STATE OF NEW YORK

5338

2021-2022 Regular Sessions

IN SENATE

March 2, 2021

Introduced by Sen. OBERACKER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to authorizing the transfer of certain weapons from an estate to an immediate member of the decedent's family; to amend the penal law, in relation to the filing of approved applications for licenses to carry, possess, repair and dispose of firearms; to amend the mental hygiene law, in relation to reports of substantial risk or threat of harm by mental health professionals; to amend the penal law, in relation to licenses to carry, possess, repair and dispose of firearms; and to repeal section 400.03 of the penal law relating to sellers of ammunition

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

Section 1. Section 400.03 of the penal law is REPEALED.

§ 2. Paragraph (g) of subdivision 22 of section 265.00 of the penal law is amended by adding a new subparagraph (vii) to read as follows:

(vii) any weapon legally possessed and validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter prior to such person's death and bequeathed or passed through intestacy to an immediate family member of the deceased. Such weapons shall be subject to the provisions of paragraph (h) of this subdivision. For purposes of this subparagraph, the meaning of immediate family member is as defined by subdivision one of section eight hundred ninety-eight of the general business law;

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

(h) **(i)** Any weapon defined in paragraph (e) or (f) of this subdivision and any large capacity ammunition feeding device that was legally possessed by an individual prior to the enactment of [~~the~~] chapter **one** of the laws of two thousand thirteen [~~which added this paragraph~~], may

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

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

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

§ 4. Subdivision 5 of section 400.00 of the penal law, as amended by chapter 1 of the laws of 2013, subparagraph (iii) of paragraph (e) as amended by chapter 244 of the laws of 2019, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

~~(c) Each form provided for recertification pursuant to paragraph (b) of subdivision ten of this section shall include an opportunity for the applicant to request an exception from the information provided on such~~

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

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

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

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

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

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

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

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

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

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

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

(1) the person's name;

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

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

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

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

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

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

able professional judgment, would endanger such mental health professional or increase the danger to a potential victim or victims.

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

§ 6. Paragraph 2 of 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:

(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 was involuntarily committed or civilly confined to a facility under the jurisdiction of the commissioner, **or who has been the subject of a report submitted by the director of community services or the director's designee to the division of criminal justice services stating that the named person has been deemed likely to engage in conduct that would result in serious harm to self or others pursuant to section 9.46 of this title,** to petition for relief from that disability where such person's record and reputation are such that such person will not be likely to act in a manner dangerous to public safety and where the granting of the relief would not be contrary to public safety. The commissioner shall promulgate regulations to establish the relief from disabilities program, which shall include, but not be limited to, provisions providing for: (i) an opportunity for a disqualified person to petition for relief in writing; (ii) the authority for the agency to require that the petitioner undergo a clinical evaluation and risk assessment; and (iii) a requirement that the agency issue a decision in writing explaining the reasons for a denial or grant of relief. The denial of a petition for relief from disabilities may be reviewed de novo pursuant to the proceedings under article seventy-eight of the civil practice law and rules.

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

(2) The commissioner shall establish within the office for people with developmental disabilities 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 was involuntarily committed or civilly confined to a facility under the jurisdiction of the commissioner, **or who has been the subject of a report submitted by the director of community services or the director's designee to the division of criminal justice services stating that the named person has been deemed likely to engage in conduct that would result in serious harm to self or others pursuant to section 9.46 of this chapter,** to petition for relief from that disability where such person's record and reputation are such that such person will not be likely to act in a manner dangerous to public safety and where the granting of the relief would not be contrary to public safety. The commissioner shall promulgate regulations to establish the relief from disabilities program, which shall include, but not be limited to,

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

§ 8. Paragraph (a) of subdivision 3 and subdivisions 4, 7, 9, 10, 16-a and 16-b of section 400.00 of the penal law, paragraph (a) of subdivision 3 and subdivisions 9 and 10 as amended and subdivisions 16-a and 16-b as added by chapter 1 of the laws of 2013, subdivision 4 as amended by chapter 242 of the laws of 2019, paragraph (a-1) of subdivision 16-a as added by chapter 98 of the laws of 2013, are amended to read as follows:

(a) Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his or her principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the [~~superintendent of state police~~] **division of criminal justice services**. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he or she is a citizen of the United States, whether or not he or she complies with each requirement for eligibility specified in subdivision one of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application shall submit one photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof.

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 ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search to the investigating officer shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of [~~state police~~] **criminal justice services**, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of [~~state police~~] **criminal justice services**, Albany, within ten days after issuance of the license, and the other remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, who is acting pursuant to his or her special duties, or a police officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay.

7. License: form. Any license issued pursuant to this section shall, except in the city of New York, be approved as to form by the [~~superintendent of state police~~] **division of criminal justice services**. A license to carry or possess a pistol or revolver shall have attached the licensee's photograph, and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee. Such license shall specify the weapon covered by calibre, make, model, manufacturer's name and serial number, or if none, by any other distinguishing number or identification mark, and shall indicate whether issued to carry on the person or possess on the premises, and if on the premises shall also specify the place where the licensee shall possess the same. If such license is issued to an alien, or to a person not a citizen of and usually a resident in the state, the licensing officer shall state in the license the particular reason for the issuance and the names of the

persons certifying to the good character of the applicant. Any license as gunsmith or dealer in firearms shall mention and describe the premises for which it is issued and shall be valid only for such premises.

