§ 400.03 Sellers of ammunition.

1. A seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter shall register with the superintendent of state police in a manner provided by the superintendent. Any dealer in firearms that is validly licensed pursuant to section 400.00 of this article shall not be required to complete such registration.

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 approved as to form by the superintendent of state police. In the record 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.

3. No later than thirty days after the superintendent of the state police certifies that the statewide license and record database established pursuant to section 400.02 of this article is 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, calibre, manufacturer's name and serial number, if any, of such ammunition;

(b) the system provides the licensee or seller 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.

4. If the database determines that the purchaser of ammunition is eligible to possess ammunition pursuant to state and federal laws, the system shall:

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

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

5. If the statewide license and record database notifies the licensee or seller that the information available to the database does not demonstrate that the receipt of ammunition by such other person would violate 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to such other person, the licensee shall indicate to the database that such transaction has been completed at which point a record of such transaction shall be created which shall be accessible by the division of state police and maintained for no longer than one year from point of purchase, which shall not be incorporated into the database established pursuant to section 400.02 of this article or the registry established pursuant to subdivision sixteen-a of section 400.00 of this article. The division of state police may share such information with a local law enforcement agency. Evidence of the purchase of ammunition is not sufficient to establish probable cause to believe that the purchaser has committed a crime absent other information tending to prove the commission of a crime. Records assembled or accessed pursuant to this section shall not be subject to disclosure pursuant to article six of the public officers law. This requirement of this section shall not apply (i) if a background check cannot be completed because the system is not operational as determined by the superintendent of state police, or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation, or (ii) a dealer or seller has been granted a waiver from

conducting such background check if the superintendent of state police determines that such dealer is incapable of such check due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of such superintendent.

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, a dealer or seller shall contact the division of state police to conduct such check which shall be sufficient to satisfy subdivisions four and five of this section.

7. No commercial transfer of ammunition shall take place unless a licensed dealer in firearms or registered seller of ammunition acts as an intermediary between the transferor and the ultimate transferee of the ammunition for the purposes of contacting the statewide license and record database pursuant to this section. Such transfer between the dealer or seller, and transferee must occur in person.

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

9. Any ammunition background check required under this section shall be denied if it is determined that the ammunition purchaser is prohibited from possessing a shotgun or rifle pursuant to this chapter, subsection (g) of section 922 of Title 18 of the United States Code, or a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules.

A seller of ammunition that fails to keep any record required pursuant to this section, for a first offense shall be guilty of a violation and subject to a fine of five hundred dollars, and for a second offense

shall be guilty of a class B misdemeanor, and the registration of such seller shall be revoked.