STATE OF NEW YORK

5049

2023-2024 Regular Sessions

IN ASSEMBLY

February 27, 2023

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

AN ACT to amend the penal law, the general business law and the executive law, in relation to licensing and other provisions relating to firearms; and to repeal certain provisions of the penal law, the executive law, the general business law, the state finance law and chapter 371 of the laws of 2022 amending the penal law and other laws relating to licensing and other provisions relating to firearms, relating thereto

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

Section 1. The section heading and subdivisions 1, 1-a, 1-b, 2, 4-a, 4-b, 4-c, 10 and 11 of section 400.00 of the penal law, as amended by chapter 371 of the laws of 2022, subdivision 1 as separately amended by chapter 669 of the laws of 2022, are amended to read as follows:

[~~Licensing and other provisions relating to~~] **Licenses to carry, possess, repair and dispose of** firearms.

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character[~~, which, for the purposes of this article, shall mean having the essential character, temperament and judgement necessary to be entrusted with a weapon and to use it only in a manner that does not endanger oneself or others~~]; (c) who has not been convicted anywhere of a felony or a serious offense or who is not the subject of an outstanding warrant of arrest issued upon the alleged

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

LBD05601-01-3

commission of a felony or serious offense; (d) who is not a fugitive from justice; (e) who is not an unlawful user of or addicted to any controlled substance as defined in section 21 U.S.C. 802; (f) who being a noncitizen (i) is not illegally or unlawfully in the United States or (ii) has not been admitted to the United States under a nonimmigrant visa subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been discharged from the Armed Forces under dishonorable conditions; (h) who, having been a citizen of the United States, has not renounced his or her citizenship; (i) who has stated whether he or she has ever suffered any mental illness; (j) who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article nine or fifteen of the mental hygiene law, article seven hundred thirty or section 330.20 of the criminal procedure law [~~or substantially similar laws of any other state~~], section four hundred two or five hundred eight of the correction law, section 322.2 or 353.4 of the family court act, has not been civilly confined in a secure treatment facility pursuant to article ten of the mental hygiene law, or has not been the subject of a report made pursuant to section 9.46 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[~~, provided, however, persons with a license issued under paragraph (f) of subdivision two of this section prior to the effective date of the laws of two thousand twenty-two which amended this paragraph shall be required to complete the training required by subdivision nineteen of this section prior to the recertification of such license; and (iii) persons applying for a license under paragraph (f) of subdivision two of this section on or after the effective date of the chapter of the laws of two thousand twenty-two which amended this paragraph who shall be required to complete the training required under subdivision nineteen of this section for such license;~~] (m) who 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, [~~incompetency,~~] incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs; [~~(n) for a license issued under paragraph (f) of subdivision two of this section, that the applicant has not been convicted within five years of the date of the application of any of the following: (i) assault in the third degree, as defined in section 120.00 of this chapter; (ii) misdemeanor driving while intoxicated, as defined in section eleven hundred ninety-two of the vehicle and traffic law; or (iii) menacing, as defined in section 120.15 of this chapter; and (o) for a license issued under paragraph (f) of subdivision two of this~~

~~section, the applicant shall meet in person with the licensing officer for an interview and shall, in addition to any other information or forms required by the license application submit to the licensing officer the following information: (i) names and contact information for the applicant's current spouse, or domestic partner, any other adults residing in the applicant's home, including any adult children of the applicant, and whether or not there are minors residing, full time or part time, in the applicant's home; (ii) names and contact information of no less than four character references who can attest to the applicant's good moral character and that such applicant has not engaged in any acts, or made any statements that suggest they are likely to engage in conduct that would result in harm to themselves or others; (iii) certification of completion of the training required in subdivision nineteen of this section; (iv) a list of former and current social media accounts of the applicant from the past three years to confirm the information regarding the applicants character and conduct as required in subparagraph (ii) of this paragraph; and (v) such other information required by the licensing officer that is reasonably necessary and related to the review of the licensing application~~] **and (n) concerning whom no good cause exists for the denial of the license**.

[~~1-a.~~] 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 [~~shall be required~~] to 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.

