

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

1 commission of a felony or serious offense; (d) who is not a fugitive
2 from justice; (e) who is not an unlawful user of or addicted to any
3 controlled substance as defined in section 21 U.S.C. 802; (f) who being
4 a noncitizen (i) is not illegally or unlawfully in the United States or
5 (ii) has not been admitted to the United States under a nonimmigrant
6 visa subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not
7 been discharged from the Armed Forces under dishonorable conditions; (h)
8 who, having been a citizen of the United States, has not renounced his
9 or her citizenship; (i) who has stated whether he or she has ever
10 suffered any mental illness; (j) who has not been involuntarily commit-
11 ted to a facility under the jurisdiction of an office of the department
12 of mental hygiene pursuant to article nine or fifteen of the mental
13 hygiene law, article seven hundred thirty or section 330.20 of the crim-
14 inal procedure law [~~or substantially similar laws of any other state~~],
15 section four hundred two or five hundred eight of the correction law,
16 section 322.2 or 353.4 of the family court act, has not been civilly
17 confined in a secure treatment facility pursuant to article ten of the
18 mental hygiene law, or has not been the subject of a report made pursu-
19 ant to section 9.46 of the mental hygiene law; (k) who has not had a
20 license revoked or who is not under a suspension or ineligibility order
21 issued pursuant to the provisions of section 530.14 of the criminal
22 procedure law or section eight hundred forty-two-a of the family court
23 act; (l) in the county of Westchester, who has successfully completed a
24 firearms safety course and test as evidenced by a certificate of
25 completion issued in his or her name and endorsed and affirmed under the
26 penalties of perjury by a duly authorized instructor, except that: (i)
27 persons who are honorably discharged from the United States army, navy,
28 marine corps or coast guard, or of the national guard of the state of
29 New York, and produce evidence of official qualification in firearms
30 during the term of service are not required to have completed those
31 hours of a firearms safety course pertaining to the safe use, carrying,
32 possession, maintenance and storage of a firearm; and (ii) persons who
33 were licensed to possess a pistol or revolver prior to the effective
34 date of this paragraph are not required to have completed a firearms
35 safety course and test[, ~~provided, however, persons with a license~~
36 ~~issued under paragraph (f) of subdivision two of this section prior to~~
37 ~~the effective date of the laws of two thousand twenty two which amended~~
38 ~~this paragraph shall be required to complete the training required by~~
39 ~~subdivision nineteen of this section prior to the recertification of~~
40 ~~such license; and (iii) persons applying for a license under paragraph~~
41 ~~(f) of subdivision two of this section on or after the effective date of~~
42 ~~the chapter of the laws of two thousand twenty two which amended this~~
43 ~~paragraph who shall be required to complete the training required under~~
44 ~~subdivision nineteen of this section for such license;]~~ (m) who has not
45 had a guardian appointed for him or her pursuant to any provision of
46 state law, based on a determination that as a result of marked subnormal
47 intelligence, mental illness, [~~incompetency~~,] incapacity, condition or
48 disease, he or she lacks the mental capacity to contract or manage his
49 or her own affairs; [~~(n) for a license issued under paragraph (f) of~~
50 ~~subdivision two of this section, that the applicant has not been~~
51 ~~convicted within five years of the date of the application of any of the~~
52 ~~following: (i) assault in the third degree, as defined in section 120.00~~
53 ~~of this chapter; (ii) misdemeanor driving while intoxicated, as defined~~
54 ~~in section eleven hundred ninety-two of the vehicle and traffic law; or~~
55 ~~(iii) menacing, as defined in section 120.15 of this chapter; and (o)~~
56 ~~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-e.]~~ 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

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

36 (b) All licensees shall be recertified to the division of state police
37 every five years thereafter~~[, except as otherwise provided in paragraph~~
38 ~~(d) of this subdivision]~~. Any license issued before the effective date
39 of the chapter of the laws of two thousand thirteen which added this
40 paragraph shall be recertified by the licensee on or before January
41 thirty-first, two thousand eighteen, and not less than one year prior to
42 such date, the state police shall send a notice to all license holders
43 who have not recertified by such time. Such recertification shall be in
44 a form as approved by the superintendent of state police, which shall
45 request the license holder's name, date of birth, gender, race, residen-
46 tial address, social security number, firearms possessed by such license
47 holder, email address at the option of the license holder and an affir-
48 mation that such license holder is not prohibited from possessing
49 firearms. The form may be in an electronic form if so designated by the
50 superintendent of state police. Failure to recertify shall act as a
51 revocation of such license. If the New York state police discover as a
52 result of the recertification process that a licensee failed to provide
53 a change of address, the New York state police shall not require the
54 licensing officer to revoke such license.

