

3379

2015-2016 Regular Sessions

I N S E N A T E

February 6, 2015

Introduced by Sen. GALLIVAN -- 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 the recertification process for licenses for firearms

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

1 Section 1. Subdivisions 5 and 10 of section 400.00 of the penal law,
2 as amended by chapter 1 of the laws of 2013, are amended to read as
3 follows:
4 5. Filing of approved applications. (a) The application for any
5 license, if granted, shall be filed by the licensing officer with the
6 clerk of the county of issuance, except that in the city of New York
7 and, in the counties of Nassau and Suffolk, the licensing officer shall
8 designate the place of filing in the appropriate division, bureau or
9 unit of the police department thereof, and in the county of Suffolk the
10 county clerk is hereby authorized to transfer all records or applica-
11 tions relating to firearms to the licensing authority of that county.
12 Except as provided in paragraphs (b) through [(f)] (E) of this subdivi-
13 sion, the name and address of any person to whom an application for any
14 license has been granted shall be a public record. Upon application by a
15 licensee who has changed his place of residence such records or applica-
16 tions shall be transferred to the appropriate officer at the licensee's
17 new place of residence. A duplicate copy of such application shall be
18 filed by the licensing officer in the executive department, division of
19 state police, Albany, within ten days after issuance of the license. The
20 superintendent of state police may designate that such application shall
21 be transmitted to the division of state police electronically. In the
22 event the superintendent of the division of state police determines that
23 it lacks any of the records required to be filed with the division, it
24 may request that such records be provided to it by the appropriate
25 clerk, department or authority and such clerk, department or authority
26 shall provide the division with such records. In the event such clerk,
27 department or authority lacks such records, the division may request the
28 license holder provide information sufficient to constitute such record

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

LBD08791-01-5

1 and such license holder shall provide the division with such informa-
2 tion. Such information shall be limited to the license holder's name,
3 date of birth, gender, race, residential address, social security number
4 and firearms possessed by said license holder. Nothing in this subdivi-
5 sion shall be construed to change the expiration date or term of such
6 licenses if otherwise provided for in law. Records assembled or
7 collected for purposes of inclusion in the database established by this
8 section shall be released pursuant to a court order. Records assembled
9 or collected for purposes of inclusion in the database created pursuant
10 to section 400.02 of this chapter shall not be subject to disclosure
11 pursuant to article six of the public officers law.

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

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

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

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

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

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

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

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

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

53 (c) [Each form provided for recertification pursuant to paragraph (b)
54 of subdivision ten of this section shall include an opportunity for the
55 applicant to request an exception from the information provided on such
56 form becoming public record pursuant to paragraph (a) of this subdivi-

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

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

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

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

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

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

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

51 10. License: expiration, certification and renewal. [(a)] Any license
52 for gunsmith or dealer in firearms and, in the city of New York, any
53 license to carry or possess a pistol or revolver, issued at any time
54 pursuant to this section or prior to the first day of July, nineteen
55 hundred sixty-three and not limited to expire on an earlier date fixed
56 in the license, shall expire not more than three years after the date of

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

35 [(b) All licensees shall be recertified to the division of state
36 police every five years thereafter. Any license issued before the effec-
37 tive date of the chapter of the laws of two thousand thirteen which
38 added this paragraph shall be recertified by the licensee on or before
39 January thirty-first, two thousand eighteen, and not less than one year
40 prior to such date, the state police shall send a notice to all license
41 holders who have not recertified by such time. Such recertification
42 shall be in a form as approved by the superintendent of state police,
43 which shall request the license holder's name, date of birth, gender,
44 race, residential address, social security number, firearms possessed by
45 such license holder, email address at the option of the license holder
46 and an affirmation that such license holder is not prohibited from
47 possessing firearms. The form may be in an electronic form if so desig-
48 nated by the superintendent of state police. Failure to recertify shall
49 act as a revocation of such license. If the New York state police
50 discover as a result of the recertification process that a licensee
51 failed to provide a change of address, the New York state police shall
52 not require the licensing officer to revoke such license.]

53 S 2. This act shall take effect immediately.