

10394

I N   A S S E M B L Y

May 25, 2016

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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 the filing of approved applications for licenses to carry, possess, repair and dispose of firearms

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

1     Section 1. Subdivision 5 of section 400.00 of the penal law, as  
2 amended by chapter 1 of the laws of 2013, is amended to read as follows:  
3     5. Filing of approved applications. [(a)] The application for any  
4 license, if granted, shall be filed by the licensing officer with the  
5 clerk of the county of issuance, except that in the city of New York  
6 and, in the counties of Nassau and Suffolk, the licensing officer shall  
7 designate the place of filing in the appropriate division, bureau or  
8 unit of the police department thereof, and in the county of Suffolk the  
9 county clerk is hereby authorized to transfer all records or applica-  
10 tions relating to firearms to the licensing authority of that county.  
11 [Except as provided in paragraphs (b) through (f) of this subdivision,  
12 the name and address] THE APPLICATION AND ANY SUPPORTING RECORDS,  
13 INCLUDING ANY INFORMATION CONTAINED THEREIN, of any person to whom an  
14 application for any license has been granted shall NOT be a public  
15 record AND SHALL NOT BE SUBJECT TO DISCLOSURE PURSUANT TO ARTICLE SIX OF  
16 THE PUBLIC OFFICERS LAW. Upon application by a licensee who has changed  
17 his place of residence such records or applications shall be transferred  
18 to the appropriate officer at the licensee's new place of residence. A  
19 duplicate copy of such application shall be filed by the licensing offi-  
20 cer in the executive department, division of state police, Albany, with-  
21 in ten days after issuance of the license. The superintendent of state  
22 police may designate that such application shall be transmitted to the  
23 division of state police electronically. In the event the superintendent  
24 of the division of state police determines that it lacks any of the  
25 records required to be filed with the division, it may request that such  
26 records be provided to it by the appropriate clerk, department or  
27 authority and such clerk, department or authority shall provide the

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

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1 division with such records. In the event such clerk, department or  
2 authority lacks such records, the division may request the license hold-  
3 er provide information sufficient to constitute such record and such  
4 license holder shall provide the division with such information. Such  
5 information shall be limited to the license holder's name, date of  
6 birth, gender, race, residential address, social security number and  
7 firearms possessed by said license holder. Nothing in this subdivision  
8 shall be construed to change the expiration date or term of such  
9 licenses if otherwise provided for in law. Records assembled or  
10 collected for purposes of inclusion in the database established by this  
11 section shall be released pursuant to a court order. Records assembled  
12 or collected for purposes of inclusion in the database created pursuant  
13 to section 400.02 of this [chapter] ARTICLE shall not be subject to  
14 disclosure pursuant to article six of the public officers law.

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

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

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

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

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

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

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

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

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

55 (c) Each form provided for recertification pursuant to paragraph (b)  
56 of subdivision ten of this section shall include an opportunity for the

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

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

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

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

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

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

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

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