

# STATE OF NEW YORK

2338

2023-2024 Regular Sessions

## IN SENATE

January 20, 2023

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

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

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

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 Section 400.03 of the penal law is REPEALED.

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

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

§ 3. Paragraph (h) of subdivision 22 of section 265.00 of the penal law, as amended by chapter 209 of the laws of 2022, is amended to read as follows:

(h) (i) Any weapon defined in paragraph (e) or (f) of this subdivision may only be sold to, exchanged with or disposed of to a purchaser authorized to possess such weapons or to an individual or entity outside of the state provided that any such transfer to an individual or entity

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

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1 outside of the state must be reported to the entity wherein the weapon  
2 is registered within seventy-two hours of such transfer. An individual  
3 who transfers any such weapon to an individual inside New York state or  
4 without complying with the provisions of this paragraph shall be guilty  
5 of a class A misdemeanor.

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

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

18 5. Filing of approved applications. [~~a~~] The application for any  
19 license, if granted, shall be filed by the licensing officer with the  
20 clerk of the county of issuance, except that in the city of New York  
21 and, in the counties of Nassau and Suffolk, the licensing officer shall  
22 designate the place of filing in the appropriate division, bureau or  
23 unit of the police department thereof, and in the county of Suffolk the  
24 county clerk is hereby authorized to transfer all records or applica-  
25 tions relating to firearms to the licensing authority of that county.

26 [~~Except as provided in paragraphs (b) through (f) of this subdivision,~~  
27 ~~the name and address~~] The application and any supporting records,  
28 including any information contained therein, of any person to whom an  
29 application for any license has been granted shall not be a public  
30 record and shall not be subject to disclosure pursuant to article six of  
31 the public officers law. Upon application by a licensee who has changed  
32 his or her place of residence such records or applications shall be  
33 transferred to the appropriate officer at the licensee's new place of  
34 residence. A duplicate copy of such application shall be filed by the  
35 licensing officer in the executive department, division of [~~state~~  
36 ~~police~~] criminal justice services, Albany, within ten days after iss-  
37 uance of the license. The [~~superintendent~~] commissioner of [~~state police~~]  
38 criminal justice services may designate that such application shall be  
39 transmitted to the division of [~~state police~~] criminal justice services  
40 electronically. In the event the [~~superintendent~~] commissioner of the  
41 division of [~~state police~~] criminal justice services determines that it  
42 lacks any of the records required to be filed with the division, it may  
43 request that such records be provided to it by the appropriate clerk,  
44 department or authority and such clerk, department or authority shall  
45 provide the division with such records. In the event such clerk, depart-  
46 ment or authority lacks such records, the division may request the  
47 license holder provide information sufficient to constitute such record  
48 and such license holder shall provide the division with such informa-  
49 tion. Such information shall be limited to the license holder's name,  
50 date of birth, gender, race, residential address, social security number  
51 and firearms possessed by said license holder. Nothing in this subdivi-  
52 sion shall be construed to change the expiration date or term of such  
53 licenses if otherwise provided for in law. Records assembled or  
54 collected for purposes of inclusion in the database established by this  
55 section shall be released pursuant to a court order. Records assembled  
56 or collected for purposes of inclusion in the database created pursuant

1 to section 400.02 of this [~~chapter~~] article shall not be subject to  
2 disclosure pursuant to article six of the public officers law except  
3 that the total number of persons registered in any county of the state  
4 may be disclosed without any other identifying information about a  
5 registrant.

