

EXTRAORDINARY SESSION #1

Legislative Bill Drafting Commission
12053-04-2

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PENALA

(Relates to licensing and other
provisions relating to firearms)

Pen L. licensing of firearms

AN ACT

to amend the penal law, the general
business law, the executive law, the
civil practice law and rules and the
state finance law, in relation to
licensing and other provisions
relating to firearms

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

| | | | | |
|--------------|---------------|---------------|---------------|---------------|
| s15 Addabbo | s17 Felder | s07 Kaplan | s58 O'Mara | s10 Sanders |
| s52 Akshar | s59 Gallivan | s26 Kavanagh | s62 Ortt | s23 Savino |
| s36 Bailey | s05 Gaughran | s63 Kennedy | s01 Palumbo | s32 Sepulveda |
| s34 Biaggi | s12 Gianaris | s28 Krueger | s21 Parker | s41 Serino |
| s57 Borrello | s22 Gounardes | s24 Lanza | s19 Persaud | s29 Serrano |
| s04 Boyle | s47 Griffo | s11 Liu | s13 Ramos | s39 Skoufis |
| s44 Breslin | s40 Harckham | s50 Mannion | s61 Rath | s16 Stavisky |
| s25 Brisport | s54 Helming | s42 Martucci | s38 Reichlin- | s45 Stec |
| s08 Brooks | s46 Hinchey | s02 Mattera | Melnick | s35 Stewart- |
| s55 Brouk | s27 Hoylman | s53 May | s48 Ritchie | Cousins |
| s30 Cleare | s31 Jackson | s37 Mayer | s33 Rivera | s49 Tedisco |
| s14 Comrie | s43 Jordan | s20 Myrie | s60 Ryan | s06 Thomas |
| s56 Cooney | s09 Kaminsky | s51 Oberacker | s18 Salazar | s03 Weik |

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

| | | | | |
|------------------|--------------------|------------------|--------------------|-------------------|
| a049 Abbate | a032 Cook | a066 Glick | a014 McDonough | a121 Salka |
| a092 Abinanti | a039 Cruz | a034 Gonzalez- | a146 McMahon | a111 Santabarbara |
| a031 Anderson | a043 Cunningham | Rojas | a137 Meeks | a090 Sayegh |
| a122 Angelino | a063 Cusick | a150 Goodell | a017 Mikulins | a099 Schmitt |
| a107 Ashby | a045 Cymbrowitz | a075 Gottfried | a101 Miller, B. | a076 Seawright |
| a035 Aubry | a018 Darling | a021 Griffin | a051 Mitaynes | a084 Septimo |
| a120 Barclay | a053 Davila | a100 Gunther | a015 Montesano | a016 Sillitti |
| a030 Barnwell | a072 De Los Santos | a139 Hawley | a145 Morinello | a052 Simon |
| a106 Barrett | a003 DeStefano | a083 Heastie | a065 Niou | a114 Simpson |
| a082 Benedetto | a070 Dickens | a028 Hevesi | a037 Nolan | a005 Smith |
| a042 Bichotte | a054 Dilan | a128 Hunter | a144 Norris | a118 Smullen |
| Hermelyn | a081 Dinowitz | a029 Hyndman | a069 O'Donnell | a022 Solages |
| a117 Blankenbush | a147 DiPietro | a079 Jackson | a091 Otis | a110 Steck |
| a098 Brabenec | a009 Durso | a104 Jacobson | a132 Palmesano | a010 Stern |
| a026 Braunstein | a048 Eichenstein | a011 Jean-Pierre | a088 Paulin | a127 Stirpe |
| a138 Bronson | a004 Englebright | a134 Jensen | a141 Peoples- | a102 Tague |
| a020 Brown, E. | a074 Epstein | a115 Jones | Stokes | a064 Tannousis |
| a012 Brown, K. | a109 Fahy | a077 Joyner | a023 Pheffer | a086 Tapia |
| a093 Burdick | a061 Fall | a125 Kelles | Amato | a071 Taylor |
| a085 Burgos | a080 Fernandez | a040 Kim | a089 Pretlow | a001 Thiele |
| a142 Burke | a008 Fitzpatrick | a105 Lalor | a073 Quart | a033 Vanel |
| a119 Buttenschon | a057 Forrest | a013 Lavine | a019 Ra | a116 Walczyk |
| a094 Byrne | a124 Friend | a097 Lawler | a038 Rajkumar | a055 Walker |
| a133 Byrnes | a046 Frontus | a126 Lemondes | a006 Ramos | a143 Wallace |
| a103 Cahill | a095 Galef | a060 Lucas | a062 Reilly | a112 Walsh |
| a044 Carroll | a050 Gallagher | a135 Lunsford | a087 Reyes | a041 Weinstein |
| a058 Chandler- | a131 Gallahan | a123 Lupardo | a078 Rivera, J. | a024 Weprin |
| Waterman | a007 Gandolfo | a129 Magnarelli | a149 Rivera, J.D. | a059 Williams |
| a136 Clark | a068 Gibbs | a036 Marndani | a027 Rosenthal, D. | a113 Woerner |
| a047 Colton | a002 Giglio, J.A. | a130 Manktelow | a067 Rosenthal, L. | a096 Zebrowski |
| a140 Conrad | a148 Giglio, J.M. | a108 McDonald | a025 Rozic | a056 Zinerman |

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 6 copies of memorandum in support (uni-bill).

