STATE OF NEW YORK

879--A

2017-2018 Regular Sessions

IN SENATE

January 5, 2017

Introduced by Sens. ORTT, AKSHAR, BONACIC, FUNKE, GALLIVAN, HELMING, MARCHIONE, RITCHIE, SEWARD, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the family court act, the domestic relations law, the general business law, the judiciary law, the mental hygiene law, the penal law and the surrogate's court procedure act, in relation to limiting the application of certain provisions of law relating to firearms to the counties of Kings, Queens, Richmond, New York and Bronx; and to repeal section 400.02 of the penal law relating to the statewide license and record database

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2-a of section 330.20 of the criminal procedure law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

2-a. Firearm, rifle or shotgun surrender order **in certain counties**. [~~Upon~~] **In the counties of Kings, Queens, Richmond, New York and Bronx, upon** entry of a verdict of not responsible by reason of mental disease or defect, or upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that the defendant is an incapacitated person pursuant to article seven hundred thirty of this chapter, the court shall revoke the defendant's firearm license, if any, inquire of the defendant as to the existence and location of any firearm, rifle or shotgun owned or possessed by such defendant and direct the surrender of such firearm, rifle or shotgun pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law.

§ 2. Section 380.96 of the criminal procedure law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

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

LBD04769-02-7

§ 380.96 Obligation of sentencing court **in certain counties** pursuant to article four hundred of the penal law.

[~~Upon~~] **In the counties of Kings, Queens, Richmond, New York and Bronx, upon** judgment of conviction of any offense which would require the seizure of firearms, shotguns or rifles from an individual so convicted, and the revocation of any license or registration issued pursuant to article four hundred of the penal law, the judge pronouncing sentence shall demand surrender of any such license or registration and all firearms, shotguns and rifles. The failure to so demand surrender shall not effect the validity of any revocation pursuant to article four hundred of the penal law.

§ 3. Subdivisions 1, 2 and 3 of section 842-a of the family court act, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

1. [~~Suspension~~] **Mandatory and permissive suspension** of firearms license and ineligibility for such a license upon the issuance of a temporary order of protection. Whenever a temporary order of protection is issued pursuant to section eight hundred twenty-eight of this article, or **in the counties of Kings, Queens, Richmond, New York and Bronx,** pursuant to article four, five, six, seven or ten of this act:

(a) the court shall suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed where the court receives information that gives the court good cause to believe that: (i) the respondent has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the respondent has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the respondent has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; and

(b) the court **may and, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the temporary order of protection is issued, suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed.

2. [~~Revocation~~] **Mandatory and permissive revocation** or suspension of firearms license and ineligibility for such a license upon the issuance of an order of protection. Whenever an order of protection is issued pursuant to section eight hundred forty-one of this part, or **in the county of Kings, Queens, Richmond, New York or Bronx,** pursuant to article four, five, six, seven or ten of this act:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed where the court finds that the conduct which resulted in the issuance of the order of protection involved (i) the infliction of **serious** physical injury, as defined in subdivision [~~nine~~] **ten** of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; and

(b) the court **may and, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall, where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed.

3. [~~Revocation~~] **Mandatory and permissive revocation** or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection or**, in the county of Kings, Queens, Richmond, New York or Bronx,** temporary order of protection. Whenever a respondent has been found, pursuant to section eight hundred forty-six-a of this part to have willfully failed to obey an order of protection or temporary order of protection issued [~~pursuant to this act or the domestic relations law, or~~] by this court or by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to section eight hundred forty-six-a of this part:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed where the willful failure to obey such order involves (i) the infliction of **serious** physical injury, as defined in subdivision [~~nine~~] **ten** of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; and

(b) the court may and, in the counties of Kings, Queens, Richmond, New York and Bronx, shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, whether or not the respondent possesses such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed or (ii) suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender of any or all firearms owned or possessed.

§ 4. Section 846-a of the family court act, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

