

# STATE OF NEW YORK

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2335

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

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

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:

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

4 2-a. Firearm, rifle or shotgun surrender order in certain counties.  
5 [~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx,  
6 upon entry of a verdict of not responsible by reason of mental disease  
7 or defect, or upon the acceptance of a plea of not responsible by reason  
8 of mental disease or defect, or upon a finding that the defendant is an  
9 incapacitated person pursuant to article seven hundred thirty of this  
10 chapter, the court shall revoke the defendant's firearm license, if any,  
11 inquire of the defendant as to the existence and location of any  
12 firearm, rifle or shotgun owned or possessed by such defendant and  
13 direct the surrender of such firearm, rifle or shotgun pursuant to  
14 subparagraph (f) of paragraph one of subdivision a of section 265.20 and  
15 subdivision six of section 400.05 of the penal law.

16 § 2. Section 380.96 of the criminal procedure law, as added by chapter  
17 1 of the laws of 2013, is amended to read as follows:

18 § 380.96 Obligation of sentencing court in certain counties pursuant to  
19 article four hundred of the penal law.

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

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

10 § 3. Subdivisions 1, 2 and 3 of section 842-a of the family court  
11 act, as amended by chapter 60 of the laws of 2018, paragraphs (a) and  
12 (b) of subdivision 1 as amended and paragraph (c) of subdivision 1 as  
13 added by section 8 of part M of chapter 55 of the laws of 2020, para-  
14 graphs (a) and (b) of subdivision 2 as amended, and paragraph (c) of  
15 subdivision 2 as added by section 9 of part M of chapter 55 of the laws  
16 of 2020, and paragraphs (a) and (b) of subdivision 3 as amended and  
17 paragraph (c) of subdivision 3 as added by section 10 of part M of chap-  
18 ter 55 of the laws of 2020, are amended to read as follows:

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

25 (a) the court shall suspend any such existing license possessed by the  
26 respondent, order the respondent ineligible for such a license, and  
27 order the immediate surrender ~~[pursuant to subparagraph (f) of paragraph~~  
28 ~~one of subdivision a of section 265.20 and subdivision six of section~~  
29 ~~400.05 of the penal law,~~ of any or all firearms, rifles and shotguns  
30 owned or possessed where the court receives information that gives the  
31 court good cause to believe that: (i) the respondent has a prior  
32 conviction of any violent felony offense as defined in section 70.02 of  
33 the penal law; (ii) the respondent has previously been found to have  
34 willfully failed to obey a prior order of protection and such willful  
35 failure involved (A) the infliction of physical injury, as defined in  
36 subdivision nine of section 10.00 of the penal law, (B) the use or  
37 threatened use of a deadly weapon or dangerous instrument as those terms  
38 are defined in subdivisions twelve and thirteen of section 10.00 of the  
39 penal law, or (C) behavior constituting any violent felony offense as  
40 defined in section 70.02 of the penal law; or (iii) the respondent has a  
41 prior conviction for stalking in the first degree as defined in section  
42 120.60 of the penal law, stalking in the second degree as defined in  
43 section 120.55 of the penal law, stalking in the third degree as defined  
44 in section 120.50 of the penal law or stalking in the fourth degree as  
45 defined in section 120.45 of such law;

46 (b) the court may and, in the counties of Kings, Queens, Richmond, New  
47 York, and Bronx, shall where the court finds a substantial risk that the  
48 respondent may use or threaten to use a firearm, rifle or shotgun unlaw-  
49 fully against the person or persons for whose protection the temporary  
50 order of protection is issued, suspend any such existing license  
51 possessed by the respondent, order the respondent ineligible for such a  
52 license, and order the immediate surrender ~~[pursuant to subparagraph (f)~~  
53 ~~of paragraph one of subdivision a of section 265.20 and subdivision six~~  
54 ~~of section 400.05 of the penal law,~~ of any or all firearms, rifles and  
55 shotguns owned or possessed; and

(c) the court may where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

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 counties of Kings, Queens, Richmond, New York, and Bronx, or 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, rifles and shotguns 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;

(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, rifle or shotgun 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, rifles and shotguns 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, rifles and shotguns owned or possessed; and

(c) the court may where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

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

1 an order of protection or temporary order of protection issued [~~pursuant~~  
2 ~~to this act or the domestic relations law, or~~] by this court or by a  
3 court of competent jurisdiction in another state, territorial or tribal  
4 jurisdiction, in addition to any other remedies available pursuant to  
5 section eight hundred forty-six-a of this part:

6 (a) the court shall revoke any such existing license possessed by the  
7 respondent, order the respondent ineligible for such a license, and  
8 order the immediate surrender [~~pursuant to subparagraph (f) of paragraph~~  
9 ~~one of subdivision a of section 265.20 and subdivision six of section~~  
10 ~~400.05 of the penal law,~~] of any or all firearms, rifles and shotguns  
11 owned or possessed where the willful failure to obey such order involves  
12 (i) the infliction of serious physical injury, as defined in subdivision  
13 [~~nine~~] ten of section 10.00 of the penal law, (ii) the use or threatened  
14 use of a deadly weapon or dangerous instrument as those terms are  
15 defined in subdivisions twelve and thirteen of section 10.00 of the  
16 penal law, or (iii) behavior constituting any violent felony offense as  
17 defined in section 70.02 of the penal law; or (iv) behavior constituting  
18 stalking in the first degree as defined in section 120.60 of the penal  
19 law, stalking in the second degree as defined in section 120.55 of the  
20 penal law, stalking in the third degree as defined in section 120.50 of  
21 the penal law or stalking in the fourth degree as defined in section  
22 120.45 of such law;

23 (b) the court may and, in the counties of Kings, Queens, Richmond, New  
24 York and Bronx, shall where the court finds a substantial risk that the  
25 respondent may use or threaten to use a firearm, rifle or shotgun unlaw-  
26 fully against the person or persons for whose protection the order of  
27 protection was issued, (i) revoke any such existing license possessed by  
28 the respondent, order the respondent ineligible for such a license,  
29 whether or not the respondent possesses such a license, and order the  
30 immediate surrender [~~pursuant to subparagraph (f) of paragraph one of~~  
31 ~~subdivision a of section 265.20 and subdivision six of section 400.05 of~~  
32 ~~the penal law,~~] of any or all firearms, rifles and shotguns owned or  
33 possessed or (ii) suspend any such existing license possessed by the  
34 respondent, order the respondent ineligible for such a license, and  
35 order the immediate surrender of any or all firearms, rifles and shot-  
36 guns owned or possessed; and

37 (c) the court may where the defendant willfully refuses to surrender  
38 such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of  
39 this subdivision, or for other good cause shown, order the immediate  
40 seizure of such firearm, rifle or shotgun, and search therefor, pursuant  
41 to an order issued in accordance with article six hundred ninety of the  
42 criminal procedure law, consistent with such rights as the defendant may  
43 derive from this article or the constitution of this state or the United  
44 States.

