

8196

2015-2016 Regular Sessions

I N A S S E M B L Y

June 11, 2015

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

AN ACT to amend the penal law, in relation to authorizing the transfer of certain weapons from an estate to an immediate member of the decedent's family; to amend the penal law, in relation to the filing of approved applications for licenses to carry, possess, repair and dispose of firearms; to amend the mental hygiene law, in relation to reports of substantial risk or threat of harm by mental health professionals; to amend the penal law, in relation to licenses to carry, possess, repair and dispose of firearms; and to repeal section 400.03 of the penal law relating to sellers of ammunition

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

1 Section 1. Section 400.03 of the penal law is REPEALED.
2 S 2. Paragraph (g) of subdivision 22 of section 265.00 of the penal
3 law is amended by adding a new subparagraph (vii) to read as follows:
4 (VII) ANY WEAPON LEGALLY POSSESSED AND VALIDLY REGISTERED PURSUANT TO
5 SUBDIVISION SIXTEEN-A OF SECTION 400.00 OF THIS CHAPTER PRIOR TO SUCH
6 PERSON'S DEATH AND BEQUEATHED OR PASSED THROUGH INTESTACY TO AN IMMEDI-
7 ATE FAMILY MEMBER OF THE DECEASED. SUCH WEAPONS SHALL BE SUBJECT TO THE
8 PROVISIONS OF PARAGRAPH (H) OF THIS SUBDIVISION. FOR PURPOSES OF THIS
9 SUBPARAGRAPH, THE MEANING OF IMMEDIATE FAMILY MEMBER IS AS DEFINED BY
10 SUBDIVISION ONE OF SECTION EIGHT HUNDRED NINETY-EIGHT OF THE GENERAL
11 BUSINESS LAW;
12 S 3. Paragraph (h) of subdivision 22 of section 265.00 of the penal
13 law, as added by chapter 1 of the laws of 2013, is amended to read as
14 follows:
15 (h) (I) Any weapon defined in paragraph (e) or (f) of this subdivision
16 and any large capacity ammunition feeding device that was legally
17 possessed by an individual prior to the enactment of the chapter of the
18 laws of two thousand thirteen which added this paragraph, may only be

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

LBD11506-01-5

1 sold to, exchanged with or disposed of to a purchaser authorized to
2 possess such weapons or to an individual or entity outside of the state
3 provided that any such transfer to an individual or entity outside of
4 the state must be reported to the entity wherein the weapon is regis-
5 tered within seventy-two hours of such transfer. An individual who
6 transfers any such weapon or large capacity ammunition device to an
7 individual inside New York state or without complying with the
8 provisions of this paragraph shall be guilty of a class A misdemeanor
9 unless such large capacity ammunition feeding device, the possession of
10 which is made illegal by the chapter of the laws of two thousand thir-
11 teen which added this paragraph, is transferred within one year of the
12 effective date of the chapter of the laws of two thousand thirteen which
13 added this paragraph.

14 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARA-
15 GRAPH, ANY WEAPON DEFINED IN PARAGRAPH (E) OR (F) OF THIS SUBDIVISION
16 THAT WAS LEGALLY POSSESSED AND VALIDLY REGISTERED BY AN INDIVIDUAL PRIOR
17 TO HIS OR HER DEATH MAY BE TRANSFERRED BY THE ESTATE OF SUCH INDIVIDUAL
18 TO ONE OF HIS OR HER IMMEDIATE FAMILY MEMBERS. FOR PURPOSES OF THIS
19 SUBPARAGRAPH, THE MEANING OF IMMEDIATE FAMILY MEMBER IS AS DEFINED BY
20 SUBDIVISION ONE OF SECTION EIGHT HUNDRED NINETY-EIGHT OF THE GENERAL
21 BUSINESS LAW.

22 S 4. Subdivision 5 of section 400.00 of the penal law, as amended by
23 chapter 1 of the laws of 2013, is amended to read as follows:

24 5. Filing of approved applications. [(a)] The application for any
25 license, if granted, shall be filed by the licensing officer with the
26 clerk of the county of issuance, except that in the city of New York
27 and, in the counties of Nassau and Suffolk, the licensing officer shall
28 designate the place of filing in the appropriate division, bureau or
29 unit of the police department thereof, and in the county of Suffolk the
30 county clerk is hereby authorized to transfer all records or applica-
31 tions relating to firearms to the licensing authority of that county.
32 [Except as provided in paragraphs (b) through (f) of this subdivision,
33 the name and address] THE APPLICATION AND ANY SUPPORTING RECORDS,
34 INCLUDING ANY INFORMATION CONTAINED THEREIN, of any person to whom an
35 application for any license has been granted shall NOT be a public
36 record AND SHALL NOT BE SUBJECT TO DISCLOSURE PURSUANT TO ARTICLE SIX OF
37 THE PUBLIC OFFICERS LAW. Upon application by a licensee who has changed
38 his OR HER place of residence such records or applications shall be
39 transferred to the appropriate officer at the licensee's new place of
40 residence. A duplicate copy of such application shall be filed by the
41 licensing officer in the executive department, division of [state
42 police] CRIMINAL JUSTICE SERVICES, Albany, within ten days after issu-
43 ance of the license. The [superintendent] COMMISSIONER of [state police]
44 CRIMINAL JUSTICE SERVICES may designate that such application shall be
45 transmitted to the division of [state police] CRIMINAL JUSTICE SERVICES
46 electronically. In the event the [superintendent] COMMISSIONER of the
47 division of [state police] CRIMINAL JUSTICE SERVICES determines that it
48 lacks any of the records required to be filed with the division, it may
49 request that such records be provided to it by the appropriate clerk,
50 department or authority and such clerk, department or authority shall
51 provide the division with such records. In the event such clerk, depart-
52 ment or authority lacks such records, the division may request the
53 license holder provide information sufficient to constitute such record
54 and such license holder shall provide the division with such informa-
55 tion. Such information shall be limited to the license holder's name,
56 date of birth, gender, race, residential address, social security number

1 and firearms possessed by said license holder. Nothing in this subdivi-
2 sion shall be construed to change the expiration date or term of such
3 licenses if otherwise provided for in law. Records assembled or
4 collected for purposes of inclusion in the database established by this
5 section shall be released pursuant to a court order. Records assembled
6 or collected for purposes of inclusion in the database created pursuant
7 to section 400.02 of this [chapter] ARTICLE shall not be subject to
8 disclosure pursuant to article six of the public officers law EXCEPT
9 THAT THE TOTAL NUMBER OF PERSONS REGISTERED IN ANY COUNTY OF THE STATE
10 MAY BE DISCLOSED WITHOUT ANY OTHER IDENTIFYING INFORMATION ABOUT A
11 REGISTRANT.

12 [(b) Each application for a license pursuant to paragraph (a) of this
13 subdivision shall include, on a separate written form prepared by the
14 division of state police within thirty days of the effective date of the
15 chapter of the laws of two thousand thirteen, which amended this
16 section, and provided to the applicant at the same time and in the same
17 manner as the application for a license, an opportunity for the appli-
18 cant to request an exception from his or her application information
19 becoming public record pursuant to paragraph (a) of this subdivision.
20 Such forms, which shall also be made available to individuals who had
21 applied for or been granted a license prior to the effective date of the
22 chapter of the laws of two thousand thirteen which amended this section,
23 shall notify applicants that, upon discovery that an applicant knowingly
24 provided false information, such applicant may be subject to penalties
25 pursuant to section 175.30 of this chapter, and further, that his or her
26 request for an exception shall be null and void, provided that written
27 notice containing such determination is provided to the applicant.
28 Further, such forms shall provide each applicant an opportunity to spec-
29 ify the grounds on which he or she believes his or her application
30 information should not be publicly disclosed. These grounds, which shall
31 be identified on the application with a box beside each for checking, as
32 applicable, by the applicant, shall be as follows:

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

35 (A) the applicant is an active or retired police officer, peace offi-
36 cer, probation officer, parole officer, or corrections officer;

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

39 (C) the applicant is or was a witness in a criminal proceeding involv-
40 ing a criminal charge;

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

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

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

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

52 (c) Each form provided for recertification pursuant to paragraph (b)
53 of subdivision ten of this section shall include an opportunity for the
54 applicant to request an exception from the information provided on such
55 form becoming public record pursuant to paragraph (a) of this subdivi-
56 sion. Such forms shall notify applicants that, upon discovery that an

1 applicant knowingly provided false information, such applicant may be
2 subject to penalties pursuant to section 175.30 of this chapter, and
3 further, that his or her request for an exception shall be null and
4 void, provided that written notice containing such determination is
5 provided to the applicant. Further, such forms shall provide each appli-
6 cant an opportunity to either decline to request the grant or continua-
7 tion of an exception, or specify the grounds on which he or she believes
8 his or her information should not be publicly disclosed. These grounds,
9 which shall be identified in the application with a box beside each for
10 checking, as applicable, by the applicant, shall be the same as provided
11 in paragraph (b) of this subdivision.

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

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

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

22 (iii) If an exception is sought and granted pursuant to paragraph (b)
23 of this subdivision, the application information shall not be public
24 record, unless the request is determined to be null and void. If an
25 exception is sought and granted pursuant to paragraph (c) of this subdivi-
26 sion, the information concerning such recertification application
27 shall not be public record, unless the request is determined to be null
28 and void.