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

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

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

15 11. License: revocation and suspension. (a) The conviction of a licen-
16 see anywhere of a felony or serious offense or a licensee at any time
17 becoming ineligible to obtain a license~~[, including engaging in conduct~~
18 ~~that would have resulted in the denial of a license, under this section~~
19 ~~shall operate as or be grounds for,]~~ under this section shall operate as
20 a revocation of the license. A license may be revoked or suspended as
21 provided for in section 530.14 of the criminal procedure law or section
22 eight hundred forty-two-a of the family court act. Except for a license
23 issued pursuant to section 400.01 of this article, a license may be
24 revoked and cancelled at any time in the city of New York, and in the
25 counties of Nassau and Suffolk, by the licensing officer, and elsewhere
26 than in the city of New York by any judge or justice of a court of
27 record; a license issued pursuant to section 400.01 of this article may
28 be revoked and cancelled at any time by the licensing officer or any
29 judge or justice of a court of record. A license to engage in the busi-
30 ness of dealer may be revoked or suspended for any violation of the
31 provisions of article thirty-nine-BB of the general business law. The
32 official revoking a license shall give written notice thereof without
33 unnecessary delay to the executive department, division of state police,
34 Albany, and shall also notify immediately the duly constituted police
35 authorities of the locality. ~~[The licensing officer shall revoke any~~
36 ~~license issued in which an applicant knowingly made a material false~~
37 ~~statement on the application. Notice of a revocation under this subdivi-~~
38 ~~sion shall be issued in writing and shall include the basis for the~~
39 ~~determination, which shall be supported by a preponderance of the~~
40 ~~evidence. Such notice shall also include information regarding the abil-~~
41 ~~ity to appeal such decision in accordance with subdivision four-a of~~
42 ~~this section.]~~

43 (b) Whenever the director of community services or his or her designee
44 makes a report pursuant to section 9.46 of the mental hygiene law, the
45 division of criminal justice services shall convey such information,
46 whenever it determines that the person named in the report possesses a
47 license issued pursuant to this section, to the appropriate licensing
48 official, who shall issue an order suspending or revoking such license.

49 (c) In any instance in which a person's license is suspended or
50 revoked under paragraph (a) or (b) of this subdivision, such person
51 shall surrender such license to the appropriate licensing official and
52 any and all firearms, rifles, or shotguns owned or possessed by such
53 person shall be surrendered to an appropriate law enforcement agency as
54 provided in subparagraph (f) of paragraph one of subdivision a of
55 section 265.20 of this chapter. In the event such license, firearm,
56 shotgun, or rifle is not surrendered, such items shall be removed and

1 declared a nuisance and any police officer or peace officer acting
2 pursuant to his or her special duties is authorized to remove any and
3 all such weapons.

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

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

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

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

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

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

12 § 400.02 Statewide license and record database.

13 ~~[1.]~~ There shall be a statewide license and record database which
14 shall be created and maintained by the division of state police the cost
15 of which shall not be borne by any municipality. Records assembled or
16 collected for purposes of inclusion in such database shall not be
17 subject to disclosure pursuant to article six of the public officers
18 law. ~~[All records]~~ **Records** containing granted license applications ~~[from~~
19 ~~all licensing authorities]~~ shall be ~~[monthly]~~ **periodically** checked by
20 the division of criminal justice services ~~[in conjunction with the divi-~~
21 ~~sion of state police]~~ against criminal conviction, ~~[criminal indict-~~
22 ~~ment,]~~ mental health, ~~[extreme risk protection orders, orders of~~
23 ~~protection,]~~ and all other records as are necessary to determine their
24 continued accuracy as well as whether an individual is no longer a valid
25 license holder. The division of criminal justice services shall also
26 check pending applications made pursuant to this article against such
27 records to determine whether a license may be granted. All state ~~[and~~
28 ~~local]~~ agencies shall cooperate with the division of criminal justice
29 services, as otherwise authorized by law, in making their records avail-
30 able for such checks. The division of criminal justice services, upon
31 determining that an individual is ineligible to possess a license, or is
32 no longer a valid license holder, shall notify the applicable licensing
33 official of such determination and such licensing official shall not
34 issue a license or ~~[shall]~~ revoke such license and any weapons owned or
35 possessed by such individual shall be removed consistent with the
36 provisions of subdivision eleven of section 400.00 of this article.
37 Local and state law enforcement shall have access to such database in
38 the performance of their duties. Records assembled or collected for
39 purposes of inclusion in the database established by this section shall
40 be released pursuant to a court order.