[~~1-b.~~] **1-a.** For purposes of subdivision one of this section, serious offense shall include an offense in any jurisdiction or the former penal law that includes all of the essential elements of a serious offense as defined by subdivision seventeen of section 265.00 of this chapter. Nothing in this subdivision shall preclude the denial of a license based on the commission of, arrest for or conviction of an offense in any other jurisdiction which does not include all of the essential elements of a serious offense.

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a semiautomatic rifle, other than an assault weapon or disguised gun, shall be issued to purchase or take possession of such a [~~semiautomatic rifle~~] **firearm** when such transfer of ownership occurs on or after the effective date of **the** chapter [~~two hundred twelve~~] of the laws of two thousand twenty-two that amended this subdivision. A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a judge of the New York city civil court or the New York city criminal court; (e) have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of

persons convicted or accused of crime or held as witnesses in criminal cases, provided that application is made therefor by such commissioner, warden, superintendent or head keeper; (f) have and carry concealed, without regard to employment or place of possession [~~subject to the restrictions of state and federal law~~], by any person **when proper cause exists for the issuance thereof**; and (g) have, possess, collect and carry antique pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and (ii) any replica of any pistol described in clause (i) hereof if such replica[~~,~~]**:**

(1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

4-a. [~~Appeals from denial of an application, renewal, recertification or license revocation. If an application for a license is denied, not renewed, not recertified, or revoked, the licensing officer shall issue a written notice to the applicant setting forth the reasons for such denial. An applicant may, within ninety days of receipt of such notice, request a hearing to appeal the denial to the appeals board created by the division of criminal justice services and the superintendent of state police. An individual may be represented by counsel at any appearance before the appeals board and shall be afforded an opportunity to present additional evidence in support of their application. The commissioner of criminal justice services and the superintendent of state police shall promulgate rules and regulations governing such appeals process.~~

~~4-b.~~] Processing of license applications. Applications for licenses shall be accepted for processing by the licensing officer at the time of presentment. Except upon written notice to the applicant specifically stating the reasons for any delay, in each case the licensing officer shall act upon any application for a license pursuant to this section within six months of the date of presentment of such an application to the appropriate authority. Such delay may only be for good cause and with respect to the applicant. In acting upon an application, the licensing officer shall either deny the application for reasons specifically and concisely stated in writing or grant the application and issue the license applied for.

[~~4-c.~~] **4-b.** Westchester county firearms safety course certificate. In the county of Westchester, at the time of application, the licensing officer to which the license application is made shall provide a copy of the safety course booklet to each license applicant. Before such license is issued, such licensing officer shall require that the applicant submit a certificate of successful completion of a firearms safety course and test issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor.

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[~~, except as otherwise provided in paragraph (d) of this subdivision,~~] 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[~~, except as otherwise provided in paragraph (d) of this subdivision,~~] 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 [~~three~~] **six** year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license.

(b) All licensees shall be recertified to the division of state police every five years thereafter[~~, except as otherwise provided in paragraph (d) of this subdivision~~]. Any license issued before the effective date of the chapter of the laws of two thousand thirteen which added this paragraph shall be recertified by the licensee on or before January thirty-first, two thousand eighteen, and not less than one year prior to such date, the state police 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. The form may be in an electronic form if so designated by the superintendent of state police. Failure to recertify shall act as a revocation of such license. If the New York 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.

(c) A license to purchase or take possession of a semiautomatic rifle as defined in subdivision two of this section shall be recertified to

the applicable licensing officer every five years following the issuance of such license. Failure to renew such a license shall be a violation punishable by a fine not to exceed two hundred fifty dollars, and such failure to renew shall be considered by the licensing officer when reviewing future license applications by the license holder pursuant to this chapter.