29 (f) The information of licensees or applicants for a license shall not
30 be disclosed to the public during the first one hundred twenty days
31 following the effective date of the chapter of the laws of two thousand
32 thirteen, which amended this section. After such period, the information
33 of those who had applied for or been granted a license prior to the
34 preparation of the form for requesting an exception, pursuant to para-
35 graph (b) of this subdivision, may be released only if such individuals
36 did not file a request for such an exception during the first sixty days
37 following such preparation; provided, however, that no information
38 contained in an application for licensure or recertification shall be
39 disclosed by an entity that has not completed processing any such
40 requests received during such sixty days.

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

50 S 5. Section 9.46 of the mental hygiene law, as added by chapter 1 of
51 the laws of 2013, is amended to read as follows:

52 S 9.46 Reports of substantial risk or threat of harm by mental health
53 professionals.

54 (a) For purposes of this section, the term "mental health profes-
55 sional" shall include a physician, psychologist, registered nurse or
56 licensed clinical social worker.

1 (b) Notwithstanding any other law to the contrary, when a mental
2 health professional currently providing treatment services to a person
3 determines, in the exercise of reasonable professional judgment, that
4 such person is likely to engage in conduct that would result in serious
5 harm to self or others, he or she shall be required to report, as soon
6 as practicable, to the director of community services, or the director's
7 designee[, who shall report to the division of criminal justice services
8 whenever he or she agrees that the person is likely to engage in such
9 conduct.] ANY REPORT MADE BY A MENTAL HEALTH PROFESSIONAL TO THE DIREC-
10 TOR OF COMMUNITY SERVICES, OR THE DIRECTOR'S DESIGNEE SHALL INCLUDE
11 CURRENT CONTACT INFORMATION FOR SUCH PERSON INCLUDING, BUT NOT LIMITED
12 TO, THE PERSON'S: (1) NAME, (2) MAILING ADDRESS, (3) PHONE NUMBER AND
13 (4) EMAIL ADDRESS. THE DIRECTOR OF COMMUNITY SERVICES OR THE DIRECTOR'S
14 DESIGNEE SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE SERVICES UPON
15 A FINDING THAT THE PERSON IS LIKELY TO ENGAGE IN CONDUCT THAT WOULD
16 RESULT IN SERIOUS HARM TO SELF OR OTHERS. Information transmitted to the
17 division of criminal justice services shall be limited to names and
18 other non-clinical identifying information, which may only be used for
19 determining whether a license issued pursuant to section 400.00 of the
20 penal law should be suspended or revoked, or for determining whether a
21 person is ineligible for a license issued pursuant to section 400.00 of
22 the penal law, or is no longer permitted under state or federal law to
23 possess a firearm.

24 (c) THE DIRECTOR OF COMMUNITY SERVICES OR THE DIRECTOR'S DESIGNEE
25 SHALL INFORM SUCH PERSON VIA WRITTEN NOTICE WHEN A REPORT REGARDING THE
26 SUBSTANTIAL RISK OR THREAT OF HARM POSED BY THE PERSON IS SENT TO THE
27 DIVISION OF CRIMINAL JUSTICE SERVICES. SUCH NOTICE SHALL INCLUDE, BUT
28 NOT BE LIMITED TO:

29 (1) THE PERSON'S NAME;

30 (2) NOTICE THAT A REPORT HAS BEEN SENT TO THE DIVISION OF CRIMINAL
31 JUSTICE SERVICES STATING THAT THE NAMED PERSON HAS BEEN DEEMED LIKELY TO
32 ENGAGE IN CONDUCT THAT WOULD RESULT IN SERIOUS HARM TO SELF OR OTHERS;

33 (3) THE DATE THE REPORT WAS SENT TO THE DIVISION OF CRIMINAL JUSTICE
34 SERVICES;

35 (4) THE PERSON'S RIGHT TO SUBMIT A PETITION FOR RELIEF FROM DISABILITY
36 TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS) APPEALS
37 OFFICE OF THE OFFICE OF MENTAL HEALTH OR NICS APPEALS OFFICE OF THE
38 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, AS SET FORTH IN
39 SUBDIVISION (J) OF SECTION 7.09 OF THIS TITLE AND SUBDIVISION (G) OF
40 SECTION 13.09 OF THIS CHAPTER AND SECTIONS FIVE HUNDRED FORTY-THREE AND
41 SIX HUNDRED FORTY-THREE OF ARTICLE FOURTEEN OF THE NEW YORK CODE OF
42 RULES AND REGULATIONS;

43 (5) CONTACT INFORMATION FOR THE NICS APPEALS OFFICE OF THE OFFICE OF
44 MENTAL HYGIENE OR THE NICS APPEALS OFFICE OF THE OFFICE FOR PEOPLE WITH
45 DEVELOPMENTAL DISABILITIES; AND

46 (6) ANY APPLICABLE DEADLINE FOR SUBMISSION OF A PETITION FOR RELIEF
47 FROM DISABILITY.

