

3899

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 29, 2013

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

AN ACT to amend the penal law, in relation to criminal possession of a  
weapon; to amend the penal law and the executive law, in relation to  
the possession of a firearm while under the influence of alcohol or  
drugs; to amend the penal law, in relation to increasing penalties for  
the criminal sale of firearms; to amend the civil practice law and  
rules, in relation to forfeiture money; and to repeal certain  
provisions of the penal law relating thereto

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

1     Section 1. Subdivisions 7 and 8 of section 265.01 of the penal law are  
2     REPEALED.  
3     S 2. Subdivision 8 of section 265.02 of the penal law, as amended by  
4     chapter 764 of the laws of 2005, is amended and two new subdivisions 9  
5     and 10 are added to read as follows:  
6     (8) Such person possesses a large capacity ammunition feeding  
7     device[.]; OR  
8     (9) SUCH PERSON KNOWINGLY POSSESSES A BULLET CONTAINING AN EXPLOSIVE  
9     SUBSTANCE DESIGNED TO DETONATE UPON IMPACT; OR  
10    (10) SUCH PERSON POSSESSES ANY ARMOR PIERCING AMMUNITION WITH INTENT  
11    TO USE THE SAME UNLAWFULLY AGAINST ANOTHER.  
12    S 3. Subdivision 1 of section 400.00 of the penal law, as amended by  
13    chapter 189 of the laws of 2000, is amended to read as follows:  
14    1. Eligibility. No license shall be issued or renewed pursuant to this  
15    section except by the licensing officer, and then only after investi-  
16    gation and finding that all statements in a proper application for a  
17    license are true. No license shall be issued or renewed except for an  
18    applicant (a) twenty-one years of age or older, provided, however, that  
19    where such applicant has been honorably discharged from the United  
20    States army, navy, marine corps, air force or coast guard, or the

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

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1 national guard of the state of New York, no such age restriction shall  
2 apply; (b) of good moral character; (c) who has not been convicted  
3 anywhere of a felony or a serious offense; (d) who has stated whether he  
4 or she has ever suffered any mental illness or been confined to any  
5 hospital or institution, public or private, for mental illness; (e) who  
6 has not had a license revoked or who is not under a suspension or inel-  
7 igibility order issued pursuant to the provisions of SUBDIVISION  
8 ELEVEN-A OF THIS SECTION, section 530.14 of the criminal procedure law  
9 or section eight hundred forty-two-a of the family court act; (f) in the  
10 county of Westchester, who has successfully completed a firearms safety  
11 course and test as evidenced by a certificate of completion issued in  
12 his or her name and endorsed and affirmed under the penalties of perjury  
13 by a duly authorized instructor, except that: (i) persons who are honor-  
14 ably discharged from the United States army, navy, marine corps or coast  
15 guard, or of the national guard of the state of New York, and produce  
16 evidence of official qualification in firearms during the term of  
17 service are not required to have completed those hours of a firearms  
18 safety course pertaining to the safe use, carrying, possession, mainte-  
19 nance and storage of a firearm; and (ii) persons who were licensed to  
20 possess a pistol or revolver prior to the effective date of this para-  
21 graph are not required to have completed a firearms safety course and  
22 test; and (g) concerning whom no good cause exists for the denial of the  
23 license. No person shall engage in the business of gunsmith or dealer in  
24 firearms unless licensed pursuant to this section. An applicant to  
25 engage in such business shall also be a citizen of the United States,  
26 more than twenty-one years of age and maintain a place of business in  
27 the city or county where the license is issued. For such business, if  
28 the applicant is a firm or partnership, each member thereof shall comply  
29 with all of the requirements set forth in this subdivision and if the  
30 applicant is a corporation, each officer thereof shall so comply.