41 ~~[2. There shall be a statewide license and record database specific~~
42 ~~for ammunition sales which shall be created and maintained by the divi-~~
43 ~~sion of state police the cost of which shall not be borne by any munici-~~
44 ~~pality no later than thirty days upon designating the division of state~~
45 ~~police as the point of contact to perform both firearm and ammunition~~
46 ~~background checks under federal and state law. Records assembled or~~
47 ~~collected for purposes of inclusion in such database shall not be~~
48 ~~subject to disclosure pursuant to article six of the public officers~~
49 ~~law. All records containing granted license applications from all~~
50 ~~licensing authorities shall be monthly checked by the division of crimi-~~
51 ~~nal justice services in conjunction with the division of state police~~
52 ~~against criminal conviction, criminal indictments, mental health,~~
53 ~~extreme risk protection orders, orders of protection, and all other~~
54 ~~records as are necessary to determine their continued accuracy as well~~
55 ~~as whether an individual is no longer a valid license holder. The divi-~~
56 ~~sion 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-

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

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

5 § 265.45 Failure to safely store rifles, shotguns, and firearms in the
6 first degree.

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

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

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

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

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

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

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

50 § 270.20 Unlawful wearing of a body [~~armor~~] vest.

51 1. A person is guilty of the unlawful wearing of a body [~~armor~~] vest
52 when acting either alone or with one or more other persons he commits
53 any violent felony offense defined in section 70.02 while possessing a
54 firearm, rifle or shotgun and in the course of and in furtherance of
55 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[~~7~~] 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

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

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

5 § 144-a. Eligible professions for the purchase, sale, and use of body
6 ~~[armor]~~ vests. The secretary of state in consultation with the division
7 of criminal justice services, the division of homeland security and
8 emergency services, the department of corrections and community super-
9 vision, the division of the state police, and the office of general
10 services shall promulgate rules and regulations to establish criteria
11 for eligible professions requiring the use of a body ~~[armor]~~ vest, as
12 such term is defined in subdivision two of section 270.20 of the penal
13 law. Such professions shall include those in which the duties may expose
14 the individual to serious physical injury that may be prevented or miti-
15 gated by the wearing of a body ~~[armor]~~ vest. Such rules and regulations
16 shall also include a process by which an individual or entity may
17 request that the profession in which they engage be added to the list of
18 eligible professions, a process by which the department shall approve
19 such professions, and a process by which individuals and entities may
20 present proof of engagement in eligible professions when purchasing a
21 body ~~[armor]~~ vest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE.
45 [~~WHEN STORED IN A HOME~~] FIREARMS[~~, RIFLES, OR SHOTGUNS~~] MUST EITHER BE
46 STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT
47 BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR
48 OTHER LAWFUL POSSESSOR IF A CHILD [~~UNDER THE AGE OF EIGHTEEN~~] RESIDES IN
49 THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A
50 PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW.
51 FIREARMS SHOULD BE STORED [~~BY REMOVING THE AMMUNITION FROM AND SECURELY~~
52 ~~LOCKING SUCH FIREARM~~] UNLOADED AND LOCKED IN A LOCATION SEPARATE FROM
53 AMMUNITION. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED
54 PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. [~~WHEN STORED IN A~~
55 ~~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

1 made by section eighteen of this act shall take effect on the same date
2 and in the same manner as such section of such chapter of the laws of
3 2022 takes effect;

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