48 (D) Nothing in this section shall be construed to require a mental
49 health professional to take any action which, in the exercise of reason-
50 able professional judgment, would endanger such mental health profes-
51 sional or increase the danger to a potential victim or victims.

52 [(d)] (E) The decision of a mental health professional to disclose or
53 not to disclose in accordance with this section, when made reasonably
54 and in good faith, shall not be the basis for any civil or criminal
55 liability of such mental health professional.

1 S 6. Paragraph 2 of subdivision (j) of section 7.09 of the mental
2 hygiene law, as amended by chapter 1 of the laws of 2013, is amended to
3 read as follows:

4 (2) The commissioner shall establish within the office of mental
5 health an administrative process to permit a person who has been or may
6 be disqualified from possessing such a firearm pursuant to 18 USC
7 922(4)(d) or who has been or may be disqualified from continuing to have
8 a license to carry, possess, repair, or dispose of a firearm under
9 section 400.00 of the penal law because such person was involuntarily
10 committed or civilly confined to a facility under the jurisdiction of
11 the commissioner, OR WHO HAS BEEN THE SUBJECT OF A REPORT SUBMITTED BY
12 THE DIRECTOR OF COMMUNITY SERVICES OR THE DIRECTOR'S DESIGNEE TO THE
13 DIVISION OF CRIMINAL JUSTICE SERVICES STATING THAT THE NAMED PERSON HAS
14 BEEN DEEMED LIKELY TO ENGAGE IN CONDUCT THAT WOULD RESULT IN SERIOUS
15 HARM TO SELF OR OTHERS PURSUANT TO SECTION 9.46 OF THIS TITLE, to peti-
16 tion for relief from that disability where such person's record and
17 reputation are such that such person will not be likely to act in a
18 manner dangerous to public safety and where the granting of the relief
19 would not be contrary to public safety. The commissioner shall promul-
20 gate regulations to establish the relief from disabilities program,
21 which shall include, but not be limited to, provisions providing for:
22 (i) an opportunity for a disqualified person to petition for relief in
23 writing; (ii) the authority for the agency to require that the petition-
24 er undergo a clinical evaluation and risk assessment; and (iii) a
25 requirement that the agency issue a decision in writing explaining the
26 reasons for a denial or grant of relief. The denial of a petition for
27 relief from disabilities may be reviewed de novo pursuant to the
28 proceedings under article seventy-eight of the civil practice law and
29 rules.

30 S 7. Paragraph 2 of subdivision (g) of section 13.09 of the mental
31 hygiene law, as amended by chapter 1 of the laws of 2013, is amended to
32 read as follows:

33 (2) The commissioner shall establish within the office for people with
34 developmental disabilities an administrative process to permit a person
35 who has been or may be disqualified from possessing such a firearm
36 pursuant to 18 USC 922(4)(d), or who has been or may be disqualified
37 from continuing to have a license to carry, possess, repair, or dispose
38 of a firearm under section 400.00 of the penal law because such person
39 was involuntarily committed or civilly confined to a facility under the
40 jurisdiction of the commissioner, OR WHO HAS BEEN THE SUBJECT OF A
41 REPORT SUBMITTED BY THE DIRECTOR OF COMMUNITY SERVICES OR THE DIRECTOR'S
42 DESIGNEE TO THE DIVISION OF CRIMINAL JUSTICE SERVICES STATING THAT THE
43 NAMED PERSON HAS BEEN DEEMED LIKELY TO ENGAGE IN CONDUCT THAT WOULD
44 RESULT IN SERIOUS HARM TO SELF OR OTHERS PURSUANT TO SECTION 9.46 OF
45 THIS CHAPTER, to petition for relief from that disability where such
46 person's record and reputation are such that such person will not be
47 likely to act in a manner dangerous to public safety and where the
48 granting of the relief would not be contrary to public safety. The
49 commissioner shall promulgate regulations to establish the relief from
50 disabilities program, which shall include, but not be limited to,
51 provisions providing for: (i) an opportunity for a disqualified person
52 to petition for relief in writing; (ii) the authority for the agency to
53 require that the petitioner undergo a clinical evaluation and risk
54 assessment; and (iii) a requirement that the agency issue a decision in
55 writing explaining the reasons for a denial or grant of relief. The
56 denial of a petition for relief from disabilities may be reviewed de

1 novo pursuant to the proceedings under article seventy-eight of the
2 civil practice law and rules.

