

STATE OF NEW YORK

3421--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. BRINDISI, BARCLAY, BLANKENBUSH, BUTLER, CROUCH, CURRAN, DiPIETRO, FRIEND, GIGLIO, GOODELL, McDONOUGH, KOLB, LALOR, MURRAY, OAKS, PALMESANO, MONTESANO, SCHIMMINGER, STEC, WALTER -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Section 400.03 of the penal law is REPEALED.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 § 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;

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

LBD02060-03-8

§ 3. Paragraph (h) of subdivision 22 of section 265.00 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

(h) (i) Any weapon defined in paragraph (e) or (f) of this subdivision and any large capacity ammunition feeding device that was legally possessed by an individual prior to the enactment of ~~[the]~~ chapter one of the laws of two thousand thirteen ~~[which added this paragraph]~~, may only be sold to, exchanged with or disposed of to a purchaser authorized to possess such weapons or to an individual or entity outside of the state provided that any such transfer to an individual or entity outside of the state must be reported to the entity wherein the weapon is registered within seventy-two hours of such transfer. An individual who transfers any such weapon or large capacity ammunition device to an individual inside New York state or without complying with the provisions of this paragraph shall be guilty of a class A misdemeanor unless such large capacity ammunition feeding device, the possession of which is made illegal by ~~[the]~~ chapter one of the laws of two thousand thirteen ~~[which added this paragraph]~~, is transferred within one year of the effective date of ~~[the]~~ chapter one of the laws of two thousand thirteen ~~[which added this paragraph]~~.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, any weapon defined in paragraph (e) or (f) of this subdivision that was legally possessed and validly registered by an individual prior to his or her death may be transferred by the estate of such individual to one of his or her immediate family members. For purposes of this subparagraph, the meaning of immediate family member is as defined by subdivision one of section eight hundred ninety-eight of the general business law.

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

5. Filing of approved applications. ~~[(a)]~~ The application for any license, if granted, shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. ~~[Except as provided in paragraphs (b) through (f) of this subdivision, the name and address]~~ The application and any supporting records, including any information contained therein, of any person to whom an application for any license has been granted shall not be a public record and shall not be subject to disclosure pursuant to article six of the public officers law. Upon application by a licensee who has changed his or her place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of ~~[state police]~~ criminal justice services, Albany, within ten days after issuance of the license. The ~~[superintendent]~~ commissioner of ~~[state police]~~ criminal justice services may designate that such application shall be transmitted to the division of ~~[state police]~~ criminal justice services electronically. In the event the ~~[superintendent]~~ commissioner of the division of ~~[state police]~~ criminal justice services determines that it lacks any of the records required to be filed with the division, it may request that such records be provided to it by the appropriate clerk,

department or authority and such clerk, department or authority shall provide the division with such records. In the event such clerk, department or authority lacks such records, the division may request the license holder provide information sufficient to constitute such record and such license holder shall provide the division with such information. Such information shall be limited to the license holder's name, date of birth, gender, race, residential address, social security number and firearms possessed by said license holder. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this ~~chapter~~ article shall not be subject to disclosure pursuant to article six of the public officers law except that the total number of persons registered in any county of the state may be disclosed without any other identifying information about a registrant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 9.46 Reports of substantial risk or threat of harm by mental health professionals.

(a) For purposes of this section, the term "mental health professional" shall include a physician, psychologist, registered nurse or licensed clinical social worker.

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious harm to self or others, he or she shall be required to report, as soon as practicable, to the director of community services, or the director's designee~~[, who shall report to the division of criminal justice services whenever he or she agrees that the person is likely to engage in such conduct]~~. Any report made by a mental health professional to the director of community services, or the director's designee shall include current contact information for such person including, but not limited to, the person's: (1) name, (2) mailing address, (3) phone number and (4) email address. The director of community services or the director's designee shall report to the division of criminal justice services upon a finding that the person is likely to engage in conduct that would result in serious harm to self or others. Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.