[~~(d) Licenses issued under paragraph (f) of subdivision two of this section shall be recertified or renewed in the same form and manner as otherwise required by this subdivision, provided however, that such licenses shall be recertified or renewed every three years following the issuance of such license. For licenses issued prior to the effective date of this paragraph that were issued more than three years prior to such date, or will expire in less than one year from such date shall be recertified or renewed within one year of such date.~~]

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[~~, including engaging in conduct that would have resulted in the denial of a license, under this section shall operate as or be grounds for,~~] **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. A license to engage in the business of dealer may be revoked or suspended for any violation of the provisions of article thirty-nine-BB of the general business law. 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. [~~The licensing officer shall revoke any license issued in which an applicant knowingly made a material false statement on the application. Notice of a revocation under this subdivision shall be issued in writing and shall include the basis for the determination, which shall be supported by a preponderance of the evidence. Such notice shall also include information regarding the ability to appeal such decision in accordance with subdivision four-a of this section.~~]

(b) Whenever the director of community services 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.

§ 2. Subdivision 23 of section 837 of the executive law is REPEALED.

§ 3. Section 235 of the executive law is REPEALED.

§ 4. Section 265.01-e of the penal law is REPEALED.

§ 5. Section 265.01-d of the penal law is REPEALED.

§ 6. Paragraph 3-a of subdivision a of section 265.20 of the penal law is REPEALED.

§ 7. Section 400.02 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 400.02 Statewide license and record database.

[~~1.~~] There shall be a statewide license and record database which shall be created and maintained by the division of state police 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. [~~All records~~] **Records** containing granted license applications [~~from all licensing authorities~~] shall be [~~monthly~~] **periodically** checked by the division of criminal justice services [~~in conjunction with the division of state police~~] against criminal conviction, [~~criminal indictment,~~] mental health, [~~extreme risk protection orders, orders of protection,~~] 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 [~~and local~~] 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 [~~shall~~] 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.

[~~2. There shall be a statewide license and record database specific for ammunition sales which shall be created and maintained by the division of state police the cost of which shall not be borne by any municipality no later than thirty days upon designating the division of state police as the point of contact to perform both firearm and ammunition background checks under federal and state law. 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. All records containing granted license applications from all licensing authorities shall be monthly checked by the division of criminal justice services in conjunction with the division of state police against criminal conviction, criminal indictments, mental health, extreme risk protection orders, orders of protection, 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 and local agencies shall cooperate with the division of criminal justice services, as otherwise authorized by law, in making their records available for such checks. No later than thirty days after the superintendent of the state police certifies that the statewide license and record database established pursuant to this section and the statewide license and record database established for ammunition sales are operational for the purposes of this section, a dealer in firearms licensed pursuant to section 400.00 of this article, a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter shall not transfer any ammunition to any other person who is not a dealer in firearms as defined in subdivision nine of such section 265.00 or a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter, unless:~~

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

~~(b) the licensee or seller is provided with a unique identification number; and~~

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

§ 8. Subdivisions 2 and 6 of section 400.03 of the penal law, as amended by section 8 of chapter 371 of the laws of 2022, are amended to read as follows:

2. Any seller of ammunition or dealer in firearms shall keep [~~either an electronic record, or dataset, or an organized collection of structured information, or data, typically stored electronically in a computer system~~] **a record book** approved as to form by the superintendent of state police. In the record **book** shall be entered at the time of every transaction involving ammunition the date, name, age, occupation and residence of any person from whom ammunition is received or to whom ammunition is delivered, and the amount, calibre, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such ammunition. **The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his or her special duties, or police officer. Any record produced pursuant to this section and any transmission thereof to any government agency shall not be considered a public record for purposes of article six of the public officers law.**

6. If the superintendent of state police certifies that background checks of ammunition purchasers may be conducted through the national instant criminal background check system [~~or through the division of state police once the division has been designated point of contact~~], use of that system by a dealer or seller shall be sufficient to satisfy subdivisions four and five of this section and such checks shall be conducted through such system, provided that a record of such trans-

action shall be forwarded to the state police in a form determined by the superintendent.

§ 9. Section 265.45 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 265.45 Failure to safely store rifles, shotguns, and firearms in the first degree.

[~~1.~~] No person who owns or is custodian of a rifle, shotgun or firearm who resides with an individual who: (i) is under [~~eighteen~~] **sixteen** years of age; (ii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm pursuant to a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8) or (9); or (iii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm based on a conviction for a felony or a serious offense, shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon.