31 S 4. Subdivision 11 of section 400.00 of the penal law, as amended by  
32 chapter 210 of the laws of 1999, is amended to read as follows:

33 11. License: revocation and suspension. The conviction of a licensee  
34 anywhere of a felony or serious offense shall operate as a revocation of  
35 the license. A license may be revoked or suspended as provided for in  
36 section 530.14 of the criminal procedure law or section eight hundred  
37 forty-two-a of the family court act. Except for a license issued pursu-  
38 ant to section 400.01 of this article, a license may be revoked and  
39 cancelled at any time in the city of New York, and in the counties of  
40 Nassau and Suffolk, by the licensing officer, and elsewhere than in the  
41 city of New York by any judge or justice of a court of record; a license  
42 issued pursuant to section 400.01 of this article may be revoked and  
43 cancelled at any time by the licensing officer or any judge or justice  
44 of a court of record. The official revoking a license shall give written  
45 notice thereof without unnecessary delay to the executive department,  
46 division of state police, Albany, and shall also notify immediately the  
47 duly constituted police authorities of the locality. FOR PURPOSES OF  
48 THIS SUBDIVISION, THE TERM "SERIOUS OFFENSE" SHALL INCLUDE, BUT NOT BE  
49 LIMITED TO, A SECOND VIOLATION OF SUBDIVISION ELEVEN-A OF THIS SECTION  
50 WITHIN TEN YEARS OF A PRIOR VIOLATION OF SUCH SUBDIVISION.

51 S 5. Section 400.00 of the penal law is amended by adding a new subdi-  
52 vision 11-a to read as follows:

53 11-A. LICENSE; SUSPENSION FOR POSSESSION WHILE UNDER THE INFLUENCE OF  
54 ALCOHOL OR A CONTROLLED SUBSTANCE. (A) NO LICENSEE SHALL POSSESS ANY  
55 LOADED FIREARM, AS DEFINED IN SUBDIVISION FIFTEEN OF SECTION 265.00 OF  
56 THIS CHAPTER, ON HIS OR HER PERSON IN A PUBLIC PLACE WHILE SUCH LICENSEE

1 IS EITHER UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF A  
2 CONTROLLED SUBSTANCE, AS DEFINED IN SECTIONS THIRTY-THREE HUNDRED TWO  
3 AND THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW. FOR PURPOSES OF  
4 THIS SUBDIVISION, A PERSON IS CONSIDERED TO BE UNDER THE INFLUENCE OF  
5 ALCOHOL OR UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE WHERE SUCH  
6 PERSON HAS VOLUNTARILY CONSUMED ALCOHOL OR VOLUNTARILY USED ONE OR MORE  
7 CONTROLLED SUBSTANCES, OR BOTH, TO THE EXTENT THAT HIS OR HER ABILITY TO  
8 SAFELY HANDLE OR USE A LOADED FIREARM HAS BEEN SIGNIFICANTLY DIMINISHED.  
9 FOR PURPOSES OF THIS SUBDIVISION, "PUBLIC PLACE" SHALL HAVE THE SAME  
10 MEANING AS IN SUBDIVISION ONE OF SECTION 240.00 OF THIS CHAPTER,  
11 PROVIDED HOWEVER, THAT FOR PURPOSES OF THIS SUBDIVISION, "PUBLIC PLACE"  
12 SHALL ALSO INCLUDE THE INTERIOR OF A MOTOR VEHICLE. AS USED IN THIS  
13 SUBDIVISION, "ON HIS OR HER PERSON" SHALL HAVE ITS ORDINARY MEANING,  
14 PROVIDED, HOWEVER, THAT FOR PURPOSES OF THIS SUBDIVISION, A PERSON SHALL  
15 ALSO BE DEEMED TO POSSESS A FIREARM "ON HIS OR HER PERSON" WHERE A  
16 FIREARM LICENSED TO SUCH PERSON IS FOUND IN A MOTOR VEHICLE AT THE SAME  
17 TIME SUCH PERSON IS AN OCCUPANT OF SUCH VEHICLE.

18 (B) THE LICENSE TO CARRY OR POSSESS A FIREARM OF ANY PERSON WHO IS  
19 CHARGED WITH A VIOLATION OF ANY OF THE PROVISIONS OF PARAGRAPH (A) OF  
20 THIS SUBDIVISION OR WHO REFUSES TO SUBMIT TO A CHEMICAL TEST OF HIS OR  
21 HER BREATH, BLOOD, URINE OR SALIVA FOR THE PURPOSE OF DETERMINING THE  
22 ALCOHOLIC AND/OR DRUG CONTENT OF HIS OR HER BLOOD SHALL BE DEEMED  
23 SUSPENDED, WITH RESPECT TO THE FIREARM OR FIREARMS FORMING THE BASIS OF  
24 SUCH CHARGE OR REFUSAL, PENDING A HEARING HELD PURSUANT TO THIS SUBDIVI-  
25 SION AND SUCH FIREARM OR FIREARMS, TOGETHER WITH ANY AMMUNITION  
26 POSSESSED THEREWITH, SHALL BE CONFISCATED AND HELD BY THE POLICE PENDING  
27 SUCH HEARING.