(c) The director of community services or the director's designee shall inform such person via written notice when a report regarding the substantial risk or threat of harm posed by the person is sent to the division of criminal justice services. Such notice shall include, but not be limited to:

(1) the person's name;

(2) notice that a report has been sent to the division of criminal justice services stating that the named person has been deemed likely to engage in conduct that would result in serious harm to self or others;

(3) the date the report was sent to the division of criminal justice services;

(4) the person's right to submit a petition for relief from disability to the national instant criminal background check system (NICS) appeals office of the office of mental health or NICS appeals office of the office for people with developmental disabilities, as set forth in subdivision (j) of section 7.09 of this title and subdivision (g) of section 13.09 of this chapter and sections five hundred forty-three and six hundred forty-three of article fourteen of the New York code of rules and regulations;

(5) contact information for the NICS appeals office of the office of mental hygiene or the NICS appeals office of the office for people with developmental disabilities; and

(6) any applicable deadline for submission of a petition for relief from disability.

(d) Nothing in this section shall be construed to require a mental health professional to take any action which, in the exercise of reason-

1 able professional judgment, would endanger such mental health profes-
2 sional or increase the danger to a potential victim or victims.

3 [~~(d)~~] (e) The decision of a mental health professional to disclose or
4 not to disclose in accordance with this section, when made reasonably
5 and in good faith, shall not be the basis for any civil or criminal
6 liability of such mental health professional.

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

10 (2) The commissioner shall establish within the office of mental
11 health an administrative process to permit a person who has been or may
12 be disqualified from possessing such a firearm pursuant to 18 USC
13 922(4)(d) or who has been or may be disqualified from continuing to have
14 a license to carry, possess, repair, or dispose of a firearm under
15 section 400.00 of the penal law because such person was involuntarily
16 committed or civilly confined to a facility under the jurisdiction of
17 the commissioner, or who has been the subject of a report submitted by
18 the director of community services or the director's designee to the
19 division of criminal justice services stating that the named person has
20 been deemed likely to engage in conduct that would result in serious
21 harm to self or others pursuant to section 9.46 of this title, to peti-
22 tion for relief from that disability where such person's record and
23 reputation are such that such person will not be likely to act in a
24 manner dangerous to public safety and where the granting of the relief
25 would not be contrary to public safety. The commissioner shall promul-
26 gate regulations to establish the relief from disabilities program,
27 which shall include, but not be limited to, provisions providing for:
28 (i) an opportunity for a disqualified person to petition for relief in
29 writing; (ii) the authority for the agency to require that the petition-
30 er undergo a clinical evaluation and risk assessment; and (iii) a
31 requirement that the agency issue a decision in writing explaining the
32 reasons for a denial or grant of relief. The denial of a petition for
33 relief from disabilities may be reviewed de novo pursuant to the
34 proceedings under article seventy-eight of the civil practice law and
35 rules.

36 § 7. Paragraph 2 of subdivision (g) of section 13.09 of the mental
37 hygiene law, as amended by chapter 1 of the laws of 2013, is amended to
38 read as follows:

39 (2) The commissioner shall establish within the office for people with
40 developmental disabilities an administrative process to permit a person
41 who has been or may be disqualified from possessing such a firearm
42 pursuant to 18 USC 922(4)(d), or who has been or may be disqualified
43 from continuing to have a license to carry, possess, repair, or dispose
44 of a firearm under section 400.00 of the penal law because such person
45 was involuntarily committed or civilly confined to a facility under the
46 jurisdiction of the commissioner, or who has been the subject of a
47 report submitted by the director of community services or the director's
48 designee to the division of criminal justice services stating that the
49 named person has been deemed likely to engage in conduct that would
50 result in serious harm to self or others pursuant to section 9.46 of
51 this chapter, to petition for relief from that disability where such
52 person's record and reputation are such that such person will not be
53 likely to act in a manner dangerous to public safety and where the
54 granting of the relief would not be contrary to public safety. The
55 commissioner shall promulgate regulations to establish the relief from
56 disabilities program, which shall include, but not be limited to,

1 provisions providing for: (i) an opportunity for a disqualified person
2 to petition for relief in writing; (ii) the authority for the agency to
3 require that the petitioner undergo a clinical evaluation and risk
4 assessment; and (iii) a requirement that the agency issue a decision in
5 writing explaining the reasons for a denial or grant of relief. The
6 denial of a petition for relief from disabilities may be reviewed de
7 novo pursuant to the proceedings under article seventy-eight of the
8 civil practice law and rules.

