S T A T E O F N E W Y O R K

6387

2013-2014 Regular Sessions

I N A S S E M B L Y

March 26, 2013

Introduced by M. of A. DIPIETRO -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to allowing applicants for gun licenses to consent to disclosure of the information contained in the license application

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraphs (b), (c), (d), (e), (f) and (g) of subdivision 5 of section 400.00 of the penal law, as added by chapter 1 of the laws of 2013, are amended to read as follows:

(b) Each application for a license pursuant to paragraph (a) of this subdivision shall include, on a separate written form prepared by the division of state police [within thirty days of the effective date of the chapter of the laws of two thousand thirteen, which amended this section,] and provided to the applicant at the same time and in the same manner as the application for a license, an opportunity for the applicant to [request an exception from] CONSENT TO his or her application information becoming public record pursuant to paragraph (a) of this subdivision. Such forms, which shall also be made available to individuals who had applied for or been granted a license prior to the effective date of [the] SECTION FORTY-EIGHT OF chapter ONE of the laws of two thousand thirteen [which amended this section], shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter[, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to specify the grounds on which he or she believes his or her application information should not be publicly disclosed. These grounds, which shall be identified on the

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

LBD09982-01-3

application with a box beside each for checking, as applicable, by the applicant, shall be as follows:

(i) the applicant's life or safety may be endangered by disclosure because:

(A) the applicant is an active or retired police officer, peace officer, probation officer, parole officer, or corrections officer;

(B) the applicant is a protected person under a currently valid order of protection;

(C) the applicant is or was a witness in a criminal proceeding involving a criminal charge;

(D) the applicant is participating or previously participated as a juror in a criminal proceeding, or is or was a member of a grand jury; or

(E) the applicant is a spouse, domestic partner or household member of a person identified in this subparagraph or subparagraph (ii) of this paragraph, specifying which subparagraph or subparagraphs and clauses apply.

(ii) the applicant has reason to believe his or her life or safety may be endangered by disclosure due to reasons stated by the applicant.

(iii) the applicant has reason to believe he or she may be subject to unwarranted harassment upon disclosure of such information].

(c) Each form provided for recertification pursuant to paragraph (b) of subdivision ten of this section shall include an opportunity for the applicant to [request an exception from] CONSENT TO the information provided on such form becoming public record pursuant to paragraph (a) of this subdivision. Such forms shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter[, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to either decline to request the grant or continuation of an exception, or specify the grounds on which he or she believes his or her information should not be publicly disclosed. These grounds, which shall be identified in the application with a box beside each for checking, as applicable, by the applicant, shall be the same as provided in paragraph (b) of this subdivision].

(d) Information submitted on the forms described in paragraph (b) of this subdivision shall be [excepted from disclosure and] maintained by the entity retaining such information separate and apart from all other records.

(e) [(i) Upon receiving a request for exception from disclosure, the licensing officer shall grant such exception, unless the request is determined to be null and void, pursuant to paragraph (b) or (c) of this subdivision.

(ii) A request for an exception from disclosure may be submitted at any time, including after a license or recertification has been granted.

(iii) If an exception is sought and granted pursuant to paragraph (b) of this subdivision, the application information shall not be public record, unless the request is determined to be null and void. If an exception is sought and granted pursuant to paragraph (c) of this subdivision, the information concerning such recertification application shall not be public record, unless the request is determined to be null and void.

(f)] The information of licensees or applicants for a license shall not be disclosed to the public during the first one hundred twenty days

following the effective date of [the] SECTION FORTY-EIGHT OF chapter ONE of the laws of two thousand thirteen[, which amended this section]. After such period, the information of those who had applied for or been granted a license prior to the preparation of the form for requesting an exception, pursuant to paragraph (b) of this subdivision, may be released only if such individuals [did not file a request for such an exception] CONSENTED TO THE DISCLOSURE during the first sixty days following such preparation; provided, however, that no information contained in an application for licensure or recertification shall be disclosed by an entity that has not completed processing any such requests received during such sixty days.

[(g) If a request for an exception is determined to be null and void pursuant to paragraph (b) or (c) of this subdivision, an applicant may request review of such determination pursuant to article seventy-eight of the civil practice laws and rules. Such proceeding must commence within thirty days after service of the written notice containing the adverse determination. Notice of the right to commence such a petition, and the time period therefor, shall be included in the notice of the determination. Disclosure following such a petition shall not be made prior to the disposition of such review.]

S 2. This act shall take effect immediately.