28 (C) (I) ANY PERSON WHO HOLDS A LICENSE TO CARRY OR POSSESS A FIREARM  
29 IN THIS STATE SHALL BE DEEMED TO HAVE GIVEN HIS OR HER CONSENT TO A  
30 CHEMICAL TEST OF HIS OR HER BREATH, BLOOD, URINE OR SALIVA FOR THE  
31 PURPOSE OF DETERMINING THE ALCOHOLIC AND/OR DRUG CONTENT OF HIS OR HER  
32 BLOOD; PROVIDED, THAT SUCH TEST IS ADMINISTERED BY OR AT THE DIRECTION  
33 OF A POLICE OFFICER WITH RESPECT TO A CHEMICAL TEST OF BREATH, URINE OR  
34 SALIVA OR, WITH RESPECT TO A CHEMICAL TEST OF BLOOD, AT THE DIRECTION OF  
35 A POLICE OFFICER HAVING REASONABLE GROUNDS TO BELIEVE SUCH PERSON  
36 POSSESSES A FIREARM IN VIOLATION OF THIS SUBDIVISION.

37 (II) IF SUCH LICENSEE, HAVING BEEN REQUESTED TO SUBMIT TO SUCH CHEMI-  
38 CAL TEST AND HAVING BEEN INFORMED THAT HIS OR HER LICENSE TO CARRY OR  
39 POSSESS A FIREARM SHALL BE SUSPENDED FOR A REFUSAL TO SUBMIT TO SUCH  
40 CHEMICAL TEST, REFUSES TO SUBMIT TO SUCH TEST OR IS ADMINISTERED SUCH  
41 TEST, A WRITTEN REPORT OF SUCH REFUSAL OR TEST RESULT SHALL BE IMME-  
42 DIATELY MADE BY THE POLICE OFFICER BEFORE WHOM SUCH REFUSAL OR TEST WAS  
43 MADE. SUCH REPORT MAY BE VERIFIED BY HAVING THE REPORT SWORN TO, OR  
44 AFFIXING TO SUCH REPORT A FORM NOTICE THAT FALSE STATEMENTS MADE THEREIN  
45 ARE PUNISHABLE AS A CLASS A MISDEMEANOR, PURSUANT TO SECTION 210.45 OF  
46 THIS CHAPTER, AND SUCH FORM NOTICE TOGETHER WITH THE SUBSCRIPTION OF THE  
47 DEPONENT SHALL CONSTITUTE A VERIFICATION OF THE REPORT. THE REPORT OF  
48 THE POLICE OFFICER SHALL STATE THAT HE OR SHE HAD REASONABLE GROUNDS TO  
49 BELIEVE SUCH LICENSEE TO HAVE BEEN IN VIOLATION OF THIS SUBDIVISION AND,  
50 IF APPROPRIATE, THAT SAID PERSON HAD REFUSED TO SUBMIT TO SUCH CHEMICAL  
51 TEST. COPIES OF SUCH REPORT SHALL BE FORWARDED BY THE POLICE OFFICER TO  
52 THE LICENSING OFFICER WITHIN FORTY-EIGHT HOURS.

53 (D) (I) ANY LICENSEE WHOSE LICENSE TO CARRY OR POSSESS A FIREARM HAS  
54 BEEN DEEMED SUSPENDED PURSUANT TO THE TERMS OF THIS SUBDIVISION, IS  
55 ENTITLED TO A HEARING BY THE LICENSING OFFICER, NO LATER THAN SEVEN DAYS  
56 AFTER THE DATE ON WHICH HE OR SHE ALLEGEDLY VIOLATED THIS SUBDIVISION.