§ 846-a. Powers on failure to obey order. If a respondent is brought before the court for failure to obey any lawful order issued under this article or an order of protection or, in the county of Kings, Queens, Richmond, New York or Bronx, temporary order of protection issued [~~pursuant to this act or issued~~] by a court of competent jurisdiction of another state, territorial or tribal jurisdiction and if, after hearing, the court is satisfied by competent proof that the respondent has willfully failed to obey any such order, the court may modify an existing order or, in the county of Kings, Queens, Richmond, New York or Bronx, temporary order of protection to add reasonable conditions of behavior to the existing order, make a new order of protection in accordance with section eight hundred forty-two of this part, may order the forfeiture of bail in a manner consistent with article five hundred forty of the criminal procedure law if bail has been ordered pursuant to this act, may order the respondent to pay the petitioner's reasonable and necessary counsel fees in connection with the violation petition where the court finds that the violation of its order was willful, and may commit the respondent to jail for a term not to exceed six months. Such commitment may be served upon certain specified days or parts of days as the court may direct, and the court may, at any time within the term of such sentence, revoke such suspension and commit the respondent for the remainder of the original sentence, or suspend the remainder of such sentence. If the court determines that the willful failure to obey such order involves violent behavior constituting the crimes of menacing, reckless endangerment, assault or attempted assault and if such a respondent is licensed to carry, possess, repair and dispose of firearms pursuant to section 400.00 of the penal law, the court may also immediately revoke such license and may arrange for the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] and disposal of any firearm such respondent owns or possesses. If the willful failure to obey such order involves the infliction of serious physical injury as defined in subdivision [~~nine~~] ten of section 10.00 of the penal law or the use or threatened use of a deadly weapon or dangerous instrument, as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, such revocation and immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law six~~] and disposal of any firearm owned or possessed by respondent shall be mandatory, pursuant to subdivision eleven of section 400.00 of the penal law.

§ 5. Section 446-a of the family court act, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 446-a. Firearms; surrender and license suspension, revocation and ineligibility; certain counties. [~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx, upon the issuance of an order of protection or temporary order of protection, or upon a violation of such order, the court shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with section eight hundred forty-two-a of this act.

§ 6. Section 552 of the family court act, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 552. Firearms; surrender and license suspension, revocation and ineligibility; certain counties. [~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx, upon the issuance of an order of protection or temporary order of protection, or upon a violation of such order, the court shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with section eight hundred forty-two-a of this act.

§ 7. Section 656-a of the family court act, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 656-a. Firearms; surrender and license suspension, revocation and ineligibility; certain counties. [~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx, upon the issuance of an order of protection or temporary order of protection, or upon a violation of such order, the court shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with section eight hundred forty-two-a of this act.

§ 8. Section 780-a of the family court act, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 780-a. Firearms; surrender and license suspension, revocation and ineligibility; certain counties. [~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx, upon the issuance of an order of protection or temporary order of protection, or upon a violation of such order, the court shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with section eight hundred forty-two-a of this act.

§ 9. Section 1056-a of the family court act, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 1056-a. Firearms; surrender and license suspension, revocation and ineligibility; certain counties. [~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx, upon the issuance of an order of protection or temporary order of protection, or upon a violation of such order, the court shall make an order in accordance with section eight hundred forty-two-a of this act.

§ 10. Paragraph h of subdivision 3 of section 240 of the domestic relations law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

h. Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court **may and, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with sections eight hundred forty-two-a and eight hundred forty-six-a of the family court act, as applicable. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action.

§ 11. Subdivision 9 of section 252 of the domestic relations law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

9. Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court **may and, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with sections eight hundred forty-two-a and eight hundred forty-six-a of the family court act, as applicable. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action.

§ 12. The opening paragraph and paragraph (b) of subdivision 1 of section 530.14 of the criminal procedure law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

[~~Suspension~~] **Mandatory and permissive suspension** of firearms license and ineligibility for such a license upon issuance of temporary order of protection. Whenever a temporary order of protection is issued pursuant to subdivision one of section 530.12 or subdivision one of section 530.13 of this article:

(b) the court **may and, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm unlawfully against the person or persons for whose protection the temporary order of protection is issued, suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed.

§ 13. The opening paragraph and paragraph (b) of subdivision 2 of section 530.14 of the criminal procedure law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

[~~Revocation~~] **Mandatory and permissive revocation** or suspension of firearms license and ineligibility for such a license upon issuance of

an order of protection. Whenever an order of protection is issued pursuant to subdivision five of section 530.12 or subdivision four of section 530.13 of this article:

(b) the court **may and, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender [~~**pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,**~~] of any or all firearms owned or possessed.

§ 14. The opening paragraph and paragraph (b) of subdivision 3 of section 530.14 of the criminal procedure law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

[~~**Revocation**~~] **Mandatory and permissive revocation** or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection. Whenever a defendant has been found pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article to have willfully failed to obey an order of protection issued by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article:

(b) the court **may and, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender [~~**pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,**~~] of any or all firearms owned or possessed or (ii) suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender [~~**pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,**~~] of any or all firearms owned or possessed.

§ 15. The article heading of article 39-DDD of the general business law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

PRIVATE SALE OR DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS **IN CERTAIN COUNTIES**

§ 16. Subdivision 1 of section 898 of the general business law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

1. In addition to any other requirements pursuant to state and federal law, all sales, exchanges or disposals of firearms, rifles or shotguns**, in the counties of Kings, Queens, Richmond, New York and Bronx,** shall be conducted in accordance with this section unless such sale, exchange or disposal is conducted by a licensed importer, licensed manufacturer or licensed dealer, as those terms are defined in 18 USC § 922, when such sale, exchange or disposal is conducted pursuant to that person's feder-

al firearms license or such sale, exchange or disposal is between members of an immediate family. For purposes of this section, "immediate family" shall mean spouses, domestic partners, children and step-children.