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

47 § 846-a. Powers on failure to obey order. If a respondent is brought  
48 before the court for failure to obey any lawful order issued under this  
49 article or an order of protection or, in the county of Kings, Queens,  
50 Richmond, New York or Bronx, temporary order of protection issued  
51 [~~pursuant to this act or issued~~] by a court of competent jurisdiction of  
52 another state, territorial or tribal jurisdiction and if, after hearing,  
53 the court is satisfied by competent proof that the respondent has will-  
54 fully failed to obey any such order, the court may modify an existing  
55 order or, in the county of Kings, Queens, Richmond, New York or Bronx,  
56 temporary order of protection to add reasonable conditions of behavior

1 to the existing order, make a new order of protection in accordance with  
2 section eight hundred forty-two of this part, may order the forfeiture  
3 of bail in a manner consistent with article five hundred forty of the  
4 criminal procedure law if bail has been ordered pursuant to this act,  
5 may order the respondent to pay the petitioner's reasonable and neces-  
6 sary counsel fees in connection with the violation petition where the  
7 court finds that the violation of its order was willful, and may commit  
8 the respondent to jail for a term not to exceed six months. Such commit-  
9 ment may be served upon certain specified days or parts of days as the  
10 court may direct, and the court may, at any time within the term of such  
11 sentence, revoke such suspension and commit the respondent for the  
12 remainder of the original sentence, or suspend the remainder of such  
13 sentence. If the court determines that the willful failure to obey such  
14 order involves violent behavior constituting the crimes of menacing,  
15 reckless endangerment, assault or attempted assault and if such a  
16 respondent is licensed to carry, possess, repair and dispose of firearms  
17 pursuant to section 400.00 of the penal law, the court may also imme-  
18 diately revoke such license and may arrange for the immediate surrender  
19 ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of~~  
20 ~~section 265.20 and subdivision six of section 400.05 of the penal law,~~  
21 and disposal of any firearm such respondent owns or possesses. If the  
22 willful failure to obey such order involves the infliction of serious  
23 physical injury as defined in subdivision ~~[nine]~~ ten of section 10.00 of  
24 the penal law or the use or threatened use of a deadly weapon or danger-  
25 ous instrument, as those terms are defined in subdivisions twelve and  
26 thirteen of section 10.00 of the penal law, such revocation and immedi-  
27 ate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivi-~~  
28 ~~sion a of section 265.20 and subdivision six of section 400.05 of the~~  
29 ~~penal law six]~~ and disposal of any firearm owned or possessed by  
30 respondent shall be mandatory, pursuant to subdivision eleven of section  
31 400.00 of the penal law.

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

34 § 446-a. Firearms; surrender and license suspension, revocation and  
35 ineligibility; certain counties. ~~[Upon]~~ In the counties of Kings,  
36 Queens, Richmond, New York and Bronx, upon the issuance of an order of  
37 protection or temporary order of protection, or upon a violation of such  
38 order, the court shall make a determination regarding the suspension and  
39 revocation of a license to carry, possess, repair or dispose of a  
40 firearm or firearms, ineligibility for such a license and the surrender  
41 of firearms in accordance with section eight hundred forty-two-a of this  
42 act.

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

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

54 § 7. Section 656-a of the family court act, as added by chapter 1 of  
55 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

1 family court act, as applicable. Upon issuance of an order of protection  
2 pursuant to this section or upon a finding of a violation thereof, the  
3 court also may direct payment of restitution in an amount not to exceed  
4 ten thousand dollars in accordance with subdivision (e) of section eight  
5 hundred forty-one of such act; provided, however, that in no case shall  
6 an order of restitution be issued where the court determines that the  
7 party against whom the order would be issued has already compensated the  
8 injured party or where such compensation is incorporated in a final  
9 judgment or settlement of the action.

10 § 12. The opening paragraph and paragraph (b) of subdivision 1 of  
11 section 530.14 of the criminal procedure law, the opening paragraph as  
12 amended by chapter 60 of the laws of 2018, and paragraph (b) as amended  
13 by section 3 of part M of chapter 55 of the laws of 2020, are amended to  
14 read as follows:

15 ~~[Suspension]~~ Mandatory and permissive suspension of firearms license  
16 and ineligibility for such a license upon issuance of temporary order of  
17 protection. Whenever a temporary order of protection is issued pursuant  
18 to subdivision one of section 530.12 or subdivision one of section  
19 530.13 of this article:

20 (b) the court may and, in the counties of Kings, Queens, Richmond, New  
21 York and Bronx, shall where the court finds a substantial risk that the  
22 defendant may use or threaten to use a firearm, rifle or shotgun unlaw-  
23 fully against the person or persons for whose protection the temporary  
24 order of protection is issued, suspend any such existing license  
25 possessed by the defendant, order the defendant ineligible for such a  
26 license and order the immediate surrender ~~[pursuant to subparagraph (f)~~  
27 ~~of paragraph one of subdivision a of section 265.20 and subdivision six~~  
28 ~~of section 400.05 of the penal law,~~ of any or all firearms, rifles and  
29 shotguns owned or possessed; and

30 § 13. The opening paragraph and paragraph (b) of subdivision 2 of  
31 section 530.14 of the criminal procedure law, the opening paragraph as  
32 amended by chapter 60 of the laws of 2018, and paragraph (b) as amended  
33 by section 4 of part M of chapter 55 of the laws of 2020, are amended to  
34 read as follows:

35 ~~[Revocation]~~ Mandatory and permissive revocation or suspension of  
36 firearms license and ineligibility for such a license upon issuance of  
37 an order of protection. Whenever an order of protection is issued pursu-  
38 ant to subdivision five of section 530.12 or subdivision four of section  
39 530.13 of this article:

40 (b) the court may and, in the counties of Kings, Queens, Richmond, New  
41 York and Bronx, shall where the court finds a substantial risk that the  
42 defendant may use or threaten to use a firearm, rifle or shotgun unlaw-  
43 fully against the person or persons for whose protection the order of  
44 protection is issued, (i) revoke any such existing license possessed by  
45 the defendant, order the defendant ineligible for such a license and  
46 order the immediate surrender of any or all firearms, rifles and shot-  
47 guns owned or possessed or (ii) suspend or continue to suspend any such  
48 existing license possessed by the defendant, order the defendant ineli-  
49 gible for such a license and order the immediate surrender ~~[pursuant to~~  
50 ~~subparagraph (f) of paragraph one of subdivision a of section 265.20 and~~  
51 ~~subdivision six of section 400.05 of the penal law,~~ of any or all  
52 firearms, rifles and shotguns owned or possessed; and

53 § 14. The opening paragraph and paragraph (b) of subdivision 3 of  
54 section 530.14 of the criminal procedure law, the opening paragraph as  
55 amended by chapter 60 of the laws of 2018, and paragraph (b) as amended

1 by section 5 of part M of chapter 55 of the laws of 2020, are amended to  
2 read as follows:

3 [~~Revocation~~] Mandatory and permissive revocation or suspension of  
4 firearms license and ineligibility for such a license upon a finding of  
5 a willful failure to obey an order of protection. Whenever a defendant  
6 has been found pursuant to subdivision eleven of section 530.12 or  
7 subdivision eight of section 530.13 of this article to have willfully  
8 failed to obey an order of protection issued by a court of competent  
9 jurisdiction in this state or another state, territorial or tribal  
10 jurisdiction, in addition to any other remedies available pursuant to  
11 subdivision eleven of section 530.12 or subdivision eight of section  
12 530.13 of this article:

13 (b) the court may and, in the counties of Kings, Queens, Richmond, New  
14 York and Bronx, shall where the court finds a substantial risk that the  
15 defendant may use or threaten to use a firearm, rifle or shotgun unlaw-  
16 fully against the person or persons for whose protection the order of  
17 protection was issued, (i) revoke any such existing license possessed by  
18 the defendant, order the defendant ineligible for such a license and  
19 order the immediate surrender [~~pursuant to subparagraph (f) of paragraph~~  
20 ~~one of subdivision a of section 265.20 and subdivision six of section~~  
21 ~~400.05 of the penal law,~~] of any or all firearms, rifles and shotguns  
22 owned or possessed or (ii) suspend any such existing license possessed  
23 by the defendant, order the defendant ineligible for such a license and  
24 order the immediate surrender [~~pursuant to subparagraph (f) of paragraph~~  
25 ~~one of subdivision a of section 265.20 and subdivision six of section~~  
26 ~~400.05 of the penal law,~~] of any or all firearms, rifles and shotguns  
27 owned or possessed; and

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

31 PRIVATE SALE OR DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS

32 IN CERTAIN COUNTIES

33 § 16. Subdivision 1 of section 898 of the general business law, as  
34 amended by chapter 129 of the laws of 2019, is amended to read as  
35 follows:

36 1. In addition to any other requirements pursuant to state and federal  
37 law, all sales, exchanges or disposals of firearms, rifles or shotguns,  
38 in the counties of Kings, Queens, Richmond, New York, and Bronx, shall  
39 be conducted in accordance with this section unless such sale, exchange  
40 or disposal is conducted by a licensed importer, licensed manufacturer  
41 or licensed dealer, as those terms are defined in 18 USC § 922, when  
42 such sale, exchange or disposal is conducted pursuant to that person's  
43 federal firearms license or such sale, exchange or disposal is between  
44 members of an immediate family. When a sale, exchange or disposal is  
45 conducted pursuant to a person's federal firearms license, before deliv-  
46 ering a firearm, rifle or shotgun to any person, either (a) the National  
47 Instant Criminal Background Check System (NICS) or its successor has  
48 issued a "proceed" response to the federal firearms licensee, or (b)  
49 thirty calendar days shall have elapsed since the date the federal  
50 firearms licensee contacted NICS to initiate a national instant criminal  
51 background check and NICS has not notified the federal firearms licensee  
52 that the transfer of the firearm, rifle or shotgun to such person should  
53 be denied. For purposes of this section, "immediate family" shall mean  
54 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,

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

11 (b) Notwithstanding any other law to the contrary, when a mental  
12 health professional currently providing treatment services to a person,  
13 who resides in the county of Kings, Queens, Richmond, New York or Bronx,  
14 determines, in the exercise of reasonable professional judgment, that  
15 such person is likely to engage in conduct that would result in serious  
16 harm to self or others, he or she shall be required to report, as soon  
17 as practicable, to the director of community services, or the director's  
18 designee, who shall report to the division of criminal justice services  
19 whenever he or she agrees that the person is likely to engage in such  
20 conduct. Information transmitted to the division of criminal justice  
21 services shall be limited to names and other non-clinical identifying  
22 information, which may only be used for determining whether a license  
23 issued pursuant to section 400.00 of the penal law should be suspended  
24 or revoked, or for determining whether a person is ineligible for a  
25 license issued pursuant to section 400.00 of the penal law, or is no  
26 longer permitted under state or federal law to possess a firearm.

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

29 22. "Assault weapon" means

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

33 (A) a folding or telescoping stock;

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

36 (C) a bayonet mount;

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

39 (E) a grenade launcher; or

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

42 (A) a folding or telescoping stock;

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

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

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

47 (iii) a semiautomatic pistol that has an ability to accept a detacha-  
48 ble magazine and has at least two of the following characteristics:

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

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

53 (C) a shroud that is attached to, or partially or completely encir-  
54 cles, the barrel and that permits the shooter to hold the firearm with  
55 the nontrigger hand without being burned;

1 (D) a manufactured weight of fifty ounces or more when the pistol is  
2 unloaded;

3 (E) a semiautomatic version of an automatic rifle, shotgun or firearm;  
4 or

5 (iv) any of the weapons, or functioning frames or receivers of such  
6 weapons, or copies or duplicates of such weapons, in any caliber, known  
7 as:

8 (A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all  
9 models);

10 (B) Action Arms Israeli Military Industries UZI and Galil;

11 (C) Beretta Ar70 (SC-70);

12 (D) Colt AR-15;

13 (E) Fabrique National FN/FAL, FN/LAR, and FNC;