1 SUCH HEARING SHALL BE CONDUCTED BY THE LICENSING OFFICER, OR IF SUCH  
2 POSSESSION ALLEGEDLY OCCURRED IN THE CITY OF NEW YORK, BY THE POLICE  
3 COMMISSIONER OF SUCH CITY. IF THE LICENSING OFFICER FAILS TO PROVIDE FOR  
4 SUCH HEARING WITHIN THE TIME PRESCRIBED HEREIN, THE LICENSE OF SUCH  
5 PERSON SHALL BE REINSTATED PENDING A HEARING PURSUANT TO THIS SUBDIVI-  
6 SION AND ANY LAWFULLY POSSESSED FIREARM AND AMMUNITION CONFISCATED  
7 PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE IMMEDIATELY  
8 RETURNED TO THE LICENSEE. THE BURDEN OF PROOF AT A HEARING CONDUCTED  
9 PURSUANT TO THIS SUBDIVISION SHALL BE ON THE POLICE OFFICER TO PROVE THE  
10 ISSUES BY A PREPONDERANCE OF THE EVIDENCE. THE HEARING SHALL BE LIMITED  
11 TO THE FOLLOWING ISSUES: (1) DID THE PERSON POSSESS A LOADED FIREARM ON  
12 HIS OR HER PERSON IN A PUBLIC PLACE WHILE UNDER THE INFLUENCE OF ALCOHOL  
13 OR DRUGS IN VIOLATION OF THIS SUBDIVISION AND DID THE POLICE OFFICER  
14 HAVE REASONABLE GROUNDS FOR BELIEVING SUCH VIOLATION HAD OCCURRED; AND  
15 (2) IF SUSPENSION IS BASED UPON A REFUSAL TO SUBMIT TO A CHEMICAL TEST,  
16 DID THE POLICE OFFICER HAVE REASONABLE GROUNDS FOR BELIEVING THE LICEN-  
17 SEE POSSESSED A FIREARM IN VIOLATION OF THIS SUBDIVISION, WAS SUCH  
18 PERSON GIVEN SUFFICIENT WARNING, IN CLEAR AND UNEQUIVOCAL LANGUAGE,  
19 PRIOR TO SUCH REFUSAL THAT SUCH REFUSAL TO SUBMIT TO SUCH CHEMICAL TEST  
20 WOULD RESULT IN THE SUSPENSION OF HIS OR HER LICENSE WHETHER OR NOT HE  
21 OR SHE IS FOUND GUILTY OF THE CHARGE AND DID SUCH PERSON REFUSE TO  
22 SUBMIT TO SUCH CHEMICAL TEST. IF, AFTER SUCH HEARING, THE LICENSING  
23 OFFICER FINDS ON BOTH OF SAID ISSUES IN THE NEGATIVE, HE OR SHE SHALL  
24 IMMEDIATELY REINSTATE SUCH LICENSE SUBJECT TO ANY EXISTING RESTRICTION,  
25 REVOCATION, OR SUSPENSION OF SUCH LICENSE AND ANY LAWFULLY POSSESSED  
26 FIREARM AND AMMUNITION CONFISCATED PURSUANT TO PARAGRAPH (B) OF THIS  
27 SUBDIVISION SHALL BE IMMEDIATELY RETURNED TO THE LICENSEE. IF, AFTER  
28 SUCH HEARING, THE LICENSING OFFICER FINDS EITHER OF THE ISSUES IN THE  
29 AFFIRMATIVE, HE OR SHE SHALL IMMEDIATELY SUSPEND THE LICENSE. THE  
30 FIREARM LICENSE SHALL BE SUSPENDED FOR A PERIOD OF ONE YEAR. THE LICENS-  
31 ING OFFICER, UPON SUSPENDING A LICENSE, SHALL INSTRUCT THE PERSON THAT  
32 ALL OUTSTANDING FIREARMS HELD PURSUANT TO SUCH LICENSE, AND ANY AMEND-  
33 MENTS THERETO, SHALL BE SURRENDERED TO THE DULY ENTITLED POLICE AUTHORI-  
34 TIES WITHIN TWENTY-FOUR HOURS OF THE CONCLUSION OF SUCH HEARING. THE  
35 LICENSING OFFICER SHALL INSTRUCT SUCH PERSON THAT ALL WEAPONS SURREN-  
36 DERED PURSUANT TO THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION  
37 SHALL BE RETURNED TO SUCH PERSON UPON THE REINSTATEMENT OF SUCH LICENSE.  
38 ANY PERSON MAY WAIVE HIS OR HER RIGHT TO A HEARING UNDER THIS PARAGRAPH.  
39 FAILURE BY SUCH PERSON TO APPEAR FOR HIS OR HER SCHEDULED HEARING SHALL  
40 CONSTITUTE A WAIVER OF SUCH HEARING, PROVIDED, HOWEVER, THAT SUCH PERSON  
41 MAY PETITION THE LICENSING OFFICER FOR A NEW HEARING WHICH, IF GRANTED,  
42 SHALL BE HELD AS SOON AS PRACTICABLE.