§ 17. Paragraph (q) of subdivision 2 of section 212 of the judiciary law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(q) Adopt rules to require transmission, to the criminal justice information services division of the federal bureau of investigation or to the division of criminal justice services, of the name and other identifying information of each person who has a guardian appointed for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs. Any such records**, relating to persons residing in the county of Kings, Queens, Richmond, New York or Bronx,** transmitted directly to the federal bureau of investigation must also be transmitted to the division of criminal justice services[~~, and any records received by the division of criminal justice services pursuant to this paragraph may be checked against the statewide license and record database~~].

§ 18. Subdivision (j) of section 7.09 of the mental hygiene law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(j) (1) The commissioner, in cooperation with other applicable state agencies, shall collect, retain or modify data or records, and shall transmit such data or records: (i) to the division of criminal justice services, or to the criminal justice information services division of the federal bureau of investigation, for the purposes of responding to queries to the national instant criminal background check system regarding attempts to purchase or otherwise take possession of firearms, as defined in 18 USC 921(a)(3), in accordance with applicable federal laws or regulations, or (ii) **for persons residing in the county of Kings, Queens, Richmond, New York or Bronx,** to the division of criminal justice services, which may re-disclose such data and records only for determining whether a license issued pursuant to section 400.00 of the penal law should be denied, suspended or revoked, under subdivision eleven of such section, or for determining whether a person is no longer permitted under federal or state law to possess a firearm. Such records, which may not be used for any other purpose, shall include only names and other non-clinical identifying information of persons who have been involuntarily committed to a hospital pursuant to article nine of this chapter, [~~or section four hundred two or subdivision two of section five hundred eight of the correction law,~~] or article seven hundred thirty or section 330.20 of the criminal procedure law or sections 322.2 or 353.4 of the family court act, or to a secure treatment facility pursuant to article ten of this chapter.

(2) The commissioner shall establish within the office of mental health an administrative process to permit a person who has been or may be disqualified from possessing such a firearm pursuant to 18 USC 922(4)(d) or who has been or may be disqualified from continuing to have a license to carry, possess, repair, or dispose of a firearm under section 400.00 of the penal law because such person**, who resides in the county of Kings, Queens, Richmond, New York or Bronx,** was involuntarily committed or civilly confined to a facility under the jurisdiction of the commissioner, to petition for relief from that disability where such person's record and reputation are such that such person will not be

likely to act in a manner dangerous to public safety and where the granting of the relief would not be contrary to public safety. The commissioner shall promulgate regulations to establish the relief from disabilities program, which shall include, but not be limited to, provisions providing for: (i) an opportunity for a disqualified person to petition for relief in writing; (ii) the authority for the agency to require that the petitioner undergo a clinical evaluation and risk assessment; and (iii) a requirement that the agency issue a decision in writing explaining the reasons for a denial or grant of relief. The denial of a petition for relief from disabilities may be reviewed de novo pursuant to the proceedings under article seventy-eight of the civil practice law and rules.

§ 19. Subdivision (b) of section 9.46 of the mental hygiene law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person**, who resides in the county of Kings, Queens, Richmond, New York or Bronx,** 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. 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.

§ 20. Subdivision 22 of section 265.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

22. "Assault weapon" means

(a) **(i) except as otherwise provided in paragraph (b) of this subdivision, a semiautomatic rifle that has an ability to accept a detachable magazine and has at least two of the following characteristics:**

(A) a folding or telescoping stock;

(B) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(C) a bayonet mount;

(D) a flash suppressor or threaded barrel designed to accommodate a flash suppressor;

(E) a grenade launcher; or

(ii) a semiautomatic shotgun that has at least two of the following characteristics:

(A) a folding or telescoping stock;

(B) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(C) a fixed magazine capacity in excess of five rounds;

(D) an ability to accept a detachable magazine; or

(iii) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least two of the following characteristics:

(A) an ammunition magazine that attaches to the pistol outside of the pistol grip;