[~~2. No person shall store or otherwise leave a rifle, shotgun, or firearm out of his or her immediate possession or control inside a vehicle without first removing the ammunition from and securely locking such rifle, shotgun, or firearm in an appropriate safe storage depository out of sight from outside of the vehicle.~~

~~3.~~] For purposes of this section "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, [~~keypad,~~] combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein [~~and shall be fire, impact, and tamper resistant~~]. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons. [~~For the purposes of subdivision two of this section, a glove compartment or glove box shall not be considered an appropriate safe storage depository.~~

~~4.~~] It shall not be a violation of this section to allow a person less than [~~eighteen~~] **sixteen** years of age access to: (i) a firearm, rifle or shotgun for lawful use as authorized under paragraph seven or seven-e of subdivision a of section 265.20 of this article, or (ii) a rifle or shotgun for lawful use as authorized by article eleven of the environmental conservation law when such person less than [~~eighteen~~] **sixteen** years of age is the holder of a hunting license or permit and such rifle or shotgun is used in accordance with such law.

Failure to safely store rifles, shotguns, and firearms in the first degree is a class A misdemeanor.

§ 10. Section 400.30 of the penal law is REPEALED.

§ 11. Section 270.20 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 270.20 Unlawful wearing of **a** body [~~armor~~] **vest**.

1. A person is guilty of the unlawful wearing of **a** body [~~armor~~] **vest** when acting either alone or with one or more other persons he commits any violent felony offense defined in section 70.02 while possessing a firearm, rifle or shotgun and in the course of and in furtherance of such crime he or she wears **a** body [~~armor~~] **vest**.

2. For the purposes of this section a "body [~~armor~~] vest" means [~~any product that is a personal protective body covering intended to protect against gunfire, regardless of whether such product is to be worn alone or is sold as a complement to another product or garment~~] a bullet-resistant soft body armor providing, as a minimum standard, the level of protection known as threat level I which shall mean at least seven layers of bullet-resistant material providing protection from three shots of one hundred fifty-eight grain lead ammunition fired from a .38 calibre handgun at a velocity of eight hundred fifty feet per second.

The unlawful wearing of a body [~~armor~~] vest is a class E felony.

§ 12. Section 270.21 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 270.21 Unlawful purchase of a body [~~armor~~] vest.

A person is guilty of the unlawful purchase of a body [~~armor~~] vest when, not being engaged or employed in an eligible profession, they knowingly purchase or take possession of a body [~~armor~~] vest, as such term is defined in subdivision two of section 270.20 of this article. This section shall not apply to individuals or entities engaged or employed in eligible professions, which shall include police officers as defined in section 1.20 of the criminal procedure law, peace officers as defined in section 2.10 of the criminal procedure law, persons in military service in the state of New York or military or other service for the United States, and such other professions designated by the department of state in accordance with section one hundred forty-four-a of the executive law.

Unlawful purchase of a body [~~armor~~] vest is a class A misdemeanor for a first offense and a class E felony for any subsequent offense.

§ 13. Section 270.22 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 270.22 Unlawful sale of a body [~~armor~~] vest.

A person is guilty of the unlawful sale of a body [~~armor~~] vest when they sell, exchange, give or dispose of a body [~~armor~~] vest, as such term is defined in subdivision two of section 270.20 of this article, to an individual whom they know or reasonably should have known is not engaged or employed in an eligible profession, as such term is defined in section 270.21 of this article.

Unlawful sale of a body [~~armor~~] vest is a class A misdemeanor for the first offense and a class E felony for any subsequent offense.

§ 14. Section 396-eee of the general business law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 396-eee. Unlawful sale or delivery of body [~~armor~~] vests. 1. No person, firm or corporation shall sell or deliver body [~~armor~~] vests to any individual or entity not engaged or employed in an eligible profession, and except as provided in subdivision [~~two~~] three of this section, no such sale or delivery shall be permitted unless the transferee meets in person with the transferor to accomplish such sale or delivery.

2. The provisions of subdivision one of this section regarding in person sale or delivery shall not apply to purchases made by [~~federal,~~] state[~~,~~] or local government agencies for the purpose of furnishing such body [~~armor~~] vests to employees in eligible professions.

3. For the purposes of this section, "body [~~armor~~] vest" shall have the same meaning as defined in subdivision two of section 270.20 of the penal law.