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

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

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

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

33 ~~(C) the applicant is or was a witness in a criminal proceeding involv-~~  
34 ~~ing a criminal charge;~~

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

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

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

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

46 ~~(c) Each form provided for recertification pursuant to paragraph (b)~~  
47 ~~of subdivision ten of this section shall include an opportunity for the~~  
48 ~~applicant to request an exception from the information provided on such~~  
49 ~~form becoming public record pursuant to paragraph (a) of this subdivi-~~  
50 ~~sion. Such forms shall notify applicants that, upon discovery that an~~  
51 ~~applicant knowingly provided false information, such applicant may be~~  
52 ~~subject to penalties pursuant to section 175.30 of this chapter, and~~  
53 ~~further, that his or her request for an exception shall be null and~~  
54 ~~void, provided that written notice containing such determination is~~  
55 ~~provided to the applicant. Further, such forms shall provide each appli-~~  
56 ~~cant an opportunity to either decline to request the grant or continua-~~

~~tion of an exception, or specify the grounds on which he or she believes his or her information should not be publicly disclosed. These grounds, which shall be identified in the application with a box beside each for checking, as applicable, by the applicant, shall be the same as provided in paragraph (b) of this subdivision.~~

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

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

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

~~(iii) If an exception is sought and granted pursuant to paragraph (b) of this subdivision, the application information shall not be public record, unless the request is determined to be null and void. If an exception is sought and granted pursuant to paragraph (c) of this subdivision, the information concerning such recertification application shall not be public record, unless the request is determined to be null and void. Notwithstanding the foregoing provisions of this subparagraph, local and state law enforcement shall, upon request, be granted access to and copies of such application information provided that such information obtained by law enforcement pursuant to this subparagraph shall not be considered a public record of such law enforcement agency.~~

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

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

§ 5. Section 9.46 of the mental hygiene law, as added by chapter 1 of the laws of 2013, subdivision (a) as amended by chapter 208 of the laws of 2022, is amended to read as follows:

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

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

1 certified nurse practitioner, licensed clinical marriage and family  
2 therapist, or a licensed professional nurse.

3 (b) Notwithstanding any other law to the contrary, when a mental  
4 health professional currently providing treatment services to a person  
5 determines, in the exercise of reasonable professional judgment, that  
6 such person is likely to engage in conduct that would result in serious  
7 harm to self or others, he or she shall be required to report, as soon  
8 as practicable, to the director of community services, or the director's  
9 designee, ~~who shall report to the division of criminal justice services~~

10 ~~whenever he or she agrees that the person is likely to engage in such~~  
11 ~~conduct~~. Any report made by a mental health professional to the direc-  
12 tor of community services, or the director's designee shall include  
13 current contact information for such person including, but not limited  
14 to, the person's: (1) name, (2) mailing address, (3) phone number and  
15 (4) email address. The director of community services or the director's  
16 designee shall report to the division of criminal justice services upon  
17 a finding that the person is likely to engage in conduct that would  
18 result in serious harm to self or others. Information transmitted to the  
19 division of criminal justice services shall be limited to names and  
20 other non-clinical identifying information, which may only be used for  
21 determining whether a license issued pursuant to section 400.00 of the  
22 penal law should be suspended or revoked, or for determining whether a  
23 person is ineligible for a license issued pursuant to section 400.00 of  
24 the penal law, or is no longer permitted under state or federal law to  
25 possess a firearm.

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

31 (1) the person's name;

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

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

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

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

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

50 (d) Nothing in this section shall be construed to require a mental  
51 health professional to take any action which, in the exercise of reason-  
52 able professional judgment, would endanger such mental health profes-  
53 sional or increase the danger to a potential victim or victims.

54 ~~(d)~~ (e) The decision of a mental health professional to disclose or  
55 not to disclose in accordance with this section, when made reasonably

1 and in good faith, shall not be the basis for any civil or criminal  
2 liability of such mental health professional.

3 § 6. Paragraph 2 of subdivision (j) of section 7.09 of the mental  
4 hygiene law, as amended by chapter 1 of the laws of 2013, is amended to  
5 read as follows:

6 (2) The commissioner shall establish within the office of mental  
7 health an administrative process to permit a person who has been or may  
8 be disqualified from possessing such a firearm pursuant to 18 USC  
9 922(4)(d) or who has been or may be disqualified from continuing to have  
10 a license to carry, possess, repair, or dispose of a firearm under  
11 section 400.00 of the penal law because such person was involuntarily  
12 committed or civilly confined to a facility under the jurisdiction of  
13 the commissioner, or who has been the subject of a report submitted by  
14 the director of community services or the director's designee to the  
15 division of criminal justice services stating that the named person has  
16 been deemed likely to engage in conduct that would result in serious  
17 harm to self or others pursuant to section 9.46 of this title, to peti-  
18 tion for relief from that disability where such person's record and  
19 reputation are such that such person will not be likely to act in a  
20 manner dangerous to public safety and where the granting of the relief  
21 would not be contrary to public safety. The commissioner shall promul-  
22 gate regulations to establish the relief from disabilities program,  
23 which shall include, but not be limited to, provisions providing for:  
24 (i) an opportunity for a disqualified person to petition for relief in  
25 writing; (ii) the authority for the agency to require that the petition-  
26 er undergo a clinical evaluation and risk assessment; and (iii) a  
27 requirement that the agency issue a decision in writing explaining the  
28 reasons for a denial or grant of relief. The denial of a petition for  
29 relief from disabilities may be reviewed de novo pursuant to the  
30 proceedings under article seventy-eight of the civil practice law and  
31 rules.

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

35 (2) The commissioner shall establish within the office for people with  
36 developmental disabilities an administrative process to permit a person  
37 who has been or may be disqualified from possessing such a firearm  
38 pursuant to 18 USC 922(4)(d), or who has been or may be disqualified  
39 from continuing to have a license to carry, possess, repair, or dispose  
40 of a firearm under section 400.00 of the penal law because such person  
41 was involuntarily committed or civilly confined to a facility under the  
42 jurisdiction of the commissioner, or who has been the subject of a  
43 report submitted by the director of community services or the director's  
44 designee to the division of criminal justice services stating that the  
45 named person has been deemed likely to engage in conduct that would  
46 result in serious harm to self or others pursuant to section 9.46 of  
47 this chapter, to petition for relief from that disability where such  
48 person's record and reputation are such that such person will not be  
49 likely to act in a manner dangerous to public safety and where the  
50 granting of the relief would not be contrary to public safety. The  
51 commissioner shall promulgate regulations to establish the relief from  
52 disabilities program, which shall include, but not be limited to,  
53 provisions providing for: (i) an opportunity for a disqualified person  
54 to petition for relief in writing; (ii) the authority for the agency to  
55 require that the petitioner undergo a clinical evaluation and risk  
56 assessment; and (iii) a requirement that the agency issue a decision in

1 writing explaining the reasons for a denial or grant of relief. The  
2 denial of a petition for relief from disabilities may be reviewed de  
3 novo pursuant to the proceedings under article seventy-eight of the  
4 civil practice law and rules.

5 § 8. Paragraph (a) of subdivision 3 and subdivisions 4, 7, 9, 10, 16-a  
6 and 16-b of section 400.00 of the penal law, paragraph (a) of subdivi-  
7 sion 3 and subdivision 9 as amended by chapter 212 of the laws of 2022,  
8 subdivisions 4 and 10 as amended by chapter 371 of the laws of 2022,  
9 subdivision 7 as separately amended by chapters 212 and 669 of the laws  
10 of 2022, subdivisions 16-a and 16-b as added by chapter 1 of the laws of  
11 2013 and paragraph (a-1) of subdivision 16-a as added by chapter 98 of  
12 the laws of 2013, are amended to read as follows:

