensee apply for a renewal, the term  
21 of such license shall thereby be extended until the application for  
22 renewal shall have been disposed of by such commissioner, chief of  
23 police, judge or justice.

24 § 2. This act shall take effect July first, nineteen hundred thirty-  
25 eight.

Form No. 08

# State of New York

In Assembly

.....1938

Ordered, That the Clerk deliver the bill entitled

## AN ACT

To amend the penal law, in relation to fees for the issuance  
of licenses to carry and use dangerous weapons

to the Senate, and request their concurrence in the same.

By order

ANSLEY B. BORKOWSKI

Clerk

IN SENATE  
Passed Without Amendment

15 188

By order of the SEN

*James J. Peilly*  
CLEM

A Pr. 1526

Int. 1382

Fi 382  
Ch 374

This bill seeks to amend the Penal Law by modifying subdivision 10 of section 1897 of the Penal Law. Under the present law a fee of \$.50 is chargeable for a pistol license; the proposal seeks to make \$.50 the minimum fee and \$1.50 the maximum, leaving the decision in New York City to the City Council and outside of New York City to the various boards of supervisors.

I can see no objection to the Executive approval of this bill.

LAWRENCE VELLER  
President

CITIZENS' CRIME COMMISSION  
OF THE STATE OF NEW YORK, INC

105 EAST 22D STREET

PHONE: GRAMERCY 5-2860

NEW YORK CITY, March 26, 1938

A. Int. 1382 - Pkt. 1526 - Conway  
Fees for Pistol Permits - Local Option

*1382*

Hon. Herbert H. Lehman  
Executive Chamber  
Albany N.Y.

Sir:

I am writing you on behalf of this organization in favor of the above mentioned bill which is now before you awaiting Executive action.

This bill amends the Penal Law in regard to pistol permits (§1897-10) by providing that in place of a fee of 50¢ for a pistol license, as now provided by that law, that 50¢ shall be the minimum fee and the maximum fee not more than \$1.50, as may be determined by the local authorities where the license is issued.

As the provision is a permissive one and local authorities are free to do as they like about increasing the present fee, the bill is unobjectionable.

For these reasons, we trust that this bill will have Executive approval and thus become a law.

Yours sincerely,

President

LV:s

BOARD OF DIRECTORS

- NATHAN A. SMYTH  
Chairman  
New York
- CHARLES W. APPLETON  
New York
- JOHN J. BENNETT, JR.  
Albany
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Syracuse
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- WILLIAM D. EMBREE  
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- BURTON D. ERMOND  
Ballston Spa
- GEORGE R. FEARON  
Syracuse
- HOMER FOLKS  
Yonkers
- RALPH K. JACOBS  
Brooklyn
- WARREN J. KEENAN  
Utica
- HUGH KNOWLTON  
New York
- JOHN C. KNOX  
New York
- WILLIAM F. LOVE  
Rochester
- GEORGE Z. MEDALIE  
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- JOHN McKIM MINTON, JR.  
New York
- JOHN LORD O'BRIEN  
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- FERDINAND PECORA  
New York
- CHARLES POLETTI  
New York
- FRANK L. POLK  
New York
- EZRA P. PRENTICE  
New York
- LAWSON PURDY  
New York
- BRUCE SMITH  
Garden City, L. I.
- CHARLES H. TUTTLE  
New York
- LAWRENCE VELLER  
New York
- ARCHIBALD K. WATSON  
New York
- CHARLES S. WHITMAN  
New York



J. EDWARD CONWAY

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

March 26, 1938.

His Excellency, The Hon. Herbert H. Lehman,  
Governor of the State of New York,  
Executive Chambers,  
The Capitol,  
Albany, New York.

Re: Int. 1382, Fr. 1526

My dear Governor Lehman:

The above bill which is now before you for your consideration proposes to grant to local legislative bodies the right to increase the fee for the issuance of a pistol permit from fifty cents upwards to a sum not to exceed one dollar and a half.

Due to recent amendments in the pistol permit section of the Penal Law, much additional clerical assistance has been required and it has been found that in my county, the fee of fifty cents which is now paid by such licensees does not cover the actual expense of the administration of the pistol permit bureau. This has necessitated an appropriation raised by general taxation to defray the additional cost. In view of the fact that pistol permits issued up-State are good until revoked, it is unfair that the taxpayers should be compelled to stand any portion of the cost of issuing such licenses. When one considers that a hunting and fishing license costs \$2.50 annually, it is not too much to ask of a pistol permit licensee that he pay a sum not to exceed \$1.50 for his license. If the additional increase should result in the issuance of fewer licenses, that in itself would be an improvement in that it would take dangerous weapons from the hands of persons likely to be unreliable.

It is submitted that this measure should be enacted into law.

Respectfully yours,

*J. Edward Conway*  
J. Edward Conway

JEC:c

5

JOHN A WARNER  
SUPERINTENDENT

STATE OF NEW YORK

GEORGE P DUTTON  
DEPUTY



NEW YORK STATE TROOPERS  
EXECUTIVE DEPARTMENT  
DIVISION OF STATE POLICE  
ALBANY

March 29, 1938

Hon. Nathan R. Sobel  
Counsel to the Governor  
Executive Chamber  
Albany, New York

My dear Mr. Sobel:

This refers to your letter dated March 25th in reference to Assembly Bill Introductory 1382, Print 1526, by Mr. Conway, which is now before the Governor for executive action.

After carefully reviewing this proposed statute, I find that it merely permits certain local governing bodies to determine the charges which will be assessed for the issuance of revolver licenses between the present statutory fee of 50¢ up to and including the sum of \$1.50, as they may determine.

Undoubtedly this bill was introduced at the instance of some locality who desired increased revenue from the issuance of revolver licenses perhaps with the thought in mind that the present fee was insufficient to cover the cost of the procedure within the county incidental to the process of issuing licenses and filing applications.

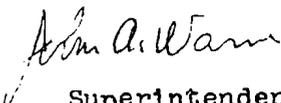
Hon. Nathan R. Sobel

-2-

Mar. 29-38

This division merely acts as a filing agency for one copy of each application for a revolver license against which a license has already been issued. The matter of fees therefor is of no interest to us as we do not benefit in any way therefrom and the signing of this law would not affect the division of state police.

Very truly yours,  
JOHN A. WARNER

  
Superintendent

JAW/hld

CITY OF NEW YORK  
OFFICE OF THE MAYOR

A/382

April 2, 1938

A-COMM. .... Int: 1382, Fr: 1326  
to amend the penal law, in relation to  
fees for the issuance of licenses to  
carry and use different weapons.

REQUEST FOR APPROVAL

Honorable Herbert H. Lehman  
Governor of the State of New York  
Albany, New York

Dear Governor Lehman:

The above-entitled bill will eliminate all possible question of the legality of the present 1.50 charge for pistol permits in New York City, 1.00 of which goes to the Police Pension Fund.

I therefore request you to give executive approval to this measure and make it law.

Respectfully yours,



Mayor



OFFICERS

PRESIDENT  
CHARLES E. HUGHES, JR.

VICE-PRESIDENTS  
CLARENCE J. SHEARN  
GEORGE Z. MEDALIE  
ROBERT MCC. MARSH

SECRETARY  
TERENCE J. McMANUS

TREASURER  
RUTH LEWINSON

ASSISTANT SECRETARY  
KENNETH M. JACKSON  
ASSISTANT TREASURER  
CHARLES E. J. BOYD

VESEY STREET—FACING ST. PAUL'S  
NEW YORK

COMMITTEE ON STATE LEGISLATION

IRVING J. JOSEPH, CHAIRMAN  
300 MADISON AVENUE

*Ch. 374*

April 6th, 1938.

Hon. Herbert H. Lehman,  
Executive Chamber,  
Albany, N. Y.

My dear Sir:

The Committee on the Criminal Courts  
of the New York County Lawyers' Association has  
approved the following bill and believes that it  
should become law:

A. Int. 1382 Pr. 1526

A copy of a report recommending approval  
is enclosed.

Very truly yours,

Irving J. Joseph,

Chairman of Committee on State Legislation.

INTRODUCED BY MR. CONWAY

April 5th, 1938

Report No. 401

A. Int. 1382 Pr. 1526  
Same as S. Int. 1112

NEW YORK COUNTY LAWYERS' ASSOCIATION  
Committee on State Legislation  
14 Vesey Street

Copy of report of Committee on the Criminal Courts on Assembly Bill Int. 1382 Pr. 1526, same as Senate Bill Int. 1112, which seeks to amend Section 1897 of the Penal Law, in relation to fees for the issuance of licenses to carry and use dangerous weapons.

RECOMMENDATION: APPROVAL

At present, Section 1897, subdivision 10, of the Penal Law provides that a fee for a pistol license shall be 50¢. The present measure modifies that fee by providing for a minimum fee of 50¢ and a maximum of \$1.50. The amount to be charged is left solely to the determination of local authorities, namely, by the City Council of New York City and by Boards of Supervisors, outside.

The granting of pistol permits seems to be a proper source for additional revenue. Since the provision is a permissive one, the bill seems unobjectionable. For these reasons, it is approved.

Respectfully submitted,

COMMITTEE ON THE CRIMINAL COURTS.

Report prepared by  
MR. STANLEY H. FULD

# Exhibit F

## CHAPTER 147

AN ACT to amend the penal law, in relation to carrying and use of dangerous weapons

Became a law March 13, 1947, with the approval of the Governor. Passed, three-fifths being present

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

Section 1. The first paragraph of subdivision ten of section eighteen hundred ninety-seven of the penal law, as such subdivision was last amended by chapter six hundred thirty-eight of the laws of nineteen hundred forty-five, is hereby amended to read as follows:

10. The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the city of New York in the case of the police commissioner of such city, which blank applications, licenses and record books shall, except in the city of New York, be approved as to form by the superintendent of state police. Such judge, justice or officer, except in the city of New York,<sup>1</sup> shall collect a fee for each license issued of not less than fifty cents or more than one dollar and ten cents as may be determined by the board of supervisors where such license is issued,<sup>2</sup> and shall pay the same into the treasury of the county or of such city, as the case may be. In the city of New York, the city council shall fix the amount of license fee to be charged, and provide for the disposition of such fees. Every application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the city or county clerk of the city or county, as the case may be, where the applicant resides, and in addition, a duplicate copy of the application shall be filed in the office of the executive department, division of state police, within ten days after the issuance of the license. Every such license shall specify the weapon or weapons for which the license is issued and whether to be carried on the person or possessed on the premises.

§ 2. This act shall take effect immediately.

## CHAPTER 148

AN ACT to amend the education law, in relation to the practice of nursing

Became a law March 13, 1947, with the approval of the Governor. Passed, three-fifths being present

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

Section 1. Subdivision three of section thirteen hundred eighty-five of chapter twenty-one of the laws of nineteen hundred ninety

<sup>1</sup> Words "except in the city of New York" new matter inserted.

<sup>2</sup> Words "or, in the case of the city of New York, as may be determined by the city council" omitted.

<sup>3</sup> Entire sentence new matter added.

entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as generally amended by chapter one hundred forty of the laws of nineteen hundred ten, such subdivision having been added by chapter one of the laws of nineteen hundred forty-two, and amended by chapter three hundred eighty-seven of the laws of nineteen hundred forty-six, is hereby amended to read as follows:

3. In view of the present emergency, notwithstanding the provisions of section thirteen hundred and seventy-five, this article shall not be construed as prohibiting the practice of nursing by other than registered or practical nurses until July first, nineteen hundred forty-eight.<sup>1</sup>

§ 2. This act shall take effect immediately.

## CHAPTER 149

AN ACT to amend the insurance law, in relation to policy forms pertaining to accident and health insurance

Became a law March 13, 1947, with the approval of the Governor. Passed, three-fifths being present

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

Section 1. Section one hundred forty-one of chapter eight hundred eighty-two of the laws of nineteen hundred thirty-nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as amended by chapter six hundred eighty-nine of the laws of nineteen hundred forty-six, is hereby further amended to read as follows:

§ 141. **Withdrawal of approval of policy forms.** Whenever by the provisions of this chapter the superintendent is authorized to give his approval of any form of insurance policy, fraternal benefit certificate or annuity contract, he may, after notice and hearing given to the insurer which submitted such form for approval, withdraw an approval previously given, if the use of such form is contrary to the legal requirements applicable to such form at the time of such withdrawal, or in the case of<sup>1</sup> any such policy form pertaining to accident or health insurance, or any application, rider or endorsement to be used in connection therewith (1) if the benefits provided therein are unreasonable in relation to the premium charged, or (2) if it<sup>2</sup> contains provisions which encourage misrepresentation or<sup>3</sup> are unjust, unfair, unequitable, misleading, deceptive,<sup>4</sup> contrary to law or to the public policy of this state. Any such withdrawal shall be effective at the expiration of such period, not less than ninety days after the giving of notice of withdrawal, as the superintendent shall in such notice prescribe.

<sup>1</sup> Word "forty-eight" new matter substituted for word "forty-seven".

<sup>1\*</sup> Words "in the case of" new matter substituted for word "if".

<sup>2</sup> Words "(1) if the benefits provided therein are unreasonable in relation to the premium charged, or (2) if it" new matter inserted.

<sup>3</sup> Words "encourage misrepresentation or" new matter inserted.

<sup>4</sup> Word "deceptive" new matter inserted.

Year 1947

Chapter 147

The New York State Library  
Legislative Reference Section  
Albany, N. Y.

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Bill Jacket Collection

MICROFILMED

DATE 10/23/58 1  
NO. OF PRINTED BILLS.....  
NO. OF EXPOSURES 8  
NO. OF BILLS.....

CHAPTER 147

No. 499

Int. 497

**IN ASSEMBLY**

January 21, 1947

**Eng**

Introduced by Mr. KALISH—read once and referred to the  
Committee on Codes

**AN ACT**

**A** To amend the penal law, in relation to carrying and use of  
dangerous weapons

**Notes**

**Jurats and Enacting Clause**

**Compared by** C. M. ... M. D.

**APPROVED**

**Approved by**

**MAR 13 1947**

SECOND READING No. 119  
Reported by said committee  
without amendment and  
referred to a second reading.

THIS ORIGINAL BILL TO BE  
RETURNED WITH REPORT

STATE OF NEW YORK

No. 499

Int. 497

48

IN ASSEMBLY

THIRD READING No. 116

January 21, 1947

Read and reported by the committee  
on the bill  
referred to it  
on the 11th day of January 1947

Introduced by Mr. KALISII—read once and referred to the  
Committee on Codes

AN ACT

To amend the penal law, in relation to carrying and use of  
dangerous weapons

3

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

Reported from Committee on  
Revision without Recommen-  
dations, ordered engrossed.

1 Section 1. The first paragraph of subdivision ten of section  
2 eighteen hundred ninety-seven of the penal law, as such subdivision  
3 was last amended by chapter six hundred thirty-eight of the laws  
4 of nineteen hundred forty-five, is hereby amended to read as  
5 follows:  
6 10. The expense of providing a judge, justice or officer with blank  
7 applications, licenses and record books for carrying out the provi-  
8 sions of this section shall be a charge against the county, or the  
9 city of New York in the case of the police commissioner of such  
10 city, which blank applications, licenses and record books shall,  
11 except in the city of New York, be approved as to form by the

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to  
be omitted.

2

1 superintendent of state police. Such judge, justice or officer,  
2 except in the city of New York, shall collect a fee for each license  
3 issued of not less than fifty cents or more than one dollar and fifty  
4 cents as may be determined by the board of supervisors where such  
5 license is issued [or, in the case of the city of New York, as may  
6 be determined by the city council], and shall pay the same into the  
7 treasury of the county or of such city, as the case may be. In the  
8 city of New York, the city council shall fix the amount of license  
9 fee to be charged, and provide for the disposition of such fees. The  
10 application for any such license, if the license be granted, shall be  
11 filed by such judge, justice or officer in the office of the city or  
12 county clerk of the city or county, as the case may be, where the  
13 applicant resides, and in addition, a duplicate copy of the applica-  
14 tion shall be filed in the office of the executive department, division  
15 of state police, within ten days after the issuance of the license.  
16 Every such license shall specify the weapon or weapons for which  
17 the license is issued and whether to be carried on the person or  
18 possessed on the premises.  
19 § 2. This act shall take effect immediately.

Form No. 88

# State of New York

In Assembly

1947

1947

Ordered, That the Clerk deliver the bill entitled

## AN ACT

To amend the penal law, in relation to carrying and use of dangerous weapons

to the Senate, and request their concurrence in the same.

By order

ANSLEY B. BORKOWSKI

Clerk

**IN SENATE**  
Passed Without Amendment

FEB 25 1946

By order of the SENATE

*William S. Hearp*  
SECRETARY



CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK 7, N.Y.

RECEIVED  
MAR 1 - 1947  
COUNSEL TO THE MAYOR

March 1st, 1947

A-KALISH.....Int:497.....Pr:499  
AN ACT To amend the penal law, in relation to carrying and use of dangerous weapons

Honorable Thomas E. Dewey  
Governor of the State of New York  
Albany, N.Y.

Dear Governor:

The above bill was submitted for introduction by the City of New York. It has passed both houses and has been or soon will be transmitted to you for executive action.

The object of this bill is to amend the first paragraph of Subdivision 10 of Section 1897 of the Penal Law so as to permit the New York City Council to fix the amount of license fee to be charged for pistol permits.

Under this section, a pistol license fee may be no less than \$.50 nor more than \$1.50. The maximum fee is presently charged in New York City but is inadequate to compensate for the administrative expense entailed in the issuance of such licenses.

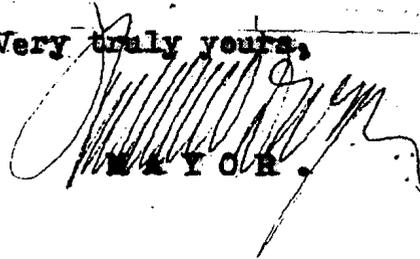
Before a pistol permit is issued, the Police Department conducts an intensive investigation to determine the necessity for the possession of a firearm by the applicant and to insure that his character evidences no traits indicating that his possession of a weapon would jeopardize the safety and welfare of the community. The cost of checking police files, fingerprinting, personal investigation and paper work is much greater than the revenue produced by the \$.50 fee.

-2-

Honorable Thomas E. Dewey

I request you to approve the bill so as to except the City of New York from the restrictive provisions of Section 1897, and permit the City Council to fix a license fee commensurate with the cost of issuance.

Very truly yours,



MAYOR.

4

ADDRESS ALL COMMUNICATIONS  
TO THE DEPARTMENT



RECEIVED  
MAR 10 1947  
IN REPLYING REFER TO  
COUNSEL TO THE GOVERNOR

FRANK C. MOORE  
STATE COMPTROLLER

STATE OF NEW YORK  
DEPARTMENT OF AUDIT AND CONTROL  
ALBANY

March 6, 1947

His Excellency Thomas E. Dewey  
Governor of the State of New York  
Executive Chamber  
Albany, New York

Re: Assembly Bill Int. 497, Pr. 499,  
By Mr. Kalish

Sir:

This bill empowers the Council of the City of New York (1) to fix the amount of the fee to be charged for a license to carry or possess a dangerous weapon and (2) to provide for the disposition of such fees. The law presently authorizes the Council to fix a fee of not less than \$.50 nor more than \$1.50 and provides that fees so collected be paid into the city treasury.

License fees may not be fixed at unreasonable rates (Dugan Brothers, Inc. v. Zorn (1932) 145 Misc. 611). Subject to this qualification, the Council could fix fees higher than those now authorized to be charged for licenses to carry or possess dangerous weapons.

The New York City Charter provides for the payment of revenues into the city treasury (Charter, Section 130) and for payment out pursuant to appropriations made by the Council and the Board of Estimate (Charter, Chapter 6) or by the Board of Estimate alone (Charter, Sections 127 and 128). This bill would authorize the Council, without the concurrence of the Board of Estimate, to determine the disposition of fees charged for licenses to carry or possess dangerous weapons.

His Excellency Thomas E. Dewey

- 2

This Department offers no objection to  
the approval of this bill.

Very truly yours,

FRANK T. MOORE  
State Comptroller

*Archibald J. Calloway*  
Archibald J. Calloway  
Agency Comptroller



LOUIS KALISH

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

March 7th, 1947

MAR 8 - 1947

A499

Mr. Charles D. Brietel  
Counsel for the Governor  
New York State Capitol  
Albany, New York

Re: Amendment to Penal Law, (Dangerous  
Weapons, N.Y.C. Assembly Int. No.  
499, Print A499 - presently with  
Governor

Dear Mr. Brietel:

In accordance with your recent request I am setting out  
herewith my reasons for proposing and championing the above bill:

At present the fee charged in the City of New York for issu-  
ing a permit to carry fire-arms is one dollar and fifty cents  
(\$1.50). Because of a genuine desire on the part of the Police  
Department of the City to make sure that no licenses are issued  
to persons who might use them for the purpose of breaching the  
peace or interfering with law and order a thorough investigation  
is made of each application. The result is that the cost to the  
City exceeds the fee paid by applicants. At a time when the  
City is experiencing so many monetary difficulties it seems that  
any legitimately based reasons for raising the revenues to the  
City should be taken advantage of. To put this particular system  
of applications on a self-sustaining basis, which is one of the  
basic reasons for the bill's appearance, seems entirely justif-  
iable.