(B) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

(C) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
(D) a manufactured weight of fifty ounces or more when the pistol is unloaded;
(E) a semiautomatic version of an automatic rifle, shotgun or firearm; or
(iv) any of the weapons, or functioning frames or receivers of such weapons, or copies or duplicates of such weapons, in any caliber, known as:
(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);
(B) Action Arms Israeli Military Industries UZI and Galil;
(C) Beretta Ar70 (SC-70);
(D) Colt AR-15;
(E) Fabrique National FN/FAL, FN/LAR, and FNC;
(F) SWD M-10, M-11, M-11/9, and M-12;
(G) Steyr AUG;
(H) INTRATEC TEC-9, TEC-DC9 and TEC-22; and
(I) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;
(v) provided, however, that such term does not include: (A) any rifle, shotgun or pistol that (I) is manually operated by bolt, pump, lever or slide action; (II) has been rendered permanently inoperable; or (III) is an antique firearm as defined in 18 U.S.C. 921(a)(16);
(B) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition;
(C) a semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine;
(D) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to section 922 of 18 U.S.C. as such weapon was manufactured on October first, nineteen hundred ninety-three. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon; or
(E) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or any of the weapons defined in paragraph (d) of this subdivision lawfully possessed prior to September fourteenth, nineteen hundred ninety-four.
(b) (i) in the counties of Kings, Queens, Richmond, New York and Bronx, a semiautomatic rifle that has an ability to accept a detachable magazine and has at least one of the following characteristics:
[~~(i)~~] (A) a folding or telescoping stock;
[~~(ii)~~] (B) a pistol grip that protrudes conspicuously beneath the action of the weapon;
[~~(iii)~~] (C) a thumbhole stock;
[~~(iv)~~] (D) a second handgrip or a protruding grip that can be held by the non-trigger hand;
[~~(v)~~] (E) a bayonet mount;
[~~(vi)~~] (F) a flash suppressor, muzzle break, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle break, or muzzle compensator;
[~~(vii)~~] (G) a grenade launcher; or
[~~(b)~~] (ii) a semiautomatic shotgun that has at least one of the following characteristics:
[~~(i)~~] (A) a folding or telescoping stock;
[~~(ii)~~] (B) a thumbhole stock;

[~~(iii)~~] (C) a second handgrip or a protruding grip that can be held by the non-trigger hand;
[~~(iv)~~] (D) a fixed magazine capacity in excess of seven rounds;
[~~(v)~~] (E) an ability to accept a detachable magazine; or
[~~(c)~~] (iii) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the following characteristics:
[~~(i)~~] (A) a folding or telescoping stock;
[~~(ii)~~] (B) a thumbhole stock;
[~~(iii)~~] (C) a second handgrip or a protruding grip that can be held by the non-trigger hand;
[~~(iv)~~] (D) capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip;
[~~(v)~~] (E) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
[~~(vi)~~] (F) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;
[~~(vii)~~] (G) a manufactured weight of fifty ounces or more when the pistol is unloaded; or
[~~(viii)~~] (H) a semiautomatic version of an automatic rifle, shotgun or firearm;
[~~(d)~~] (iv) a revolving cylinder shotgun;
[~~(e)~~] (v) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in subparagraph (v) of paragraph (e) of subdivision twenty-two of section 265.00 of this chapter as added by chapter one hundred eighty-nine of the laws of two thousand and otherwise lawfully possessed pursuant to such chapter of the laws of two thousand prior to September fourteenth, nineteen hundred ninety-four;
[~~(f)~~] (vi) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in paragraph (a), (b) or (c) of this subdivision, possessed prior to the date of enactment of the chapter of the laws of two thousand thirteen which added this paragraph;
[~~(g)~~] (vii) provided, however, that such term does not include:
[~~(i)~~] (A) any rifle, shotgun or pistol that [~~(A)~~] (I) is manually operated by bolt, pump, lever or slide action; [~~(B)~~] (II) has been rendered permanently inoperable; or [~~(C)~~] (III) is an antique firearm as defined in 18 U.S.C. 921(a)(16);
[~~(ii)~~] (B) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition;
[~~(iii)~~] (C) a semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine; or
[~~(iv)~~] (D) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to 18 U.S.C. 922 as such weapon was manufactured on October first, nineteen hundred ninety-three. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon;
[~~(v)~~] (E) any weapon validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter. Such weapons shall be subject to the provisions of [~~paragraph (h)~~] subparagraph (viii) of this [~~subdivision~~] paragraph;
[~~(vi)~~] (F) any firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof that is validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter;

[~~(h)~~] **(viii)** Any weapon defined in [~~paragraph (e) or (f)~~] **subparagraph (v) or (vi)** of this [~~subdivision~~] **paragraph** 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~~] **subparagraph**, is transferred within one year of the effective date of [~~the~~] chapter **one** of the laws of two thousand thirteen which added this [~~paragraph~~] **subparagraph**.

§ 21. Subdivision 23 of section 265.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

23. "Large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device, **manufactured after September thirtieth, nineteen hundred ninety-four,** that [~~(a)~~] has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition[~~, or (b) contains more than seven rounds of ammunition, or (c) is obtained after the effective date of the chapter of the laws of two thousand thirteen which amended this subdivision and has a capacity of, or that can be readily restored or converted to accept, more than seven rounds of ammunition~~]; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition [~~or a feeding device that is a curio or relic. A feeding device that is a curio or relic is defined as a device that (i) was manufactured at least fifty years prior to the current date, (ii) is only capable of being used exclusively in a firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof, (iii) is possessed by an individual who is not prohibited by state or federal law from possessing a firearm and (iv) is registered with the division of state police pursuant to subdivision sixteen-a of section 400.00 of this chapter, except such feeding devices transferred into the state may be registered at any time, provided they are registered within thirty days of their transfer into the state. Notwithstanding paragraph (h) of subdivision twenty-two of this section, such feeding devices may be transferred provided that such transfer shall be subject to the provisions of section 400.03 of this chapter including the check required to be conducted pursuant to such section~~].