14 (F) SWD M-10, M-11, M-11/9, and M-12;

15 (G) Steyr AUG;

16 (H) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

17 (I) revolving cylinder shotguns, such as (or similar to) the Street  
18 Sweeper and Striker 12;

19 (v) provided, however, that such term does not include: (A) any rifle,  
20 shotgun or pistol that (I) is manually operated by bolt, pump, lever or  
21 slide action; (II) has been rendered permanently inoperable; or (III) is  
22 an antique firearm as defined in 18 U.S.C. 921(a)(16);

23 (B) a semiautomatic rifle that cannot accept a detachable magazine  
24 that holds more than five rounds of ammunition;

25 (C) a semiautomatic shotgun that cannot hold more than five rounds of  
26 ammunition in a fixed or detachable magazine;

27 (D) a rifle, shotgun or pistol, or a replica or a duplicate thereof,  
28 specified in Appendix A to section 922 of 18 U.S.C. as such weapon was  
29 manufactured on October first, nineteen hundred ninety-three. The mere  
30 fact that a weapon is not listed in Appendix A shall not be construed to  
31 mean that such weapon is an assault weapon; or

32 (E) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic  
33 pistol or any of the weapons defined in paragraph (d) of this subdivi-  
34 sion lawfully possessed prior to September fourteenth, nineteen hundred  
35 ninety-four; and

36 (b) (i) in the counties of Kings, Queens, Richmond, New York and  
37 Bronx, a semiautomatic rifle that has an ability to accept a detachable  
38 magazine and has at least one of the following characteristics:

39 ~~[(i)]~~ (A) a folding or telescoping stock;

40 ~~[(ii)]~~ (B) a pistol grip that protrudes conspicuously beneath the  
41 action of the weapon;

42 ~~[(iii)]~~ (C) a thumbhole stock;

43 ~~[(iv)]~~ (D) a second handgrip or a protruding grip that can be held by  
44 the non-trigger hand;

45 ~~[(v)]~~ (E) a bayonet mount;

46 ~~[(vi)]~~ (F) a flash suppressor, muzzle break, muzzle compensator, or  
47 threaded barrel designed to accommodate a flash suppressor, muzzle  
48 break, or muzzle compensator;

49 ~~[(vii)]~~ (G) a grenade launcher; or

50 ~~[(b)]~~ (ii) a semiautomatic shotgun that has at least one of the  
51 following characteristics:

52 ~~[(i)]~~ (A) a folding or telescoping stock;

53 ~~[(ii)]~~ (B) a thumbhole stock;

54 ~~[(iii)]~~ (C) a second handgrip or a protruding grip that can be held by  
55 the non-trigger hand;

56 ~~[(iv)]~~ (D) a fixed magazine capacity in excess of seven rounds;

1    [~~(v)~~] (E) an ability to accept a detachable magazine; or  
2    [~~(e)~~] (iii) a semiautomatic pistol that has an ability to accept a  
3 detachable magazine and has at least one of the following character-  
4 istics:  
5    [~~(i)~~] (A) a folding or telescoping stock;  
6    [~~(ii)~~] (B) a thumbhole stock;  
7    [~~(iii)~~] (C) a second handgrip or a protruding grip that can be held by  
8 the non-trigger hand;  
9    [~~(iv)~~] (D) capacity to accept an ammunition magazine that attaches to  
10 the pistol outside of the pistol grip;  
11    [~~(v)~~] (E) a threaded barrel capable of accepting a barrel extender,  
12 flash suppressor, forward handgrip, or silencer;  
13    [~~(vi)~~] (F) a shroud that is attached to, or partially or completely  
14 encircles, the barrel and that permits the shooter to hold the firearm  
15 with the non-trigger hand without being burned;  
16    [~~(vii)~~] (G) a manufactured weight of fifty ounces or more when the  
17 pistol is unloaded; or  
18    [~~(viii)~~] (H) a semiautomatic version of an automatic rifle, shotgun or  
19 firearm;  
20    [~~(d)~~] (iv) a revolving cylinder shotgun;  
21    [~~(e)~~] (v) a semiautomatic rifle, a semiautomatic shotgun or a semiau-  
22 tomatic pistol or weapon defined in former subparagraph (v) of paragraph  
23 (e) of subdivision twenty-two of section 265.00 of this chapter as added  
24 by chapter one hundred eighty-nine of the laws of two thousand and  
25 otherwise lawfully possessed pursuant to such chapter of the laws of two  
26 thousand prior to September fourteenth, nineteen hundred ninety-four;  
27    [~~(f)~~] (vi) a semiautomatic rifle, a semiautomatic shotgun or a semiau-  
28 tomatic pistol or weapon defined in this paragraph or paragraph (a)[~~r~~  
29 ~~(b) or (e)~~] of this subdivision, possessed prior to the date of enact-  
30 ment of [~~the~~] chapter one of the laws of two thousand thirteen which  
31 added this paragraph;  
32    [~~(g)~~] (vii) provided, however, that such term does not include:  
33    [~~(i)~~] (A) any rifle, shotgun or pistol that [~~(A)~~] (I) is manually  
34 operated by bolt, pump, lever or slide action; [~~(B)~~] (II) has been  
35 rendered permanently inoperable; or [~~(C)~~] (III) is an antique firearm as  
36 defined in 18 U.S.C. 921(a)(16);  
37    [~~(ii)~~] (B) a semiautomatic rifle that cannot accept a detachable maga-  
38 zine that holds more than five rounds of ammunition;  
39    [~~(iii)~~] (C) a semiautomatic shotgun that cannot hold more than five  
40 rounds of ammunition in a fixed or detachable magazine; or  
41    [~~(iv)~~] (D) a rifle, shotgun or pistol, or a replica or a duplicate  
42 thereof, specified in Appendix A to 18 U.S.C. 922 as such weapon was  
43 manufactured on October first, nineteen hundred ninety-three. The mere  
44 fact that a weapon is not listed in Appendix A shall not be construed to  
45 mean that such weapon is an assault weapon;  
46    [~~(v)~~] (E) any weapon validly registered pursuant to subdivision  
47 sixteen-a of section 400.00 of this chapter. Such weapons shall be  
48 subject to the provisions of [~~paragraph (h)~~] subparagraph (viii) of this  
49 [~~subdivision~~] paragraph;  
50    [~~(vi)~~] (F) any firearm, rifle, or shotgun that was manufactured at  
51 least fifty years prior to the current date, but not including replicas  
52 thereof that is validly registered pursuant to subdivision sixteen-a of  
53 section 400.00 of this chapter;  
54    [~~(h)~~] (viii) Any weapon defined in [~~paragraph (e) or (f)~~] subparagraph  
55 (v) or (vi) of this [~~subdivision~~] paragraph and any large capacity ammu-  
56 nition feeding device that was legally possessed by an individual prior