3 S 8. Paragraph (a) of subdivision 3 and subdivisions 4, 7, 9, 10, 16-a
4 and 16-b of section 400.00 of the penal law, paragraph (a) of subdivi-
5 sion 3 and subdivisions 4, 9 and 10 as amended and subdivisions 16-a and
6 16-b as added by chapter 1 of the laws of 2013, paragraph (a-1) of
7 subdivision 16-a as added by chapter 98 of the laws of 2013, are amended
8 to read as follows:

9 (a) Applications shall be made and renewed, in the case of a license
10 to carry or possess a pistol or revolver, to the licensing officer in
11 the city or county, as the case may be, where the applicant resides, is
12 principally employed or has his or her principal place of business as
13 merchant or storekeeper; and, in the case of a license as gunsmith or
14 dealer in firearms, to the licensing officer where such place of busi-
15 ness is located. Blank applications shall, except in the city of New
16 York, be approved as to form by the [superintendent of state police]
17 DIVISION OF CRIMINAL JUSTICE SERVICES. An application shall state the
18 full name, date of birth, residence, present occupation of each person
19 or individual signing the same, whether or not he or she is a citizen of
20 the United States, whether or not he or she complies with each require-
21 ment for eligibility specified in subdivision one of this section and
22 such other facts as may be required to show the good character, compe-
23 tency and integrity of each person or individual signing the applica-
24 tion. An application shall be signed and verified by the applicant. Each
25 individual signing an application shall submit one photograph of himself
26 or herself and a duplicate for each required copy of the application.
27 Such photographs shall have been taken within thirty days prior to
28 filing the application. In case of a license as gunsmith or dealer in
29 firearms, the photographs submitted shall be two inches square, and the
30 application shall also state the previous occupation of each individual
31 signing the same and the location of the place of such business, or of
32 the bureau, agency, subagency, office or branch office for which the
33 license is sought, specifying the name of the city, town or village,
34 indicating the street and number and otherwise giving such apt
35 description as to point out reasonably the location thereof. In such
36 case, if the applicant is a firm, partnership or corporation, its name,
37 date and place of formation, and principal place of business shall be
38 stated. For such firm or partnership, the application shall be signed
39 and verified by each individual composing or intending to compose the
40 same, and for such corporation, by each officer thereof.

41 4. Investigation. Before a license is issued or renewed, there shall
42 be an investigation of all statements required in the application by the
43 duly constituted police authorities of the locality where such applica-
44 tion is made, including but not limited to such records as may be acces-
45 sible to the [division of state police or] division of criminal justice
46 services pursuant to section 400.02 of this article. For that purpose,
47 the records of the appropriate office of the department of mental
48 hygiene concerning previous or present mental illness of the applicant
49 shall be available for inspection by the investigating officer of the
50 police authority. In order to ascertain any previous criminal record,
51 the investigating officer shall take the fingerprints and physical
52 descriptive data in quadruplicate of each individual by whom the appli-
53 cation is signed and verified. Two copies of such fingerprints shall be
54 taken on standard fingerprint cards eight inches square, and one copy
55 may be taken on a card supplied for that purpose by the federal bureau
56 of investigation; provided, however, that in the case of a corporate

1 applicant that has already been issued a dealer in firearms license and
2 seeks to operate a firearm dealership at a second or subsequent
3 location, the original fingerprints on file may be used to ascertain any
4 criminal record in the second or subsequent application unless any of
5 the corporate officers have changed since the prior application, in
6 which case the new corporate officer shall comply with procedures
7 governing an initial application for such license. When completed, one
8 standard card shall be forwarded to and retained by the division of
9 criminal justice services in the executive department, at Albany. A
10 search of the files of such division and written notification of the
11 results of the search to the investigating officer shall be made without
12 unnecessary delay. Thereafter, such division shall notify the licensing
13 officer and the executive department, division of state police, Albany,
14 of any criminal record of the applicant filed therein subsequent to the
15 search of its files. A second standard card, or the one supplied by the
16 federal bureau of investigation, as the case may be, shall be forwarded
17 to that bureau at Washington with a request that the files of the bureau
18 be searched and notification of the results of the search be made to the
19 investigating police authority. Of the remaining two fingerprint cards,
20 one shall be filed with the executive department, division of [state
21 police] CRIMINAL JUSTICE SERVICES, Albany, within ten days after issu-
22 ance of the license, and the other remain on file with the investigating
23 police authority. No such fingerprints may be inspected by any person
24 other than a peace officer, who is acting pursuant to his special
25 duties, or a police officer, except on order of a judge or justice of a
26 court of record either upon notice to the licensee or without notice, as
27 the judge or justice may deem appropriate. Upon completion of the inves-
28 tigation, the police authority shall report the results to the licensing
29 officer without unnecessary delay.