§ 22. Subdivision 24 of section 265.00 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

24. "Seller of ammunition" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling or keeping ammunition **in the county of Kings, Queens, Richmond, New York or Bronx**.

§ 23. The opening paragraph of section 265.01-b of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

A person is guilty of criminal possession of a firearm when he or she**, being a resident of the county of Kings, Queens, Richmond, New York or**

Bronx: (1) possesses any firearm or; (2) lawfully possesses a firearm prior to the effective date of [~~the~~] chapter one of the laws of two thousand thirteen which added this section subject to the registration requirements of subdivision sixteen-a of section 400.00 of this chapter and knowingly fails to register such firearm pursuant to such subdivision.

§ 24. Paragraphs 3 and 7-f of subdivision a of section 265.20 of the penal law, paragraph 3 as amended and paragraph 7-f as added by chapter 1 of the laws of 2013, are amended to read as follows:

3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under section 400.00 or 400.01 of this chapter or possession, in the county of Kings, Queens, Richmond, New York or Bronx, of a weapon as defined in subparagraph (v) or (vi) of paragraph [~~(e) or (f)~~] (b) of subdivision twenty-two of section 265.00 of this article which is registered pursuant to paragraph (a) of subdivision sixteen-a of section 400.00 of this chapter or is included on an amended license issued pursuant to section 400.00 of this chapter. In the event such license is revoked, other than because such licensee is no longer permitted to possess a firearm, rifle or shotgun under federal or state law, information sufficient to satisfy the requirements of subdivision sixteen-a of section 400.00 of this chapter, shall be transmitted by the licensing officer to the division of state police, in a form as determined by the superintendent of state police. Such transmission shall constitute a valid registration under such section. Further provided, notwithstanding any other section of this title, a failure to register such weapon by an individual, in the county of Kings, Queens, Richmond, New York or Bronx, who possesses such weapon before the enactment of [~~the~~] chapter one of the laws of two thousand thirteen which amended this paragraph and may so lawfully possess it thereafter upon registration, shall only be subject to punishment pursuant to paragraph (c) of subdivision sixteen-a of section 400.00 of this chapter; provided, that such a license or registration shall not preclude a conviction for the offense defined in subdivision three of section 265.01 of this article or section 265.01-a of this article.

7-f. Possession and use of a magazine, belt, feed strip or similar device, in the county of Kings, Queens, Richmond, New York or Bronx, that contains more than seven rounds of ammunition, but that does not have a capacity of or can readily be restored or converted to accept more than ten rounds of ammunition, at an indoor or outdoor firing range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in arms; at an indoor or outdoor firing range for the purpose of firing a rifle or shotgun; at a collegiate, olympic or target shooting competition under the auspices of or approved by the national rifle association; or at an organized match sanctioned by the International Handgun Metallic Silhouette Association.

§ 25. The opening paragraph of section 265.36 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

It shall be unlawful for a person, in the county of Kings, Queens, Richmond, New York or Bronx, to knowingly possess a large capacity ammunition feeding device manufactured before September thirteenth, nineteen hundred ninety-four, and if such person lawfully possessed such large capacity feeding device before the effective date of [~~the~~] chapter one of the laws of two thousand thirteen which added this section, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition.

§ 26. The opening paragraph of section 265.37 of the penal law, as amended by section 2 of part FF of chapter 57 of the laws of 2013, is amended to read as follows:

It shall be unlawful for a person to knowingly possess**, in the county of Kings, Queens, Richmond, New York or Bronx,** an ammunition feeding device where such device contains more than seven rounds of ammunition.

§ 27. The opening paragraph of section 265.45 of the penal law, as amended by section 3 of part FF of chapter 57 of the laws of 2013, is amended to read as follows:

No person**, residing in the county of Kings, Queens, Richmond, New York or Bronx,** who owns or is custodian of a rifle, shotgun or firearm who resides with an individual who such person knows or has reason to know is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)(1), (4), (8) or (9) shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. For purposes of this section "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein. With respect to a person who is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9), for purposes of this section, this section applies only if such person has been convicted of a crime included in subdivision one of section 370.15 of the criminal procedure law and such gun is possessed within five years from the later of the date of conviction or completion of sentence. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons.