With respect to allowing the City Council to set the fee,  
I would like to say this:

Because of the fact that the City is at present spending  
more money in the investigation of these applications than it  
receives, the difference between costs and receipts must vary with  
the number of applications submitted. It was therefore felt that  
to arbitrarily fix the rate would defeat the basic purpose of the  
Act. To give discretion in this manner to the City Council pro-  
vides the flexibility required to keep costs and receipts balanced.

Another reason for the institution of this bill is the feel-  
ing that a higher fee, if the City Council considers it wise to  
impose same, will tend to discourage a great number of possible  
applicants who are better off, both as concerns themselves and the  
welfare of this City as a whole, without the possession of fire-  
arms. In this way the additional fee as well as covering the costs  
of investigation, thereby insuring their continued high caliber,  
would, of itself, eliminate a certain percentage of applications,



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

LOUIS KALISH

March 7th, 1947

Mr. Charles D. Brietel  
Counsel for the Governor  
New York State Capitol  
Albany, New York

2nd

principally in that class where the possession of fire-arms is desired for reasons of bravado and like dangerous reasons.

Finally, it is considered that the possession of fire-arms for personal use is in the form of a non-essential grant which may be made the basis for revenue raising taxes.

Should there be any further questions in your mind regarding this bill, its background, and my reasons for supporting it, please consider me at your service.

Sincerely,

A handwritten signature in cursive script, appearing to read "Louis Kalish".

Louis Kalish

LK/slg

# Exhibit G

- § 400.00

## PENAL LAW

Pt. 4

ord book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

12-a. State police regulations applicable to licensed gunsmiths engaged in the business of assembling or manufacturing firearms. The superintendent of state police is hereby authorized to issue such rules and regulations as he deems reasonably necessary to prevent the manufacture and assembly of unsafe firearms in the state. Such rules and regulations shall establish safety standards in regard to the manufacture and assembly of firearms in the state, including specifications as to materials and parts used, the proper storage and shipment of firearms, and minimum standards of quality control. Regulations issued by the state police pursuant to this subdivision shall apply to any person licensed as a gunsmith under this section engaged in the business of manufacturing or assembling firearms, and any violation thereof shall subject the licensee to revocation of license pursuant to subdivision eleven of this section.

13. Expenses. The expense of providing a licensing officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, and in the city of New York against the city.

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 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, 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: <sup>1</sup> and for each license issued to a gunsmith or dealer in firearms, four dollars. The fee for a duplicate license shall be two dollars.

544

Title W

## FIREARMS

§ 400.00

15. Any violation by any person of any provision of this section is a class A misdemeanor.

L.1965, c. 1030; amended L.1967, c. 791, § 49; L.1971, c. 796; L.1971, c. 1097, §§ 82, 83; L.1973, c. 172, §§ 1-4; L.1973, c. 546, § 1; L.1973, c. 593, § 1; L.1974, c. 1041, §§ 10, 11; L.1974, c. 1042, § 2; L.1976, c. 584, § 1; L.1977, c. 480, § 1.

<sup>1</sup> So in original. Probably should be a semi-colon.

## Historical Note

1977 Amendment. Subd. 5. L.1977, c. 480, § 1, eff. Aug. 1, 1977, added sentences beginning "Upon application by" and "Nothing in this".

1976 Amendment. Subd. 10. L. 1976, c. 584, § 1, eff. July 21, 1976, in sentence beginning "Any license for", substituted "not more than three years" for "on the first day of the second January".

1974 Amendments. Subd. 1. L. 1974, c. 1041, § 10, eff. Sept. 1, 1974. In sentence beginning "No license shall be issued or renewed except for" substituted, in clause (b) "a serious offense" for enumerated offenses from Penal Law 1909 and this chapter, which offenses had constituted former items (i) and (ii) of clause (b).

Subd. 11. L.1974, c. 1041, § 11, eff. Sept. 1, 1974, in sentence beginning "The conviction of" substituted "serious offense" for enumerated offenses from Penal Law 1909 and this chapter, which offenses had constituted former pars. (a) and (b).

Subd. 12-a. L.1974, c. 1042, § 2, eff. Sept. 1, 1974, added subd. 12-a.

1973 Amendments. Subd. 2. L. 1973, c. 593, § 1, eff. on the 60th day after June 11, 1973, inserted clause (f), relating to licenses for antique pistols.

Subd. 5. L.1973, c. 172, § 1, eff. Apr. 10, 1973, in sentence beginning "Such application shall" substituted "In the counties of Nassau and Suffolk," for "county of Nassau" and inserted ", and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county".

Subd. 9. L.1973, c. 172, § 2, eff. Apr. 10, 1973, in sentence beginning "Elsewhere than in the city of New York and in" substituted "and in the counties of Nassau and Suffolk," for "and the county of Nassau" and inserted "and in the county of Suffolk to the licensing officer of that county".

Subd. 11, par. (b). L.1973, c. 172, § 3, eff. Apr. 10, 1973, in sentence beginning "A license may" substituted "and in the counties of Nassau and Suffolk," for "and county of Nassau".

Subd. 12. L.1973, c. 172, § 4, eff. Apr. 10, 1973, in sentence beginning "In the event of" substituted "and in the counties of Nassau and Suffolk," for "and county of Nassau".

Subd. 14. L.1973, c. 546, § 1, eff. June 5, 1973, in sentence beginning "In the city" inserted "and the county of Nassau" and in sentence beginning "In such city" inserted "and in the county of Nassau the Board of Supervisors".

1971 Amendments. Subd. 1. L. 1971, c. 1097, § 82, eff. Sept. 1, 1971, in sentence beginning "No license shall be issued or renewed except for" substituted, in clause (b), items (i) and (ii) for "mentioned in section five hundred fifty-two of the code of criminal procedure".

Subd. 4. L.1971, c. 796, eff. June 25, 1971, added sentence beginning "The failure or refusal".

Subd. 11, opening par. L.1971, c. 1097, § 83, eff. Sept. 1, 1971, designated sentence beginning "The conviction of a" as opening par., inserted "following" preceding "misdemeanors or offenses", and deleted "mentioned

545

§ 400.00

PENAL LAW

PL

Title W

FIREARMS

§ 400.00

In section five hundred fifty-two of the code of criminal procedure".

Subd. 11, par. (a). L.1971, c. 1097, § 83, eff. Sept. 1, 1971, added par. (a).

Subd. 11, par. (b). L.1971, c. 1097, § 83, eff. Sept. 1, 1971, designated existing provisions as par. (b) and added sentence beginning "The following offenses".

**1967 Amendment.** Subd. 6. L.1967, c. 791, § 49, eff. Sept. 1, 1967, in sentence beginning "Such license to carry" deleted clause (c) which read "and (c) such licensee exhibits upon demand by a peace officer proof of registration in a pistol match which such licensee is about to attend or has attended and is returning therefrom".

Subd. 9. L.1967, c. 791, § 49, eff. Sept. 1, 1967, in sentence beginning "Elsewhere than in the city of New York and the" inserted "and the county of Nassau" and ", and in the county of Nassau to the police commissioner of that county who shall, within ten days after such notification shall be received by him, give notice in writing of such change to the executive department, division of state police, at Albany".

**Derivation.** Penal Law 1909 § 1903, added L.1963, c. 136, § 8; amended L.1964, c. 296; L.1964, c. 318; L.1964, c. 320, §§ 1, 2; L.1966, c. 146; L.1966, c. 788 was from prior sections 1897, 1914. For history of

said prior sections 1897 and 1914, see derivation note under section 265.05.

**Legislative Findings and Intent of 1974 Amendment.** L.1974, c. 1042, § 1, eff. Sept. 1, 1974, provided that

"The legislature is deeply concerned over the ever increasing prevalence in this state of inexpensive, poorly made and unsafe handguns commonly known as 'Saturday night specials', and the growing use of such weapons in the commission of violent crimes. The legislature recognizes that such weapons are produced without normal safety features and with inferior materials and poor workmanship for the primary purpose of turning out as inexpensive a handgun as possible. These inaccurate and unsafe weapons pose a danger to both the user and the public at large. Because they are of such inferior quality and intrinsically unsafe, such weapons are of no interest to persons who have a lawful right to possess a handgun for a legitimate purpose, and generally find their way into the illicit gun market where they are purchased by those intent upon the commission of serious crimes, including murder, assault and robbery.

"In order to reduce the availability of poorly made and unsafe handguns and to reduce the number of violent crimes committed through their use, it is the intent of the legislature to prevent the manufacture or assembly of such weapons in this state."

### Practice Commentary

By Arnold D. Hechtman

Pre-1971

See Practice Commentary under Article 265.

1971

Before 1971, subdivisions 1 and 11 referred to "misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure." When said Code was replaced by the Criminal Procedure Law, effective September 1, 1971, the latter contained no counterpart of former § 552. Accordingly, these references were replaced by a listing of the offenses theretofore contained in § 552(4) in order to pre-

546

serve conviction therefor as, respectively, standards for eligibility to receive a firearms license and for the revocation thereof (L.1971, c. 1097). Then in 1974, as part of the recodification of former § 265.05, subdivisions 1 and 11 were again amended (L.1974, c. 1041). This time the term "serious offense" was substituted for the listing of the former § 552 offenses. Such listing was shifted to § 265.00(17) wherein "serious offense" is now defined. No substantive change was effected by these amendments.

Also amended in 1971 was subdivision 4 (L.1971, c. 796). That subdivision requires, *inter alia*, that a set of the applicant's fingerprints be forwarded to the Federal Bureau of Investigation with a request for a search of their fingerprint files. Apparently the FBI at the time, because of budgeting or other considerations, had been honoring fingerprint search requests only in connection with crimes, not for pistol permit applications. In 1970 the New York Attorney General issued an opinion that the absence of an FBI fingerprint report was not fatal to an application for a permit under this section (1970, Op. Atty. Gen. 15). The amendment of subdivision 4 was intended to codify the Attorney General's opinion and provides that the FBI's failure to run a fingerprint check shall not constitute the sole basis for a refusal to issue a permit under § 400.00.

1973

This section was amended by three separate chapters of the laws of 1973:

Subdivision 2 was amended to authorize the issuance of licenses to have and carry "antique pistols," as that term is defined therein (L.1973, c. 593). Over the preceding few years, the Legislature had repeatedly passed bills to exempt antique pistols from the licensing requirements but the Governor had invariably vetoed them. This amendment ended that impasse by legitimizing the possession of antique pistols but imposed controls via the licensing requirements.

Added paragraph (f) authorizes the issuance of a license to "have, possess, collect and carry" antique pistols without any stated purpose therefor such as is necessary in the preceding paragraphs. It should be noted that while in the other situations where a license may be issued to "have and carry" a pistol (see paragraphs [c] and [d]), "carry" is modified by "concealed," the holder of an antique pistol license apparently will not possess that option. This could make the transportation of such pistols to and from, *e. g.*, shooting matches, a rather awkward procedure.

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§ 400.00

PENAL LAW

Pt. 4

Title W

FIREARMS

§ 400.00

There is a problem inherent in the definition of "antique pistol" as applied to a replica. One of the factors which may qualify a replica as an "antique", is that, although it uses rimfire or commercial centerfire fixed ammunition, such ammunition is neither manufactured in the United States nor is readily available in the ordinary channels of commercial trade. If either of these situations should be reversed in the future, would such a replica automatically cease to be an "antique pistol" and subject its owner to revocation of his license?

An element of confusion was introduced in 1974 when the Legislature passed and the Governor approved a bill excluding "antique firearms" (§ 265.00[14]) from the definition of "firearm" in § 265.00(3). For discussion of that provision and its relation to the instant licensing requirements, see Practice Commentary under § 265.00.

Subdivisions 5, 9, 11-b and 12 of this section were amended by L.1973, c. 172 to give the licensing officer of Suffolk County added administrative responsibilities for various phases of the firearms licensing procedure.

Subdivision 14 of this section was amended by L.1973, c. 546, to increase the fees in Nassau County for gunsmiths and firearms dealers, making the fees equivalent to those exacted for such licenses in New York City.

1974

Subdivisions 1 and 11 were amended by L.1974, c. 1041, as part of the recodification of § 265.05, substituting the term "serious offense" for the prior listing of offenses. See comments thereon, *supra*.

Subdivision 12-a, added by L.1974, c. 1042, authorizes the Superintendent of State Police, by the adoption of such regulations as he deems appropriate, to prevent the manufacture or assembly in this State of the "inexpensive, poorly made and unsafe handguns commonly known as 'Saturday Night Specials', . . ." (bill § 1). This provision was part of the Governor's 1974 legislative program aimed at discouraging criminal possession and use of handguns.

The provision is of limited applicability since the regulations would reach only "licensed gunsmiths" and deal only with manufacture and assembly within New York State of unsafe handguns, not with their sale or distribution. It should be noted that the Superintendent's regulatory authority does not extend to the manufacture and assembly of all handguns but only to those which the preamble describes as "inexpensive, poorly made and unsafe." As a definition it is not as precise as, ideally, it should be. But that probably

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only reflects the fact that the category is not readily amenable to precise delineation.

Though there does not appear to be a substantial problem of Saturday Night Specials being manufactured or assembled in New York State, there have been past instances of such activity. Legislation in recent years on the county level, e. g., in Suffolk County, geared to the same objective as the instant provision seems to have succeeded in driving out manufacturers of unsafe handguns from the particular counties.

The statute provides that a violation of the regulations will subject the licensee to revocation of his license "pursuant to subdivision eleven of this section." The presumed authority for such revocation would be the language in subdivision 11 that "A license may be revoked and cancelled at any time" by the licensing officer.

1976

Subdivision 10 was amended to change the duration of the validity of certain gun licenses from the second January 1st after issuance to not more than three years after issuance (L.1976, c. 584). This presumably would ease the administrative burdens of the licensing authorities by staggering expiration dates as well as lengthening the period between required renewals. The language adopted to describe the license period, "not more than three years" after the date of issuance, lacks clarity and precision and may create a confused patchwork of license periods of varying duration. May the license period be less than three years? If so, how much less? Who is authorized to prescribe the precise duration of the period? The lack of uniformity that may be engendered by this imprecise language does little to promote the effectiveness of gun license control that is essential to protection of the public.

1977

Subdivision 5 of this section was amended to permit a gun licensee who moves from the county of issuance of his license to another county to cause his records to be transferred to his new place of residence (L.1977, c. 480). The reason for this amendment, as stated by its sponsors, is that when a gun licensee moves from one county to another, he must record purchases of additional weapons, as well as deletions, in the original county of issuance. This apparently constitutes an inconvenient and sometimes costly procedure. The amended provision would permit the licensee to deal more conveniently with his new local licensing officer.

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§ 400.00

PENAL LAW

Pt. 4

The last sentence of the subdivision was also added, presumably to overcome objections that a transferred license might become subject to an advanced expiration date or shorter term under subdivision 10 of this section. This may cause some difficulties. Under subdivision 10, a license in New York City, Nassau or Suffolk County is for a maximum term of three years, after which it must be renewed. Elsewhere in the State, a license is good until revoked or cancelled. Apparently, if a person whose gun license was issued in Chemung County becomes a resident of Nassau County and has his records transferred to the latter, he is in a better position than those residents of Nassau whose licenses were issued there. The license issued in Chemung has no automatic expiration date, being in effect a lifetime license; the license issued in Nassau has a maximum term of three years. The added provision appears to make the Chemung-issued license immune to natural termination. While protecting the "rights" of the former Chemung resident, it places him in a preferred position vis-a-vis his Nassau neighbors. Then, too, the authorities in Nassau may feel that their efforts to protect the public by their closer regulation of guns within their county has been frustrated by this provision.

**Cross References**

Firearms and other dangerous weapons, see section 265.00 et seq.

**Law Review Commentaries**

A controlled look at gun controls. Firearms control. 42 St. John's L. 14 N.Y.L.F. 718 (1968).  
Firearms control. 42 St. John's L. Rev. 353 (1968).

**Library References**

Weapons ⇐12. C.J.S. Weapons § 11.

**United States Code Annotated**

Firearms, see section 921 et seq. of Title 18, Crimes and Criminal Procedure.

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Title W

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§ 400.00

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Revocation of license  
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 Weapons within section 9

**1. Constitutionality**

This section establishing procedure whereby resident could obtain permit for having weapon but not providing any procedure for traveler passing through state did not violate privileges and immunities clause of Constitution. *People v. Perez*, 1971, 67 Misc.2d 911, 325 N.Y.S.2d 183.

Enactment of this section providing procedure whereby resident could obtain permit for possession of weapon, but nonresident could not, was valid exercise of state's police power. *Id.*

**2. Local laws**

Section of city special emergency ordinance prohibiting carrying or possessing of firearm during emergency was invalid as in conflict with Penal Law 1909 § 1903, governing licensing of firearms. *People v. Kearse*, 1968, 56 Misc.2d 586, 289 N.Y.S.2d 346, appeal dismissed 58 Misc.2d 277, 295 N.Y.S.2d 192.

The county of Suffolk is not authorized to enact a local law requiring the applicant for a pistol license to satisfactorily complete a weapon safety course prior to the issuance of such license nor does the licensing official who issues such license have the authority to institute a rule or regulation requiring the completion of such a safety course prior to its issuance. 1974, Op.Atty.Gen. (Inf.) 254.

**3. Nature of right**

Petitioner seeking a license to carry concealed a pistol could not rest his case upon U.S.C.A. Const. Amend. 2, which is a limitation upon power of Congress and the national government but not upon that of the state. *Moore v. Gallup*, 1943, 267 App.Div.

# NEW YORK LEGISLATIVE RECORD AND INDEX

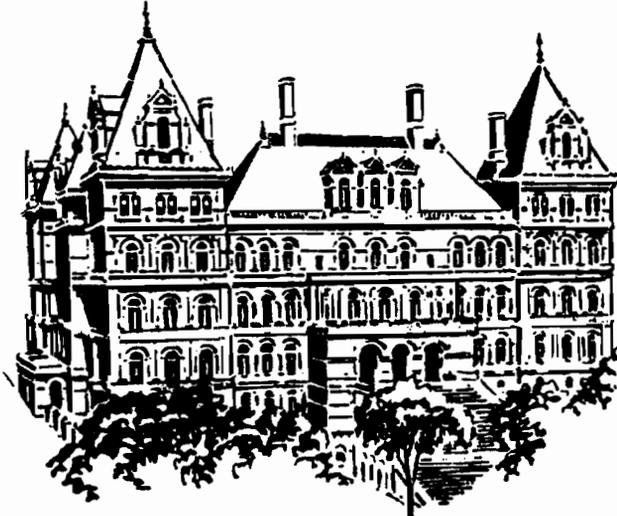
## 1973

### A COMPLETE AND CUMULATIVE RECORD OF ALL LEGISLATION

- Comprehensive Summaries of All Bills Introduced with History of Action Thereon
- Individual Record of Senators and Assemblymen • Subject Index of Bills • Resolutions in Full • Subject Index of Laws • Other Information Covering the 196th Annual Session of the Legislature Beginning January 3, 1973

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*State Capitol*

*From January 3 to June 26, 1973*

*(The Legislature adjourned sine die May 27, 1973. The final date above terminated the Governor's so-called "Thirty-day Bill Period")*

*(ISSUED EACH WEEK DURING SESSION—COMPLETE TO DATE)*

*(See back of book for Contents)*

## Senate Introductory Record

S 423

**4315 B. SMITH, GALIBER**—Amends §700, County Law, §183-a, Judiciary Law, to require that district attorney of any county of which board of supervisors has designated such office as full-time position, shall give whole time to duties and not engage in practice of law or in other described manner; makes related provisions. Local Government Com.

Apr 10 Rept Apr 11 3rd rdg Apr 13 Amended Apr 25 Passed. Apr 28 Assy Rules Com May 22 Rept 3rd rdg Passed. May 27 To Gov. June 11 Vetoeed (Memo 87,  
4315-A

**4316 DeHOND, ECKERT**—Amends §85, Civil Service Law, to extend definition of veteran and nondisabled veteran for purposes of allowing additional credit in competitive examinations, to include member of U.S. armed forces, honorably discharged, who was not resident of state at time of entrance, instead of requiring that he be resident. Civil Service Com.  
Same as S 5512; A 181

**4317 DeHOND, ECKERT**—Amends §243, Military Law, to limit to 6 years, maximum period of military duty for which public employee shall be entitled to absent himself from his position and be deemed to have leave of absence, and to permit him to be reinstated within 1 year after termination of such duty whether or not in excess of 6 years, in discretion of appointing officer. Codes Com.  
Same as S 4868

**4318 DeHOND, ECKERT**—Adds §807-d, Education Law, to require that in all public and private school buildings with central annunciator panel or fire alarm cabinet displaying visual signal identifying heat detector, smoke detector or manually operated fire alarm box within building which has been activated, there shall be provided as part of or immediately adjacent to panel or cabinet, chart or plan showing specific location within building of each such device, with panel or cabinet or chart or plan to be located so that it can be read without entering building, for school buildings, construction of which is commenced after Sept. 1, 1973. Education Com.  
Same as A 6137  
May 2 Rept May 3 A 6137 sub.