30 7. License: form. Any license issued pursuant to this section shall,
31 except in the city of New York, be approved as to form by the [super-
32 intendent of state police] DIVISION OF CRIMINAL JUSTICE SERVICES. A
33 license to carry or possess a pistol or revolver shall have attached the
34 licensee's photograph, and a coupon which shall be removed and retained
35 by any person disposing of a firearm to the licensee. Such license shall
36 specify the weapon covered by calibre, make, model, manufacturer's name
37 and serial number, or if none, by any other distinguishing number or
38 identification mark, and shall indicate whether issued to carry on the
39 person or possess on the premises, and if on the premises shall also
40 specify the place where the licensee shall possess the same. If such
41 license is issued to an alien, or to a person not a citizen of and
42 usually a resident in the state, the licensing officer shall state in
43 the license the particular reason for the issuance and the names of the
44 persons certifying to the good character of the applicant. Any license
45 as gunsmith or dealer in firearms shall mention and describe the prem-
46 ises for which it is issued and shall be valid only for such premises.

47 9. License: amendment. Elsewhere than in the city of New York, a
48 person licensed to carry or possess a pistol or revolver may apply at
49 any time to his or her licensing officer for amendment of his or her
50 license to include one or more such weapons or to cancel weapons held
51 under license. If granted, a record of the amendment describing the
52 weapons involved shall be filed by the licensing officer in the execu-
53 tive department, division of [state police] CRIMINAL JUSTICE SERVICES,
54 Albany. The [superintendent of state police] DIVISION OF CRIMINAL
55 JUSTICE SERVICES may authorize that such amendment be completed and
56 transmitted to the [state police] DIVISION in electronic form. Notifi-

1 cation of any change of residence shall be made in writing by any licen-
2 see within ten days after such change occurs, and a record of such
3 change shall be inscribed by such licensee on the reverse side of his or
4 her license. Elsewhere than in the city of New York, and in the counties
5 of Nassau and Suffolk, such notification shall be made to the executive
6 department, division of [state police] CRIMINAL JUSTICE SERVICES, Alba-
7 ny, and in the city of New York to the police commissioner of that city,
8 and in the county of Nassau to the police commissioner of that county,
9 and in the county of Suffolk to the licensing officer of that county,
10 who shall, within ten days after such notification shall be received by
11 him or her, give notice in writing of such change to the executive
12 department, division of [state police] CRIMINAL JUSTICE SERVICES, at
13 Albany.

14 10. License: expiration, certification and renewal. (a) Any license
15 for gunsmith or dealer in firearms and, in the city of New York, any
16 license to carry or possess a pistol or revolver, issued at any time
17 pursuant to this section or prior to the first day of July, nineteen
18 hundred sixty-three and not limited to expire on an earlier date fixed
19 in the license, shall expire not more than three years after the date of
20 issuance. In the counties of Nassau, Suffolk and Westchester, any
21 license to carry or possess a pistol or revolver, issued at any time
22 pursuant to this section or prior to the first day of July, nineteen
23 hundred sixty-three and not limited to expire on an earlier date fixed
24 in the license, shall expire not more than five years after the date of
25 issuance; however, in the county of Westchester, any such license shall
26 be certified prior to the first day of April, two thousand, in accord-
27 ance with a schedule to be contained in regulations promulgated by the
28 commissioner of the division of criminal justice services, and every
29 such license shall be recertified every five years thereafter. For
30 purposes of this section certification shall mean that the licensee
31 shall provide to the licensing officer the following information only:
32 current name, date of birth, current address, and the make, model, cali-
33 ber and serial number of all firearms currently possessed. Such certif-
34 ication information shall be filed by the licensing officer in the same
35 manner as an amendment. Elsewhere than in the city of New York and the
36 counties of Nassau, Suffolk and Westchester, any license to carry or
37 possess a pistol or revolver, issued at any time pursuant to this
38 section or prior to the first day of July, nineteen hundred sixty-three
39 and not previously revoked or cancelled, shall be in force and effect
40 until revoked as herein provided. Any license not previously cancelled
41 or revoked shall remain in full force and effect for thirty days beyond
42 the stated expiration date on such license. Any application to renew a
43 license that has not previously expired, been revoked or cancelled shall
44 thereby extend the term of the license until disposition of the applica-
45 tion by the licensing officer. In the case of a license for gunsmith or
46 dealer in firearms, in counties having a population of less than two
47 hundred thousand inhabitants, photographs and fingerprints shall be
48 submitted on original applications and upon renewal thereafter only at
49 six year intervals. Upon satisfactory proof that a currently valid
50 original license has been despoiled, lost or otherwise removed from the
51 possession of the licensee and upon application containing an additional
52 photograph of the licensee, the licensing officer shall issue a dupli-
53 cate license.