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

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

18 23. "Large capacity ammunition feeding device" means a magazine, belt,  
19 drum, feed strip, or similar device, manufactured after September thir-  
20 tieth, nineteen hundred ninety-four, that [~~(a)~~] has a capacity of, or  
21 that can be readily restored or converted to accept, more than ten  
22 rounds of ammunition[, ~~or (b) contains more than seven rounds of ammuni-~~  
23 ~~tion, or (c) is obtained after the effective date of the chapter of the~~  
24 ~~laws of two thousand thirteen which amended this subdivision and has a~~  
25 ~~capacity of, or that can be readily restored or converted to accept,~~  
26 ~~more than seven rounds of ammunition~~]; provided, however, that such term  
27 does not include an attached tubular device designed to accept, and  
28 capable of operating only with, .22 caliber rimfire ammunition [~~or a~~  
29 ~~feeding device that is a curio or relic. A feeding device that is a~~  
30 ~~curio or relic is defined as a device that (i) was manufactured at least~~  
31 ~~fifty years prior to the current date, (ii) is only capable of being~~  
32 ~~used exclusively in a firearm, rifle, or shotgun that was manufactured~~  
33 ~~at least fifty years prior to the current date, but not including repli-~~  
34 ~~cas thereof, (iii) is possessed by an individual who is not prohibited~~  
35 ~~by state or federal law from possessing a firearm and (iv) is registered~~  
36 ~~with the division of state police pursuant to subdivision sixteen-a of~~  
37 ~~section 400.00 of this chapter, except such feeding devices transferred~~  
38 ~~into the state may be registered at any time, provided they are regis-~~  
39 ~~tered within thirty days of their transfer into the state. Notwithstand-~~  
40 ~~ing paragraph (h) of subdivision twenty-two of this section, such feed-~~  
41 ~~ing devices may be transferred provided that such transfer shall be~~  
42 ~~subject to the provisions of section 400.03 of this chapter including~~  
43 ~~the check required to be conducted pursuant to such section~~].

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

46 24. "Seller of ammunition" means any person, firm, partnership, corpo-  
47 ration or company who engages in the business of purchasing, selling or  
48 keeping ammunition in the county of Kings, Queens, Richmond, New York or  
49 Bronx.

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

52 A person is guilty of criminal possession of a firearm when he or she,  
53 being a resident of the county of Kings, Queens, Richmond, New York or  
54 Bronx: (1) possesses any firearm or; (2) lawfully possesses a firearm  
55 prior to the effective date of [~~the~~] chapter one of the laws of two  
56 thousand thirteen which added this section subject to the registration



1 requirements of subdivision sixteen-a of section 400.00 of this chapter  
2 and knowingly fails to register such firearm pursuant to such subdivi-  
3 sion.

4 § 24. Paragraphs 3 and 7-f of subdivision a of section 265.20 of the  
5 penal law, paragraph 3 as amended and paragraph 7-f as added by chapter  
6 1 of the laws of 2013, are amended to read as follows:

7 3. Possession of a pistol or revolver by a person to whom a license  
8 therefor has been issued as provided under section 400.00 or 400.01 of  
9 this chapter or possession, in the county of Kings, Queens, Richmond,  
10 New York or Bronx, of a weapon as defined in subparagraph (v) or (vi) of  
11 paragraph [~~(e) or (f)~~] (b) of subdivision twenty-two of section 265.00  
12 of this article which is registered pursuant to paragraph (a) of subdivi-  
13 sion sixteen-a of section 400.00 of this chapter or is included on an  
14 amended license issued pursuant to section 400.00 of this chapter. In  
15 the event such license is revoked, other than because such licensee is  
16 no longer permitted to possess a firearm, rifle or shotgun under federal  
17 or state law, information sufficient to satisfy the requirements of  
18 subdivision sixteen-a of section 400.00 of this chapter, shall be trans-  
19 mitted by the licensing officer to the division of state police, in a  
20 form as determined by the superintendent of state police. Such trans-  
21 mission shall constitute a valid registration under such section.  
22 Further provided, notwithstanding any other section of this title, a  
23 failure to register such weapon by an individual, in the county of  
24 Kings, Queens, Richmond, New York or Bronx, who possesses such weapon  
25 before the enactment of [~~the~~] chapter one of the laws of two thousand  
26 thirteen which amended this paragraph and may so lawfully possess it  
27 thereafter upon registration, shall only be subject to punishment pursu-  
28 ant to paragraph (c) of subdivision sixteen-a of section 400.00 of this  
29 chapter; provided, that such a license or registration shall not  
30 preclude a conviction for the offense defined in subdivision three of  
31 section 265.01 of this article or section 265.01-a of this article.

32 7-f. Possession and use of a magazine, belt, feed strip or similar  
33 device, in the county of Kings, Queens, Richmond, New York or Bronx,  
34 that contains more than seven rounds of ammunition, but that does not  
35 have a capacity of or can readily be restored or converted to accept  
36 more than ten rounds of ammunition, at an indoor or outdoor firing range  
37 located in or on premises owned or occupied by a duly incorporated  
38 organization organized for conservation purposes or to foster proficien-  
39 cy in arms; at an indoor or outdoor firing range for the purpose of  
40 firing a rifle or shotgun; at a collegiate, olympic or target shooting  
41 competition under the auspices of or approved by the national rifle  
42 association; or at an organized match sanctioned by the International  
43 Handgun Metallic Silhouette Association.