43 (II) EVIDENCE OF A REFUSAL TO SUBMIT TO SUCH CHEMICAL TEST SHALL BE  
44 ADMISSIBLE IN ANY HEARING HELD PURSUANT TO THE PROVISIONS OF THIS SUBDI-  
45 VISION BUT ONLY UPON SHOWING THAT THE PERSON WAS GIVEN SUFFICIENT WARN-  
46 ING, IN CLEAR AND UNEQUIVOCAL LANGUAGE, OF THE EFFECT OF SUCH REFUSAL.

47 (III) UPON THE REQUEST OF THE PERSON WHO WAS TESTED, THE RESULTS OF  
48 SUCH TEST SHALL BE MADE AVAILABLE TO HIM OR HER.

49 (IV) THE CHEMICAL TEST PROVIDED FOR IN SUBPARAGRAPH (I) OF PARAGRAPH  
50 (C) OF THIS SUBDIVISION SHALL BE CONDUCTED IN THE SAME MANNER AS  
51 PROVIDED IN SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED NINETY-FOUR OF  
52 THE VEHICLE AND TRAFFIC LAW.

53 (V) ANY PERSON WHOSE LICENSE IS SUSPENDED FOR A VIOLATION OF THIS  
54 SUBDIVISION SHALL, AS A CONDITION FOR REINSTATEMENT OF SUCH LICENSE,  
55 SUCCESSFULLY COMPLETE THE ALCOHOL AND DRUG REHABILITATION PROGRAM  
56 PROVIDED FOR IN SECTION EIGHT HUNDRED THIRTY-SEVEN-S OF THE EXECUTIVE

LAW. THE LICENSING OFFICER SHALL NOT REINSTATE SUCH LICENSE UNTIL THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES CERTIFIES SUCH PERSON HAS SUCCESSFULLY COMPLETED THE ALCOHOL AND DRUG REHABILITATION PROGRAM.

(VI) DURING THE PERIOD OF SUSPENSION PROVIDED FOR IN THIS PARAGRAPH SUCH PERSON SHALL NOT BE PERMITTED TO APPLY FOR ANY LICENSE, OR AN AMENDMENT TO AN EXISTING LICENSE, PROVIDED FOR IN THIS SECTION.

(E) THE LICENSING OFFICER SUSPENDING 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.

(F) IN ANY HEARING PURSUANT TO THIS SUBDIVISION, THE LICENSING OFFICER SHALL ADMIT EVIDENCE OF THE AMOUNT OF ALCOHOL OR DRUGS IN THE PERSON'S BLOOD AS SHOWN BY A TEST ADMINISTERED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION.

THE FOLLOWING EFFECT SHALL BE GIVEN TO EVIDENCE OF BLOOD-ALCOHOL CONTENT, AS DETERMINED BY SUCH TESTS, OF A PERSON CHARGED WITH A VIOLATION OF THIS SUBDIVISION:

(I) EVIDENCE THAT THERE WAS LESS THAN .10 OF ONE PER CENTUM BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD SHALL BE PRIMA FACIE EVIDENCE THAT SUCH PERSON WAS NOT UNDER THE INFLUENCE OF ALCOHOL;

(II) EVIDENCE THAT THERE WAS .10 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN SUCH PERSON'S BLOOD SHALL BE PRIMA FACIE EVIDENCE THAT SUCH PERSON WAS UNDER THE INFLUENCE OF ALCOHOL.

(G) EXCEPT AS HEREIN SPECIFICALLY PROVIDED, THE HEARING CONDUCTED PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED TO BE AN ADJUDICATORY PROCEEDING SUBJECT TO THE PROVISIONS OF ARTICLE THREE OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

(H) ANY PERSON AGGRIEVED BY A DECISION AFTER THE HEARING PROVIDED FOR IN THIS SUBDIVISION MAY APPEAL SUCH DECISION PURSUANT TO THE PROVISIONS OF ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO PERSON SHALL BE ARRESTED SOLELY FOR AN ALLEGED VIOLATION OF THIS SUBDIVISION. HOWEVER, A PERSON FOR WHOM A CHEMICAL TEST IS AUTHORIZED PURSUANT TO THIS SUBDIVISION MAY BE TEMPORARILY DETAINED BY THE POLICE SOLELY FOR THE PURPOSE OF REQUESTING OR ADMINISTERING SUCH CHEMICAL TEST WHENEVER ARREST WITHOUT WARRANT FOR A PETTY OFFENSE WOULD BE AUTHORIZED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 140.10 OF THE CRIMINAL PROCEDURE LAW.