13 (a) Applications shall be made and renewed, in the case of a license  
14 to carry or possess a pistol or revolver or to purchase or take  
15 possession of a semiautomatic rifle, to the licensing officer in the  
16 city or county, as the case may be, where the applicant resides, is  
17 principally employed or has his or her principal place of business as  
18 merchant or storekeeper; and, in the case of a license as gunsmith or  
19 dealer in firearms, to the licensing officer where such place of busi-  
20 ness is located. Blank applications shall, except in the city of New  
21 York, be approved as to form by the ~~[superintendent of state police]~~  
22 division of criminal justice services. An application shall state the  
23 full name, date of birth, residence, present occupation of each person  
24 or individual signing the same, whether or not he or she is a citizen of  
25 the United States, whether or not he or she complies with each require-  
26 ment for eligibility specified in subdivision one of this section and  
27 such other facts as may be required to show the good character, compe-  
28 tency and integrity of each person or individual signing the applica-  
29 tion. An application shall be signed and verified by the applicant. Each  
30 individual signing an application shall submit one photograph of himself  
31 or herself and a duplicate for each required copy of the application.  
32 Such photographs shall have been taken within thirty days prior to  
33 filing the application. In case of a license as gunsmith or dealer in  
34 firearms, the photographs submitted shall be two inches square, and the  
35 application shall also state the previous occupation of each individual  
36 signing the same and the location of the place of such business, or of  
37 the bureau, agency, subagency, office or branch office for which the  
38 license is sought, specifying the name of the city, town or village,  
39 indicating the street and number and otherwise giving such apt  
40 description as to point out reasonably the location thereof. In such  
41 case, if the applicant is a firm, partnership or corporation, its name,  
42 date and place of formation, and principal place of business shall be  
43 stated. For such firm or partnership, the application shall be signed  
44 and verified by each individual composing or intending to compose the  
45 same, and for such corporation, by each officer thereof.

46 4. Investigation. Before a license is issued or renewed, there shall  
47 be an investigation of all statements required in the application by the  
48 duly constituted police authorities of the locality where such applica-  
49 tion is made, including but not limited to such records as may be acces-  
50 sible to the division of ~~[state police or division of]~~ criminal justice  
51 services pursuant to section 400.02 of this article. For that purpose,  
52 the records of the appropriate office of the department of mental  
53 hygiene concerning previous or present mental illness of the applicant  
54 shall be available for inspection by the investigating officer of the  
55 police authority. Where the applicant is domiciled in a foreign state,  
56 the investigation shall include inquiry of the foreign state for records

1 concerning the previous or present mental illness of the applicant, and,  
2 to the extent necessary for inspection by the investigating officer, the  
3 applicant shall execute a waiver of confidentiality of such record in  
4 such form as may be required by the foreign state. In order to ascertain  
5 any previous criminal record, the investigating officer shall take the  
6 fingerprints and physical descriptive data in quadruplicate of each  
7 individual by whom the application is signed and verified. Two copies of  
8 such fingerprints shall be taken on standard fingerprint cards eight  
9 inches square, and one copy may be taken on a card supplied for that  
10 purpose by the federal bureau of investigation; provided, however, that  
11 in the case of a corporate applicant that has already been issued a  
12 dealer in firearms license and seeks to operate a firearm dealership at  
13 a second or subsequent location, the original fingerprints on file may  
14 be used to ascertain any criminal record in the second or subsequent  
15 application unless any of the corporate officers have changed since the  
16 prior application, in which case the new corporate officer shall comply  
17 with procedures governing an initial application for such license. When  
18 completed, one standard card shall be forwarded to and retained by the  
19 division of criminal justice services in the executive department, at  
20 Albany. A search of the files of such division and written notification  
21 of the results of the search shall be forwarded to the investigating  
22 officer and shall be made without unnecessary delay. Thereafter, such  
23 division shall notify the licensing officer and the executive depart-  
24 ment, division of [~~state police~~] criminal justice services, Albany, of  
25 any criminal record of the applicant filed therein subsequent to the  
26 search of its files. A second standard card, or the one supplied by the  
27 federal bureau of investigation, as the case may be, shall be forwarded  
28 to that bureau at Washington with a request that the files of the bureau  
29 be searched and notification of the results of the search be made to the  
30 investigating police authority. Of the remaining two fingerprint cards,  
31 one shall be filed with the executive department, division of [~~state~~  
32 ~~police~~] criminal justice services, Albany, within ten days after issu-  
33 ance of the license, and the other shall remain on file with the inves-  
34 tigating police authority. No such fingerprints may be inspected by any  
35 person other than a peace officer, who is acting pursuant to his or her  
36 special duties, or a police officer, except on order of a judge or  
37 justice of a court of record either upon notice to the licensee or with-  
38 out notice, as the judge or justice may deem appropriate. Upon  
39 completion of the investigation, the police authority shall report the  
40 results to the licensing officer without unnecessary delay.