4. Any person, firm or corporation that violate the provisions of this section shall be guilty of a violation punishable by a fine in an amount

not to exceed five thousand dollars for the first offense and in an amount not to exceed ten thousand dollars for any subsequent offense.

§ 15. Section 144-a of the executive law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 144-a. Eligible professions for the purchase, sale, and use of body [~~armor~~] vests. The secretary of state in consultation with the division of criminal justice services, the division of homeland security and emergency services, the department of corrections and community supervision, the division of the state police, and the office of general services shall promulgate rules and regulations to establish criteria for eligible professions requiring the use of a body [~~armor~~] vest, as such term is defined in subdivision two of section 270.20 of the penal law. Such professions shall include those in which the duties may expose the individual to serious physical injury that may be prevented or mitigated by the wearing of a body [~~armor~~] vest. Such rules and regulations shall also include a process by which an individual or entity may request that the profession in which they engage be added to the list of eligible professions, a process by which the department shall approve such professions, and a process by which individuals and entities may present proof of engagement in eligible professions when purchasing a body [~~armor~~] vest.

§ 16. Section 228 of the executive law is REPEALED.

§ 17. Subdivision 2 of section 898 of the general business law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

2. Before any sale, exchange or disposal pursuant to this article, a national instant criminal background check must be completed by a dealer who [~~shall submit a request to the division of state police pursuant to section two hundred twenty-eight of the executive law~~] consents to conduct such check, and upon completion of such background check, shall complete a document, the form of which shall be approved by the superintendent of state police, that identifies and confirms that such check was performed. Before a dealer who [~~has submitted a request to the division of state police~~] consents to conduct a national instant criminal background check delivers a firearm, rifle or shotgun to any person, either (a) NICS [~~shall have~~] issued a "proceed" response to the dealer, or (b) thirty calendar days shall have elapsed since the date the dealer [~~submitted a request to the division of state police to contact the~~] contacted NICS to initiate a national instant criminal background check and NICS has not notified the [~~division of state police~~] dealer that the transfer of the firearm, rifle or shotgun to such person should be denied.

§ 18. Paragraph (c) of subdivision 1 of section 896 of the general business law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

(c) [~~coordinate with the division of state police to~~] provide access at the gun show to a firearm dealer licensed under federal law who is authorized to perform a national instant criminal background check [~~prior to any firearm sale or transfer~~] where the seller or transferor of a firearm, rifle or shotgun is not authorized to conduct such a check by (i) requiring firearm exhibitors who are firearm dealers licensed under federal law and who are authorized to conduct a national instant criminal background check to provide such a check at cost or (ii) designating a specific location at the gun show where a firearm dealer licensed under federal law who is authorized to conduct a national instant criminal background check will be present to perform such a

check at cost. Any firearm dealer licensed under federal law who [~~submits a request to the division of state police to perform~~] **performs** a national instant criminal background check pursuant to this paragraph shall provide the seller or transferor of the firearm, rifle or shotgun with a copy of the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms Form ATF F 4473 and such dealer shall maintain such form and make such form available for inspection by law enforcement agencies for a period of ten years thereafter.

§ 19. Section 19 of chapter 371 of the laws of 2022 is REPEALED.

§ 20. Section 400.06 of the penal law is REPEALED.

§ 21. Section 99-pp of the state finance law as added by chapter 371 of the laws of 2022, is REPEALED.

§ 22. Subdivision 19 of section 265.00 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

19. "Duly authorized instructor" means (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, [~~or by the division of criminal justice services,~~] or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; **or** (c) [~~by~~] a person duly qualified and designated by the department of environmental conservation **under paragraph c of subdivision three of section 11-0713 of the environmental conservation law** as its agent in the giving of instruction and the making of certifications of qualification in responsible hunting practices; or (d) a New York state 4-H certified shooting sports instructor.