(J) NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO IN ANY WAY REDUCE OR LIMIT THE EXISTING AUTHORITY OF A LICENSING OFFICER TO REVOKE OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS SECTION. NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO LIMIT, REDUCE OR IN ANY WAY EFFECT THE CRIMINAL LIABILITY OF A LICENSEE FOR ANY FIREARM OR OTHER OFFENSE DEFINED IN THIS CHAPTER OR ANY OTHER PROVISION OF LAW.

S 6. Subdivision 15 of section 400.00 of the penal law is amended to read as follows:

15. Any violation by any person of any provision of this section, OTHER THAN A VIOLATION OF PARAGRAPH (A) OF SUBDIVISION ELEVEN-A OF THIS SECTION, is a class A misdemeanor.

S 7. The executive law is amended by adding a new section 837-s to read as follows:

S 837-S. ALCOHOL AND DRUG REHABILITATION PROGRAM. 1. PROGRAM ESTABLISHMENT. THERE IS HEREBY ESTABLISHED AN ALCOHOL AND DRUG REHABILITATION PROGRAM WITHIN THE DIVISION. THE COMMISSIONER SHALL ESTABLISH, BY REGULATION, THE INSTRUCTIONAL AND REHABILITATIVE ASPECTS OF THE PROGRAM.

1 SUCH PROGRAM SHALL CONSIST OF AT LEAST FIFTEEN AND NOT MORE THAN THIRTY  
2 HOURS AND INCLUDE, BUT NEED NOT BE LIMITED TO, CLASSROOM INSTRUCTION IN  
3 AREAS DEEMED SUITABLE BY THE COMMISSIONER.

4 2. CURRICULUM. THE FORM, CONTENT AND METHOD OF PRESENTATION OF THE  
5 VARIOUS ASPECTS OF SUCH PROGRAM SHALL BE ESTABLISHED BY THE COMMISSION-  
6 ER. IN THE DEVELOPMENT OF THE FORM, CURRICULUM AND CONTENT OF SUCH  
7 PROGRAM, THE COMMISSIONER MAY CONSULT WITH THE COMMISSIONER OF MENTAL  
8 HEALTH, THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE  
9 SERVICES AND ANY OTHER STATE DEPARTMENT OR AGENCY AND REQUEST AND  
10 RECEIVE ASSISTANCE FROM THEM. THE COMMISSIONER IS ALSO AUTHORIZED TO  
11 DEVELOP MORE THAN ONE CURRICULUM AND COURSE CONTENT FOR SUCH PROGRAM IN  
12 ORDER TO MEET THE VARYING REHABILITATIVE NEEDS OF THE PARTICIPANTS.

13 3. WHERE AVAILABLE. A COURSE IN SUCH PROGRAM SHALL BE AVAILABLE IN AT  
14 LEAST EVERY COUNTY IN THE STATE, EXCEPT WHERE THE COMMISSIONER DETER-  
15 MINES THAT THERE IS NOT A SUFFICIENT NUMBER OF ALCOHOL OR DRUG-RELATED  
16 OFFENSES IN A COUNTY TO MANDATE THE ESTABLISHMENT OF SAID COURSE, AND  
17 THAT PROVISIONS BE MADE FOR THE RESIDENTS OF SAID COUNTY TO ATTEND A  
18 COURSE IN ANOTHER COUNTY WHERE A COURSE EXISTS.

19 4. ELIGIBILITY. PARTICIPATION IN THE PROGRAM SHALL BE LIMITED TO THOSE  
20 PERSONS HAVING VIOLATED THE PROVISIONS OF SUBDIVISION ELEVEN-A OF  
21 SECTION 400.00 OF THE PENAL LAW.