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

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character; (c) who has not been convicted anywhere of a felony or a serious offense; (d) who is not a fugitive from justice; (e) who is not an unlawful user of or addicted to any controlled substance as defined in section 21 U.S.C. 802; (f) who being an alien (i) is not illegally or unlawfully in the United States or (ii) has not been admitted to the United States under a nonimmigrant visa subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been discharged from the Armed Forces under dishonorable conditions; (h) who, having been a citizen of the United States, has not renounced his or her citizenship; (i) who has stated whether he or she has ever suffered any mental illness; (j) who**, being a resident of the county of Kings, Queens, Richmond, New York or Bronx,** has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article nine or fifteen of the mental

hygiene law, article seven hundred thirty or section 330.20 of the criminal procedure law, section four hundred two or five hundred eight of the correction law, section 322.2 or 353.4 of the family court act, or has not been civilly confined in a secure treatment facility pursuant to article ten of the mental hygiene law; (k) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; (l) in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: (i) persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; and (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test; (m) who**, being a resident of the county of Kings, Queens, Richmond, New York or Bronx,** has not had a guardian appointed for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs; and (n) concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply.

§ 29. Subdivisions 4, 5, 10, 11 and 12 of section 400.00 of the penal law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

4. Investigation. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made[~~, including but not limited to such records as may be accessible to the division of state police or division of criminal justice services pursuant to section 400.02 of this article~~]. For that purpose, the records of the appropriate office of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police authority. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent

location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search to the investigating officer shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, who is acting pursuant to his special duties, or a police officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay.

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 of any person to whom an application for any license has been granted shall be a public record. Upon application by a licensee who has changed his 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, Albany, within ten days after issuance of the license. The superintendent of state police may designate that such application shall be transmitted to the division of state police electronically. In the event the superintendent of the division of state police 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 subdivi-

sion 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 shall not be subject to disclosure pursuant to article six of the public officers law.~~]

(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 **one** 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 **one** 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 **one** 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~~] **law** 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.

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

in the license, shall expire not more than five years after the date of issuance; however, in the county of Westchester, any such license shall be certified prior to the first day of April, two thousand, in accordance with a schedule to be contained in regulations promulgated by the commissioner of the division of criminal justice services, and every such license shall be recertified every five years thereafter. For purposes of this section certification shall mean that the licensee shall provide to the licensing officer the following information only: current name, date of birth, current address, and the make, model, caliber and serial number of all firearms currently possessed. Such certification information shall be filed by the licensing officer in the same manner as an amendment. Elsewhere than in the city of New York and the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not previously revoked or cancelled, shall be in force and effect until revoked as herein provided. Any license not previously cancelled or revoked shall remain in full force and effect for thirty days beyond the stated expiration date on such license. Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition of the application by the licensing officer. In the case of a license for gunsmith or dealer in firearms, in counties having a population of less than two hundred thousand inhabitants, photographs and fingerprints shall be submitted on original applications and upon renewal thereafter only at six year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license.

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

11. License: revocation and suspension. (a) The conviction of a licensee anywhere of a felony or serious offense [~~or a licensee at any time becoming ineligible to obtain a license under this section~~] shall operate as a revocation of the license. A license may be revoked or suspended as provided for in section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act. Except for a license issued pursuant to section 400.01 of this article, a

license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record; a license issued pursuant to section 400.01 of this article may be revoked and cancelled at any time by the licensing officer or any judge or justice of a court of record. The official revoking a license shall give written notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality.

(b) Whenever the director of community services **in the counties of Kings, Queens, Richmond, New York and Bronx,** or his or her designee makes a report pursuant to section 9.46 of the mental hygiene law, the division of criminal justice services shall convey such information, whenever it determines that the person named in the report possesses a license issued pursuant to this section, to the appropriate licensing official, who shall issue an order suspending or revoking such license.

(c) In any instance in which a person's license is suspended or revoked under paragraph (a) or (b) of this subdivision, such person shall surrender such license to the appropriate licensing official and any and all firearms, rifles, or shotguns owned or possessed by such person shall be surrendered to an appropriate law enforcement agency as provided in subparagraph (f) of paragraph one of subdivision a of section 265.20 of this chapter. In the event such license, firearm, shotgun, or rifle is not surrendered, such items shall be removed and declared a nuisance and any police officer or peace officer acting pursuant to his or her special duties is authorized to remove any and all such weapons.