**4319 DeHOND, ECKERT**—Adds §2022-a, Education Law, to provide that no proposition encompassing same or similar subject matter contained in proposition which has been twice defeated by voters of district in any 1 year shall be submitted to such voters until expiration of 1 year following date of 2nd defeat of such proposition. Education Com.  
Same as A 5732

**4320 FLYNN**—Amends §50-i, repeals §§50-a-c, adds §§50-a-c, General Municipal Law, amends §501, County Law, §116, Town Law, §11.25, Mental Hygiene Law, §1017-b, Optional County Gov-

ernment Law, §§2560, 3023, 3028, 6211, Education Law, to repeal provisions relating to municipal liability for negligent operation of vehicles, and to enact new provisions making every municipal and district corporation liable under same rule of law applicable to state for damages or injury or death, to person or property because of torts of its officers and employees, including volunteer workers, and to require that, upon request of officer or employee, such corporation shall provide for defense of civil action or proceeding brought against him in official or individual capacity or both, arising out of acts or omission occurring in performance of duties; makes provisions as to procedure and indemnification. Local Government Com.  
Same as A 5575

**4321 GIUFFREDA**—Amends Chap. 457 of 1970, to allow persons who were permanent employees on leave of absence without pay on March 31, 1970, who are members of state teachers' retirement system, whether or not in employ of employer other than state dept. or agency, to transfer to state employees' retirement system if application has been made to teachers' retirement system, and to make certain other changes. Civil Service Com.

Apr 30 Rept May 1 3rd rdg May 18 Passed. Assy Govt'l Emps Com May 21 Rept Ref to Ways & Means Com May 25 Ref chgd to Rules Com Rept 3rd rdg Passed. May 27 To Gov. June 10 Vetoeed (Memo 120).

**4322 HALPERIN**—Adds §70-b, Executive Law, to provide that no new maximum rents shall be established in NYC until July 1, 1974, and to establish in dept. of law, office of special state investigator to investigate applications for maximum rent increases under NYC rent and rehabilitation law, with power and duty to investigate and prosecute possible fraudulent applications for maximum rent increases; appropriates \$100,000 in 1st instance. Finance Com.  
Same as A 6646

**4323 LEVY**—Amends §400.00, Penal Law, to fix at \$25, annual license fee for gunsmiths in Nassau co., and \$50 for dealers in firearms, with board of supervisors therein to fix fee to be charged for license to carry or possess pistol or revolver. Codes Com.  
Same as A 5810  
May 8 Rept May 14 3rd rdg May 16 A 5810 sub.

**4324 LEVY**—Amends §§712, 721, 722, Family Court Act, to define juvenile delinquent as person over 7 and less than 16 who does any act which, if done by adult, would constitute an offense, instead of crime, and to make corresponding changes as to powers of peace officer and private person to take such person into custody without warrant. Judiciary Com.  
Same as A 6191

## Assembly Introductory Record

A 529

**5804 C. E. COOK**; Multi-sponsored by: Jonas, Stavisky, Meyer, Levine, Gottfried, Berle, Eve, Fink — Adds §138 Correction Law to require that institutional rules and regulations defining and prohibiting inmates misconduct, be published and posted in prominent locations in institution and inmates provided with written copies thereof; prescribes activities for which inmates shall not be disciplined. Codes Com.

**5805 C. E. COOK**; Multi-sponsored by: Meyer, Fortune, Jonas, Leichter, G. Miller, Fink, Eve — Amends §212, Correction Law, to require that parole board render its determination as to whether person serving independent sentence should be paroled at expiration of minimum period, within 7 days after it meets with inmate, and to require that if board does not grant parole at such time, it shall set forth in writing, reasons for its conclusion and communicate such to inmate at same time it communicates its determination of denial; makes other provision as to opportunity to reply and decision of board. Codes Com. Same as S 3824

**5806 C. E. COOK**; Multi-sponsored by: Meyer, Leichter, G. Miller, Jonas, Caputo, Fink, Koppell, Fortune — Adds §140, Correction Law, to require that all institutions establish and maintain library for use of inmates, which shall include current compilations of penal, criminal procedure and correction law and all rules and regulations promulgated pursuant thereto, reports of all decisions of courts of state and of U.S., and U.S. Law Week's summary of federal decisions, and current newspapers and magazines; makes other provisions as to committee to determine additional contents. Codes Com. Same as S 3825

**5807 C. E. COOK**; Multi-sponsored by: Henderson, Bell, Marshall, Hardt — Amends §101-a, Executive Law, to extend definition of rule in provisions relating to legislative notification of proposed adoption, amendment, suspension or repeal of agency rules, to include setting or revision of rate schedule under agency's jurisdiction. Governmental Operations Com. Mar 28 Rept Mar 29 3rd rdg Apr 4 Passed. Apr 5 Sen Finance Com.

**5808 C. E. COOK**; Multi-sponsored by: Diggs, Reilly, Rappleyea, Taylor — Amends §§507, 599, 600, 665, Judiciary Law, to repeal provisions exempting women from jury duty and to allow jury exemption for person who who has actual physical care and custody of child under 18, or of person who is ill or disabled. Judiciary Com. Same as S 3925

**5809 C. E. COOK**; Multi-sponsored by: Diggs, Gunning — Adds §13, Art. 1, Constitution, to declare that equality of rights under the law shall

not be denied or abridged by state or subdivision thereof on account of sex or marital status. Judiciary Com. Same as S 3672

**5810 D'AMATO** — Amends §400.00, Penal Law, to fix at \$25, annual license fee for gunsmiths in Nassau co., and \$50 for dealers in firearms, with board of supervisors therein to fix fee to be charged for license to carry or possess pistol or revolver. Codes Com. Same as S 4323

Apr 11 Rept Apr 12 3rd rdg May 15 Passed. May 16 Sen Sub for S 4323 on 3rd rdg May 21 Passed. May 27 To Gov. June 5 Law, Chap 546.

**5811 D'AMATO** — Amends §375, Vehicle & Traffic Law, to make it unlawful on and after Jan. 1, 1974, instead of Jan. 1, 1957, to operate on public highway, commercial motor vehicle, combination of motor vehicle and trailer, or combination of truck-tractor and semi-trailer, without splash guards, and to include tractors. Transportation Com. Same as S 3813

Mar 28 Amd & recom Apr 4 Rept Apr 5 3rd rdg Apr 11 Passed. Apr 12 Sen Transp Com Apr 27 Com disch Sub for S 3813-A in Com of Whole 3rd rdg Apr 30 Passed. May 27 To Gov. June 23 Law, Chap 1038.

5811-A

**5812 D'AMATO** — Adds §405, Vehicle & Traffic Law, to make it unlawful for resident of state to obtain motor vehicle license plate of foreign state by use of mails or other freight service or through agent or otherwise for use on motor vehicle located in or to be used in NY, with intent of avoiding NY state vehicle and traffic regulations or any other law of NY; makes related provisions and excepts person who has been resident for less than 30 days. Transportation Com. Same as S 570

Mar 21 Amd & recom Apr 10 Rept Apr 11 3rd rdg Apr 25 Passed. Apr 26 Sen Transp Com Apr 27 Recalled by Assembly Vote recons Restored to 3rd rdg S 570-A sub.

5812-A

**5813 EMERY** — Authorizes court of claims to hear and determine claim of J. Michael Jones, against state for value of mortgage interest in certain lands appropriated by state for conservation purposes in Livingston co. Judiciary Com. Same as S 4559

Mar 28 Rept Mar 29 3rd rdg Apr 2 Passed. Apr 3 Sen Finance Com Apr 11 Com disch Sub for S 4559 in Com of Whole 3rd rdg Apr 12 Passed. May 27 To Gov. June 5 Law, Chap 547.

**5814 ESPOSITO** — Amends §507-3.0, NYC Administrative Code, §4137, Public Health Law, to require that birth certificates shall contain social security number for child, to be obtained from federal social security administration. Cities Com. Same as S 3854

Apr 11 Rept amend Apr 12 3rd rdg Apr 26 Passed. Apr 27 Sen Sub for S 3854-A on 3rd rdg May 3 Lost. Vote recons Restored to 3rd rdg May 18 Lost.

5814-A

# STATE OF NEW YORK



4323

1973-1974 Regular Sessions

## IN SENATE

March 1, 1973

Introduced by Sen. LEVY—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 firearms

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

- 1 Section 1. Subdivision fourteen of section 400.00 of the penal  
2 law is hereby amended to read as follows:
- 3 14. Fees. In the city of New York *and the county of Nassau,*  
4 the annual license fee shall be twenty-five dollars for gunsmiths and  
5 fifty dollars for dealers in firearms. In such city, the city council  
6 *and in the county of Nassau the board of supervisors* shall fix the  
7 fee to be charged for a license to carry or possess a pistol or revolver  
8 and provide for the disposition of such fees. Elsewhere in the  
9 state, the licensing officer shall collect and pay into the county  
10 treasury the following fees: for each license to carry or possess a

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

S-4323

2

1 pistol or revolver, not less than three dollars nor more than five  
2 dollars as may be determined by the board of supervisors of the  
3 county; for each amendment thereto, one dollar, and two dollars  
4 in the county of Suffolk; and for each license issued to a gunsmith  
5 or dealer in firearms, four dollars. The fee for a duplicate license  
6 shall be two dollars.

7 § 2. This act shall take effect immediately.

# STATE OF NEW YORK

5810

1973-1974 Regular Sessions

## IN ASSEMBLY

February 20, 1973

Introduced by Mr. D'AMATO—read once and referred to the  
Committee on Codes

### AN ACT

to amend the penal law in relation to firearms

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

1 Section 1. Subdivision fourteen of section 400.00 of the penal law  
2 is hereby amended to read as follows:

3 14. Fees. In the city of New York *and the county of Nassau*, the  
4 annual license fee shall be twenty-five dollars for gunsmiths and fifty  
5 dollars for dealers in firearms. In such city, the city council *and in the*  
6 *county of Nassau the Board of Supervisors* shall fix the fee to be  
7 charged for a license to carry or possess a pistol or revolver and pro-  
8 vide for the disposition of such fees. Elsewhere in the state, the  
9 licensing officer shall collect and pay into the county treasury the fol-

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be amended.

1   lowing fees: for each license to carry or possess a pistol or revolver, not  
2   less than three dollars nor more than five dollars as may be deter-  
3   mined by the board of supervisors of the county; for each amendment  
4   thereto, one dollar, and two dollars in the county of Suffolk; and for  
5   each license issued to a gunsmith or dealer in firearms, four dollars.  
6   The fee for a duplicate license shall be two dollars.

7   § 2. This act shall take effect immediately.

CHAPTER 546

5810

1973-1974 Regular Sessions

IN ASSEMBLY

February 20, 1973

Introduced by Mr. DEAMATO—read once and referred to the  
Committee on Codes

AN ACT

to amend the penal law in relation to firearms

*It is intended to increase the penalty for  
possessing a handgun without a license*

APPROVED

MAY 5 1973

Compared by \_\_\_\_\_

Approved \_\_\_\_\_

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Date 5/17/73

No. of pages 1

Chap 546 WD

Multiple memorandum received from the  
State Comptroller dated \_\_\_\_\_  
stating the following bill is of  
"No Interest" to the Department of  
Audit and Control.

Intro. No.

Print No.

A 5810.

The original memorandum filed with:

A 587/C

MEMORANDUM IN SUPPORT  
From Mr. D'Amato

- I. INTRODUCER
- II. TITLE AN ACT to amend the penal law in relation to firearms MAY 25 REC'D
- III. LAW AFFECTED Subdivision 14 of Section 400.00 of the Penal Law
- IV. PURPOSE To provide for the payment of the same firearms licensing fees in the County of Nassau as presently apply to the City of New York.
- V. JUSTIFICATION The present licensing fees in Nassau County are \$5.00 for a license to carry or possess and \$4.00 for a gunsmith or dealer license, as compared to \$25.00 and \$50.00 respectively in the City of New York. The fees applicable to the City of New York are much more realistic and will serve to defray some of the overall cost to the County of Nassau which is incurred in the processing, investigation and issuance of firearms licenses. The County of Nassau endorses this bill.
- VI: FISCAL IMPLICATIONS Increased revenues to the County of Nassau to help defray costs.
- VII: EFFECTIVE DATE Immediately.



**POLICE DEPARTMENT  
COUNTY OF NASSAU  
STATE OF NEW YORK**

**Louis J. Frank**  
Commissioner of Police

1490 Franklin Avenue  
Mineola, New York 11501

May 31, 1973

Honorable Nelson A. Rockefeller  
Governor of State of New York  
Executive Chamber  
Albany, New York 12224

Dear Governor Rockefeller:

This is in response to your memorandum requesting comments concerning Assembly Bill No. 5810 which is before you for executive action.

Your favorable action is urged as this particular legislation was sought by this Department in order to amend the Penal Law to provide for an increase in the firearms licensing fees in the County of Nassau. The present fees in Nassau County are \$5 for a license to carry or possess a firearm and \$4 for a gunsmith or dealer license as compared to \$25 and \$50 respectively in the City of New York. The investigation and processing of an applicant for a firearm's license is time-consuming and expensive and the present fees are totally unrealistic compared to the cost. The contemplated increase in fees proposed by the subject Bill will serve to defray some of the overall cost of

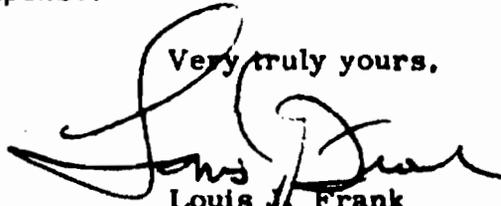
Governor Rockefeller

2

May 31, 1973

issuing licenses, place it on the licensee who is being served, and partially relieve the general taxpayers from footing the entire expense.

Very truly yours,



Louis J. Frank  
Commissioner of Police

LJF:ic

H-5000



NEW YORK STATE POLICE  
STATE CAMPUS  
ALBANY, N. Y. 12226

WILLIAM E. KIRWAN  
SUPERINTENDENT

MAY 25 1973

May 25, 1973

SENATE

ASSEMBLY

INTRODUCED BY

5810

Mr. D'Amato

RECOMMENDATION:

Disapproval

STATUTE INVOLVED:

Penal Law  
Section 400.00, subdivision 14

EFFECTIVE DATE:

Immediately

DISCUSSION:

1. Purpose of bill:

To amend the Penal Law in relation to firearms.

2. Summary of provisions of bill:

This bill adds to Section 400.00, subd. 14 of the Penal Law authorization for the county of Nassau to fix fees for pistol licenses issued in that county and raises the fees for gunsmith and dealer in firearm licenses to twenty-five and fifty dollars respectively. Existing statute provides a fee of four dollars for gunsmith and dealer licenses and from three to five dollars for pistol permits.

3. Prior legislative history of bill:

Unknown.

4. Known position of others respecting bill:

Both the New York State Conservation Council and the New York State Rifle and Pistol Association have been extremely outspoken against raising the fees without legislative control. Although existing license fees are quite reasonable, these two organizations take the firm position that only the state legislature should be able to fix gun license fees.

NEW YORK STATE POLICE

5. Budget implications:

None for State

6. Arguments in support of bill:

None.

7. Arguments in opposition to bill:

The Division of State Police feels that license fees for gunsmiths and dealers in firearms should be raised and in amounts according with those proposed in this bill. But such an increase should properly be on a state-wide basis. It should not be limited to one county. The provision authorizing the Nassau County Board of Supervisors to arbitrarily set fees for pistol licenses appears to be a useful method for pricing pistol licenses out of the range of the shooting public. This could well make offenders out of otherwise honest citizens who own handguns.

8. Reasons for recommendation:

See seven above.

  
Superintendent

A-5810



**COUNTY OFFICERS ASSOCIATION OF THE STATE OF NEW YORK**

150 STATE STREET, ALBANY, NEW YORK 12207  
(516) 488-1473

LESLIE HAYES, JR., *President*  
*Clerk, Ed. of Supervisors, Warren*

HERBERT H. SMITH, *Executive Director*

*Vice-Presidents*

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*Dutchess*
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*Monroe*

May 25, 1973

MAY 26 REC'D

*Directors*

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*Columbia*
- C. WILLIAM BAKER  
*Cattaraugus*
- ROBERT M. ATWELL  
*Oswego*

Hon. Michael Whiteman  
Executive Chamber  
State Capitol  
Albany, N. Y. 12224

Dear Mr. Whiteman:

Re: Assembly 5810 by Mr. D'Amato

This bill amends the Penal Law providing for firearms licenses in the county of Nassau and fees therefor.

The County Officers Association has no objection to this bill.

Yours very truly,

Herbert H. Smith  
Executive Director

*Legislative Chairman*

CHARLES R. CLARK  
*Washington*

*Treasurer*

JOHN C. MYERS  
*Oswego*

*Wick*

*A 5810*

NEW YORK STATE  
OFFICE OF PLANNING SERVICES

M E M O R A N D U M

TO: Michael Whiteman, Counsel to the Governor  
FROM: Richard A. Wiebe  
SUBJECT: Assembly Bill No. 5810 (D'Amato)  
DATE: May 29, 1973

---

You requested our comments and recommendations concerning the above-numbered bill.

This measure does not affect the functions of this Office and we have no comment to make with respect to it.

TO COUNSEL TO THE GOVERNOR

RE: SENATE  
ASSEMBLY *Bill*

Inasmuch as this bill does not appear to involve a legal problem nor to relate to the functions of the Department of Law, I am not commenting thereon. However, if there is a particular aspect of the bill upon which you wish comment, please advise me.

Dated: *May 23 1953*

LOUIS J. LEFKOWITZ  
Attorney General

McKINNEY'S  
1973 SESSION LAWS  
OF NEW YORK

Comprising  
Authentic Text of the Laws  
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Volume 1

196th SESSION—1973  
Laws of the Regular Session  
Chapters 1 to 689

ST. PAUL, MINN.  
WEST PUBLISHING CO.

Nassau County—Firearms—License Fees

CHAPTER 546

An Act to amend the penal law in relation to firearms.  
Approved and effective June 5, 1973.

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

Section 1. Subdivision fourteen of section 400.00 of the penal law is hereby amended to read as follows:

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 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, 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 dollars. The fee for a duplicate license shall be two dollars.

§ 2. This act shall take effect immediately.

Claims Against State—J. Michael Jones

CHAPTER 547

An Act to confer jurisdiction on the court of claims to hear, audit and determine the claim of J. Michael Jones against the state for compensation for the value of a mortgage interest in certain lands in Livingston county appropriated by the state for conservation purposes and to render judgment therefor.

Approved and effective June 5, 1973.

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

Section 1. Jurisdiction is hereby conferred upon the court of claims to hear, audit and determine the claim or claims of J. Michael Jones residing at 225 East Lake Road, town of Conesus, county of Livingston and state of New York, or his successors in interest, against the state of New York for damages alleged to have been sustained by him, as first mortgagee of certain lands owned by Harold Kesby of 2160 Canterbury Lane, Eau Gaillie, Florida by reason of the appropriation by the state of New York pursuant to the provisions of the conservation law of the state of New York and acts amendatory thereof and supplemental thereto of such lands for conservation purposes described as follows:

ALL THAT CERTAIN PIECE OR PARCEL OF LAND, situate, lying and being in the Town of Conesus, County of Livingston, State of New York, being part of Lot Number 59, Phelps and Gorhams Purchase and being more particularly bounded and described as follows: Beginning at a point in the centerline of East Swamp Road at the Southeast corner of

deletions by ~~strikeouts~~

# Exhibit H (1)

1980

**McKINNEY'S**  
**CONSOLIDATED LAWS**  
**OF**  
**NEW YORK**  
**ANNOTATED**

**Book 39**

**Penal Law**

§§ 220.00 to End

**Practice Commentaries**  
**By**  
**ARNOLD D. HECHTMAN**

*With Annotations*

**From**  
**State and Federal Courts**  
**and**  
**State Agencies**

**ST. PAUL, MINN.**  
**WEST PUBLISHING CO.**

## EXPLANATION

This volume contains the annotated text of Penal Law sections 220.00 to End, as amended to December 1, 1979, and replaces the volume published in 1967.

The text of the Penal Law set out in this volume is based on L.1965, c. 1030, which completely revised the pre-existing Penal Law of 1909.

This volume of the Penal Law codifies the radical and sweeping amendments enacted since the last publication relating to the sentencing structure of the controlled substances laws, to the conformity of the obscenity laws with the decisions of the Supreme Court of the United States, and to the redefinition of weapons possession crimes.

This edition is designed to facilitate access to the body of law presently constituting Penal Law sections 220.00 to End and to the judicial decisions having concurrent application to such law.

### Practice Commentaries

The Practice Commentaries which follow the statutory text in these volumes are designed to explain the changes that were made by the revision, to clarify the meaning of terms, and to offer practice suggestions. Additional Commentaries discussing subsequent statutory changes and judicial interpretations will appear in the Pocket Parts to these volumes.

The Commentaries were prepared by Arnold D. Hechtman, former Assistant Counsel and then Counsel to the Commission on Revision of the Penal Law and Criminal Code. They are based, in considerable measure, upon the prior commentaries of Judges Richard G. Denzer and Peter McQuillan.

### Historical Notes

Information relating to the derivation of the Penal Law sections and the nature of the amendatory changes therein is shown in the historical notes following the statutory text.

### Cross References

References to related or qualifying provisions within the Penal Law, other McKinney volumes, and the United States Code Annotated are provided herein.

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## § 275.25

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Paragraph (1-b) was not contained in the prior law but the substance thereof was inferable from the definition of the crime. The present counterpart crime of manufacture of an unauthorized recording of sound, as defined in § 275.05 compels the same inference (see Practice Commentary thereunder).