41 7. License: form. Any license issued pursuant to this section shall,  
42 except in the city of New York, be approved as to form by the [~~super-~~  
43 ~~intendent of state police~~] division of criminal justice services. A  
44 license to carry or possess a pistol or revolver or to purchase or take  
45 possession of a semiautomatic rifle shall have attached the licensee's  
46 photograph, and a coupon which shall be removed and retained by any  
47 person disposing of a firearm to the licensee. A license to carry or  
48 possess a pistol or revolver shall specify the weapon covered by cali-  
49 bre, make, model, manufacturer's name and serial number, or if none, by  
50 any other distinguishing number or identification mark, and shall indi-  
51 cate whether issued to carry on the person or possess on the premises,  
52 and if on the premises shall also specify the place where the licensee  
53 shall possess the same. If such license is issued to a noncitizen, or to  
54 a person not a citizen of and usually a resident in the state, the  
55 licensing officer shall state in the license the particular reason for  
56 the issuance and the names of the persons certifying to the good charac-

1 ter of the applicant. Any license as gunsmith or dealer in firearms  
2 shall mention and describe the premises for which it is issued and shall  
3 be valid only for such premises.

4 9. License: amendment. Elsewhere than in the city of New York, a  
5 person licensed to carry or possess a pistol or revolver or to purchase  
6 or take possession of a semiautomatic rifle may apply at any time to his  
7 or her licensing officer for amendment of his or her license to include  
8 one or more such weapons or to cancel weapons held under license. If  
9 granted, a record of the amendment describing the weapons involved shall  
10 be filed by the licensing officer in the executive department, division  
11 of [~~state police~~] criminal justice services, Albany. The [~~superintendent~~  
12 ~~of state police~~] division of criminal justice services may authorize  
13 that such amendment be completed and transmitted to the [~~state police~~]  
14 division in electronic form. Notification of any change of residence  
15 shall be made in writing by any licensee within ten days after such  
16 change occurs, and a record of such change shall be inscribed by such  
17 licensee on the reverse side of his or her license. Elsewhere than in  
18 the city of New York, and in the counties of Nassau and Suffolk, such  
19 notification shall be made to the executive department, division of  
20 [~~state police~~] criminal justice services, Albany, and in the city of New  
21 York to the police commissioner of that city, and in the county of  
22 Nassau to the police commissioner of that county, and in the county of  
23 Suffolk to the licensing officer of that county, who shall, within ten  
24 days after such notification shall be received by him or her, give  
25 notice in writing of such change to the executive department, division  
26 of [~~state police~~] criminal justice services, at Albany.

27 10. License: expiration, certification and renewal. (a) Any license  
28 for gunsmith or dealer in firearms and, in the city of New York, any  
29 license to carry or possess a pistol or revolver, issued at any time  
30 pursuant to this section or prior to the first day of July, nineteen  
31 hundred sixty-three and not limited to expire on an earlier date fixed  
32 in the license, shall, except as otherwise provided in paragraph (d) of  
33 this subdivision, expire not more than three years after the date of  
34 issuance. In the counties of Nassau, Suffolk and Westchester, any  
35 license to carry or possess a pistol or revolver, issued at any time  
36 pursuant to this section or prior to the first day of July, nineteen  
37 hundred sixty-three and not limited to expire on an earlier date fixed  
38 in the license, shall expire not more than five years after the date of  
39 issuance; however, in the county of Westchester, any such license shall  
40 be certified prior to the first day of April, two thousand, in accord-  
41 ance with a schedule to be contained in regulations promulgated by the  
42 commissioner of the division of criminal justice services, and every  
43 such license shall, except as otherwise provided in paragraph (d) of  
44 this subdivision, be recertified every five years thereafter. For  
45 purposes of this section certification shall mean that the licensee  
46 shall provide to the licensing officer the following information only:  
47 current name, date of birth, current address, and the make, model, cali-  
48 ber and serial number of all firearms currently possessed. Such certif-  
49 ication information shall be filed by the licensing officer in the same  
50 manner as an amendment. Elsewhere than in the city of New York and the  
51 counties of Nassau, Suffolk and Westchester, any license to carry or  
52 possess a pistol or revolver, issued at any time pursuant to this  
53 section or prior to the first day of July, nineteen hundred sixty-three  
54 and not previously revoked or cancelled, shall be in force and effect  
55 until revoked as herein provided. Any license not previously cancelled  
56 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 at three 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]~~ criminal justice services 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]~~ division of criminal justice services shall send a notice to all license holders who have not recertified by such time. ~~[Such recertification shall be in a form as approved by the superintendent of state police, which shall request the license holder's name, date of birth, gender, race, residential address, social security number, firearms possessed by such license holder, email address at the option of the license holder and an affirmation that such license holder is not prohibited from possessing firearms.]~~ Recertification shall contain the information and shall be in the form set forth hereinbelow:

#### RECERTIFICATION

1. Name

2. Date of Birth

3. Gender

4. Race

5. Residential Address

6. Social Security Number

7. Email Address (optional)

8. List all firearms possessed on license:

Upon receipt of the completed recertification form, the licensing officer will compare the information provided with the information maintained by the licensing officer for such license holder, and promptly notify the license holder of any discrepancies that may exist, and provide instruction as to applying for an amendment pursuant to subdivision nine of this section. After the resolution of any pending applications for amendments, the licensing officer shall retain a copy of the recertification and a copy shall be filed by the licensing officer in the executive department, division of criminal justice services, Albany, within ten days. The form may be in an electronic form if so designated by the ~~[superintendent of state police]~~ division of criminal justice services. Failure to recertify shall act as a revocation of such license. If the ~~[New York state police]~~ division shall discover as a

1 result of the recertification process that a licensee failed to provide  
2 a change of address, the ~~[New York state police]~~ division of criminal  
3 justice services shall not require the licensing officer to revoke such  
4 license.

5 (c) A license to purchase or take possession of a semiautomatic rifle  
6 as defined in subdivision two of this section shall be recertified to  
7 the applicable licensing officer every five years following the issuance  
8 of such license. Failure to renew such a license shall be a violation  
9 punishable by a fine not to exceed two hundred fifty dollars, and such  
10 failure to renew shall be considered by the licensing officer when  
11 reviewing future license applications by the license holder pursuant to  
12 this chapter.

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

21 16-a. Registration. (a) An owner of a weapon defined in paragraph (e)  
22 or (f) of subdivision twenty-two of section 265.00 of this chapter,  
23 possessed before the date of the effective date of ~~[the]~~ chapter one of  
24 the laws of two thousand thirteen ~~[which added this paragraph]~~, must  
25 make an application to register such weapon with the ~~[superintendent of~~  
26 ~~state police]~~ division of criminal justice services, in the manner  
27 provided by the ~~[superintendent]~~ division of criminal justice services,  
28 or by amending a license issued pursuant to this section within one year  
29 of the effective date of this subdivision except any weapon defined  
30 under subparagraph (vi) of paragraph (g) of subdivision twenty-two of  
31 section 265.00 of this chapter transferred into the state may be regis-  
32 tered at any time, provided such weapons are registered within thirty  
33 days of their transfer into the state. Registration information shall  
34 include the registrant's name, date of birth, gender, race, residential  
35 address, social security number and a description of each weapon being  
36 registered. A registration of any weapon defined under subparagraph (vi)  
37 of paragraph (g) of subdivision twenty-two of section 265.00 or a feed-  
38 ing device as defined under subdivision twenty-three of section 265.00  
39 of this chapter shall be transferable, provided that the seller notifies  
40 the ~~[state police]~~ division of criminal justice services within seven-  
41 ty-two hours of the transfer and the buyer provides the ~~[state police]~~  
42 division of criminal justice services with information sufficient to  
43 constitute a registration under this section. Such registration shall  
44 not be valid if such registrant is prohibited or becomes prohibited from  
45 possessing a firearm pursuant to state or federal law. The ~~[superinten-~~  
46 ~~dent]~~ division of criminal justice services shall determine whether such  
47 registrant is prohibited from possessing a firearm under state or feder-  
48 al law. Such check shall be limited to determining whether the factors  
49 in 18 USC 922 (g) apply or whether a registrant has been convicted of a  
50 serious offense as defined in subdivision ~~[sixteen-b]~~ seventeen of  
51 section 265.00 of this chapter, so as to prohibit such registrant from  
52 possessing a firearm, and whether a report has been issued pursuant to  
53 section 9.46 of the mental hygiene law. All registrants shall recertify  
54 to the division of ~~[state police]~~ criminal justice services every five  
55 years thereafter. Failure to recertify shall result in a revocation of  
56 such registration.