22 5. EFFECT OF COMPLETION. UPON SUCCESSFUL COMPLETION OF A COURSE IN  
23 SUCH PROGRAM AS CERTIFIED BY ITS ADMINISTRATOR, THE COMMISSIONER SHALL,  
24 ON A FORM PROVIDED FOR SUCH PURPOSE, NOTIFY THE APPROPRIATE LICENSING  
25 OFFICER HAVING ISSUED THE ORDER OF SUSPENSION OF SUCH LICENSEE'S  
26 SUCCESSFUL COMPLETION OF THE COURSE PROVIDED FOR IN THIS SECTION.

27 6. FEES. THE COMMISSIONER SHALL ESTABLISH A SCHEDULE OF FEES TO BE  
28 PAID BY OR ON BEHALF OF EACH PARTICIPANT IN THE PROGRAM, AND MAY, FROM  
29 TIME TO TIME, MODIFY SAME. SUCH FEES SHALL DEFRAY THE ONGOING EXPENSES  
30 OF THE PROGRAM, PROVIDED, HOWEVER, THAT PURSUANT TO AN AGREEMENT WITH  
31 THE DIVISION A MUNICIPALITY, DEPARTMENT THEREOF, OR OTHER AGENCY MAY  
32 CONDUCT A COURSE IN SUCH PROGRAM WITH ALL OR PART OF THE EXPENSE OF SUCH  
33 COURSE AND PROGRAM BEING BORNE BY SUCH MUNICIPALITY, DEPARTMENT OR AGEN-  
34 CY. IN NO EVENT SHALL SUCH FEE BE REFUNDABLE, EITHER FOR REASONS OF THE  
35 PARTICIPANT'S WITHDRAWAL OR EXPULSION FROM SUCH PROGRAM OR OTHERWISE.

36 S 8. The closing paragraph of section 265.13 of the penal law, as  
37 amended by chapter 764 of the laws of 2005, is amended to read as  
38 follows:

39 Criminal sale of a firearm in the first degree is a class [B] A felo-  
40 ny.

41 S 9. The closing paragraph of section 265.12 of the penal law, as  
42 amended by chapter 764 of the laws of 2005, is amended to read as  
43 follows:

44 Criminal sale of a firearm in the second degree is a class [C] B felo-  
45 ny.

46 S 10. Paragraph (a) of subdivision 1 of section 70.02 of the penal  
47 law, as amended by chapter 320 of the laws of 2006, is amended to read  
48 as follows:

49 (a) Class B violent felony offenses: an attempt to commit the class  
50 A-I felonies of murder in the second degree as defined in section  
51 125.25, kidnapping in the first degree as defined in section 135.25, and  
52 arson in the first degree as defined in section 150.20; manslaughter in  
53 the first degree as defined in section 125.20, aggravated manslaughter  
54 in the first degree as defined in section 125.22, rape in the first  
55 degree as defined in section 130.35, criminal sexual act in the first  
56 degree as defined in section 130.50, aggravated sexual abuse in the

1 first degree as defined in section 130.70, course of sexual conduct  
2 against a child in the first degree as defined in section 130.75;  
3 assault in the first degree as defined in section 120.10, kidnapping in  
4 the second degree as defined in section 135.20, burglary in the first  
5 degree as defined in section 140.30, arson in the second degree as  
6 defined in section 150.15, robbery in the first degree as defined in  
7 section 160.15, incest in the first degree as defined in section 255.27,  
8 criminal possession of a weapon in the first degree as defined in  
9 section 265.04, criminal use of a firearm in the first degree as defined  
10 in section 265.09, criminal sale of a firearm in the [first] SECOND  
11 degree as defined in section [265.13] 265.12, CRIMINAL SALE OF A FIREARM  
12 WITH THE AID OF A MINOR AS DEFINED IN SECTION 265.14, aggravated assault  
13 upon a police officer or a peace officer as defined in section 120.11,  
14 gang assault in the first degree as defined in section 120.07, intim-  
15 idating a victim or witness in the first degree as defined in section  
16 215.17, hindering prosecution of terrorism in the first degree as  
17 defined in section 490.35, criminal possession of a chemical weapon or  
18 biological weapon in the second degree as defined in section 490.40, and  
19 criminal use of a chemical weapon or biological weapon in the third  
20 degree as defined in section 490.47.