## PART FOUR—ADMINISTRATIVE PROVISIONS

### TITLE W—PROVISIONS RELATING TO FIREARMS, FIREWORKS, PORNOGRAPHY EQUIPMENT AND VEHICLES USED IN THE TRANSPORTATION OF GAMBLING RECORDS

#### Historical Note

1969 Amendment. L.1969, c. 920, § Vehicles Used In The Transportation 1, eff. Sept. 1, 1969, inserted "And Of Gambling Records".

#### Practice Commentary

*By Arnold D. Hechtman*

In the 1965 Penal Law revision, this Title comprised Articles 400, 405 and 410. Since then Articles 415, 420 and 450 have been added. The provisions of this Title are not penal in character but of an administrative and civil nature, and the original ones were grouped in this chapter only because there was no more appropriate place to house them. These original Articles (400, 405, 410) were adopted, practically verbatim, from the former Penal Law. Subsequently added Articles came from the former Code of Criminal Procedure (Article 450) or were modeled on existing provisions (Article 420). The draftsmen of the revised Penal Law never really got around to examining and redrafting the original Articles and the subsequent additions equally exhibit a need for re-examination and reformulation.

### ARTICLE 400—LICENSING AND OTHER PROVISIONS RELATING TO FIREARMS

#### Sec.

- 400.00 Licenses to carry, possess, repair and dispose of firearms.  
400.05 Destruction of weapons and dangerous instruments, appliances and substances.

#### § 400.00 Licenses to carry, possess, repair and dispose of firearms

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

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application for a license are true. No license shall be issued or renewed except for an applicant (a) of good moral character; (b) who has not been convicted anywhere of a felony or a serious offense; (c) who has stated whether he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; and (d) 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.

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a pistol or revolver 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 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 keeper; (e) have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof; and (f) 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 1898, 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

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(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. Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his 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 is a citizen of the United States, whether or not he 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 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.

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 records

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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. The failure or refusal of the federal bureau of investigation to make the fingerprint check provided for in this section shall not constitute the sole basis for refusal to issue a permit pursuant to the provisions of this section. 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.

5. Filing of approved applications. The application for any license, if granted, shall be a public record. Such application shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records

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or applications relating to firearms to the licensing authority of that county. Upon application by a licensee who has changed his place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within ten days after issuance of the license. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law.

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, 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 are being transported by the licensee in a locked container; and (b) the trip through the city of New York is continuous and uninterrupted. A license as gunsmith or dealer in firearms shall not be valid outside the city or county, as the case may be, where issued.

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 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 license 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

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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 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. Upon demand, the license shall be exhibited for inspection to any peace officer. A license as gunsmith or dealer in firearms shall be prominently displayed on the licensed premises. Failure of any licensee to so exhibit or display his license, as the case may be, shall be presumptive evidence that he 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 may apply at any time to his licensing officer for amendment of his 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. 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 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, give notice in writing of such change to the executive department, division of state police, at Albany.

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 and not limited to expire on an earlier date fixed in the license, shall expire not more than three years 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 pre-

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viously 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 serious offense 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 in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any 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.

12. Records required of gunsmiths and dealers in firearms. Any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as a peace officer or other exempt person pursuant to section 265.20. The licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department or unit, in the case of an exempt person. The rec-

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ord book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

12-a. State police regulations applicable to licensed gunsmiths engaged in the business of assembling or manufacturing firearms. The superintendent of state police is hereby authorized to issue such rules and regulations as he deems reasonably necessary to prevent the manufacture and assembly of unsafe firearms in the state. Such rules and regulations shall establish safety standards in regard to the manufacture and assembly of firearms in the state, including specifications as to materials and parts used, the proper storage and shipment of firearms, and minimum standards of quality control. Regulations issued by the state police pursuant to this subdivision shall apply to any person licensed as a gunsmith under this section engaged in the business of manufacturing or assembling firearms, and any violation thereof shall subject the licensee to revocation of license pursuant to subdivision eleven of this section.

13. Expenses. The expense of providing a licensing officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, and in the city of New York against the city.

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 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, 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;<sup>1</sup> and for each license issued to a gunsmith or dealer in firearms, four dollars. The fee for a duplicate license shall be two dollars.

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15. Any violation by any person of any provision of this section is a class A misdemeanor.

L.1965, c. 1030; amended L.1967, c. 791, § 49; L.1971, c. 796; L.1971, c. 1097, §§ 82, 83; L.1973, c. 172, §§ 1-4; L.1973, c. 546, § 1; L.1973, c. 593, § 1; L.1974, c. 1041, §§ 10, 11; L.1974, c. 1042, § 2; L.1976, c. 584, § 1; L.1977, c. 480, § 1.

<sup>1</sup> So in original. Probably should be a semi-colon.

## Historical Note

1977 Amendment. Subd. 5. L.1977, c. 480, § 1, eff. Aug. 1, 1977, added sentences beginning "Upon application by" and "Nothing in this".

1976 Amendment. Subd. 10. L. 1976, c. 584, § 1, eff. July 21, 1976, in sentence beginning "Any license for", substituted "not more than three years" for "on the first day of the second January".

1974 Amendments. Subd. 1. L. 1974, c. 1041, § 10, eff. Sept. 1, 1974, in sentence beginning "No license shall be issued or renewed except for" substituted, in clause (b) "a serious offense" for enumerated offenses from Penal Law 1909 and this chapter, which offenses had constituted former items (i) and (ii) of clause (b).

Subd. 11. L.1974, c. 1041, § 11, eff. Sept. 1, 1974, in sentence beginning "The conviction of" substituted "serious offense" for enumerated offenses from Penal Law 1909 and this chapter, which offenses had constituted former pars. (a) and (b).

Subd. 12-a. L.1974, c. 1042, § 2, eff. Sept. 1, 1974, added subd. 12-a.

1973 Amendments. Subd. 2. L. 1973, c. 593, § 1, eff. on the 60th day after June 11, 1973, inserted clause (f), relating to licenses for antique pistols.

Subd. 5. L.1973, c. 172, § 1, eff. Apr. 10, 1973, in sentence beginning "Such application shall" substituted "in the counties of Nassau and Suffolk," for "county of Nassau" and inserted ", and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county".

Subd. 9. L.1973, c. 172, § 2, eff. Apr. 10, 1973, in sentence beginning "Elsewhere than in the city of New York and in" substituted "and in the counties of Nassau and Suffolk," for "and the county of Nassau" and inserted "and in the county of Suffolk to the licensing officer of that county".

Subd. 11, par. (b). L.1973, c. 172, § 3, eff. Apr. 10, 1973, in sentence beginning "A license may" substituted "and in the counties of Nassau and Suffolk," for "and county of Nassau".

Subd. 12. L.1973, c. 172, § 4, eff. Apr. 10, 1973, in sentence beginning "In the event of" substituted "and in the counties of Nassau and Suffolk," for "and county of Nassau".

Subd. 14. L.1973, c. 546, § 1, eff. June 5, 1973, in sentence beginning "In the city" inserted "and the county of Nassau" and in sentence beginning "In such city" inserted "and in the county of Nassau the Board of Supervisors".

1971 Amendments. Subd. 1. L. 1971, c. 1097, § 82, eff. Sept. 1, 1971, in sentence beginning "No license shall be issued or renewed except for" substituted, in clause (b), items (i) and (ii) for "mentioned in section five hundred fifty-two of the code of criminal procedure".

Subd. 4. L.1971, c. 796, eff. June 25, 1971, added sentence beginning "The failure or refusal".

Subd. 11, opening par. L.1971, c. 1097, § 83, eff. Sept. 1, 1971, designated sentence beginning "The conviction of a" as opening par., inserted "following" preceding "misdemeanors or offenses", and deleted "mentioned

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in section five hundred fifty-two of the code of criminal procedure".

Subd. 11, par. (a). L.1971, c. 1097, § 83, eff. Sept. 1, 1971, added par. (a).

Subd. 11, par. (b). L.1971, c. 1097, § 83, eff. Sept. 1, 1971, designated existing provisions as par. (b) and added sentence beginning "The following offenses".

1967 Amendment. Subd. 6. L.1967, c. 791, § 49, eff. Sept. 1, 1967, in sentence beginning "Such license to carry" deleted clause (c) which read "; and (c) such licensee exhibits upon demand by a peace officer proof of registration in a pistol match which such licensee is about to attend or has attended and is returning therefrom".

Subd. 9. L.1967, c. 791, § 49, eff. Sept. 1, 1967, in sentence beginning "Elsewhere than in the city of New York and the" inserted "and the county of Nassau" and ", and in the county of Nassau to the police commissioner of that county who shall, within ten days after such notification shall be received by him, give notice in writing of such change to the executive department, division of state police, at Albany".

Derivation. Penal Law 1909 § 1903, added L.1963, c. 136, § 8; amended L.1964, c. 296; L.1964, c. 318; L.1964, c. 320, §§ 1, 2; L.1966, c. 146; L.1966, c. 788 was from prior sections 1897, 1914. For history of

said prior sections 1897 and 1914, see derivation note under section 265.00.

Legislative Findings and Intent of 1974 Amendment. L.1974, c. 1042, § 1, eff. Sept. 1, 1974, provided that:

"The legislature is deeply concerned over the ever increasing presence in this state of inexpensive, poorly made and unsafe handguns commonly known as 'Saturday night specials', and the growing use of such weapons in the commission of violent crimes. The legislature recognizes that such weapons are produced without normal safety features and with inferior materials and poor workmanship for the primary purpose of turning out as inexpensive a handgun as possible. These inaccurate and unsafe weapons pose a danger to both the user and the public at large. Because they are of such inferior quality and intrinsically unsafe, such weapons are of no interest to persons who have a lawful right to possess a handgun for a legitimate purpose, and generally find their way into the illicit gun market where they are purchased by those intent upon the commission of serious crimes, including murder, assault and robbery.

"In order to reduce the availability of poorly made and unsafe handguns, and to reduce the number of violent crimes committed through their use, it is the intent of the legislature to prevent the manufacture or assembly of such weapons in this state."

serve conviction therefor as, respectively, standards for eligibility to receive a firearms license and for the revocation thereof (L.1971, c. 1097). Then in 1974, as part of the recodification of former § 265.05, subdivisions 1 and 11 were again amended (L.1974, c. 1041). This time the term "serious offense" was substituted for the listing of the former § 552 offenses. Such listing was shifted to § 265.00(17) wherein "serious offense" is now defined. No substantive change was effected by these amendments.

Also amended in 1971 was subdivision 4 (L.1971, c. 796). That subdivision requires, *inter alia*, that a set of the applicant's fingerprints be forwarded to the Federal Bureau of Investigation with a request for a search of their fingerprint files. Apparently the FBI at the time, because of budgeting or other considerations, had been honoring fingerprint search requests only in connection with crimes, not for pistol permit applications. In 1970 the New York Attorney General issued an opinion that the absence of an FBI fingerprint report was not fatal to an application for a permit under this section (1970, Op.Atty.Gen. 15). The amendment of subdivision 4 was intended to codify the Attorney General's opinion and provides that the FBI's failure to run a fingerprint check shall not constitute the sole basis for a refusal to issue a permit under § 400.00.

1973

This section was amended by three separate chapters of the laws of 1973:

Subdivision 2 was amended to authorize the issuance of licenses to have and carry "antique pistols," as that term is defined therein (L.1973, c. 593). Over the preceding few years, the Legislature had repeatedly passed bills to exempt antique pistols from the licensing requirements but the Governor had invariably vetoed them. This amendment ended that impasse by legitimizing the possession of antique pistols but imposed controls via the licensing requirements.

Added paragraph (f) authorizes the issuance of a license to "have, possess, collect and carry" antique pistols without any stated purpose therefor such as is necessary in the preceding paragraphs. It should be noted that while in the other situations where a license may be issued to "have and carry" a pistol (see paragraphs [c] and [d]), "carry" is modified by "concealed," the holder of an antique pistol license apparently will not possess that option. This could make the transportation of such pistols to and from, e. g., shooting matches, a rather awkward procedure.

Practice Commentary

By Arnold D. Hechtman

Pre-1971

See Practice Commentary under Article 265.

1971

Before 1971, subdivisions 1 and 11 referred to "misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure." When said Code was replaced by the Criminal Procedure Law, effective September 1, 1971, the latter contained no counterpart of former § 552. Accordingly, these references were replaced by a listing of the offenses theretofore contained in § 552(4) in order to pre-

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There is a problem inherent in the definition of "antique pistol" as applied to a replica. One of the factors which may qualify a replica as an "antique", is that, although it uses rimfire or commercial centerfire fixed ammunition, such ammunition is neither manufactured in the United States nor is readily available in the ordinary channels of commercial trade. If either of these situations should be reversed in the future, would such a replica automatically cease to be an "antique pistol" and subject its owner to revocation of his license?

An element of confusion was introduced in 1974 when the Legislature passed and the Governor approved a bill excluding "antique firearms" (§ 265.00[14]) from the definition of "firearm" in § 265.00(3). For discussion of that provision and its relation to the instant licensing requirements, see Practice Commentary under § 265.00.

Subdivisions 5, 9, 11-b and 12 of this section were amended by L.1973, c. 172 to give the licensing officer of Suffolk County added administrative responsibilities for various phases of the firearms licensing procedure.

Subdivision 14 of this section was amended by L.1973, c. 546, to increase the fees in Nassau County for gunsmiths and firearms dealers, making the fees equivalent to those exacted for such licenses in New York City.

1974

Subdivisions 1 and 11 were amended by L.1974, c. 1041, as part of the recodification of § 265.05, substituting the term "serious offense" for the prior listing of offenses. See comments thereon, *supra*.

Subdivision 12-a, added by L.1974, c. 1042, authorizes the Superintendent of State Police, by the adoption of such regulations as he deems appropriate, to prevent the manufacture or assembly in this State of the "inexpensive, poorly made and unsafe handguns commonly known as 'Saturday Night Specials', . . ." (bill § 1). This provision was part of the Governor's 1974 legislative program aimed at discouraging criminal possession and use of handguns.

The provision is of limited applicability since the regulations would reach only "licensed gunsmiths" and deal only with manufacture and assembly within New York State of unsafe handguns, not with their sale or distribution. It should be noted that the Superintendent's regulatory authority does not extend to the manufacture and assembly of all handguns but only to those which the preamble describes as "inexpensive, poorly made and unsafe." As a definition it is not as precise as, ideally, it should be. But that probably

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only reflects the fact that the category is not readily amenable to precise delineation.

Though there does not appear to be a substantial problem of Saturday Night Specials being manufactured or assembled in New York State, there have been past instances of such activity. Legislation in recent years on the county level, e. g., in Suffolk County, geared to the same objective as the instant provision seems to have succeeded in driving out manufacturers of unsafe handguns from the particular counties.

The statute provides that a violation of the regulations will subject the licensee to revocation of his license "pursuant to subdivision eleven of this section." The presumed authority for such revocation would be the language in subdivision 11 that "A license may be revoked and cancelled at any time" by the licensing officer.

1976

Subdivision 10 was amended to change the duration of the validity of certain gun licenses from the second January 1st after issuance to not more than three years after issuance (L.1976, c. 584). This presumably would ease the administrative burdens of the licensing authorities by staggering expiration dates as well as lengthening the period between required renewals. The language adopted to describe the license period, "not more than three years" after the date of issuance, lacks clarity and precision and may create a confused patchwork of license periods of varying duration. May the license period be less than three years? If so, how much less? Who is authorized to prescribe the precise duration of the period? The lack of uniformity that may be engendered by this imprecise language does little to promote the effectiveness of gun license control that is essential to protection of the public.

1977

Subdivision 5 of this section was amended to permit a gun licensee who moves from the county of issuance of his license to another county to cause his records to be transferred to his new place of residence (L.1977, c. 480). The reason for this amendment, as stated by its sponsors, is that when a gun licensee moves from one county to another, he must record purchases of additional weapons, as well as deletions, in the original county of issuance. This apparently constitutes an inconvenient and sometimes costly procedure. The amended provision would permit the licensee to deal more conveniently with his new local licensing officer.

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The last sentence of the subdivision was also added, presumably to overcome objections that a transferred license might become subject to an advanced expiration date or shorter term under subdivision 10 of this section. This may cause some difficulties. Under subdivision 10, a license in New York City, Nassau or Suffolk County is for a maximum term of three years, after which it must be renewed. Elsewhere in the State, a license is good until revoked or cancelled. Apparently, if a person whose gun license was issued in Chemung County becomes a resident of Nassau County and has his records transferred to the latter, he is in a better position than those residents of Nassau whose licenses were issued there. The license issued in Chemung has no automatic expiration date, being in effect a lifetime license; the license issued in Nassau has a maximum term of three years. The added provision appears to make the Chemung-issued license immune to natural termination. While protecting the "rights" of the former Chemung resident, it places him in a preferred position vis-a-vis his Nassau neighbors. Then, too, the authorities in Nassau may feel that their efforts to protect the public by their closer regulation of guns within their county has been frustrated by this provision.

**Cross References**

Firearms and other dangerous weapons, see section 265.00 et seq.

**Law Review Commentaries**

A controlled look at gun controls. Firearms control. 42 St. John's L. 14 N.Y.L.F. 718 (1968).  
Rev. 353 (1968).

**Library References**

Weapons ⇐ 12. C.J.S. Weapons § 11.

**United States Code Annotated**

Firearms, see section 921 et seq. of Title 18, Crimes and Criminal Procedure.

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1. Constitutionality

This section establishing procedure whereby resident could obtain permit for having weapon but not providing any procedure for traveler passing through state did not violate privileges and immunities clause of Constitution. *People v. Perez*, 1971, 67 Misc.2d 911, 325 N.Y.S.2d 183.

Enactment of this section providing procedure whereby resident could obtain permit for possession of weapon, but nonresident could not, was valid exercise of state's police power. *Id.*

2. Local laws

Section of city special emergency ordinance prohibiting carrying or possessing of firearm during emergency was invalid as in conflict with Penal Law 1900 § 1903, governing licensing of firearms. *People v. Kearse*, 1968, 56 Misc.2d 586, 289 N.Y.S.2d 346, appeal dismissed 58 Misc.2d 277, 295 N.Y.S.2d 192.

The county of Suffolk is not authorized to enact a local law requiring the applicant for a pistol license to satisfactorily complete a weapon safety course prior to the issuance of such license nor does the licensing official who issues such license have the authority to institute a rule or regulation requiring the completion of such a safety course prior to its issuance. 1974, Op.Atty.Gen. (Inf.) 254.

3. Nature of right

Petitioner seeking a license to carry concealed a pistol could not rest his case upon U.S.C.A.Const. Amend. 2, which is a limitation upon power of Congress and the national government but not upon that of the state. *Moore v. Gallup*, 1943, 267 App.Div.



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(§§ 220.00 to end)

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sion or any official department, division, commission or agency of the state of New York.

Improper labeling of a "stereo" or "stereophonic" recording [of]\* sound is a class A misdemeanor.

**HISTORY:**

Add, L 1978, ch 445, eff Sept 1, 1978.

**NOTES:**

See 1978 note under Article 275.

**RESEARCH REFERENCES AND PRACTICE AIDS:**

21 NY Jur 2d, Consumer and Borrower Protection § 148.

**CRIMINAL JURY INSTRUCTIONS, NEW YORK:**

3 CJI (NY) PL 275.20 p 2256.

**§ 275.25. Limitations of application**

1. This article does not apply to:

(a) any broadcaster who, in connection with or as part of a radio, television or cable broadcast transmission, or for the purpose of archival preservation, transfers any such sounds recorded on a sound recording; or

(b) any person who transfers such sounds in the home, for personal use, and without compensation for such transfer.

2. This article shall neither enlarge nor diminish the rights of parties in civil litigation.

**HISTORY:**

Add, L 1978, ch 445, eff Sept 1, 1978.

**NOTES:**

See 1978 note under Article 275.

**PART FOUR**

**Administrative Provisions**

**HISTORY:**

Add, L 1965, ch 1030, eff Sept 1, 1967.

**TITLE W**

**Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling Records**

**HISTORY:**

Add, L 1965, ch 1030, eff Sept 1, 1967.

Title W, heading, amd, L 1969, ch 920, eff Sept 1, 1969.

**ARTICLE 400**

**Licensing and Other Provisions Relating to Firearms**

§ 400.00. Licenses to carry, possess, repair and dispose of firearms

§ 400.05. Destruction of weapons and dangerous instruments, appliances and substances

\* Bracketed language inserted by the Publisher.

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§ 400.10. Report of theft or loss of firearm, rifle or shotgun

**HISTORY:**

Add, L 1965, ch 1030, eff Sept 1, 1967.

**Auto-Cite®:** Any case citation herein can be checked for form, parallel references, later history, and annotation references through the Auto-Cite computer research system.

**COMMISSION STAFF NOTES:**

This Part, consisting of §§ 400.00-410.00, collates certain provisions of the former Penal Law which are not penal in character but are of an administrative and civil nature (see Table II for derivation). Interspersed with substantive provisions, they tended to dilute the substance and impair the continuity of the former Penal Law. For that reason, they are here collected, grouped and classified in this specially created "Part Four." The Commission intends to undertake a study of these administrative provisions, and, where necessary, to propose formulations that will adequately meet modern public needs.

Seizure and destruction of gambling implements, dealt with in Article 400 of the 1964 study bill, will be dealt with in the revised Code of Criminal Procedure. [see CPL §§ 690.05 et seq.]. Article 430 of the 1964 study bill, dealing with gambling contracts, has been transferred to the General Obligations Law [§§ 5-401 et seq.].

**CROSS REFERENCES:**

This article referred to in § 265.00.