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

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

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

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

4 § 27. The opening paragraph of section 265.45 of the penal law, as  
5 amended by chapter 133 of the laws of 2019, is amended to read as  
6 follows:

7 No person, residing in the county of Kings, Queens, Richmond, New  
8 York, or Bronx, who owns or is custodian of a rifle, shotgun or firearm  
9 who resides with an individual who: (i) is under sixteen years of age;  
10 (ii) such person knows or has reason to know is prohibited from possess-  
11 ing a rifle, shotgun or firearm pursuant to a temporary or final extreme  
12 risk protection order issued under article sixty-three-A of the civil  
13 practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8) or (9); or  
14 (iii) such person knows or has reason to know is prohibited from  
15 possessing a rifle, shotgun or firearm based on a conviction for a felo-  
16 ny or a serious offense, shall store or otherwise leave such rifle,  
17 shotgun or firearm out of his or her immediate possession or control  
18 without having first securely locked such rifle, shotgun or firearm in  
19 an appropriate safe storage depository or rendered it incapable of being  
20 fired by use of a gun locking device appropriate to that weapon. For  
21 purposes of this section "safe storage depository" shall mean a safe or  
22 other secure container which, when locked, is incapable of being opened  
23 without the key, combination or other unlocking mechanism and is capable  
24 of preventing an unauthorized person from obtaining access to and  
25 possession of the weapon contained therein. Nothing in this section  
26 shall be deemed to affect, impair or supersede any special or local act  
27 relating to the safe storage of rifles, shotguns or firearms which  
28 impose additional requirements on the owner or custodian of such weap-  
29 ons.

30 § 28. Subdivision 1 of section 400.00 of the penal law, as amended by  
31 chapter 1 of the laws of 2013, paragraph (c) as amended by chapter 60 of  
32 the laws of 2018, is amended to read as follows:

33 1. Eligibility. No license shall be issued or renewed pursuant to this  
34 section except by the licensing officer, and then only after investi-  
35 gation and finding that all statements in a proper application for a  
36 license are true. No license shall be issued or renewed except for an  
37 applicant (a) twenty-one years of age or older, provided, however, that  
38 where such applicant has been honorably discharged from the United  
39 States army, navy, marine corps, air force or coast guard, or the  
40 national guard of the state of New York, no such age restriction shall  
41 apply; (b) of good moral character; (c) who has not been convicted  
42 anywhere of a felony or a serious offense or who is not the subject of  
43 an outstanding warrant of arrest issued upon the alleged commission of a  
44 felony or serious offense; (d) who is not a fugitive from justice; (e)  
45 who is not an unlawful user of or addicted to any controlled substance  
46 as defined in section 21 U.S.C. 802; (f) who being an alien (i) is not  
47 illegally or unlawfully in the United States or (ii) has not been admit-  
48 ted to the United States under a nonimmigrant visa subject to the excep-  
49 tion in 18 U.S.C. 922(y)(2); (g) who has not been discharged from the  
50 Armed Forces under dishonorable conditions; (h) who, having been a citi-  
51 zen of the United States, has not renounced his or her citizenship; (i)  
52 who has stated whether he or she has ever suffered any mental illness;  
53 (j) who, being a resident of the county of Kings, Queens, Richmond, New  
54 York or Bronx, has not been involuntarily committed to a facility under  
55 the jurisdiction of an office of the department of mental hygiene pursu-  
56 ant 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, subdivision 4 as amended by chapter 242 of the laws of 2019, subdivision 5, 10, and 11 as amended by chapter 1 of the laws of 2013, subparagraph (iii) of paragraph (e) of subdivision 5 as amended by chapter 244 of the laws of 2019, and subdivision 12 as amended by chapter 129 of the laws of 2019, 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. Where the applicant is domiciled in a foreign state, the investigation shall include inquiry of the foreign state for records concerning the previous or present mental illness of the applicant, and, to the extent necessary for inspection by the investigating officer, the applicant shall execute a waiver of confidentiality of such record in such form as may be required by the foreign state. In order to

1 ascertain any previous criminal record, the investigating officer shall  
2 take the fingerprints and physical descriptive data in quadruplicate of  
3 each individual by whom the application is signed and verified. Two  
4 copies of such fingerprints shall be taken on standard fingerprint cards  
5 eight inches square, and one copy may be taken on a card supplied for  
6 that purpose by the federal bureau of investigation; provided, however,  
7 that in the case of a corporate applicant that has already been issued a  
8 dealer in firearms license and seeks to operate a firearm dealership at  
9 a second or subsequent location, the original fingerprints on file may  
10 be used to ascertain any criminal record in the second or subsequent  
11 application unless any of the corporate officers have changed since the  
12 prior application, in which case the new corporate officer shall comply  
13 with procedures governing an initial application for such license. When  
14 completed, one standard card shall be forwarded to and retained by the  
15 division of criminal justice services in the executive department, at  
16 Albany. A search of the files of such division and written notification  
17 of the results of the search to the investigating officer shall be made  
18 without unnecessary delay. Thereafter, such division shall notify the  
19 licensing officer and the executive department, division of state  
20 police, Albany, of any criminal record of the applicant filed therein  
21 subsequent to the search of its files. A second standard card, or the  
22 one supplied by the federal bureau of investigation, as the case may be,  
23 shall be forwarded to that bureau at Washington with a request that the  
24 files of the bureau be searched and notification of the results of the  
25 search be made to the investigating police authority. Of the remaining  
26 two fingerprint cards, one shall be filed with the executive department,  
27 division of state police, Albany, within ten days after issuance of the  
28 license, and the other remain on file with the investigating police  
29 authority. No such fingerprints may be inspected by any person other  
30 than a peace officer, who is acting pursuant to his or her 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 5. Filing of approved applications. (a) The application for any  
37 license, if granted, shall be filed by the licensing officer with the  
38 clerk of the county of issuance, except that in the city of New York  
39 and, in the counties of Nassau and Suffolk, the licensing officer shall  
40 designate the place of filing in the appropriate division, bureau or  
41 unit of the police department thereof, and in the county of Suffolk the  
42 county clerk is hereby authorized to transfer all records or applica-  
43 tions relating to firearms to the licensing authority of that county.  
44 Except as provided in paragraphs (b) through ~~(f)~~ (e) of this subdivi-  
45 sion, the name and address of any person to whom an application for any  
46 license has been granted shall be a public record. Upon application by a  
47 licensee who has changed his place of residence such records or applica-  
48 tions shall be transferred to the appropriate officer at the licensee's  
49 new place of residence. A duplicate copy of such application shall be  
50 filed by the licensing officer in the executive department, division of  
51 state police, Albany, within ten days after issuance of the license. The  
52 superintendent of state police may designate that such application shall  
53 be transmitted to the division of state police electronically. In the  
54 event the superintendent of the division of state police determines that  
55 it lacks any of the records required to be filed with the division, it  
56 may request that such records be provided to it by the appropriate

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

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

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

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

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

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

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

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

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

55 (iii) the applicant has reason to believe he or she may be subject to  
56 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)]~~ (d) (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-(e)]~~ 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.]~~ Notwithstanding the foregoing provisions of this subparagraph, local and state law enforcement shall, upon request, be granted access to and copies of such application information provided that such information obtained by law enforcement pursuant to this subparagraph shall not be considered a public record of such law enforcement agency.