21 S 11. The closing paragraph of section 265.11 of the penal law, as  
22 amended by chapter 764 of the laws of 2005, is amended to read as  
23 follows:

24 Criminal sale of a firearm in the third degree is a class [D] C felo-  
25 ny.

26 S 12. Paragraph (b) of subdivision 1 of section 70.02 of the penal  
27 law, as amended by chapter 148 of the laws of 2011, is amended to read  
28 as follows:

29 (b) Class C violent felony offenses: an attempt to commit any of the  
30 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
31 vated criminally negligent homicide as defined in section 125.11, aggra-  
32 vated manslaughter in the second degree as defined in section 125.21,  
33 aggravated sexual abuse in the second degree as defined in section  
34 130.67, assault on a peace officer, police officer, fireman or emergency  
35 medical services professional as defined in section 120.08, assault on a  
36 judge as defined in section 120.09, gang assault in the second degree as  
37 defined in section 120.06, strangulation in the first degree as defined  
38 in section 121.13, burglary in the second degree as defined in section  
39 140.25, robbery in the second degree as defined in section 160.10, crim-  
40 inal possession of a weapon in the second degree as defined in section  
41 265.03, criminal use of a firearm in the second degree as defined in  
42 section 265.08, criminal sale of a firearm in the [second] THIRD degree  
43 as defined in section [265.12] 265.11, [criminal sale of a firearm with  
44 the aid of a minor as defined in section 265.14] CRIMINAL SALE OF A  
45 FIREARM TO A MINOR AS DEFINED IN SECTION 265.16, soliciting or providing  
46 support for an act of terrorism in the first degree as defined in  
47 section 490.15, hindering prosecution of terrorism in the second degree  
48 as defined in section 490.30, and criminal possession of a chemical  
49 weapon or biological weapon in the third degree as defined in section  
50 490.37.

51 S 13. The closing paragraph of section 265.16 of the penal law, as  
52 amended by chapter 654 of the laws of 1998, is amended to read as  
53 follows:

54 Criminal sale of a firearm to a minor is a class [C] B felony.

1 S 14. The closing paragraph of section 265.14 of the penal law, as  
2 amended by chapter 654 of the laws of 1998, is amended to read as  
3 follows:

4 Criminal sale of a firearm with the aid of a minor is a class [C] B  
5 felony.

6 S 15. Subparagraph (i) of paragraph (h) of subdivision 2 of section  
7 1349 of the civil practice law and rules, as added by chapter 655 of the  
8 laws of 1990, is amended to read as follows:

9 (i) [seventy-five] SIXTY-FIVE percent of such moneys shall be deposit-  
10 ed to a law enforcement purposes subaccount of the general fund of the  
11 state where the claiming agent is an agency of the state or the poli-  
12 tical subdivision or public authority of which the claiming agent is a  
13 part, to be used for law enforcement use in the investigation of penal  
14 law offenses; AND TEN PERCENT OF SUCH MONIES SHALL BE ALLOCATED TO THE  
15 POLICE ATHLETIC LEAGUE OF THE POLITICAL SUBDIVISION OR PUBLIC AUTHORITY  
16 OF WHICH THE CLAIMING AGENT IS A PART;

17 S 16. Paragraph (b) of subdivision 3 of section 70.02 of the penal  
18 law, as amended by chapter 765 of the laws of 2005, is amended to read  
19 as follows:

20 (b) For a class C felony, the term must be at least three and one-half  
21 years and must not exceed fifteen years, provided, however, that the  
22 term must be: (i) at least seven years and must not exceed twenty years  
23 where the sentence is for the crime of aggravated manslaughter in the  
24 second degree as defined in section 125.21 of this chapter; (ii) at  
25 least seven years and must not exceed twenty years where the sentence is  
26 for the crime of attempted aggravated assault upon a police officer or  
27 peace officer as defined in section 120.11 of this chapter; [and] (iii)  
28 at least three and one-half years and must not exceed twenty years where  
29 the sentence is for the crime of aggravated criminally negligent homi-  
30 cide as defined in section 125.11 of this chapter; AND (IV) AT LEAST TEN  
31 YEARS AND MUST NOT EXCEED TWENTY YEARS WHERE THE SENTENCE IS FOR A CRIME  
32 OF CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE AS DEFINED IN  
33 SECTION 265.03 OF THIS CHAPTER;

34 S 17. This act shall take effect on the first of November next  
35 succeeding the date on which it shall have become a law.