Possess, definition of, § 10.00.

Vehicle, definition of, § 10.00.

Intentionally, definition of, § 15.05.

Burden of proving affirmative defenses, § 25.00.

Classification and designation of offenses, Art. 55.

**§ 400.00. Licenses to carry, possess, repair and dispose of firearms**

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) of good moral character; (b) who has not been convicted anywhere of a felony or a serious offense; (c) who has stated whether he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; and (d) 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.

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a pistol or revolver 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

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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 keeper; (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 1898, 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. Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his 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 is a citizen of the United States, whether or not he 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 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

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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.

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 records of the appropriate office 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 justice services in the executive department, 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. The failure or refusal of the federal bureau of investigation to make the fingerprint check provided for in this section shall not constitute the sole basis for refusal to issue a permit pursuant to the provisions of this section. 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, who is acting pursuant to his special duties, or a police 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.

4-a. Processing of license applications. Applications for licenses shall be accepted for processing by the licensing officer at the time of presentment. Except upon written notice to the applicant specifically stating the reasons for any delay, in each case the licensing officer shall act upon any application for a license pursuant to this section within six months of the date of presentment of such an application to the appropriate authority. Such delay may only be for good cause and with respect to the applicant. In acting upon an application, the licensing officer shall either deny the application for

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reasons specifically and concisely stated in writing or grant the application and issue the license applied for.

5. Filing of approved applications. The application for any license, if granted, shall be a public record. Such application shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. Upon application by a licensee who has changed his place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within ten days after issuance of the license. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law.

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, 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. A license as gunsmith or dealer in firearms shall not be valid outside the city or county, as the case may be, where issued.

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 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 license 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

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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 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. Upon demand, the license shall be exhibited for inspection to any peace officer, who is acting pursuant to his special duties, or police officer. A license as gunsmith or dealer in firearms shall be prominently displayed on the licensed premises. Failure of any licensee to so exhibit or display his license, as the case may be, shall be presumptive evidence that he 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 may apply at any time to his licensing officer for amendment of his 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. 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 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, give notice in writing of such change to the executive department, division of state police, at Albany.

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 and not limited to expire on an earlier date fixed in the license, shall expire not more than three years 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 license not previously cancelled or revoked shall remain in full force and effect for thirty days beyond the stated expiration date on such license. 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,

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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 serious offense 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 in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any 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.

12. Records required of gunsmiths and dealers in firearms. Any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as a peace officer or other exempt person pursuant to section 265.20. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department or unit, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any peace officer, and a duplicate copy shall be kept by the licensee. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

12-a. State police regulations applicable to licensed gunsmiths engaged in the business of assembling or manufacturing firearms. The superintendent of state police is hereby authorized to issue such rules and regulations as he deems reasonably necessary to prevent the manufacture and assembly of unsafe firearms in the state. Such rules and regulations shall establish safety standards in regard to the manufacture and assembly of firearms in the state, including specifications as to materials and parts used, the proper

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storage and shipment of firearms, and minimum standards of quality control. Regulations issued by the state police pursuant to this subdivision shall apply to any person licensed as a gunsmith under this section engaged in the business of manufacturing or assembling firearms, and any violation thereof shall subject the licensee to revocation of license pursuant to subdivision eleven of this section.

12-b. [None]

12-c. Firearms records. (a) Every employee of a state or local agency, unit of local government, state or local commission, or public or private organization who possesses a firearm or machine-gun under an exemption to the licensing requirements under this chapter, shall promptly report in writing to his employer the make, model, calibre and serial number of each such firearm or machine-gun. Thereafter, within ten days of the acquisition or disposition of any such weapon, he shall furnish such information to his employer, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.

(b) Every head of a state or local agency, unit of local government, state or local commission, public authority or public or private organization to whom an employee has submitted a report pursuant to paragraph (a) of this subdivision shall promptly forward such report to the superintendent of state police.

(c) Every head of a state or local agency, unit of local government, state or local commission, public authority, or any other agency, firm or corporation that employs persons who may lawfully possess firearms or machine-guns without the requirement of a license therefor, or that employs persons licensed to possess firearms or machine-guns, shall promptly report to the superintendent of state police, in the manner prescribed by him, the make, model, calibre and serial number of every firearm or machine-gun possessed by it on the effective date of this act for the use of such employees or for any other use. Thereafter, within ten days of the acquisition or disposition of any such weapon, such head shall report such information to the superintendent of the state police, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.

13. Expenses. The expense of providing a licensing officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, and in the city of New York against the city.

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 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, 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.

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The fee for a duplicate license shall be five dollars. The fee for processing a license transfer between counties shall be five dollars.

15. Any violation by any person of any provision of this section is a class A misdemeanor.

16. Unlawful disposal. No person shall except as otherwise authorized pursuant to law dispose of any firearm unless he is licensed as gunsmith or dealer in firearms.

17. Applicability of section. The provisions of article two hundred sixty-five relating to illegal possession of a firearm, shall not apply to an offense which also constitutes a violation of this section by a person holding an otherwise valid license under the provisions of this section and such offense shall only be punishable as a class A misdemeanor pursuant to this section. In addition, the provisions of such article two hundred sixty-five shall not apply to the possession of a firearm in a place not authorized by law, by a person who holds an otherwise valid license or possession of a firearm by a person within a one year period after the stated expiration date of an otherwise valid license which has not been previously cancelled or revoked shall only be punishable as a class A misdemeanor pursuant to this section.

**HISTORY:**

Add, L 1965, ch 1030, eff Sept 1, 1967. Substance derived from § 1903.

Sub 1, amd, L 1971, ch 1097, § 82, L 1974, ch 1041, § 10, eff Sept 1, 1974.

Sub 2, amd, L 1973, ch 593, eff Aug 10, 1973, L 1981, ch 175, § 5, eff July 2, 1981 and shall be applicable to offenses committed on or after such date.

Sub 4, amd, L 1971, ch 796, eff June 25, 1971, L 1980, ch 843, § 47, eff Sept 1, 1980.

Sub 4-a, add, L 1980, ch 233, § 15, eff Aug 12, 1980.

Sub 5, amd, L 1973, ch 172, eff April 10, 1973, L 1977, ch 480, eff Aug 1, 1977.

Sub 6, amd, L 1967, ch 791, § 49, eff Sept 1, 1967, L 1982, ch 71, § 1, eff Sept 1, 1982.

Sub 8, amd, L 1980, ch 843, § 48, eff Sept 1, 1980.

Sub 9, amd, L 1967, ch 791, § 49, L 1973, ch 172, eff April 10, 1973.

Sub 10, amd, L 1976, ch 584, eff July 21, 1976, L 1980, ch 233, § 16, eff Aug 12, 1980.

Sub 11, amd, L 1971, ch 1097, § 83, L 1974, ch 1041, § 11, eff Sept 1, 1974.

Sub 11, former par (a), add, L 1971, ch 1097, § 83; deleted, L 1974, ch 1041, § 11, eff Sept 1, 1974.

Sub 11, former par (b), add, L 1971, ch 1097, § 83; amd, L 1973, ch 172, eff Apr 10, 1973; deleted in part, L 1974, ch 1041, § 11, eff Sept 1, 1974.

Sub 12, amd, L 1973, ch 172, eff April 10, 1973, L 1980, ch 843, § 49, eff Sept 1, 1980.

Sub 12-a, add, L 1974, ch 1042, eff Sept 1, 1974.

Sub 12-c, add, L 1980, ch 843, § 50, eff Sept 1, 1980.

Sub 14, amd, L 1973, ch 546, eff June 5, 1973, L 1984, ch 739, § 1, eff Nov 1, 1984.

Subs 16 and 17, add, L 1980, ch 233, § 17, eff Aug 12, 1980.

**NOTES:**

See 1971 note under § 5.10.

Laws 1974, ch 1042, § 1, provides as follows:

Section 1. Legislative findings and intent. The legislature is deeply concerned over the ever increasing presence in this state of inexpensive, poorly made and unsafe handguns commonly known as "Saturday night specials", and the growing use of such weapons in the commission of violent crimes. The legislature recognizes that such weapons are produced without normal safety features and with inferior materials and poor workmanship for the primary purpose of turning out as

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inexpensive a handgun as possible. These inaccurate and unsafe weapons pose a danger to both the user and the public at large. Because they are of such inferior quality and intrinsically unsafe, such weapons are of no interest to persons who have a lawful right to possess a handgun for a legitimate purpose, and generally find their way into the illicit gun market where they are purchased by those intent upon the commission of serious crimes, including murder, assault and robbery.

In order to reduce the availability of poorly made and unsafe handguns, and to reduce the number of violent crimes committed through their use, it is the intent of the legislature to prevent the manufacture or assembly of such weapons in this state.

**CROSS REFERENCES:**

This section referred to in §§ 265.10, 265.20, 265.30; CLS CPL § 2.10; CLS Labor § 458.

**CODES, RULES AND REGULATIONS:**

Firearms, rifles and shotguns at state universities. 8 NYCRR §§ 590.1 et seq.  
Firearms at mental hygiene institutions. 14 NYCRR §§ 45.1 et seq.

**FEDERAL ASPECTS:**

Regulation of firearms, 18 USCS §§ 921 et seq.  
Licensing of firearms, 18 USCS §§ 923 et seq.  
Effect of federal firearm regulation on state law, 18 USCS § 927.

**RESEARCH REFERENCES AND PRACTICE AIDS:**

63A NY Jur (Rev ed), Weapons and Firearms §§ 4, 7-9, 30-34, 62, 64, 73, 74, 76-82, 84.  
20 Am Jur Legal Forms 2d, Weapons and Firearms, Forms 262:3-262:6.

**Annotations:**

Who is entitled to permit to carry concealed weapons, 51 ALR3d 504.  
Application of statute or regulation dealing with registration or carrying of weapons to transient nonresident. 68 ALR3d 1253.  
Burden of proof as to lack of license in criminal prosecution for carrying or possession of weapon without license. 69 ALR3d 1054.  
Meaning of "engage in business" under 18 USCS § 923(a), providing that no person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer without a federal license. 53 ALR Fed 932.  
When has applicant for license under Gun Control Act of 1968 "willfully" violated statute or regulations within meaning of 18 USCS § 923(d)(1)(C). 59 ALR Fed 254.

**Law Reviews:**

Right to keep and bear arms: a necessary constitutional guarantee or an outmoded provision of the Bill of Rights? 31 Albany L Rev 74.  
Controlled look at gun controls. 14 New York L Forum 718.  
Gun control legislation: valid and necessary. 14 New York L Forum 694.  
Firearms control. 42 St. John's L Rev 353.

**CASE NOTES**

- |  |  |
|--|--|
| 1. In general                          | 9. Denial  |
| 2. Persons required to obtain licenses | 10. Revocation   |
| 3. Conflicting local law               | 11.-18. [Reserved for future use. Please consult your supplement.] |
| 4. Application processing              | 19. Under former § 1903  |
| 5. Criteria for issuance               |  |
| 6. Discretion of licensing officer     |  |
| 7. Removal of statutory bar            | 1. In general  |
| 8. Restrictions                        | Under CPL § 140.50, New York's "stop and frisk"                    |

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Volume 2  
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207th SESSION — 1984  
Laws of the Regular and  
Extraordinary Sessions  
Chapters 678 to 1018

ST. PAUL, MINN.  
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GUNSMITHS AND DEALERS IN FIREARMS—FEES

CHAPTER 739

Approved Aug. 3, 1984, effective Nov. 1, 1984

AN ACT to amend the penal law, in relation to firearms

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

Section 1. Subdivision fourteen of section 400.00 of the penal law, as amended by chapter five hundred forty-six of the laws of nineteen hundred seventy-three, is amended to read as follows:

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 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, not less than three dollars nor more than [five] ten dollars as may be determined by the [board of supervisors] legislative body of the county; for each amendment thereto, [one dollar] three dollars, and [two] five 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] five dollars. The fee for processing a license transfer between counties shall be five dollars.

§ 2. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law.

PEACE OFFICERS—FIRE INVESTIGATION  
DIVISION IN CITY OF UTICA

CHAPTER 740

Approved and effective Aug. 3, 1984

AN ACT to amend the criminal procedure law, in relation to the status, powers and duties of peace officers in the city of Utica

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

Section 1. Subdivision fifty-one of section 2.10 of the criminal procedure law, as added by chapter nine hundred sixty-nine of the laws of nineteen hundred eighty-three, is amended to read as follows:

51. Officers and members of the fire investigation division of the fire department of the city of Rochester, and the city of Utica, when

deletions by [brackets]

# NEW YORK LEGISLATIVE RECORD AND INDEX 1984

## A COMPLETE AND CUMULATIVE RECORD OF THE 207th ANNUAL LEGISLATIVE SESSION

- Comprehensive Summaries of all Bills Introduced with History of Action Thereon
- Individual Record of Senators and Assemblymen • Subject Index of Bills
- Resolutions • Subject Index of Laws • Other Information Covering the Annual Legislative Session

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*State Capitol*

**From January 4 to October 19, 1984\***

*\* While the Legislature had not adjourned sine die as of October 19, this was the deadline date for delivery of the material herein for printing and binding in order that this publication would be available for use at the time of the convening of the 1985 legislative session in January. Detail of legislative activity, if any, transpiring between October 19 and the date of final adjournment will be included in a supplement to be affixed to the inside back cover of this volume.*

(ISSUED EACH WEEK DURING SESSION—COMPLETE TO DATE)

(See back of book for Contents)

supervision pursuant to uniform act for out-of-state parole supervision or where violator under parole supervision pursuant to uniform act for out-of-state parole supervision is detained in st. other than receiving st., warrant will not be deemed to be executed until violator is detained exclusively on basis of such warrant and paroled provis. has received notification that violator has formally waived extradition to NY or has been ordered extradited to NY pursuant to judicial determination, with violator not to be considered to be within convenience and practical control of paroled division until warrant is deemed to be executed; requires that violator be afforded final hearing within 90 days from his return date to NY. Crime Com

Same as A 10031

May 3 1st Rept May 7 2nd Rept May 8 3rd rdg May 29 Passed. Assy Codes Com Jun 29 Recalled by Sen Vote recons Restored to 3rd rdg Amd A 10031-A sub.

8665-A

**8666 MASIELLO, VOLKER**—Directs educ. comr. to apportion basic formula aid to Buffalo city sch. dist. for 1981-1982 and 1982-1983 sch. yrs. as though all of days of reported pupil attendance were in conformance with reguins. of comr. Educ Com

Same as A 11308

May 22 Amd & recom Jun 5 Rept Com to Fin Com Jun 20 Rept Com to Rules Com Rept 3rd rdg Jun 21 A 11308 sub.

8666-A

**8667 PADAVAN, PISANI, CALANDRA, STAFFORD, GOODHUE, FLYNN, FARLEY, BRUNO**—Appr. \$4,300,000 to div. of substance abuse servs. to expand and accelerate drug abuse treatment prgms., with \$3,600,000 to alleviate existing waiting lists throughout st. and \$700,000 to expand existing treatment servs., or to develop new ones where they presently do not exist, outside NYC. Fin Com

Same as A 10465

Apr 3 Amd & recom

8667-A

**8668 RIFORD**—Amd §341, Hway L, to change reference from st. hway. 861 to st. hway. 8161 in provis. designating st. hways. in Chenango co. Transp Com

Same, as A 8961

Apr 9 1st Rept Apr 10 A 8961 sub.

**8669 ROLISON**—Amd Bank L, generally, to add and change various provis. for purpose of simplifying operation of banking orgns., including provis. increasing from 13 to 17, number of members of st. banking bd. with one of such new members to represent credit union designated as group 7, and another, foreign banking corps., licensed to maintain branch or agency herein and designated as group 8; makes provis. in regard to publication of notice of applications of changes of location, pymt. of interest in connection with fiduciary accts., branching requirements, expansion of fiduciary powers, negotiability and maturity of cert. time deposits, aggregate limitation on cert. commercial loans, participation in small bus. admin. guaranteed loans, composition of bds. of trustees, communities in which credit unions may be established, powers of investment cos., min. capital stock necessary to organize banks and trust cos., licensed lenders and powers and duties of banks to purchase, lease and exchange real prop., including contracting for constr. and management thereof as owner or co-owner and describes alternative investment auths. of savings banks to invest

in cert. securities. Banks Com

Same as A 10427

May 15 1st Rept amd May 16 2nd Rept May 21 3rd rdg May 23 Motions to amend lost. Passed. Assy Banks Com Jun 20 Com disch Sub for A 10427-A on 3rd rdg Jun 25 Passed. Jun 28 To Gov. Jul 10 Law. Chap 360 (Memo 34).

8669-A

**8670 STAFFORD**—Amd §390.50, Crim Proc L, to require that probation dept. make available, copy of its pre-sentence rept. and any medical, psychiatric or social agency rept. submitted to it in connection with its pre-sentence investigation or its supervision of defendant, to any priv. agency within st. under whose care defendant has been ordered by ct. to undergo treatment or be committed upon official request of such ct. Codes Com

Same as A 11354

**8671 STAFFORD**—Amd §§60.27, 65.10, Penal L, §420.10, Crim Proc L, to require that if indiv. to whom restitution or reparation is to be made dies before completion thereof, remaining pymts. shall be made to estate of deceased. Codes Com

Same as A 11345

May 15 1st Rept May 16 2nd Rept May 21 3rd rdg May 29 Passed. Assy Codes Com Jun 19 Com disch Sub for A 11345 on 3rd rdg Passed. Jun 21 To Gov. Jul 3 Law, Chap 335.

**8672 STEINFELDT**—Add §364-g, Soc Servs L, to authorize dept. to participate in "Monroe Co. Medicaid Plan" research and demo. project for testing feasibility of converting from fee for servs. pymt. syst. to capitation pymt. syst. as means of financing health care servs. for medicaid recipients residing in Monroe co., with dept. to undertake such project only if it has determined that there is reasonable expectation that tot. cost of benefits thereunder would be less than if project was not in effect, with expenditures made in connection herewith subject to st. reimbursement in accordance with sched. approved by soc. servs. and health depts. and budget dir., with dept. and Monroe co. to jointly submit long term capitation implementation plan to gov. and legis. by Mar. 31, 1985; makes related provis. Soc Servs Com

Same as A 10823

May 10 Rept Com to Fin Com May 22 1st Rept May 23 2nd Rept May 29 3rd rdg Jun 21 Amd Jun 26 Passed. Assy Soc Servs Com Jun 30 Com disch Sub for A 10823-A on 3rd rdg Passed. Jul 13 To Gov. Jul 23 Recalled from Gov. Returned to Gov. Aug 3 Recalled from Gov. Returned to Gov. Law, Chap 738.

8672-A

**8673 BARCLAY**—Amd §400.00, Penal L, to increase firearm fees outside NYC whereby fee for license to carry or possess pistol or revolver shall be not less than \$3 nor more than \$10, instead of not more than \$5, as may be determined by co. legis. body, instead of co. bd. of supvs., and \$3, instead of \$1, for ea. amendment thereto, and \$5, instead of \$2 in Suffolk co., and \$10, instead of \$4 for ea. license issued to gunsmith or dealer in firearms, with fee for duplicate license to be \$5, instead of \$2 and with fee for processing license transfer

between cos. to be \$5. Codes Com  
Same as A 10441

May 22 1st Rept May 23 2nd Rept May 29 3rd  
rdg Jun 4 Passed. Assy Codes Com Jun 27 Com  
disch Sub for A 10441 on 3rd rdg Passed. Jul 13  
To Gov. Jul 23 Recalled from Gov. Returned to  
Gov. Aug 3 Recalled from Gov. Returned to Gov.  
Law, Chap 739.

**8674 MARCHI**—Amd Chap. 759 of 1973, to ex-  
tend for additional yr., until May 1, 1986, date on  
or before which lands shall be transferred to US for  
establishment of Gateway National Recreational Area.  
Fin Com

Same as A 10442

Apr 4 1st Rept Apr 9 2nd Rept Apr 10 3rd rdg  
May 1 A 10442 sub.

**8675 MARINO, TRUNZO, BRUNO, DONO-  
VAN, FARLEY, FLYNN, GOODHUE, JOHNSON,  
KNORR, LACK, LAVALLE, LEVY, PISANI, ROLI-  
LISON, SMITH, TULLY, VOLKER, GOOD-  
MAN**—Amd §§626, 630, Exec L, to provide that  
cost of counseling family of homicide victim in-  
cluded within definition of out-of-pocket loss for  
purposes of crime victims comp., shall be relative  
to such servs. from loc. victim serv. programs, where  
possible, also includes within such definition, cost  
of residing at or utilizing servs. provided by shelters  
for battered spouses and children; provides that re-  
quest for reimbursement of cost of repair or re-  
placement of essential pers. prop. lost, damaged or  
destroyed as direct result of crime shall be considered  
claim for emerg. award. Govt Ops Com

Same as A 10439

Apr 9 1st Rept Apr 10 2nd Rept May 1 3rd rdg  
May 2 Passed. Assy W & M Com Jun 28 Com  
disch Sub for A 10439 on 3rd rdg Passed. Jul 13  
To Gov. Jul 23 Recalled from Gov. Returned to  
Gov. Aug 3 Recalled from Gov. Returned to Gov.  
Aug 6 Vetoed (Memo 95).