12. Records required of gunsmiths and dealers in firearms. Any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person pursuant to section 265.20. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The superintendent of state police may designate that such record shall be completed and transmitted in electronic form. A dealer may be granted a waiver from transmitting such records in electronic form if the superintendent determines that such dealer is incapable of such transmission due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated

by the dealer, pursuant to a process established in regulation, and at the discretion of the superintendent. [~~Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this article shall not be subject to disclosure pursuant to article six of the public officers law.~~] The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

§ 30. Subdivision 16-a of section 400.00 of the penal law, as added by chapter 1 of the laws of 2013, paragraph (a-1) as added by chapter 98 of the laws of 2013, is amended to read as follows:

16-a. Registration. (a) An owner of a weapon defined in paragraph (e) or (f) of subdivision twenty-two of section 265.00 of this chapter, **who resides in the county of Kings, Queens, Richmond, New York or Bronx,** possessed before the date of the effective date of [~~the~~] chapter **one** of the laws of two thousand thirteen which added this paragraph, must make an application to register such weapon with the superintendent of state police, in the manner provided by the superintendent, or by amending a license issued pursuant to this section within one year of the effective date of this subdivision except any weapon defined under subparagraph (vi) of paragraph (g) of subdivision twenty-two of section 265.00 of this chapter transferred into the state may be registered at any time, provided such weapons are registered within thirty days of their transfer into the state. Registration information shall include the registrant's name, date of birth, gender, race, residential address, social security number and a description of each weapon being registered. A registration **in the county of Kings, Queens, Richmond, New York or Bronx,** of any weapon defined under subparagraph (vi) of paragraph (g) of subdivision twenty-two of section 265.00 or a feeding device as defined under subdivision twenty-three of section 265.00 of this chapter shall be transferable, provided that the seller notifies the **division of** state police within seventy-two hours of the transfer and the buyer provides the **division of** state police with information sufficient to constitute a registration under this section. Such registration shall not be valid if such registrant is prohibited or becomes prohibited from possessing a firearm pursuant to state or federal law. The superintendent shall determine whether such registrant is prohibited from possessing a firearm under state or federal law. Such check shall be limited to determining whether the factors in 18 USC 922 (g) apply or whether a registrant has been convicted of a serious offense as defined in subdivision sixteen-b of section 265.00 of this chapter, so as to prohibit such registrant from possessing a firearm, and whether a report has been issued pursuant to section 9.46 of the mental hygiene law. [~~All~~] **Such** registrants shall recertify to the division of state police every five years thereafter. Failure to recertify shall result in a revocation of such registration.

(a-1) Notwithstanding any inconsistent provisions of paragraph (a) of this subdivision, an owner**, who resides in the county of Kings, Queens, Richmond, New York or Bronx,** of an assault weapon as defined in subdivision twenty-two of section 265.00 of this chapter, who is a qualified retired New York or federal law enforcement officer as defined in subdi-

vision twenty-five of section 265.00 of this chapter, where such weapon was issued to or purchased by such officer prior to retirement and in the course of his or her official duties, and for which such officer was qualified by the agency that employed such officer within twelve months prior to his or her retirement, must register such weapon within sixty days of retirement.

(b) The superintendent of state police shall create and maintain an internet website to educate the public**, who reside in the county of Kings, Queens, Richmond, New York or Bronx,** as to which semiautomatic rifle, semiautomatic shotgun or semiautomatic pistol or weapon that are illegal as a result of the enactment of [~~the~~] chapter **one** of the laws of two thousand thirteen which added this paragraph, as well as such assault weapons which are illegal pursuant to article two hundred sixty-five of this chapter. Such website shall contain information to assist [~~the~~] **such** public in recognizing the relevant features proscribed by such article two hundred sixty-five, as well as which make and model of weapons that require registration.

(c) A person**, who resides in the county of Kings, Queens, Richmond, New York or Bronx,** who knowingly fails to apply to register such weapon, as 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.

§ 31. Section 400.02 of the penal law is REPEALED.

§ 32. Section 400.03 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 400.03 Sellers of ammunition.

1. A seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter **doing business in the county of Kings, Queens, Richmond, New York or Bronx,** shall register with the superintendent of state police in a manner provided by the superintendent. Any dealer in firearms that is validly licensed pursuant to section 400.00 of this article shall not be required to complete such registration.

2. Any seller of ammunition or dealer in firearms **doing business in the county of Kings, Queens, Richmond, New York or Bronx,** shall keep a record book approved as to form by the superintendent of state police. In the record book shall be entered at the time of every transaction involving ammunition the date, name, age, occupation and residence of any person from whom ammunition is received or to whom ammunition is delivered, and the amount, calibre, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such ammunition. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his or her special duties, or police officer. Any record produced pursuant to this section and any transmission thereof to any government agency shall not be considered a public record for purposes of article six of the public officers law.