54 (b) All licensees shall be recertified to the [division of state
55 police] LICENSING OFFICER every five years thereafter. Any license
56 issued before the effective date of [the] chapter ONE of the laws of two

1 thousand thirteen [which added this paragraph] shall be recertified by
2 the licensee on or before January thirty-first, two thousand eighteen,
3 and not less than one year prior to such date, the [state police] DIVI-
4 SION OF CRIMINAL JUSTICE SERVICES shall send a notice to all license
5 holders who have not recertified by such time. [Such recertification
6 shall be in a form as approved by the superintendent of state police,
7 which shall request the license holder's name, date of birth, gender,
8 race, residential address, social security number, firearms possessed by
9 such license holder, email address at the option of the license holder
10 and an affirmation that such license holder is not prohibited from
11 possessing firearms.] RECERTIFICATION SHALL CONTAIN THE INFORMATION AND
12 SHALL BE IN THE FORM SET FORTH HEREINBELOW:

13 RECERTIFICATION

14 1. NAME _____
15 2. DATE OF BIRTH _____
16 3. GENDER _____
17 4. RACE _____
18 5. RESIDENTIAL ADDRESS _____
19 _____
20 _____
21 6. SOCIAL SECURITY NUMBER _____
22 7. EMAIL ADDRESS (OPTIONAL) _____
23 8. LIST ALL FIREARMS POSSESSED ON LICENSE: _____
24 _____
25 _____
26 _____
27 _____

28 UPON RECEIPT OF THE COMPLETED RECERTIFICATION FORM, THE LICENSING OFFI-
29 CER WILL COMPARE THE INFORMATION PROVIDED WITH THE INFORMATION MAIN-
30 TAINED BY THE LICENSING OFFICER FOR SUCH LICENSE HOLDER, AND PROMPTLY
31 NOTIFY THE LICENSE HOLDER OF ANY DISCREPANCIES THAT MAY EXIST, AND
32 PROVIDE INSTRUCTION AS TO APPLYING FOR AN AMENDMENT PURSUANT TO SUBDIVI-
33 SION NINE THIS SECTION. AFTER THE RESOLUTION OF ANY PENDING APPLICATIONS
34 FOR AMENDMENTS, THE LICENSING OFFICER SHALL RETAIN A COPY OF THE RECER-
35 TIFICATION AND A COPY SHALL BE FILED BY THE LICENSING OFFICER IN THE
36 EXECUTIVE DEPARTMENT, DIVISION OF CRIMINAL JUSTICE SERVICES, ALBANY,
37 WITHIN TEN DAYS. The form may be in an electronic form if so designated
38 by the [superintendent of state police] DIVISION OF CRIMINAL JUSTICE
39 SERVICES. Failure to recertify shall act as a revocation of such
40 license. If the [New York state police] DIVISION SHALL discover as a
41 result of the recertification process that a licensee failed to provide
42 a change of address, the [New York state police] DIVISION OF CRIMINAL
43 JUSTICE SERVICES shall not require the licensing officer to revoke such
44 license.

45 16-a. Registration. (a) An owner of a weapon defined in paragraph (e)
46 or (f) of subdivision twenty-two of section 265.00 of this chapter,

1 possessed before the date of the effective date of [the] chapter ONE of
2 the laws of two thousand thirteen [which added this paragraph], must
3 make an application to register such weapon with the [superintendent of
4 state police] DIVISION OF CRIMINAL JUSTICE SERVICES, in the manner
5 provided by the [superintendent] DIVISION OF CRIMINAL JUSTICE SERVICES,
6 or by amending a license issued pursuant to this section within one year
7 of the effective date of this subdivision except any weapon defined
8 under subparagraph (vi) of paragraph (g) of subdivision twenty-two of
9 section 265.00 of this chapter transferred into the state may be regis-
10 tered at any time, provided such weapons are registered within thirty
11 days of their transfer into the state. Registration information shall
12 include the registrant's name, date of birth, gender, race, residential
13 address, social security number and a description of each weapon being
14 registered. A registration of any weapon defined under subparagraph (vi)
15 of paragraph (g) of subdivision twenty-two of section 265.00 or a feed-
16 ing device as defined under subdivision twenty-three of section 265.00
17 of this chapter shall be transferable, provided that the seller notifies
18 the [state police] DIVISION OF CRIMINAL JUSTICE SERVICES within seven-
19 ty-two hours of the transfer and the buyer provides the [state police]
20 DIVISION OF CRIMINAL JUSTICE SERVICES with information sufficient to
21 constitute a registration under this section. Such registration shall
22 not be valid if such registrant is prohibited or becomes prohibited from
23 possessing a firearm pursuant to state or federal law. The [superinten-
24 dent] DIVISION OF CRIMINAL JUSTICE SERVICES shall determine whether such
25 registrant is prohibited from possessing a firearm under state or feder-
26 al law. Such check shall be limited to determining whether the factors
27 in 18 USC 922 (g) apply or whether a registrant has been convicted of a
28 serious offense as defined in subdivision [sixteen-b] SEVENTEEN of
29 section 265.00 of this chapter, so as to prohibit such registrant from
30 possessing a firearm, and whether a report has been issued pursuant to
31 section 9.46 of the mental hygiene law. All registrants shall recertify
32 to the division of [state police] CRIMINAL JUSTICE SERVICES every five
33 years thereafter. Failure to recertify shall result in a revocation of
34 such registration.