**8676 PISANI**—Amd §8-100, Elect L, to provide  
that polls shall be open for primary election for  
minor party candidates during hours of 12 Noon  
until 9 p.m. Elects Com

Same as A 10464

**8677 SCHERMERHORN**—Amd §265.20, Penal  
L, to strike out and enact new provis. relative to  
possession of cert. rifles or shotguns by pers. under  
16 and not under 12 under immediate supervision,  
guidance and instruction of cert. persons at indoor  
or outdoor shooting range being exempted from  
crimes related to firearms. Codes Com

Same as A 10440

May 15 1st Rept May 16 2nd Rept May 21 3rd  
rdg May 29 Passed. Assy Codes Com Jun 19 Com  
disch Sub for A 10440 on 3rd rdg Jun 26 Passed.  
Jul 6 To Gov. Jul 13 Recalled from Gov. Returned  
to Gov. Jul 23 Recalled from Gov. Returned to  
Gov. Aug 3 Recalled from Gov. Returned to Gov.  
Aug 5 Vetoed (Memo 62).

**8678 VOLKER**—Amd §75-h, Retire & SS L, to  
prov. that benefits under 25 yr. career retir. plan  
hereunder shall be payable to all members of uni-  
formed personnel in correct. dept., instead of only  
such members who are not in negotiating unit des-  
ignated as security services unit and established pur-  
suant to Art. 14, Civ Serv L. Civ Serv Com

Same as A 10448

**8679 FLYNN, TULLY, LAVALLE, ANDER-  
SON, TRUNZO, AUER, BARCLAY, BRUNO,**

**CALANDRA, COOK, DALY, DONOVAN,  
DUNNE, FARLEY, FLOSS, GOODHUE, GOOD-  
MAN, JOHNSON, KEHOE, KNORR, LACK,  
LEVY, LOMBARDI, MARCHI, MARINO, PA-  
DAVAN, PISANI, PRESENT, RIFORD, ROLISON,  
SCHERMERHORN, SMITH, STAFFORD, STEIN-  
FELDT, VOLKER**—Amd §604, add §669-a, Educ  
L, to provide for tuition awards for Vietnam vet-  
erans, as defined herein, enrolled in approved un-  
dergraduate prgms. at degree granting instns., up to  
\$500 for ea. semester for full-time study and \$250  
for part-time study subject to \$5000 aggregate max-  
imum. Vets Affs Com

Same as A 10483

Mar 29 Com disch Com to Rules Com Mar 30  
Rept 3rd rdg Passed. Mar 31 Assy W & M Com  
Apr 2 Recalled by Sen Vote recons Restored to 3rd  
rdg A 10483 sub. Sub recons restored to 3rd rdg  
Repassed. Assy Ref to W & M Com Apr 10 Re-  
called by Sen Vote recons Restored to 3rd rdg A  
10483 sub.

## TUESDAY, MARCH 27

Numbers 8680 thru 8845

**8680 LEVY**—Amd §402, Transp L, to provide  
that Republic airport shall serve gen. aviation/com-  
muter requirements of western Suffolk, Nassau,  
Queens and Kings cos. and that reg. major com-  
mercial jet services, as defined herein, are incon-  
sistent with such aviation/commuter type functions  
and that reg. and/or scheduled service of such air-  
craft shall not be permitted at Republic airport.  
Transp Com

May 7 Amd & recom

8680-A

**8681 DALY**—Amd Chaps. 274 of 1946, 21 of  
1962, 576 of 1974, 403 of 1983, §§Y51-7.0, -8.0,  
-9.0, YY51-6.0.5, -6.0.6, NYC Ad Code, to make  
cert. technical corrections in laws relating to emerg.  
housing rent control, NYC emerg. housing rent con-  
trol, and emerg. tenant protect. act of 1974, and  
under NYC rent and rehabilitation and rent stabili-  
zation laws, including, in appropriate cases, provis.  
relating to st. div. of housing providing for admin-  
istrative review of its orders and determinations,  
auth. of comn. and rent agencies to grant extensions  
following filing of protest and filing of registration  
statements. Housing Com

Same as A 10772

Mar 28 1st Rept Mar 29 2nd Rept Mar 30 3rd  
rdg Apr 3 A 10772 sub.

**8682 FLOSS, TRUNZO, DALY, FLYNN, JOHN-  
SON, KEHOE, LEVY, MARCHI, PISANI, ROLI-  
LISON, VOLKER, LACK**—Amd §893, Exec L, to  
extend from Dec. 31, 1984 to Dec. 31, 1986, date  
on which auth. of ofc. of business permits to provide  
servs. hereunder shall terminate. Fin Com

Same as A 11616

Jun 5 Rept Com to Rules Com Jun 11 Rept 3rd  
rdg Jun 12 Passed. Assy Govtl Ops Com

**8683 GOLD**—Amd §§30, 36, 38, 43, rep §§34, 35,  
Alch Bev L, to abolish NYC alcoholic beverage  
contr. bd., and to provide that st. liquor auth. shall  
assume jurisdiction and powers previously conferred  
upon such bd. for cos. comprising NYC. Investigs  
Com

Same as A 9291

May 24 1st Rept May 29 2nd Rept May 30 3rd  
rdg Jun 4 Com to Fin Com

and powers of such corp. relating to athlete submitting info. and appearance of athlete in support of related activities. Corps Com  
Same as A 10244

**10439 GOTTFRIED, KREMER, ZIMMER, MAYERSOHN, SCHIMMINGER;** M-S: Bennett, Bianchi, Boyland, Brodsky, Catapano, Connelly, Conners, Connor, Daniels, Diaz, Duane, Dugan, Engel, Eve, Farrell, Feldman, Ferris, Freda, Gantt, Grannis, Green, Griffith, Halpin, Harenberg, Harrison, Hevesi, Hiking, Hoyt, Jacobs, Koppell, Lafayette, Lasher, Leibell, Lipschutz, Marchiselli, Marshall, McCabe, McPhillips, Murtaugh, Nadler, Nagle, Newburger, Passannante, Patton, Paxon, Pordum, Proud, Robach, Ruggiero, W. Ryan, Sanders, Schmidt, Seminerio, Serrano, Siegel, Silver, Slaughter, E. Sullivan, Tonko, Vann, Vitaliano, Weinstein, Yevoli, Young, Becker, Weprin, Orazio—Amd §§626, 630, Exec L. to provide that cost of counseling of family of homicide victim included within definition of out-of-pocket loss for purposes of crime victims comp., shall be relative to such servs. from loc. victim serv. programs, where possible; also includes within such definition, cost of residing at or utilizing servs. provided by shelters for battered spouses and children; provides that request for reimbursement of cost of repair or replacement of essential pers. prop. lost, damaged or destroyed as direct result of crime shall be considered claim for emerg. award. Govtl Ops Com  
Same as S 8675

Apr 11 Rept Ref to W & M Com Jun 27 Rept Ref to Rules Com Jun 28 Rept 3rd rdg S 8675 sub.

**10440 HINCHEY**—Amd §265.20, Penal L. to strike out and enact new provis. relative to possession of cert. rifles or shotguns by pers. under 16 and not under 12 under immediate supervision, guidance and instruction of cert. persons at indoor or outdoor shooting range being exempted from crimes related to firearms. Codes Com  
Same as S 8677

Jun 13 Rept Ref to Rules Com Jun 19 Rept 3rd rdg S 8677 sub.

**10441 McCABE**—Amd §400.00, Penal L. to increase firearm fees outside NYC whereby fee for license to carry or possess pistol or revolver shall be not less than \$3 nor more than \$10, instead of not more than \$5, as may be determined by co. legis. body, instead of co. bd. of supvs., and \$3, instead of \$1, for ea. amendment thereto, and \$5, instead of \$2 in Suffolk co., and \$10, instead of \$4 for ea. license issued to gunsmith or dealer in firearms, with fee for duplicate license to be \$5, instead of \$2 and with fee for processing license transfer between cos. to be \$5. Codes Com  
Same as S 8673

Jun 19 Rept Ref to W & M Com Jun 26 Rept Ref to Rules Com Jun 27 Rept 3rd rdg S 8673 sub.

**10442 STRANIERE, CONNELLY, VITALIANO**—Amd Chap. 759 of 1973, to extend for additional yr., until May 1, 1986, date on or before which lands shall be transferred to US for establishment of Gateway National Recreational Area. Govtl Ops Com  
Same as S 8674

Apr 4 Rept Ref to W & M Com Apr 11 Rept Ref to Rules Com Rept 3rd rdg Passed. Sen Fin Com May 1 Com disch Sub for S 8674 on 3rd rdg Passed. May 3 To Gov. May 15 Law, Chap 116.

**10443 BRAGMAN**—Amd §100, Work Comp L. to provide that rates for volunteer firemen's benefit insur. shall be those promulgated by NY compensation insur. rating bd. without deviation, with all such contracts previously written by st. insur. fund and other carriers to be renewed at their expiration at premium rates set by NY compensation insur. rating bd. without deviation. Labor Com

**10444 BUSH, TEDISCO, O'NEIL, McCANN, WARREN;** M-S: Barnett, Barraga, Becker, Behan, Burrows, Casale, Chesbro, Cochrane, Cooke, Coombe, D'Amato, D'Andrea, Hannon, Harris, Hawley, Healey, Hoblock, Kelleher, Kuhl, Lane, Larkin, Leibell, Levy, MacNeil, Madison, H. Miller, Nagle, Nortz, Nozzolio, Parola, Paxon, Perone, Rappleyea, Rettaliata, A. Ryan, Saland, Sawicki, Sears, Sheffer, Spano, Straniere, Talomie, Wertz, Wesley, Winner. Flanagan—Amd §616, Tax L. to provide that for taxable yrs. beginning in 1984 and 1985, NY pers. income tax exemption shall be \$850, for yrs. beginning in 1986, \$900, for yrs. beginning in 1987, \$950, and for yrs. beginning in 1988 and thereafter, \$1000. W & M Com  
Same as S 8525

**10445 BUTLER**—Add §2800-a, Pub Health L. to require that st. health planning and development agency conduct study and rept. to gov. and legislature on or before June 1, 1985, relative to determining feasibility of developing standard application form for use in health and social servs. programs; appro. \$30,000. Health Com

**10446 COOKE, TEDISCO, BUSH, WARREN, RETTALIATA;** M-S: Barnett, Barraga, Becker, Behan, Burrows, Casale, Cochrane, Coombe, D'Amato, D'Andrea, Hannon, Harris, Hawley, Healey, Hoblock, Kelleher, Kuhl, Lane, Larkin, Leibell, Levy, MacNeil, Madison, McCann, H. Miller, Nagle, Nortz, Nozzolio, O'Neil, Parola, Paxon, Perone, Rappleyea, A. Ryan, Saland, Sears, Sheffer, Spano, Straniere, Talomie, Wertz, Wesley, Winner, Flanagan—Amd §§210, 601-C, -D, 612, 622, 641, add §§187-a, 620-B, 1456-a, 1511-a, Tax L. to allow taxpayer credit against pers. income tax or franchise tax, as case may be, of 10% of expenditures paid during taxable yr. in making available, pursuant to written contract with 3rd party provider, day care servs. to children and wards of employees; makes related changes. W & M Com

**10447 HEALEY, BECKER, SAWICKI, BARRAGA, RETTALIATA;** M-S: Behan, Burrows, Casale, Cochrane, Cooke, D'Amato, D'Andrea, Hannon, Harris, Hawley, Hoblock, Kelleher, Kuhl, Lane, Larkin, Leibell, Levy, Madison, McCann, H. Miller, Nagle, Nortz, Nozzolio, Parola, Paxon, Perone, Rappleyea, A. Ryan, Sears, Sheffer, Spano, Straniere, Talomie, Tedisco, Warren, Wertz, Wesley, Winner, Flanagan—Amd §606, Tax L. to provide that on and after Jan. 1, 1985, max. real prop. tax circuit breaker credit shall not exceed \$350, instead of \$250, where household gross income is \$7,200 or less and \$140, instead of \$100 where household gross income exceeds \$7,200, and with respect to all other taxpayers who are not sr. citizens shall not exceed \$60, instead of \$45. W & M Com  
Same as S 8529

**10448 HAWLEY;** M-S: Paxon, A. Ryan, Winner—Amd §75-h, Retire & SS L. to prov. that benefits under 25 yr. career retire. plan hereunder shall be payable to all members of uniformed personnel in correct. dept. instead of only such members who

# SUMMARY OF LEGISLATION

NEW YORK STATE SENATE  
RESEARCH SERVICE  
ALBANY, NEW YORK

1984



about the firearms and the manufacturer. Prohibits the manufacturer from transporting such firearms between its designated places of business for such reasonable period of time designated in writing by the police commissioner as deemed necessary for investigation and to give consent. Prohibits the commissioner from unreasonably withholding consent. Effective November 1, 1984. (Amends: Penal Law)

Transport of Pistols or Revolvers

A. 8839-B  
Chapter 262

Expands the list of exemptions from Penal Law provisions pertaining to unlawful possession of weapons and noxious materials to include the regular and ordinary transport of pistols or revolvers by a manufacturer of firearms to whom a license as a dealer in firearms has been issued or by an agent or employee of such manufacturer of firearms who is otherwise duly licensed to carry a pistol or revolver and who is duly authorized in writing by such manufacturer of firearms to transport pistols or revolvers on the date or dates specified. Stipulates that such transport be directly between places where the manufacturer of firearms regularly conducts business provided such pistols or revolvers are transported unloaded, in a locked opaque container. Defines places where the manufacturer regularly conducts business to include, but not be limited to, places where the manufacturer regularly or customarily conducts development or design of pistols or revolvers, or regularly or customarily tests or participates in the public exposition of pistols or revolvers. Effective November 1, 1984. (Amends: Penal Law)

Increased Fees for Certain Firearms Licenses

S. 8673  
Chapter 739

Increases the fees for firearms licenses issued outside New York City and Nassau County as follows:

- from \$5 to \$10 for the maximum permissible fee for a license to carry or possess a pistol or revolver;
- from \$1 to \$3 for each amendment thereto and from \$2 to \$5 in Suffolk County; and
- from \$4 to \$10 for a license issued to a gunsmith or dealer in firearms.

Establishes a \$5 fee for processing a license transfer between counties. Effective November 1, 1984. (Amends: Penal Law)

Vetoed Legislation

Lawful Possession of Weapons by Persons under 16

S. 8677  
Veto 62

Would have repealed the existing provision governing the possession of weapons by persons under 16 years of age and enacted a new provision. Permitted possession, at an indoor or outdoor shooting range for the purpose of loading and firing a rifle or shotgun, the propelling force of which may be either gunpowder, air or springs, by a person under 16 years of age but not under 12, under the immediate supervision, guidance and instruction of:

# Exhibit H (2)

CHAPTER 737

LAWS OF 19 84

SENATE BILL 8673

ASSEMBLY BILL \_\_\_\_\_

A 10001

# SENATE—ASSEMBLY

NO. 10001

IN SENATE -- Introduced by Sen. PASLEY -- read twice and ordered  
and when printed to be committed to the Committee on Codes

IN ASSEMBLY -- Introduced by Mr. ... read once and referred  
to the Committee on Codes

AN ACT to amend the penal law, in relation to ...

Bill compared by \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE RECEIVED BY GOVERNOR:  
7/27/84

ACTION MUST BE TAKEN BY:  
7/27/84

GOVERNOR'S ACTION:

2

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SENATE VOTE 54 Y 2 N

Date 6/4/84

ASSEMBLY VOTE 82 Y 64 N

Date 6/27/84

HOME RULE MESSAGE     Y     N

Bill is disapproved

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Counsel to Governor

1984

SENATE JOURNAL

50

SENATE

The Senate Bill  
by Mr. BARCLAY  
Entitled

Calendar No. 1115

Senate No. 8673  
Assem. Rept. No.

3673 BARCLAY  
An act to amend the penal law, in relation to  
firearms

was read the third time

The President put the question whether the Senate would agree to the final passage of said bill the same having been printed and upon the desks of the members in its final form at least three calendar legislative days, and it was decided in the affirmative, a majority of all the Senators elected voting in favor thereof and three-fifths being present, as follows:

AYE	Dist.		NAY	AYE	Dist.		NAY
	51	Mr. Anderson			8	Mr. Levy	
	48	Mr. Auer			49	Mr. Lombardi	
	17	Mr. Babbush			24	Mr. Marchi	
	46	Mr. Barclay			5	Mr. Marino	
	20	Mr. Bartosiewicz			21	Mr. Markowitz	
	9	Mrs. Berman			58	Mr. Masiello	
	33	Mr. Bernstein			30	Mrs. Mendez	EXCUSED
	29	Mr. Bogues	EXCUSED		23	Mr. Montalto	
	43	Mr. Bruno			42	Mr. Nolan	
	34	Mr. Calandra			27	Mr. Ohrenstein	
	25	Mr. Connor			14	Mr. Onorato	
	40	Mr. Cook			11	Mr. Padavan	
	61	Mr. Daly			54	Mr. Perry	
	47	Mr. Donovan			36	Mr. Pisani	EXCUSED
	6	Mr. Dunne			56	Mr. Present	
	44	Mr. Farley			50	Mr. Riford	
	60	Mr. Floss			41	Mr. Rollson	
	35	Mr. Flynn			32	Mr. Ruiz	
	31	Mr. Galber			39	Mr. Scharmerhorn	
	13	Mr. Gold			52	Mr. Smith	
	37	Mrs. Goodhue			19	Mr. Solomon	
	26	Mr. Goodman			57	Mr. Stachowski	
	18	Mr. Halperin			45	Mr. Stafford	
	22	Ms. Jefferson			12	Mr. Stavisky	EXCUSED
	10	Mr. Jenkins			55	Mr. Steinfeldt	
	4	Mr. Johnson			3	Mr. Trunzo	
	53	Mr. Kehoe			7	Mr. Tully	
	15	Mr. Knorr			59	Mr. Volke	
	2	Mr. Lack			18	Mr. Weinstein	
	1	Mr. LaValle			38	Mrs. Win...	
	28	Mr. Leichter					

NEW YORK STATE ASSEMBLY

REPRINT NO: 001  
DATE: 06/27/34

8673  
10441  
DATE: 06/27/1984  
TIME: 09:50:04 PM

BILL: 58673(A10441)

R.R. NO: 946 SPONSOR: BARCLAY--

AN ACT TO AMEND THE PENAL LAW, IN RELATION TO FIREARMS

Y	ABRAMSON, E	NAY	Hannon, K	Y	PASSANNANTE, WF
Y	ADAMARO, FJ	NAY	HARENBERG, FE	Y	PATTON, BA
NAY	Barnett, HH	NAY	Harris, GH	NAY	Paxon, LH
NAY	Barragga, TF	Y	HARRISON, J	NAY	Parone, JM
NAY	Becker, GR	NAY	Hawley, RS	Y	PILLITTERE, JT
NAY	Behan, JI	NAY	Healey, PB	Y	PORDUM, FJ
NAY	BENNETT, LE	Y	HEVEST, AG	Y	PROUD, G
NAY	BIANCHI, IN	Y	HIKIND, D	NAY	Rapplevae, CD
Y	BOYLAND, JF	Y	HINCHEY, MD	NAY	Retaliate, AP
Y	BRAGMAN, MJ	NAY	Hoblock, MJ	Y	RIVERA, J
Y	BRODSKY, RL	NAY	HOCHBRUECKNER, GJ	Y	ROBACH, RJ
NAY	Burrows, SH	Y	HOYT, WB	Y	ROBLES, VL
NAY	Bush, NE	Y	JACOBS, RS	NAY	RUGGIERO, RS
Y	BUTLER, DJ	YES	JENKINS, C	NAY	Ryan, AH
NAY	Casale, RJ	Y	KEANE, RJ	NAY	RYAN, WJ
Y	CATAPANO, TF	NAY	Kelleher, NH	NAY	Saland, SH
NAY	Cheabro, FI	Y	KOPPELL, GO	Y	SANDERS, S
NAY	Cochrane, JC	Y	KREMER, AJ	NAY	Sawicki, J
NAY	CONNELLY, EA	NAY	Kuhl, JR	Y	SCHIMMINGER, RL
NAY	CONNERS, RJ	Y	LAFAYETTE, IC	FOR	SCHMIDT, FD
Y	CONNOR, F I	NAY	Lane, CD	NAY	Sears, WR
NAY	Cooke, AT	NAY	Larkin, WJ	NAY	SEMNERIO, AS
NAY	Coombe, RI	Y	LASHER, HL	Y	SERRANO, JE
NAY	Damato, AP	NAY	Leibell, VL	NAY	Shaffer, JB
NAY	DAndrea, RA	Y	LENTOL, JR	Y	SIEGEL, HA
Y	DANIELS, GL	NAY	Levy, E	Y	SILVER, S
Y	DAVIS, G	Y	LIPSCHUTZ, GE	Y	SLAUGHTER, LM
Y	DEARIE, JC	NAY	MacNeil, HS	NAY	Spano, NA
Y	DEL TORO, A	NAY	Madison, GH	NAY	Straniera, RA
Y	DIAZ, HL	Y	MARCHISELLI, VA	Y	SULLIVAN, EC
Y	DUANE, JF	Y	MARSHALL, HM	NAY	Sullivan, PM
Y	DUGAN, EC	Y	MAYERSOHN, N	Y	TALLON, JR
Y	ENGEL, EL	Y	MCCABE, JW	NAY	Talonia, FG
Y	EVE, AD	NAY	McCann, JW	NAY	Tedisco, J
Y	FARRELL, HD	Y	MCNULTY, MR	NAY	TONKO, PD
Y	FELDMAN, D	NAY	MCPHILLIPS, MM	Y	VANN, A
Y	FERRIS, J	NAY	Miller, MH	Y	VITALIANO, EN
NAY	F'anagan, JJ	Y	MILLER, MH	Y	WALDON, AR
Y	FREDA, L	Y	MURPHY, MJ	Y	WALSH, EB
Y	FRIEDMAN, G	Y	MURTAUGH, JB	NAY	Warren, GE
Y	GANTT, DF	Y	NADLER, J	Y	WEINSTEIN, HE
Y	GOLDSTEIN, R	NAY	Nagle, JF	Y	WEPRIN, S
Y	GORSKI, DT	Y	NEHBURGER, MM	NAY	Wertz, RC
Y	GOTTFRIED, RN	Y	NORMAN, C	NAY	Wesley, RC
NAY	GRABER, VJ	ELB	Nortz, HR	Y	WILSON, CE
Y	GRANNIS, A	NAY	Nozzolio, MF	NAY	Winner, GH
Y	GREEN, RL	NAY	ONeal, JG	Y	YEVOLI, LJ
Y	GREENE, A	Y	ORAZIO, AF	Y	YOUNG, GP
Y	GRIFFITH, E	Y	PARENT, HL	Y	ZIMMER, MN
NAY	HALPIN, PG	NAY	Parola, FE		MR. SPEAKER

YEAS: 82

NAYS: 64

4

CONTROL: 03626310

CERTIFICATION

LEGEND: Y=YES, NAY=NO, ELB=EXCUSED

mc

ALBANY, New York, James W. McCabe,

delivered to the Senator

S 8673 Senator Barclay

5-8673

MEMORANDUM

AN ACT to amend the Penal Law, in relation to firearms

SUMMARY OF PROVISIONS

This bill amends Section 400.00(14) of the Penal Law to increase the various pistol license fees outside the City of New York and County of Nassau. The fees would be changed as follows:

1. Maximum license fee from \$5 to \$10 as set by the county legislative body
2. Each amendment to a license from \$1 to \$3 (and from \$2 to \$5 in Suffolk County)
3. For each license issued to a gunsmith from \$4 to \$10
4. Fee for a duplicate license from \$2 to \$5
5. Fee for processing a license transfer shall be set at \$5.