§ 23. Subdivision 18 of section 400.00 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

18. Notice. Upon the issuance of a license, the licensing officer shall issue therewith[~~, and such licensee shall attest to the receipt of,~~] the following [~~information and notifications: (a) the grounds for which the license issued may be revoked, which shall include but not be limited to the areas and locations for which the licenses issued under paragraph (f) of subdivision two of this section prohibits the possession of firearms, rifles, and shotguns, and that a conviction under sections 265.01-d and 265.01-e of this chapter are felonies for which licensure will be revoked;~~

~~(b) a notification regarding the requirements for safe storage which shall be~~] **notice** in conspicuous and legible twenty-four point type on eight and one-half inches by eleven inches paper stating in bold print the following:

WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE. [~~WHEN STORED IN A HOME~~] FIREARMS[~~, RIFLES, OR SHOTGUNS~~] MUST EITHER BE STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR OTHER LAWFUL POSSESSOR IF A CHILD [~~UNDER THE AGE OF EIGHTEEN~~] RESIDES IN THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW. FIREARMS SHOULD BE STORED [~~BY REMOVING THE AMMUNITION FROM AND SECURELY LOCKING SUCH FIREARM~~] **UNLOADED AND LOCKED** IN A LOCATION SEPARATE FROM AMMUNITION. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. [~~WHEN STORED IN A VEHICLE OUTSIDE THE OWNER'S IMMEDIATE POSSESSION OR CONTROL, FIREARMS,~~

~~RIFLES, AND SHOTGUNS MUST BE STORED IN AN APPROPRIATE SAFE STORAGE DEPOSITORY AND OUT OF SIGHT FROM OUTSIDE OF THE VEHICLE.~~

~~(c) any other information necessary to ensure such licensee is aware of their responsibilities as a license holder.~~]

Nothing in this subdivision shall be deemed to affect, impair or supersede any special or local law relating to providing notice regarding the safe storage of rifles, shotguns or firearms.

§ 23-a. Subdivision 19 of section 400.00 of the penal law is REPEALED.

§ 24. Subdivisions 11 and 12 of section 265.00 of the penal law, as amended by chapter 371 of the laws of 2022, are amended to read as follows:

11. "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive **in a fixed metallic cartridge** to fire only a single projectile through a rifled bore for each single pull of the trigger [~~using either: (a) fixed metallic cartridge; or (b) each projectile and explosive charge are loaded individually for each shot discharged. In addition to common, modern usage, rifles include those using obsolete ammunition not commonly available in commercial trade, or that load through the muzzle and fire a single projectile with each discharge, or loading, including muzzle loading rifles, flintlock rifles, and black powder rifles~~].

12. "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive **in a fixed shotgun shell** to fire through a smooth [~~or rifled~~] bore either a number of ball shot or a single projectile for each single pull of the trigger [~~using either: (a) a fixed shotgun shell; or (b) a projectile or number of ball shot and explosive charge are loaded individually for each shot discharged. In addition to common, modern usage, shotguns include those using obsolete ammunition not commonly available in commercial trade, or that load through the muzzle and fires ball shot with each discharge, or loading, including muzzle loading shotguns, flintlock shotguns, and black powder shotguns~~].

§ 25. Severability. If any clause, sentence, paragraph or section of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or section thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 26. This act shall take effect immediately; provided, however:

(a) if the amendments to subdivision 4-a of section 400.00 of the penal law made by section one of chapter 371 of the laws of 2022 shall not have taken effect on or before such date then the amendments to subdivision 4-a of section 400.00 of the penal law as amended by section one of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2022 takes effect;

(b) if section seventeen of chapter 371 of the laws of 2022 shall not have taken effect on or before such date then the amendments to subdivision 2 of section 898 of the general business law made by section seventeen of this act shall take effect on the same date and in the same manner as such section of such chapter of the laws of 2022 takes effect;

(c) if section eighteen of chapter 371 of the laws of 2022 shall not have taken effect on or before such date then the amendments to paragraph (c) of subdivision 1 of section 896 of the general business law

made by section eighteen of this act shall take effect on the same date and in the same manner as such section of such chapter of the laws of 2022 takes effect;

(d) if section twenty-two of chapter 371 of the laws of 2022 shall not have taken effect on or before such date then the amendments to subdivision 19 of section 265.00 of the general business law made by section eighteen of this act shall take effect on the same date and in the same manner as such section of such chapter of the laws of 2022 takes effect.