~~[(f)]~~ (e) 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)]~~ (f) If a request for an exception is determined to be null and void pursuant to paragraph (b) ~~[-or-(e)]~~ 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

1 notice of the determination. Disclosure following such a petition shall  
2 not be made prior to the disposition of such review.

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

43 ~~[(b) All licensees shall be recertified to the division of state~~  
44 ~~police every five years thereafter. Any license issued before the effec-~~  
45 ~~tive date of the chapter of the laws of two thousand thirteen which~~  
46 ~~added this paragraph shall be recertified by the licensee on or before~~  
47 ~~January thirty first, two thousand eighteen, and not less than one year~~  
48 ~~prior to such date, the state police shall send a notice to all license~~  
49 ~~holders who have not recertified by such time. Such recertification~~  
50 ~~shall be in a form as approved by the superintendent of state police,~~  
51 ~~which shall request the license holder's name, date of birth, gender,~~  
52 ~~race, residential address, social security number, firearms possessed by~~  
53 ~~such license holder, email address at the option of the license holder~~  
54 ~~and an affirmation that such license holder is not prohibited from~~  
55 ~~possessing firearms. The form may be in an electronic form if so desig-~~  
56 ~~nated by the superintendent of state police. Failure to recertify shall~~

~~act as a revocation of such license. If the New York state police discover as a result of the recertification process that a licensee failed to provide a change of address, the New York 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 of this chapter and either (a) the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the licensee, or (b) thirty calendar days have elapsed since the date the licensee contacted NICS to initiate a national instant criminal background check and NICS has not notified the licensee that the transfer of the firearm

1 to such person should be denied. In addition, before delivering a  
2 firearm to a peace officer, the licensee shall verify that person's  
3 status as a peace officer with the division of state police. After  
4 completing the foregoing, the licensee shall remove and retain the  
5 attached coupon and enter in the record book the date of such license,  
6 number, if any, and name of the licensing officer, in the case of the  
7 holder of a license to carry or possess, or the shield or other number,  
8 if any, assignment and department, unit or agency, in the case of an  
9 exempt person. The original transaction report shall be forwarded to the  
10 division of state police within ten days of delivering a firearm to any  
11 person, and a duplicate copy shall be kept by the licensee. The super-  
12 intendent of state police may designate that such record shall be  
13 completed and transmitted in electronic form. A dealer may be granted a  
14 waiver from transmitting such records in electronic form if the super-  
15 intendent determines that such dealer is incapable of such transmission  
16 due to technological limitations that are not reasonably within the  
17 control of the dealer, or other exceptional circumstances demonstrated  
18 by the dealer, pursuant to a process established in regulation, and at  
19 the discretion of the superintendent. ~~[Records assembled or collected~~  
20 ~~for purposes of inclusion in the database created pursuant to section~~  
21 ~~400.02 of this article shall not be subject to disclosure pursuant to~~  
22 ~~article six of the public officers law.]~~ The record book shall be main-  
23 tained on the premises mentioned and described in the license and shall  
24 be open at all reasonable hours for inspection by any peace officer,  
25 acting pursuant to his special duties, or police officer. In the event  
26 of cancellation or revocation of the license for gunsmith or dealer in  
27 firearms, or discontinuance of business by a licensee, such record book  
28 shall be immediately surrendered to the licensing officer in the city of  
29 New York, and in the counties of Nassau and Suffolk, and elsewhere in  
30 the state to the executive department, division of state police.

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

34 16-a. Registration. (a) An owner of a weapon defined in ~~[paragraph (e)~~  
35 ~~or (f)]~~ subparagraph (v) or (vi) of paragraph (b) of subdivision twen-  
36 ty-two of section 265.00 of this chapter, who resides in the county of  
37 Kings, Queens, Richmond, New York or Bronx, possessed before the date of  
38 the effective date of ~~[the]~~ chapter one of the laws of two thousand  
39 thirteen which added this paragraph, must make an application to regis-  
40 ter such weapon with the superintendent of state police, in the manner  
41 provided by the superintendent, or by amending a license issued pursuant  
42 to this section within one year of the effective date of this subdivi-  
43 sion except any weapon defined under ~~[subparagraph (vi)]~~ clause (F) of  
44 subparagraph (vii) of paragraph ~~[(g)]~~ (b) of subdivision twenty-two of  
45 section 265.00 of this chapter transferred into the state may be regis-  
46 tered at any time, provided such weapons are registered within thirty  
47 days of their transfer into the state. Registration information shall  
48 include the registrant's name, date of birth, gender, race, residential  
49 address, social security number and a description of each weapon being  
50 registered. A registration in the county of Kings, Queens, Richmond, New  
51 York or Bronx, of any weapon defined under ~~[subparagraph (vi)]~~ clause  
52 (F) of subparagraph (vii) of paragraph ~~[(g)]~~ (b) of subdivision twenty-  
53 two of section 265.00 or a feeding device as defined under subdivision  
54 twenty-three of section 265.00 of this chapter shall be transferable,  
55 provided that the seller notifies the division of state police within  
56 seventy-two hours of the transfer and the buyer provides the division of

1 state police with information sufficient to constitute a registration  
2 under this section. Such registration shall not be valid if such regis-  
3 trant is prohibited or becomes prohibited from possessing a firearm  
4 pursuant to state or federal law. The superintendent shall determine  
5 whether such registrant is prohibited from possessing a firearm under  
6 state or federal law. Such check shall be limited to determining whether  
7 the factors in 18 USC 922 (g) apply or whether a registrant has been  
8 convicted of a serious offense as defined in subdivision sixteen-b of  
9 section 265.00 of this chapter, so as to prohibit such registrant from  
10 possessing a firearm, and whether a report has been issued pursuant to  
11 section 9.46 of the mental hygiene law. ~~[All]~~ Such registrants shall  
12 recertify to the division of state police every five years thereafter.  
13 Failure to recertify shall result in a revocation of such registration.