JUSTIFICATION:

The various fees for pistol licenses charged by the counties of the state have not been changed since their enactment in the Penal Law in 1965. There is substantial time and paperwork involved in processing these license applications, as well as processing amendments and transfers of those licenses.

Accordingly, this legislation provides for modest increases in these fees to more adequately compensate the counties for the time and work involved.

There are no fiscal implications for the state, since these fees are paid by the applicant for the license, and these fees remain with the county processing the application.

EFFECTIVE DATE:

The first day of November next succeeding the date on which it shall have become law.

FISCAL IMPLICATIONS:

None to the state; some increase in revenues to the counties of the state.

*S-8673*

B-207

*MC*

TEN-DAY BILL  
BUDGET REPORT ON BILLS

Session Year: 19 84

SENATE

Introduced by:

ASSEMBLY

No. 4671

Senator Barclay

No.

Law: Penal

Sections: 400.00 (14)

Division of the Budget recommendation on the above bill:

Approved: \_\_\_\_\_ Vote: \_\_\_\_\_ No Objection: \_\_\_\_\_ No Recommendation: \_\_\_\_\_

1. Subject and Purpose: This bill would increase various pistol and revolver license fees outside New York City and Nassau County to more closely approximate the actual cost of processing license applications. The bill would establish a new fee for processing a license transfer between counties.
2. Summary of Provisions: Existing law permits New York City and Nassau County to establish their own fee schedules for pistol and revolver licenses. New York City currently charges \$76 for a new license while Nassau County charges \$51. Effective November 1, 1984, this bill would institute the following fee changes in all other counties:
  - a) The maximum allowable license fee for a pistol or revolver would increase from five dollars to ten dollars.
  - b) The fee for amendments to licenses would increase from one dollar to three dollars except in Suffolk County where the increase would be from two dollars to five dollars.
  - c) The license fee for a gunsmith or firearms dealer would increase from four dollars to ten dollars.
  - d) The fee for a duplicate license would increase from two dollars to five dollars.
  - e) A new fee for processing a license transfer between counties would be established at five dollars.
3. Prior Legislative History: None.
4. Arguments in Support:
  - a) The various pistol and revolver license fees have not been increased outside of New York City and Nassau County since 1965 even though the cost of processing applications and amendments has increased during this period. According to the Division of State Police, the proposed fees were

Penal

-2-

\$400.00(14)

closely approximate the actual cost of processing license applications, transfers, amendments and the issuance of duplicate licenses. In some cases, the cost of completing a full character investigation required by law in consideration of a new license application or renewal can be as much as \$250 or, 25 times the proposed maximum fee.

- b) Establishment of a new fee for processing a license transfer between counties should encourage county cooperation in the timely transfer of license authority required under section 400 subdivision 5 of the Penal law when a pistol or revolver owner changes his county of residence.

5. Possible Objections:

- a) The measure of local discretion accorded to New York City and Nassau County in the establishment of pistol and revolver license fees has resulted in fees for those areas which more closely approximate the actual costs involved in license processing. Even given the increases in this legislation, other counties will be charging fees that remain considerably below New York City and Nassau County fees and below actual cost. It could be argued that all counties should establish license fees as a matter of local discretion rather than statutory action on the State level in order that fees do not significantly lag behind the actual costs of license processing.
- b) Applicants for pistol and revolver licenses will object to the fee increases since there will be no particular enhancement of the service of being furnished a license. License holders will point out that they must pay an additional fee for fingerprint processing as part of the application process and may in some areas be required to pay for a photograph thereby making the license a very expensive item for some individuals.

6. Other State Agencies Interested: The Division of State Police may be interested in this bill.

7. Known Position of Others: It is expected that the New York State Rifle and Pistol Association, the New York State Federation of Sportsmen and the New York State Conservation Council will all oppose the bill. The New York State Association of Counties is in favor of the bill.

8. Budgetary Implications: Since all fees are collected by counties and expended for county purposes, there are no fiscal implications for the State. All fees are paid by the license applicant.

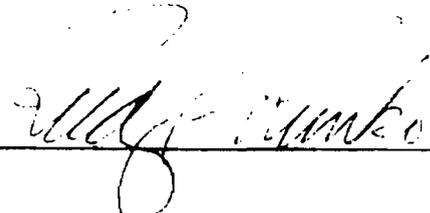
Penal

- 3 -

\$400.00 (14)

9. Recommendation: Approve. An increase in pistol and revolver license fees is overdue since the current fee schedule has not been increased outside of New York City and Nassau County for nearly 20 years. The proposed fees more closely approximate the costs to counties of furnishing a full range of licensure services. There are no fiscal implications for the State.

Date: July 16, 1984

Examiner: 

Examiner: \_\_\_\_\_

ML

S-8673



**Memorandum**

July 24, 1984

SENATE

ASSEMBLY

INTRODUCED BY

8673

Sen. BARCLAY

RECOMMENDATION:

NO OBJECTION

STATUTE INVOLVED:

PENAL LAW

EFFECTIVE DATE:

On the first day of November next succeeding the date on which it shall have become a law.

DISCUSSION:

This bill will amend the Penal Law, in relation to firearms.

The Division of State Police has no objection to passage of this legislation.

Superintendent

CC: Honorable Lawrence Kurlander  
Director of Criminal Justice

CC: Honorable Matthew Crosson  
Assistant Counsel to the Governor

9

58673



# Memorandum

July 24, 1984

SENATE

8673

ASSEMBLY

INTRODUCED BY

Sen. BARCLAY

RECOMMENDATION:

NO OBJECTION

STATUTE INVOLVED:

PENAL LAW

EFFECTIVE DATE:

On the first day of November next succeeding the date on which it shall have become a law.

DISCUSSION:

This bill will amend the Penal Law, in relation to firearms.

The Division of State Police has no objection to passage of this legislation.

/s/ Donald O. Chesworth  
Superintendent

CC: Honorable Lawrence Kurlander  
Director of Criminal Justice

CC: ✓ Honorable Matthew Crosson  
Assistant Counsel to the Governor

S. 8673



STATE OF NEW YORK  
EXECUTIVE CHAMBER

MEMORANDUM

July 20, 1984

To: Gerald Crotty  
From: Lawrence T. Kurlander *LTK*  
Subject: S. 8673

This bill amends Penal Law Section 400.00(14) to authorize modest increases in pistol licensing fees. Despite rising administrative costs, these fees to the counties have not been increased since 1965. This bill will more accurately reflect current costs. I SUPPORT this legislation.

58673



STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONAL SERVICES  
THE STATE OFFICE BUILDING CAMPUS  
ALBANY, N.Y. 12226

THOMAS A. COUGHLIN III  
COMMISSIONER

JUDITH LAPOOK  
ASSOCIATE COMMISSIONER AND COUNSEL

July 12, 1984

Hon. Gerald C. Crotty  
Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, New York 12224

Dear Mr. Crotty:

The following legislative proposals, passed by both houses of the Legislature, will have no effect on the operation of the Department of Correctional Services:

Senate

5603	Unjust conviction of Reda Lauer
7186	Unjust conviction of Ahmad Kassim
7449	Arraignment in adjoining town
8688	Utica peace officers
8673	Firearm registration fees
8744	Conditions of employment; non-judicial officers
9107	Prior approval of certain adjustments
9899-A	Additional state aid for youth bureaus
9954	Fort Drum cession of jurisdiction

Assembly

11793-A	Chemical test evidence
---------	------------------------

The Department of Correctional Services will take no position on these proposals.

Sincerely,

Judith LaPook  
Associate Commissioner  
and Counsel

JLP/DDM/840098

MC

S-8673



STATE OF NEW YORK  
DIVISION OF SUBSTANCE ABUSE SERVICES  
Office of Alcoholism and Substance Abuse  
EXECUTIVE PARK SOUTH  
ALBANY, NEW YORK 12203

JULIO A. MARTINEZ  
Director

ROBERT A. BOSMAN  
Chief Counsel  
(518) 467-1768

July 12, 1984

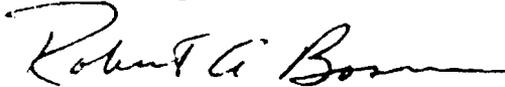
Honorable Gerald C. Crotty  
Counsel to the Governor  
Executive Chamber  
Albany, New York 12224

RE: S 8673

Dear Mr. Crotty:

The Division of Substance Abuse Services has reviewed Senate bill number 8673 and has no comment on this bill to increase localities' fees for gun permits.

Very truly yours,

  
Robert A. Bosman

S. 8673

TO COUNSEL TO THE GOVERNOR

RE: SENATE S. 8673  
ASSEMBLY

Inasmuch as this bill does not appear to relate to the functions of the Department of Law, I am not commenting thereon, at this time. However, if there is a particular aspect of the bill upon which you wish comment, please advise me.

ROBERT ABRAMS  
Attorney General

Dated: 7-5-84

14

S-8673-A

MEMORANDUM



July 9, 1984

STATE OF NEW YORK  
DIVISION OF CRIMINAL JUSTICE SERVICES

TO: Gerald C. Crotty  
FROM: Jay M. Cohen  
SUBJECT: S.8673-A/A.10441

-----  
This bill proposes to amend the handgun licensing law by increasing the maximum fees that can be set by all local legislative bodies outside of New York City and Nassau County. The sole exception to the uniform increase is to authorize Suffolk County to increase its fee for a license amendment from \$2 to \$5, while the same fee for other localities is increased from \$1 to \$3.

DCJS has voiced disapproval in the past where similar legislation was introduced to permit different license expiration periods in Suffolk, and to raise license fees to \$15. Such legislation has been vetoed by the Governor upon the recommendation of this agency and others, that it would encourage other counties to seek disparate treatment without justification.

The subject legislation is limited to a modest fee increment and is uniform in its application throughout the State outside of New York City and Nassau County, except for the Suffolk County provision, and even that is consistent with the existing law.

Therefore, DCJS has no objection to this bill.

js



S-8673

STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
**DIVISION OF PROBATION**  
60 SOUTH PEARL STREET  
ALBANY, NEW YORK 12207

MARIO M. CUOMO  
Governor

July 9, 1984

EDMUND P. WUTZER  
State Director

M E M O R A N D U M

TO: Gerald C. Crotty, Counsel to the Governor  
Matthew T. Crosson, Assistant Counsel to the Governor  
Lawrence T. Kurlander, Director of Criminal Justice

FROM: Linda J. Valenti, General Counsel *LJV*  
NYS Division of Probation

SUBJECT: S. 8673 (Barclay)  
Licensing Fees

This legislation amends Section 400.00(14) of the Penal Law to increase various pistol license fees outside the City of New York and Nassau County. Additional language substitutes the term "legislative body" for "board of supervisors".

In recognition that licensing fees need to reflect current processing expenses and that not all counties have a board of supervisors, the Division of Probation recommends that the Governor sign S. 8673 into law.

cc: Edmund B. Wutzer, State Director

*MC*



**RAMON J. RODRIGUEZ**  
CHAIRMAN

**STATE OF NEW YORK**  
**EXECUTIVE DEPARTMENT**  
**DIVISION OF PAROLE**  
**97 CENTRAL AVENUE**  
**ALBANY, NEW YORK 12206**

*S-8673*

**EDWARD ELWIN**  
EXECUTIVE DIRECTOR

July 10, 1984

Hon. Gerald C. Crotty  
Executive Chamber  
State Capitol  
Albany, New York 12224

RE: S. 8673 A. 10441

AN ACT to amend the penal law,  
in relation to firearms

Dear Mr. Crotty:

I am in receipt of your recent correspondence indicating the above-referenced legislation has passed both houses of the Legislature and is now pending executive action by the Governor.

Pursuant to your request for this agency's comments and/or recommendations, please be advised that the Division of Parole takes no position with regard to such executive action.

Very truly yours,

*J. Marc Hannibal*  
J. Marc Hannibal  
Counsel

JMH:md

MC

S. 8673



LEONARD G. DUNSTON  
DIRECTOR

NEW YORK STATE EXECUTIVE DEPARTMENT  
**DIVISION FOR YOUTH**  
84 HOLLAND AVENUE  
ALBANY, NEW YORK 12208

July 12, 1984

The Honorable Gerald C. Crotty  
Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, NY 12224

Dear Mr. Crotty:

Re: S.8673/A.10441. AN ACT to amend  
the penal law, in relation to  
firearms

Pursuant to your request, we have reviewed the above referenced bill which is before the Governor for executive action.

This bill would provide for an increase in the maximum fees for a license to carry or possess a pistol or a revolver.

Since we have insufficient knowledge of the potential impact upon State and local governments, we make no recommendation on this bill.

Very truly yours,

Donald E. Urell  
General Counsel

DNG:gmh

*S.8673*



STATE OF NEW YORK • EXECUTIVE DEPARTMENT  
STATE COMMISSION OF CORRECTION

60 SOUTH PEARL STREET  
ALBANY, NY 12207

CHAIRMAN  
WILLIAM G. McMAHON

COMMISSIONER  
KATHARINE WEBB

July 9, 1984

Honorable Gerald Crotty  
Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, New York 12224

Re: S.8673/A.10441: AN ACT to  
amend the penal law, in  
relation to firearms

Dear Mr. Crotty:

The Commission of Correction has reviewed the above referenced bill and has determined that it has no impact upon our operations. We, therefore, do not wish to comment on it.

Very truly yours,

*George King*  
GEORGE KING  
COUNSEL

GK:mj

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*MC*

S-8673



STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
CRIME VICTIMS BOARD  
97 CENTRAL AVENUE  
ALBANY, NEW YORK 12208  
(518) 473-9640

**BOARD MEMBERS**

RONALD A. ZWEIBEL  
Chairman

GENNARO A. FISCHETTI  
GEORGE L. GROBE, JR.  
DIANE McGRATH  
ANGELO PETROMELIS  
GERALDINE JORDAN  
Executive Secretary

**LEGISLATIVE MEMORANDUM**

TO: HON. GERALD C. CROTTY  
COUNSEL TO THE GOVERNOR

FROM: Paul S. Hudson, Counsel *PH/pec*  
Crime Victims Board

RE: S.8673, AN ACT to amend the penal law, in relation  
to firearems

DATE: July 11th, 1984

-----

This legislation has no known direct impact on crime victims or crime victims' compensation. The Board makes no recommendation to the Governor concerning this bill.

*ML*

STATE OF NEW YORK  
DIVISION FOR YOUTH  
100 STATE STREET  
ALBANY, NY 12242

S-8673-A

LEONARD G. DUNSTON

July 12, 1984

The Honorable Gerald C. Crotty  
Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, NY 12224

Dear Mr. Crotty:

Re: S.8673/A.10441. AN ACT to amend  
the penal law, in relation to  
firearms

Pursuant to your request, we have reviewed the above referenced bill which is before the Governor for executive action.

This bill would provide for an increase in the maximum fees for a license to carry or possess a pistol or a revolver.

Since we have insufficient knowledge of the potential impact upon State and local governments, we make no recommendation on this bill.

Very truly yours,

*Donald E. Urell*

Donald E. Urell  
General Counsel

DNG: gmh

S - 8673



STATE OF NEW YORK  
**UNIFIED COURT SYSTEM**  
(OFFICE OF COURT ADMINISTRATION)  
270 BROADWAY  
NEW YORK NEW YORK 10007  
(212) 587 2010

ROBERT E. SISI  
Chief Administrative Judge

MICHAEL COLODNER  
Counsel

May 7, 1984

MAY 8 1984

Honorable Gerald C. Crotty  
Counsel to the Governor  
Executive Chamber  
The Capitol  
Albany, New York 12223

Re: Senate 8673  
Assembly 10441

Dear Mr. Crotty:

Thank you for soliciting the views of this Office concerning this measure, which would amend section 400.00 of the Penal Law to increase pistol licenses fees outside the City of New York and the County of Nassau.

Inasmuch as this amendment would have no impact upon court administration, we take no position as to its merits.

Very truly yours,

  
Michael Colodner

MT: eas

S-8673

Mc



STATE OF NEW YORK  
 OFFICE OF THE STATE COMPTROLLER  
 ALBANY, NEW YORK  
 12236

EDWARD V. REGAN  
 STATE COMPTROLLER

July 10, 1984

The Honorable Gerald C. Crotty  
 Counsel to the Governor  
 Executive Chamber  
 State Capitol  
 Albany, New York 12224

Dear Mr. Crotty:

Thank you for requesting our comments regarding the bills listed below. Since these bills are not within an area of direct responsibility or interest of the Office of the State Comptroller we will offer no opinion in relation to their enactment.

<u>SENATE</u>	<u>SENATE</u>	<u>ASSEMBLY</u>	<u>ASSEMBLY</u>
2247-A	9508-B	3476-A	10596
4050-A	9512	5036-A	10954
4210-B	9967	5409-A	10986
6276-C	9997	6308-B	11037-A
7506	10010	6459-A	11092-B
8139-A	10018-A	6880-C	11360-A
8185-B	10035	8317-B	11439-A
8278-A	10040	8418-A	11782-A
8535-A	10041	8431	11830
✓8673	10042	8786-A	11831
8688	10052	9139-B	11832
8840-A	10063	9213-B	11833
8946-C	10073	9458	11843
9369-B	10079	9612-A	11855
	10083	10031-A	11869
		10168-B	11879-A

Very truly yours,

  
 John F. Black  
 Assistant Counsel

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JFB:jd

ML

S-8673



STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
**DIVISION OF PROBATION**  
60 SOUTH PEARL STREET  
ALBANY, NEW YORK 12207

MARIO M CUOMO  
Governor

July 9, 1984

EDMUND B. WUTZER  
State Director

M E M O R A N D U M

TO: Gerald C. Crotty, Counsel to the Governor  
Matthew T. Crosson, Assistant Counsel to the Governor  
Lawrence T. Kurlander, Director of Criminal Justice

FROM: Linda J. Valenti, General Counsel *YJU*  
NYS Division of Probation

SUBJECT: S. 8673 (Barclay)  
Licensing Fees

This legislation amends Section 400.00(14) of the Penal Law to increase various pistol license fees outside the City of New York and Nassau County. Additional language substitutes the term "legislative body" for "board of supervisors".

In recognition that licensing fees need to reflect current processing expenses and that not all counties have a board of supervisors, the Division of Probation recommends that the Governor sign S. 8673 into law.

cc: Edmund B. Wutzer, State Director

MARCIA E. PLATO  
Associate Legislative Counsel

S-8673-A

One E1<sup>st</sup> Street  
Albany, New York 12207  
518-463-3200

# New York State Bar Association

July 11, 1984

Hon. Gerald L. Crotty  
Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, New York 12224

RE: S. 8673/A. 10441

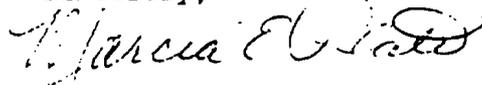
Dear Mr. Crotty:

You requested the views of this Association with respect to the above five-day bill pending before the Governor.

Please be advised that no Section or Committee of this Association deals with the subject matter of the measure.

Accordingly, we express no views thereon.