35 (a-1) Notwithstanding any inconsistent provisions of paragraph (A) OF
36 this subdivision, an owner of an assault weapon as defined in subdivi-
37 sion twenty-two of section 265.00 of this chapter, who is a qualified
38 retired New York or federal law enforcement officer as defined in subdivi-
39 sion twenty-five of section 265.00 of this chapter, where such weapon
40 was issued to or purchased by such officer prior to retirement and in
41 the course of his or her official duties, and for which such officer was
42 qualified by the agency that employed such officer within twelve months
43 prior to his or her retirement, must register such weapon within sixty
44 days of retirement.

45 (b) The [superintendent of state police] DIVISION OF CRIMINAL JUSTICE
46 SERVICES shall create and maintain an internet website to educate the
47 public as to which semiautomatic rifle, semiautomatic shotgun or semiau-
48 tomatic pistol or weapon that are illegal as a result of the enactment
49 of [the] chapter ONE of the laws of two thousand thirteen [which added
50 this paragraph], as well as such assault weapons which are illegal
51 pursuant to article two hundred sixty-five of this chapter. Such website
52 shall contain information to assist the public in recognizing the rele-
53 vant features proscribed by such article two hundred sixty-five, as well
54 as which make and model of weapons that require registration.

55 (c) A person who knowingly fails to apply to register such weapon, as
56 required by this section, within one year of the effective date of [the]

chapter ONE of the laws of two thousand thirteen [which added this paragraph] shall be guilty of a class A misdemeanor and such person who unknowingly fails to validly register such weapon within such one year period shall be given a warning by an appropriate law enforcement authority about such failure and given thirty days in which to apply to register such weapon or to surrender it. A failure to apply or surrender such weapon within such thirty-day period shall result in such weapon being removed by an appropriate law enforcement authority and declared a nuisance.

16-b. The cost of the software, programming and interface required to transmit any record that must be electronically transmitted by the dealer or licensing officer to the division of [state police] CRIMINAL JUSTICE SERVICES, AND ANY COST BORNE BY THE LICENSING OFFICER TO ADMINISTER OR MAINTAIN RECORDS RELATED TO THE RECERTIFICATION PROCESS BY THE LICENSING OFFICER, BOTH pursuant to this chapter shall be borne by the state.

S 9. Section 400.02 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

S 400.02 Statewide license and record database.

There shall be a statewide license and record database which shall be created and maintained by the division of [state police] CRIMINAL JUSTICE SERVICES the cost of which shall not be borne by any municipality. Records assembled or collected for purposes of inclusion in such database shall not be subject to disclosure pursuant to article six of the public officers law. Records containing granted license applications shall be periodically checked by the division of criminal justice services against criminal conviction, mental health, and all other records as are necessary to determine their continued accuracy as well as whether an individual is no longer a valid license holder. The division of criminal justice services shall also check pending applications made pursuant to this article against such records to determine whether a license may be granted. All state agencies shall cooperate with the division of criminal justice services, as otherwise authorized by law, in making their records available for such checks. The division of criminal justice services, upon determining that an individual is ineligible to possess a license, or is no longer a valid license holder, shall notify the applicable licensing official of such determination and such licensing official shall not issue a license or revoke such license and any weapons owned or possessed by such individual shall be removed consistent with the provisions of subdivision eleven of section 400.00 of this article. Local and state law enforcement shall have access to such database, as otherwise authorized by law, in the performance of their duties. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order.

S 10. This act shall take effect immediately; provided that:

1. section four of this act shall take effect on the first of November next succeeding the date on which it shall have become a law; and

2. sections five, six and seven of this act shall take effect on the ninetieth day after it shall have become a law.