9 § 8. Paragraph (a) of subdivision 3 and subdivisions 4, 7, 9, 10, 16-a
10 and 16-b of section 400.00 of the penal law, paragraph (a) of subdivi-
11 sion 3 and subdivisions 4, 9 and 10 as amended and subdivisions 16-a and
12 16-b as added by chapter 1 of the laws of 2013, paragraph (a-1) of
13 subdivision 16-a as added by chapter 98 of the laws of 2013, are amended
14 to read as follows:

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

47 4. Investigation. Before a license is issued or renewed, there shall
48 be an investigation of all statements required in the application by the
49 duly constituted police authorities of the locality where such applica-
50 tion is made, including but not limited to such records as may be acces-
51 sible to the [~~division of state police or~~ division of criminal justice
52 services pursuant to section 400.02 of this article. For that purpose,
53 the records of the appropriate office of the department of mental
54 hygiene concerning previous or present mental illness of the applicant
55 shall be available for inspection by the investigating officer of the
56 police authority. In order to ascertain any previous criminal record,

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

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

53 9. License: amendment. Elsewhere than in the city of New York, a
54 person licensed to carry or possess a pistol or revolver may apply at
55 any time to his or her licensing officer for amendment of his or her
56 license to include one or more such weapons or to cancel weapons held

1 under license. If granted, a record of the amendment describing the
2 weapons involved shall be filed by the licensing officer in the execu-
3 tive department, division of [~~state-police~~] criminal justice services,
4 Albany. The [~~superintendent of state-police~~] division of criminal
5 justice services may authorize that such amendment be completed and
6 transmitted to the [~~state-police~~] division in electronic form. Notifi-
7 cation of any change of residence shall be made in writing by any licen-
8 see within ten days after such change occurs, and a record of such
9 change shall be inscribed by such licensee on the reverse side of his or
10 her license. Elsewhere than in the city of New York, and in the counties
11 of Nassau and Suffolk, such notification shall be made to the executive
12 department, division of [~~state-police~~] criminal justice services, Alba-
13 ny, and in the city of New York to the police commissioner of that city,
14 and in the county of Nassau to the police commissioner of that county,
15 and in the county of Suffolk to the licensing officer of that county,
16 who shall, within ten days after such notification shall be received by
17 him or her, give notice in writing of such change to the executive
18 department, division of [~~state-police~~] criminal justice services, at
19 Albany.

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

1 possession of the licensee and upon application containing an additional
2 photograph of the licensee, the licensing officer shall issue a dupli-
3 cate license.

4 (b) All licensees shall be recertified to the [~~division of state~~
5 ~~police~~] licensing officer every five years thereafter. Any license
6 issued before the effective date of [~~the~~] chapter one of the laws of two
7 thousand thirteen [~~which added this paragraph~~] shall be recertified by
8 the licensee on or before [~~January~~] March thirty-first, two thousand
9 eighteen, and not less than one year prior to such date, the [~~state~~
10 ~~police~~] division of criminal justice services shall send a notice to all
11 license holders who have not recertified by such time. [~~Such recertif-~~
12 ~~ication shall be in a form as approved by the superintendent of state~~
13 ~~police, which shall request the license holder's name, date of birth,~~
14 ~~gender, race, residential address, social security number, firearms~~
15 ~~possessed by such license holder, email address at the option of the~~
16 ~~license holder and an affirmation that such license holder is not~~
17 ~~prohibited from possessing firearms.~~] Recertification shall contain the
18 information and shall be in the form set forth hereinbelow:

19 RECERTIFICATION

20 1. Name

21 2. Date of Birth

22 3. Gender

23 4. Race

24 5. Residential Address

25 _____
26 _____

27 6. Social Security Number

28 7. Email Address (optional)

29 8. List all firearms possessed on license:

30 _____
31 _____
32 _____
33 _____

34 Upon receipt of the completed recertification form, the licensing offi-
35 cer will compare the information provided with the information main-
36 tained by the licensing officer for such license holder, and promptly
37 notify the license holder of any discrepancies that may exist, and
38 provide instruction as to applying for an amendment pursuant to subdivi-
39 sion nine this section. After the resolution of any pending applications
40 for amendments, the licensing officer shall retain a copy of the recer-
41 tification and a copy shall be filed by the licensing officer in the
42 executive department, division of criminal justice services, Albany,
43 within ten days. The form may be in an electronic form if so designated
44 by the [~~superintendent of state police~~] division of criminal justice
45 services. Failure to recertify shall act as a revocation of such
46 license. If the [~~New York state police~~] division shall discover as a

1 result of the recertification process that a licensee failed to provide
2 a change of address, the ~~[New York state police]~~ division of criminal
3 justice services shall not require the licensing officer to revoke such
4 license.

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

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

51 (b) The ~~[superintendent of state police]~~ division of criminal justice
52 services shall create and maintain an internet website to educate the
53 public as to which semiautomatic rifle, semiautomatic shotgun or semiau-
54 tomatic pistol or weapon that are illegal as a result of the enactment
55 of ~~[the]~~ chapter one of the laws of two thousand thirteen ~~[which added~~
56 ~~this paragraph]~~, as well as such assault weapons which are illegal

1 pursuant to article two hundred sixty-five of this chapter. Such website
2 shall contain information to assist the public in recognizing the rele-
3 vant features proscribed by such article two hundred sixty-five, as well
4 as which make and model of weapons that require registration.

5 (c) A person who knowingly fails to apply to register such weapon, as
6 required by this section, within one year of the effective date of [~~the~~]
7 chapter one of the laws of two thousand thirteen [~~which added this para-~~
8 ~~graph~~] shall be guilty of a class A misdemeanor and such person who
9 unknowingly fails to validly register such weapon within such one year
10 period shall be given a warning by an appropriate law enforcement
11 authority about such failure and given thirty days in which to apply to
12 register such weapon or to surrender it. A failure to apply or surrender
13 such weapon within such thirty-day period shall result in such weapon
14 being removed by an appropriate law enforcement authority and declared a
15 nuisance.

16 16-b. The cost of the software, programming and interface required to
17 transmit any record that must be electronically transmitted by the deal-
18 er or licensing officer to the division of [~~state-police~~] criminal
19 justice services, and any cost borne by the licensing officer to admin-
20 ister or maintain records related to the recertification process by the
21 licensing officer, both pursuant to this chapter shall be borne by the
22 state.

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

25 § 400.02 Statewide license and record database.

26 There shall be a statewide license and record database which shall be
27 created and maintained by the division of [~~state-police~~] criminal
28 justice services the cost of which shall not be borne by any munici-
29 pality. Records assembled or collected for purposes of inclusion in such
30 database shall not be subject to disclosure pursuant to article six of
31 the public officers law. Records containing granted license applications
32 shall be periodically checked by the division of criminal justice
33 services against criminal conviction, mental health, and all other
34 records as are necessary to determine their continued accuracy as well
35 as whether an individual is no longer a valid license holder. The divi-
36 sion of criminal justice services shall also check pending applications
37 made pursuant to this article against such records to determine whether
38 a license may be granted. All state agencies shall cooperate with the
39 division of criminal justice services, as otherwise authorized by law,
40 in making their records available for such checks. The division of crim-
41 inal justice services, upon determining that an individual is ineligible
42 to possess a license, or is no longer a valid license holder, shall
43 notify the applicable licensing official of such determination and such
44 licensing official shall not issue a license or revoke such license and
45 any weapons owned or possessed by such individual shall be removed
46 consistent with the provisions of subdivision eleven of section 400.00
47 of this article. Local and state law enforcement shall have access to
48 such database, as otherwise authorized by law, in the performance of
49 their duties. Records assembled or collected for purposes of inclusion
50 in the database established by this section shall be released pursuant
51 to a court order.

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

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

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