3. [~~No later than thirty days after the superintendent of the state police certifies that the statewide license and record database estab-~~

~~lished pursuant to section 400.02 of this article is operational for the purposes of this section, a~~] A dealer in firearms licensed pursuant to section 400.00 of this article, a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter doing business in the county of Kings, Queens, Richmond, New York or Bronx, shall not transfer any ammunition to any other person who is not a dealer in firearms as defined in subdivision nine of such section 265.00 or a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter, unless:

(a) before the completion of the transfer, the licensee or seller contacts the [~~statewide license and record database~~] superintendent of state police and provides the [~~database~~] superintendent with information sufficient to identify such dealer or seller, transferee based on information on the transferee's identification document as defined in paragraph (c) of this subdivision, as well as the amount, calibre, manufacturer's name and serial number, if any, of such ammunition;

(b) the [~~system~~] superintendent provides the licensee or seller with a unique identification number; and

(c) the transferor has verified the identity of the transferee by examining a valid state identification document of the transferee issued by the department of motor vehicles or if the transferee is not a resident of the state of New York, a valid identification document issued by the transferee's state or country of residence containing a photograph of the transferee.

4. If the [~~database~~] superintendent of state police determines that the purchaser of ammunition is eligible to possess ammunition pursuant to state and federal laws, [~~the system~~] he or she shall:

(a) assign a unique identification number to the transfer; and

(b) provide the licensee or seller with the number.

5. If the [~~statewide license and record database~~] superintendent of state police notifies the licensee or seller that the information available [~~to the database~~] does not demonstrate that the receipt of ammunition by such other person would violate 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to such other person, the licensee shall indicate to the [~~database~~] superintendent that such transaction has been completed at which point a record of such transaction shall be created which shall be accessible by the division of state police and maintained for no longer than one year from point of purchase[~~, which shall not be incorporated into the database established pursuant to section 400.02 of this article or the registry established pursuant to subdivision sixteen-a of section 400.00 of this article~~]. The division of state police may share such information with a local law enforcement agency. Evidence of the purchase of ammunition is not sufficient to establish probable cause to believe that the purchaser has committed a crime absent other information tending to prove the commission of a crime. Records assembled or accessed pursuant to this section shall not be subject to disclosure pursuant to article six of the public officers law. This requirement of this section shall not apply (i) if a background check cannot be completed because the system is not operational as determined by the superintendent of state police, or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation, or (ii) a dealer or seller has been granted a waiver from conducting such background check if the superintendent of state police determines that such dealer is incapable of such check due to technological limitations that are not reasonably within the control of the dealer, or other exceptional

circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of such superintendent.

6. If the superintendent of state police certifies that background checks of ammunition purchasers **in the county of Kings, Queens, Richmond, New York or Bronx** may be conducted through the national instant criminal background check system, use of that system by a dealer or seller shall be sufficient to satisfy subdivisions four and five of this section and such checks shall be conducted through such system, provided that a record of such transaction shall be forwarded to the state police in a form determined by the superintendent.

7. No commercial transfer of ammunition shall take place **in the county of Kings, Queens, Richmond, New York or Bronx** unless a licensed dealer in firearms or registered seller of ammunition acts as an intermediary between the transferor and the ultimate transferee of the ammunition for the purposes of contacting the statewide license and record database pursuant to this section. Such transfer between the dealer or seller, and transferee must occur in person.

8. A seller of ammunition who fails to register pursuant to this section and sells ammunition, for a first offense, shall be guilty of a violation and subject to the fine of one thousand dollars and for a second offense, shall be guilty of a class A misdemeanor.

A seller of ammunition that fails to keep any record required pursuant to this section, for a first offense shall be guilty of a violation and subject to a fine of five hundred dollars, and for a second offense shall be guilty of a class B misdemeanor, and the registration of such seller shall be revoked.

§ 33. Paragraph (a) of subdivision 1 and subdivision 3 of section 400.10 of the penal law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

(a) Any owner or other person lawfully in possession of: (i) a firearm, rifle or[~~r~~] shotgun who suffers the loss or theft of said weapon; (ii) **in the county of Kings, Queens, Richmond, New York or Bronx,** ammunition as well as a firearm, rifle or shotgun who suffers the loss or theft of such ammunition as well as a firearm, rifle or shotgun; or (iii) **in the county of Kings, Queens, Richmond, New York or Bronx,** ammunition and is a dealer in firearms or seller of ammunition who suffers the loss or theft of such ammunition shall within twenty-four hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office.

3. Notwithstanding any other provision of law, a violation of paragraph (a) of subdivision one of this section shall be [~~**a class A misdemeanor**~~] **punishable only by a fine not to exceed one hundred dollars**.

§ 34. Section 2509 of the surrogate's court procedure act, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 2509. Firearms inventory

Whenever, by regulation, rule or statute, a fiduciary or attorney of record **in the county of Kings, Queens, Richmond, New York or Bronx** must file a list of assets constituting a decedent's estate, such list must include a particularized description of every firearm, shotgun and rifle, as such terms are defined in section 265.00 of the penal law, that are part of such estate. Such list must be filed with the surrogate's court in the county in which the estate proceeding, if any, is pending and a copy must be filed with the division of criminal justice services.

§ 35. This act shall take effect immediately.