Sincerely,



Marcia E. Plato  
Associate Legislative Counsel

MEP:jc



S-8073

Me



# New York State Association of COUNTIES

150 STATE STREET ALBANY, NEW YORK 12207 (518) 465-1473

July 12, 1984

PRESIDENT  
Laure C. Nolan  
Suffolk

EXECUTIVE DIRECTOR  
AND ASSOCIATE COUNSEL  
Edwin L. Crawford

COUNSEL  
Herman S. Geist

VICE PRESIDENTS  
John T. Grant  
Rockland

John Kelly  
Essex

Edward J. Rutkowski  
Erie

TREASURER  
Edward T. Stack  
Albany

DIRECTORS  
Bennett Abrams  
St Lawrence

Edmund Armstrong  
Greene

George Arney  
Wayne

David D. Bruen  
Putnam

Henry W. Dwyer  
Nassau

Albert J. Evans  
Chenango

Carolyn Rush  
Orwego

James J. Snyder  
Cattaraugus

John Starwix  
Monroe

Claudia Wagner  
New York City

Honorable Gerald Crotty  
Counsel to the Governor  
The Executive Chamber  
The Capitol  
Albany, NY 12224

Re: S.8673/A.10441

Dear Gerry:

This letter is in response to your recent inquiry concerning the above-mentioned legislation recently passed by both houses of the Legislature and now before the Governor for executive action.

The New York State Association of Counties has no position on this legislation.

Please call on our office if we can be of any further assistance.

Yours very truly,

Edwin L. Crawford  
Executive Director

ELC/RST/msc

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MC

S-8673

COUNTY OF SUFFOLK



PETER F. COHALAN  
SUFFOLK COUNTY EXECUTIVE

HOWARD DEMARTINI  
DEPUTY COUNTY EXECUTIVE  
COMMUNICATIONS AND  
INTERGOVERNMENTAL RELATIONS

ALICE A. AMBLEN  
ASSISTANT DEPUTY COUNTY EXECUTIVE

July 19, 1984

Gerald C. Crotty, Esq.  
Counsel to the Governor  
Executive Chamber  
Albany, New York 12224

Re: Senate 8673

Dear Mr. Crotty:

Suffolk County has reviewed Senate 8673 which is currently before the Governor for his action. This bill would allow a local legislative body to increase pistol or revolver license fees from a maximum of \$5 to a maximum of \$10; fees for each amendment to a license from \$1 to \$3; fees for gun smith licenses from \$4 to \$10; and fees for duplicate licenses from \$2 to \$5. Additionally, the bill would allow Suffolk County to increase its fee for an amended license from \$2 to \$5 and would allow counties to charge a \$5 fee for processing a license transfer between counties.

Suffolk County estimates that we presently spend \$750,000 annually to operate the Office of Pistol Permits within the Suffolk County Police Department. However, under the present fee schedule, we take in only \$50,000 annually in fees to offset this expenditure. Enactment of S.8673 should allow Suffolk to collect slightly more than double our present fee collection. While this will not totally offset the cost of the Office of Pistol Permits, it will slightly relieve the pressure on the general fund.

For the above stated reasons, Suffolk County urges the Governor to sign Senate 8673 into law.

Sincerely,

*Howard DeMartini*  
Howard DeMartini  
Deputy County Executive

HDM:mb  
cc: Senator Barclay  
Assemblyman McCabe

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# STATE OF NEW YORK

S. 8673

A. 10441

## SENATE—ASSEMBLY

March 26, 1984

IN SENATE -- Introduced by Sen. BARCLAY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

IN ASSEMBLY -- Introduced by M. of A. McCABE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to firearms

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

- 1 Section 1. Subdivision fourteen of section 400.00 of the penal law,
- 2 as amended by chapter five hundred forty-six of the laws of nineteen
- 3 hundred seventy-three, is amended to read as follows:
- 4 14. Fees. In the city of New York and the county of Nassau, the an-
- 5 nual license fee shall be twenty-five dollars for gunsmiths and fifty
- 6 dollars for dealers in firearms. In such city, the city council and in
- 7 the county of Nassau the Board of Supervisors shall fix the fee to be
- 8 charged for a license to carry or possess a pistol or revolver and
- 9 provide for the disposition of such fees. Elsewhere in the state, the
- 10 licensing officer shall collect and pay into the county treasury the
- 11 following fees: for each license to carry or possess a pistol or revol-
- 12 ver, not less than three dollars nor more than [five] ten dollars as may
- 13 be determined by the [board of supervisors] legislative body of the
- 14 county; for each amendment thereto, [one dollar] three dollars, and
- 15 [two] five dollars in the county of Suffolk: and for each license issued
- 16 to a gunsmith or dealer in firearms, [four] ten dollars. The fee for a
- 17 duplicate license shall be [two] five dollars. The fee for processing a
- 18 license transfer between counties shall be five dollars.
- 19 § 2. This act shall take effect on the first day of November next
- 20 succeeding the date on which it shall have become a law.

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

LBD14192-02-4

NYS Assembly

- 391 -

June 27, 1984

(The Clerk called the roll.)

Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Bill No. 10407, Rules Report No. 941, Lentol. An act to amend the Administrative Code of the City of New York, in relation to the crediting of prior service.

ACTING SPEAKER GRABER: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER GRABER: Call the roll.

(The Clerk called the roll.)

Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Bill No. 10441, Rules Report No. 946, McCabe. An act to amend the Penal Law, in relation to firearms.

MR. MC CABE: Substitute the Senate bill, Mr. Speaker.

ACTING SPEAKER GRABER: On the motion of Mr. McCabe the Senate bill is substituted, before the

NYS Assembly

- 392 -

June 27, 1984

House and advanced.

MR. WERTZ: Mr. Speaker, will Mr. McCabe yield?

MR. MC CABE: Yes.

ACTING SPEAKER: GRABER: The gentleman yields.

MR. WERTZ: Mr. McCabe, can I ask you if who negotiated this bill?

MR. MC CABE: I think Senator Barclay.

MR. WERTZ: Can I blame it all on Doug?

MR. MC CABE: Yes.

MR. WERTZ: On the bill, Mr. Speaker.

ACTING SPEAKER GRABER: Mr. Wertz, on the bill.

MR. WERTZ: I am concerned, and I speak mainly to my colleagues from Suffolk County, as a delegation, as a bipartisan effort we have tried desperately for the last four years to negotiate an extension in the pistol license. And we have been willing, in those negotiations, to allow for the fee increase which is in this bill. I would assume that that is true of most of the other areas involved in this bill.

But to go from \$2 to \$5 with absolutely

NYS Assembly

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June 27, 1984

no quid pro quo solely to raise revenues, I think is wrong, too. It takes advantage of those rifle and pistol clubs. The sportsmen in our county will be up in arms, those of you that vote for the bill, and I intend to vote no, and I think it was poorly negotiated.

I think there was no problem in raising the fees if we were able to stop what is really a long and lengthy and timely bureaucratic boondoggle in the annual renewing of a pistol license.

I would urge a no vote on this bill because of that.

ACTING SPEAKER GRABER: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER GRABER: Call the roll.

(The Clerk called the roll.)

MR. P. M. SULLIVAN: Mr. Speaker, would you please withdraw the roll call?

ACTING SPEAKER GRABER: Mr. Pete Sullivan would like to ask Mr. McCabe some questions.

MR. P. M. SULLIVAN: If this question was asked before, I apologize for asking it again. Can

NYS Assembly

- 394 -

June 27, 1984

you tell us what the justification of this is, Jim?

MR. MC CABE: Well, this bill was suggested originally to Senator Barclay by a clerk in one of the counties I represent. He asked me to carry it in this House, and it seems to be a reasonable bill because these fees have not been raised since 1965, and this is a modest increase to take care of the increased cost to process those permits.

MR. P. M. SULLIVAN: Thank you, Mr. McCabe.

On the bill, Mr. Speaker. It seems like a modest increase because what the heck, it is only going from \$5 to \$10, and that sure does not sound like a lot of money. First off the bat, they don't like to process these permits, they don't do it in a timely fashion in too many jurisdictions. They give the applicants a great deal of hassle.

If they were able to treat in a timely and prompt fashion, Mr. Speaker, they might be willing to pay \$50, but in the City of New York they pay that kind of money and they don't get treated courteously and promptly in any case.

In addition they have to pay substantial fees for fingerprinting, and I think it is really an

NYS Assembly

- 395 -

June 27, 1984

unattractive, unreasonable, improper thing, and it is another fee increase. I thought we had found, in 1983, every single fee that we could increase. Mr. McCabe, I congratulate you because you found something that was not raised already.

Thank you, Mr. Speaker.

ACTING SPEAKER GRABER: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER GRABER: Call the roll.

(The Clerk called the roll.)

MR. HANNON: Party vote in the negative.

MR. WALSH: Party vote in the affirmative

ACTING SPEAKER GRABER: Announce the results and note the exceptions.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Bill No. 10806, Rules Report No. 948, Yevoli, Halpin, Bianchi, Harenberg. An act to amend the Environmental Conservation Law, in relation to land-use of tidal wetlands.

ACTING SPEAKER GRABER: Read the last

# Exhibit I

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
Shui W. Kwong, et al., :  
 : Civil Action Number:  
 : 11 cv 2356  
 :  
 : Plaintiffs, :  
 : (Hon. John G. Koeltl)  
 :  
 : -against- :  
 :  
 : Michael Bloomberg, et al., :  
 : PLEADING IN  
 : INTERVENTION  
 :  
 : Defendants. :  
 :  
-----X

ERIC T. SCHNEIDERMAN, Attorney General of the State of New York

("Intervenor"), for his pleading in intervention, states as follows:

1. By Complaint dated April 5, 2011, Plaintiffs Shui W. Kwong, George Greco, Glenn Herman, Nick Lidakis, Timothy S. Furey, Daniela Greco, Nunzio Calce, the Second Amendment Foundation, Inc. and the New York State Rifle & Pistol Association, Inc. ("Plaintiffs") commenced this action pursuant to 42 U.S.C. § 1983 asserting that Penal Law § 400.00(14) ("the Statute") impermissibly burdens their Second Amendment right to bear arms, and violates their rights under the Equal Protection Clause of the United States Constitution.

2. Attorney General Schneiderman was named as a defendant in the Complaint, but by Stipulation of Dismissal and Intervention executed by the parties, so-ordered by the Court and entered on May 23, 2011, Attorney General Schneiderman was dismissed as a defendant and intervened herein to defend the constitutionality of Penal Law § 400.00(14) pursuant to 28 U.S.C. § 2403(b) and Rule 24(a)(1) of the Federal Rules of Civil Procedure.

3. Except by this intervention, neither the State of New York, nor any agency of the State nor any officer or employee of it as an officer or employee is a party to this action.

4. Penal Law § 400.00(14) affects the public interest and the public interest would be greatly prejudiced if the contention that the Statute is unconstitutional were sustained.

5. Intervenor's sole purpose in intervening herein is to defend the constitutionality of the Statute. For that purpose, Intervenor responds to the Complaint as follows:

6. Paragraphs 1 through 3 of the Complaint contain Plaintiffs' characterization of the action and accordingly require no response. To the extent a response may be deemed required, Intervenor denies the allegations set forth therein.

7. Paragraphs 4 through 7 contain Plaintiffs' characterization of relevant statutes and accordingly require no response. To the extent a response may be deemed required, Intervenor refers the Court to the text of the relevant statutes but admits that a license is required to possess a handgun in New York State and New York City and that a person applying for applying for a handgun license anywhere in New York State must submit fingerprints which are processed by the Division of Criminal Justice Services ("DCJS") for a fee and otherwise denies knowledge or information as to the remaining allegations of these paragraphs.

8. Paragraph 8 through 11 contain Plaintiffs' characterization of the action and accordingly requires no response. To the extent a response may be deemed required, Intervenor denies knowledge or information sufficient to form a belief as to the truth of the

allegations set forth therein.

9. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 12 through 55 of the Complaint.

10. Intervenor admits the allegations contained in paragraph 56 of the Complaint.

11. Intervenor denies the allegations contained in paragraph 57 of the Complaint in light of the Stipulation and Order entered on May 23, 2011 in which the Plaintiffs voluntarily withdrew all claims against the Attorney General.

12. Paragraph 58 through 63 contain Plaintiffs' quotation or characterization of selected portions of the United States Constitution, New York State Penal Code, and New York City Administrative Code to which no response is required. To the extent that a response is required, Intervenor refers the Court to the full text of such provisions and admits that the provisions so read.

13. Paragraphs 64 and 65 contain Plaintiffs' characterization of the Supreme Court decision in District of Columbia v. Heller, 554 U.S. 570, 128 S.Ct. 2783 (2008) to which no response is required. To the extent that response is required, Intervenor refers the Court to the full text of that decision and denies Plaintiffs' characterization except admits that in Heller, the Supreme Court recognized an individual right of certain citizens to possess a handgun in their homes for self-defense purposes.

14. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 66 through 69 of the Complaint.

15. Paragraph 70 contains Plaintiffs' characterization of Penal Law § 400.00(14) and accordingly requires no response. To the extent a response may be deemed required, Intervenor refers the Court to the full text of such provisions and admits that the provisions

so read.

16. Intervenor admits the allegation contained in paragraph 71 of the Complaint that on June 28, 2010, in McDonald v. City of Chicago, Ill., \_\_\_ U.S. \_\_\_, 130 S.Ct. 3020 (2010), the Supreme Court, in a plurality decision, held that the Second Amendment right recognized in District of Columbia v. Heller, 554 U.S. 570, 128 S.Ct. 2783 (2008) is applicable to the states, refers the Court to the full text of the decision itself and otherwise denies the allegations contained in that paragraph.

17. Paragraph 72 of the Complaint contains a legal conclusion and Plaintiffs' citation to a case they assert supports this contention and thus no response is required. To the extent that a response is required, Intervenor denies the same.

18. Paragraph 73 of the Complaint contains a legal conclusion and Plaintiffs' citation to a case they assert supports this contention and thus no response is required. To the extent that a response is required, Intervenor denies the same.

19. Intervenor denies the allegations of paragraph 74 of the Complaint.

20. Intervenor admits that in their prayer for relief, Plaintiffs set forth the relief requested but denies that Plaintiffs are entitled to such relief.

WHEREFORE, Intervenor New York State Attorney General Eric Schneiderman prays that:

1. The Court reject Plaintiffs' contention that Penal Law § 400.00(14) is unconstitutional.

2. The Court adjudge and declare (a) that Plaintiffs have failed to state a justiciable claim on which relief may be granted as to the constitutionality of Penal Law §

400.00(14); (b) that Penal Law § 400.00(14) as applied to the facts in this case is constitutional; and/or (c) Plaintiffs lack standing to challenge Penal Law § 400.00(14).

3. The Court issue an order dismissing the Complaint insofar as it pertains to Penal Law § 400.00(14), award Intervenor his costs and disbursements, and grant to Intervenor such other and further relief as is just and proper.

Dated: New York, New York  
June 22, 2011

ERIC T. SCHNEIDERMAN  
Attorney General of the  
State of New York  
Intervenor  
By:

/s/

\_\_\_\_\_  
MONICA CONNELL (MC-9841)  
Assistant Attorney General  
120 Broadway, 24<sup>TH</sup> Floor  
New York, NY 10271  
(212) 416-8965

TO: David Jensen, Esq. (*Via ECF*)  
David Jensen PLLC  
Attorneys for the Plaintiffs  
708 Third Avenue  
New York, New York 10017  
Tel. 212-380-6615  
Fax 917-591-1318

Michelle Goldberg-Cahn (*Via ECF*)  
Senior Counsel  
New York City Law Department  
Attorneys for the City Defendants  
100 Church Street, 5-171  
New York, NY 10007  
Tel. 212-788-0758  
Fax 212-791-9714

# Exhibit J

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
Shui W. Kwong, et al.,	:	Civil Action Number:
	:	11 cv 2356
Plaintiffs,	:	
	:	(Hon. John G. Koeltl)
-against-	:	
	:	
Michael Bloomberg, et al.,	:	PLEADING IN
	:	INTERVENTION
Defendants.	:	
-----X		

ERIC T. SCHNEIDERMAN, Attorney General of the State of New York

("Intervenor"), for his pleading in intervention, states as follows:

1. By Complaint dated April 5, 2011, Plaintiffs Shui W. Kwong, George Greco, Glenn Herman, Nick Lidakis, Timothy S. Furey, Daniela Greco, Nunzio Calce, the Second Amendment Foundation, Inc. and the New York State Rifle & Pistol Association, Inc. ("Plaintiffs") commenced this action pursuant to 42 U.S.C. § 1983 asserting that Penal Law § 400.00(14) ("the Statute") impermissibly burdens their Second Amendment right to bear arms, and violates their rights under the Equal Protection Clause of the United States Constitution.

2. Attorney General Schneiderman was named as a defendant in the Complaint, but by Stipulation of Dismissal and Intervention executed by the parties, so-ordered by the Court and entered on May 23, 2011, Attorney General Schneiderman was dismissed as a defendant and intervened herein to defend the constitutionality of Penal Law § 400.00(14) pursuant to 28 U.S.C. § 2403(b) and Rule 24(a)(1) of the Federal Rules of Civil Procedure.

3. Except by this intervention, neither the State of New York, nor any agency of the State nor any officer or employee of it as an officer or employee is a party to this action.

4. Penal Law § 400.00(14) affects the public interest and the public interest would be greatly prejudiced if the contention that the Statute is unconstitutional were sustained.

5. Intervenor's sole purpose in intervening herein is to defend the constitutionality of the Statute. For that purpose, Intervenor responds to the Complaint as follows:

6. Paragraphs 1 through 3 of the Complaint contain Plaintiffs' characterization of the action and accordingly require no response. To the extent a response may be deemed required, Intervenor denies the allegations set forth therein.

7. Paragraphs 4 through 7 contain Plaintiffs' characterization of relevant statutes and accordingly require no response. To the extent a response may be deemed required, Intervenor refers the Court to the text of the relevant statutes but admits that a license is required to possess a handgun in New York State and New York City and that a person applying for applying for a handgun license anywhere in New York State must submit fingerprints which are processed by the Division of Criminal Justice Services ("DCJS") for a fee and otherwise denies knowledge or information as to the remaining allegations of these paragraphs.

8. Paragraph 8 through 11 contain Plaintiffs' characterization of the action and accordingly requires no response. To the extent a response may be deemed required, Intervenor denies knowledge or information sufficient to form a belief as to the truth of the

allegations set forth therein.

9. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 12 through 55 of the Complaint.

10. Intervenor admits the allegations contained in paragraph 56 of the Complaint.

11. Intervenor denies the allegations contained in paragraph 57 of the Complaint in light of the Stipulation and Order entered on May 23, 2011 in which the Plaintiffs voluntarily withdrew all claims against the Attorney General.

12. Paragraphs 58 through 63 contain Plaintiffs' quotation or characterization of selected portions of the United States Constitution, New York State Penal Code, and New York City Administrative Code to which no response is required. To the extent that a response is required, Intervenor refers the Court to the full text of such provisions and admits that the provisions so read.

13. Paragraphs 64 and 65 contain Plaintiffs' characterization of the Supreme Court decision in District of Columbia v. Heller, 554 U.S. 570, 128 S.Ct. 2783 (2008) to which no response is required. To the extent that response is required, Intervenor refers the Court to the full text of that decision and denies Plaintiffs' characterization except admits that in Heller, the Supreme Court recognized an individual right of certain citizens to possess a handgun in their homes for self-defense purposes.

14. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 66 through 69 of the Complaint.

15. Paragraph 70 contains Plaintiffs' characterization of Penal Law § 400.00(14) and accordingly requires no response. To the extent a response may be deemed required, Intervenor refers the Court to the full text of such provisions and admits that the provisions

so read.

16. Intervenor admits the allegation contained in paragraph 71 of the Complaint that on June 28, 2010, in McDonald v. City of Chicago, Ill., \_\_ U.S. \_\_, 130 S.Ct. 3020 (2010), the Supreme Court, in a plurality decision, held that the Second Amendment right recognized in District of Columbia v. Heller, 554 U.S. 570, 128 S.Ct. 2783 (2008) is applicable to the states, refers the Court to the full text of the decision itself and otherwise denies the allegations contained in that paragraph.

17. Paragraph 72 of the Complaint contains a legal conclusion and Plaintiffs' citation to a case they assert supports this contention and thus no response is required. To the extent that a response is required, Intervenor denies the same.

18. Paragraph 73 of the Complaint contains a legal conclusion and Plaintiffs' citation to a case they assert supports this contention and thus no response is required. To the extent that a response is required, Intervenor denies the same.

19. Intervenor denies the allegations of paragraph 74 of the Complaint.

20. Intervenor admits that in their prayer for relief, Plaintiffs set forth the relief requested but denies that Plaintiffs are entitled to such relief.

WHEREFORE, Intervenor New York State Attorney General Eric Schneiderman prays that:

1. The Court reject Plaintiffs' contention that Penal Law § 400.00(14) is unconstitutional.

2. The Court adjudge and declare (a) that Plaintiffs have failed to state a justiciable claim on which relief may be granted as to the constitutionality of Penal Law §

400.00(14); (b) that Penal Law § 400.00(14) as applied to the facts in this case is constitutional; and/or (c) Plaintiffs lack standing to challenge Penal Law § 400.00(14).

3. The Court issue an order dismissing the Complaint insofar as it pertains to Penal Law § 400.00(14), award Intervenor his costs and disbursements, and grant to Intervenor such other and further relief as is just and proper.

Dated: New York, New York  
June 22, 2011

ERIC T. SCHNEIDERMAN  
Attorney General of the  
State of New York  
Intervenor  
By:

/s/

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