14 (a-1) Notwithstanding any inconsistent provisions of paragraph (a) of  
15 this subdivision, an owner, who resides in the county of Kings, Queens,  
16 Richmond, New York or Bronx, of an assault weapon as defined in subdivi-  
17 sion twenty-two of section 265.00 of this chapter, who is a qualified  
18 retired New York or federal law enforcement officer as defined in subdivi-  
19 sion twenty-five of section 265.00 of this chapter, where such weapon  
20 was issued to or purchased by such officer prior to retirement and in  
21 the course of his or her official duties, and for which such officer was  
22 qualified by the agency that employed such officer within twelve months  
23 prior to his or her retirement, must register such weapon within sixty  
24 days of retirement.

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

36 (c) A person, who resides in the county of Kings, Queens, Richmond,  
37 New York or Bronx, who knowingly fails to apply to register such weapon,  
38 as required by this section, within one year of the effective date of  
39 ~~[the]~~ chapter one of the laws of two thousand thirteen which added this  
40 paragraph shall be guilty of a class A misdemeanor and such person who  
41 unknowingly fails to validly register such weapon within such one year  
42 period shall be given a warning by an appropriate law enforcement  
43 authority about such failure and given thirty days in which to apply to  
44 register such weapon or to surrender it. A failure to apply or surrender  
45 such weapon within such thirty-day period shall result in such weapon  
46 being removed by an appropriate law enforcement authority and declared a  
47 nuisance.

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

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

51 § 400.03 Sellers of ammunition.

52 1. A seller of ammunition as defined in subdivision twenty-four of  
53 section 265.00 of this chapter doing business in the county of Kings,  
54 Queens, Richmond, New York or Bronx, shall register with the superinten-  
55 dent of state police in a manner provided by the superintendent. Any



1 dealer in firearms that is validly licensed pursuant to section 400.00  
2 of this article shall not be required to complete such registration.

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

18 3. [~~No later than thirty days after the superintendent of the state~~  
19 ~~police certifies that the statewide license and record database estab-~~  
20 ~~lished pursuant to section 400.02 of this article is operational for the~~  
21 ~~purposes of this section, a~~] A dealer in firearms licensed pursuant to  
22 section 400.00 of this article, a seller of ammunition as defined in  
23 subdivision twenty-four of section 265.00 of this chapter doing business  
24 in the county of Kings, Queens, Richmond, New York or Bronx, shall not  
25 transfer any ammunition to any other person who is not a dealer in  
26 firearms as defined in subdivision nine of such section 265.00 or a  
27 seller of ammunition as defined in subdivision twenty-four of section  
28 265.00 of this chapter, unless:

29 (a) before the completion of the transfer, the licensee or seller  
30 contacts the [~~statewide license and record database~~] superintendent of  
31 state police and provides the [~~database~~] superintendent with information  
32 sufficient to identify such dealer or seller, transferee based on infor-  
33 mation on the transferee's identification document as defined in para-  
34 graph (c) of this subdivision, as well as the amount, calibre, manufac-  
35 turer's name and serial number, if any, of such ammunition;

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

38 (c) the transferor has verified the identity of the transferee by  
39 examining a valid state identification document of the transferee issued  
40 by the department of motor vehicles or if the transferee is not a resi-  
41 dent of the state of New York, a valid identification document issued by  
42 the transferee's state or country of residence containing a photograph  
43 of the transferee.

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

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

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

49 5. If the [~~statewide license and record database~~] superintendent of  
50 state police notifies the licensee or seller that the information avail-  
51 able [~~to the database~~] does not demonstrate that the receipt of ammuni-  
52 tion by such other person would violate 18 U.S.C. 922(g) or state law,  
53 and the licensee transfers ammunition to such other person, the licensee  
54 shall indicate to the [~~database~~] superintendent that such transaction  
55 has been completed at which point a record of such transaction shall be  
56 created which shall be accessible by the division of state police and

1 maintained for no longer than one year from point of purchase[~~7~~, which  
2 ~~shall not be incorporated into the database established pursuant to~~  
3 ~~section 400.02 of this article or the registry established pursuant to~~  
4 ~~subdivision sixteen-a of section 400.00 of this article~~]. The division  
5 of state police may share such information with a local law enforcement  
6 agency. Evidence of the purchase of ammunition is not sufficient to  
7 establish probable cause to believe that the purchaser has committed a  
8 crime absent other information tending to prove the commission of a  
9 crime. Records assembled or accessed pursuant to this section shall not  
10 be subject to disclosure pursuant to article six of the public officers  
11 law. This requirement of this section shall not apply (i) if a back-  
12 ground check cannot be completed because the system is not operational  
13 as determined by the superintendent of state police, or where it cannot  
14 be accessed by the practitioner due to a temporary technological or  
15 electrical failure, as set forth in regulation, or (ii) a dealer or  
16 seller has been granted a waiver from conducting such background check  
17 if the superintendent of state police determines that such dealer is  
18 incapable of such check due to technological limitations that are not  
19 reasonably within the control of the dealer, or other exceptional  
20 circumstances demonstrated by the dealer, pursuant to a process estab-  
21 lished in regulation, and at the discretion of such superintendent.

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

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

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

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

46 § 33. Paragraph (a) of subdivision 1 and subdivision 3 of section  
47 400.10 of the penal law, as amended by chapter 1 of the laws of 2013,  
48 are amended to read as follows:

49 (a) Any owner or other person lawfully in possession of: (i) a  
50 firearm, rifle or[~~7~~] shotgun who suffers the loss or theft of said weap-  
51 on; (ii) in the county of Kings, Queens, Richmond, New York or Bronx,  
52 ammunition as well as a firearm, rifle or shotgun who suffers the loss  
53 or theft of such ammunition as well as a firearm, rifle or shotgun; or  
54 (iii) in the county of Kings, Queens, Richmond, New York or Bronx, ammu-  
55 nition and is a dealer in firearms or seller of ammunition who suffers  
56 the loss or theft of such ammunition shall within twenty-four hours of

1 the discovery of the loss or theft report the facts and circumstances of  
2 the loss or theft to a police department or sheriff's office.

3 3. Notwithstanding any other provision of law, a violation of para-  
4 graph (a) of subdivision one of this section shall be [~~a class A misde-~~  
5 ~~meanor~~] punishable only by a fine not to exceed one hundred dollars.

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

8 § 2509. Firearms inventory

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

18 § 35. This act shall take effect immediately.