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

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

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

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

§ 9. Section 400.02 of the penal law, as amended by chapter 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]~~ criminal justice services the cost of which shall not be borne by any municipality. Records assembled or collected for purposes of inclusion in such database shall not be subject to disclosure pursuant to article six of the public officers law. 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 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

1 shall cooperate with the division of criminal justice services, as  
2 otherwise authorized by law, in making their records available for such  
3 checks. The division of criminal justice services, upon determining that  
4 an individual is ineligible to possess a license, or is no longer a  
5 valid license holder, shall notify the applicable licensing official of  
6 such determination and such licensing official shall not issue a license  
7 or shall revoke such license and any weapons owned or possessed by such  
8 individual shall be removed consistent with the provisions of subdivi-  
9 sion eleven of section 400.00 of this article. Local and state law  
10 enforcement shall have access to such database in the performance of  
11 their duties. Records assembled or collected for purposes of inclusion  
12 in the database established by this section shall be released pursuant  
13 to a court order.

14 2. There shall be a statewide license and record database specific for  
15 ammunition sales which shall be created and maintained by the division  
16 of ~~[state police]~~ criminal justice services the cost of which shall not  
17 be borne by any municipality no later than thirty days upon designating  
18 the division of state police as the point of contact to perform both  
19 firearm and ammunition background checks under federal and state law.  
20 Records assembled or collected for purposes of inclusion in such data-  
21 base shall not be subject to disclosure pursuant to article six of the  
22 public officers law. All records containing granted license applications  
23 from all licensing authorities shall be monthly checked by the division  
24 of criminal justice services ~~[in conjunction with the division of state~~  
25 ~~police]~~ against criminal conviction, criminal indictments, mental  
26 health, extreme risk protection orders, orders of protection, and all  
27 other records as are necessary to determine their continued accuracy as  
28 well as whether an individual is no longer a valid license holder. The  
29 division of criminal justice services shall also check pending applica-  
30 tions made pursuant to this article against such records to determine  
31 whether a license may be granted. All state and local agencies shall  
32 cooperate with the division of criminal justice services, as otherwise  
33 authorized by law, in making their records available for such checks. No  
34 later than thirty days after the ~~[superintendent of the state police]~~  
35 division certifies that the statewide license and record database estab-  
36 lished pursuant to this section and the statewide license and record  
37 database established for ammunition sales are operational for the  
38 purposes of this section, a dealer in firearms licensed pursuant to  
39 section 400.00 of this article, a seller of ammunition as defined in  
40 subdivision twenty-four of section 265.00 of this chapter shall not  
41 transfer any ammunition to any other person who is not a dealer in  
42 firearms as defined in subdivision nine of such section 265.00 or a  
43 seller of ammunition as defined in subdivision twenty-four of section  
44 265.00 of this chapter, unless:

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

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

54 (c) the transferor has verified the identity of the transferee by  
55 examining a valid state identification document of the transferee issued  
56 by the department of motor vehicles or if the transferee is not a resi-

1 dent of the state of New York, a valid identification document issued by  
2 the transferee's state or country of residence containing a photograph  
3 of the transferee.

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

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

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