9. License: amendment. Elsewhere than in the city of New York, a person licensed to carry or possess a pistol or revolver may apply at any time to his or her licensing officer for amendment of his or her license to include one or more such weapons or to cancel weapons held under license. If granted, a record of the amendment describing the weapons involved shall be filed by the licensing officer in the executive department, division of [~~state police~~] **criminal justice services**, Albany. The [~~superintendent of state police~~] **division of criminal justice services** may authorize that such amendment be completed and transmitted to the [~~state police~~] **division** in electronic form. Notification of any change of residence shall be made in writing by any licensee within ten days after such change occurs, and a record of such change shall be inscribed by such licensee on the reverse side of his or her license. Elsewhere than in the city of New York, and in the counties of Nassau and Suffolk, such notification shall be made to the executive department, division of [~~state police~~] **criminal justice services**, Albany, and in the city of New York to the police commissioner of that city, and in the county of Nassau to the police commissioner of that county, and in the county of Suffolk to the licensing officer of that county, who shall, within ten days after such notification shall be received by him or her, give notice in writing of such change to the executive department, division of [~~state police~~] **criminal justice services**, at Albany.

10. License: expiration, certification and renewal. (a) Any license for gunsmith or dealer in firearms and, in the city of New York, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall expire not more than three years after the date of issuance. In the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall expire not more than five years after the date of issuance; however, in the county of Westchester, any such license shall be certified prior to the first day of April, two thousand, in accordance with a schedule to be contained in regulations promulgated by the commissioner of the division of criminal justice services, and every such license shall be recertified every five years thereafter. For purposes of this section certification shall mean that the licensee shall provide to the licensing officer the following information only: current name, date of birth, current address, and the make, model, caliber and serial number of all firearms currently possessed. Such certification information shall be filed by the licensing officer in the same manner as an amendment. Elsewhere than in the city of New York and the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not previously revoked or cancelled, shall be in force and effect until revoked as herein provided. Any license not previously cancelled or revoked shall remain in full force and effect for thirty days beyond the stated expiration date on such license. Any application to renew a license that has not previously expired, been revoked or cancelled shall

thereby extend the term of the license until disposition of the application by the licensing officer. In the case of a license for gunsmith or dealer in firearms, in counties having a population of less than two hundred thousand inhabitants, photographs and fingerprints shall be submitted on original applications and upon renewal thereafter only at six year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license.

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

RECERTIFICATION

1. Name _____

2. Date of Birth _____

3. Gender _____

4. Race _____

5. Residential Address _____

_____

_____

6. Social Security Number _____

7. Email Address (optional) _____

8. List all firearms possessed on license: _____

_____

_____

_____

_____

Upon receipt of the completed recertification form, the licensing officer will compare the information provided with the information maintained by the licensing officer for such license holder, and promptly notify the license holder of any discrepancies that may exist, and provide instruction as to applying for an amendment pursuant to subdivision nine this section. After the resolution of any pending applications

for amendments, the licensing officer shall retain a copy of the recertification and a copy shall be filed by the licensing officer in the executive department, division of criminal justice services, Albany, within ten days. The form may be in an electronic form if so designated by the [~~superintendent of state police~~] division of criminal justice services. Failure to recertify shall act as a revocation of such license. If the [~~New York state police~~] division shall discover as a result of the recertification process that a licensee failed to provide a change of address, the [~~New York state police~~] division of criminal justice services shall not require the licensing officer to revoke such license.

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

(a-1) Notwithstanding any inconsistent provisions of paragraph (a) of this subdivision, an owner of an assault weapon as defined in subdivision twenty-two of section 265.00 of this chapter, who is a qualified retired New York or federal law enforcement officer as defined in subdivision twenty-five of section 265.00 of this chapter, where such weapon was issued to or purchased by such officer prior to retirement and in the course of his or her official duties, and for which such officer was qualified by the agency that employed such officer within twelve months

prior to his or her retirement, must register such weapon within sixty days of retirement.

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

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

16-b. The cost of the software, programming and interface required to transmit any record that must be electronically transmitted by the dealer or licensing officer to the division of [~~state police~~] **criminal justice services, and any cost borne by the licensing officer to administer or maintain records related to the recertification process by the licensing officer, both** pursuant to this chapter shall be borne by the state.

§ 9. Section 400.02 of the penal law, as amended by chapter 244 of the laws of 2019, is amended to read as follows:

§ 400.02 Statewide license and record database.

There shall be a statewide license and record database which shall be created and maintained by the division of [~~state police~~] **criminal justice services** the cost of which shall not be borne by any municipality. Records assembled or collected for purposes of inclusion in such database shall not be subject to disclosure pursuant to article six of the public officers law. Records containing granted license applications shall be periodically checked by the division of criminal justice services against criminal conviction, mental health, and all other records as are necessary to determine their continued accuracy as well as whether an individual is no longer a valid license holder. The division of criminal justice services shall also check pending applications made pursuant to this article against such records to determine whether a license may be granted. All state agencies shall cooperate with the division of criminal justice services, as otherwise authorized by law, in making their records available for such checks. The division of criminal justice services, upon determining that an individual is ineligible to possess a license, or is no longer a valid license holder, shall notify the applicable licensing official of such determination and such licensing official shall not issue a license or revoke such license and any weapons owned or possessed by such individual shall be removed consistent with the provisions of subdivision eleven of section 400.00 of this article. Local and state law enforcement shall have access to such database in the performance of their duties. Records assembled or

collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order.

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

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

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