LBDC 05/31/22

07/01/22

2

12053-04-2

1 Section 1. The section heading and subdivisions 1, 1-a, 2, 4, 4-a,
2 4-b, 10 and 11 of section 400.00 of the penal law, subdivisions 1 and 10
3 as amended by chapter 1 of the laws of 2013, paragraph (c) of subdivi-
4 sion 1 as amended by chapter 60 of the laws of 2018, paragraph (j) of
5 subdivision 1 as amended by chapter 208 of the laws of 2022, subdivision
6 1-a as added by section 2 of part N of chapter 55 of the laws of 2020,
7 subdivision 2 as amended by chapter 212 of the laws of 2022, subdivision
8 4 as amended by chapter 242 of the laws of 2019, subdivision 4-a as
9 added by chapter 233 of the laws of 1980, subdivision 4-b as added by
10 chapter 446 of the laws of 1997, paragraph (c) of subdivision 10 as
11 added by chapter 212 of the laws of 2022, subdivision 11 as amended by
12 chapter 207 of the laws of 2022, are amended and a new subdivision 4-c
13 is added to read as follows:

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

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

07/01/22

3

12053-04-2

1 subject of an outstanding warrant of arrest issued upon the alleged
2 commission of a felony or serious offense; (d) who is not a fugitive
3 from justice; (e) who is not an unlawful user of or addicted to any
4 controlled substance as defined in section 21 U.S.C. 802; (f) who being
5 an alien (i) is not illegally or unlawfully in the United States or (ii)
6 has not been admitted to the United States under a nonimmigrant visa
7 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
8 discharged from the Armed Forces under dishonorable conditions; (h) who,
9 having been a citizen of the United States, has not renounced his or her
10 citizenship; (i) who has stated whether he or she has ever suffered any
11 mental illness; (j) who has not been involuntarily committed to a facil-
12 ity under the jurisdiction of an office of the department of mental
13 hygiene pursuant to article nine or fifteen of the mental hygiene law,
14 article seven hundred thirty or section 330.20 of the criminal procedure
15 law or substantially similar laws of any other state, section four
16 hundred two or five hundred eight of the correction law, section 322.2
17 or 353.4 of the family court act, has not been civilly confined in a
18 secure treatment facility pursuant to article ten of the mental hygiene
19 law, or has not been the subject of a report made pursuant to section
20 9.46 of the mental hygiene law; (k) who has not had a license revoked or
21 who is not under a suspension or ineligibility order issued pursuant to
22 the provisions of section 530.14 of the criminal procedure law or
23 section eight hundred forty-two-a of the family court act; (l) in the
24 county of Westchester, who has successfully completed a firearms safety
25 course and test as evidenced by a certificate of completion issued in
26 his or her name and endorsed and affirmed under the penalties of perjury
27 by a duly authorized instructor, except that: (i) persons who are honor-
28 ably discharged from the United States army, navy, marine corps or coast

07/01/22

4

12053-04-2

1 guard, or of the national guard of the state of New York, and produce
2 evidence of official qualification in firearms during the term of
3 service are not required to have completed those hours of a firearms
4 safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; [and] (ii) persons who were licensed to
5 possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and
6 test, provided, however, persons with a license issued under paragraph
7 (f) of subdivision two of this section prior to the effective date of
8 the laws of two thousand twenty-two which amended this paragraph shall
9 be required to complete the training required by subdivision nineteen of
10 this section prior to the recertification of such license; and (iii)
11 persons applying for a license under paragraph (f) of subdivision two of
12 this section on or after the effective date of the chapter of the laws
13 of two thousand twenty-two which amended this paragraph who shall be
14 required to complete the training required under subdivision nineteen of
15 this section for such license; (m) who has not had a guardian appointed
16 for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental
17 illness, incompetency, incapacity, condition or disease, he or she lacks
18 the mental capacity to contract or manage his or her own affairs; [and
19 (n) concerning whom no good cause exists for the denial of the license.]
20 (n) for a license issued under paragraph (f) of subdivision two of this
21 section, that the applicant has not been convicted within five years of
22 the date of the application of any of the following: (i) assault in
23 the third degree, as defined in section 120.00 of this chapter; (ii)
24 misdemeanor driving while intoxicated, as defined in section eleven
25 hundred ninety-two of the vehicle and traffic law; or (iii) menacing, as

07/01/22

5

12053-04-2

1 defined in section 120.15 of this chapter; and (o) for a license issued
2 under paragraph (f) of subdivision two of this section, the applicant
3 shall meet in person with the licensing officer for an interview and
4 shall, in addition to any other information or forms required by the
5 license application submit to the licensing officer the following infor-
6 mation: (i) names and contact information for the applicant's
7 current spouse, or domestic partner, any other adults residing in the
8 applicant's home, including any adult children of the applicant, and
9 whether or not there are minors residing, full time or part time, in the
10 applicant's home; (ii) names and contact information of no less than
11 four character references who can attest to the applicant's good
12 moral character and that such applicant has not engaged in any acts, or
13 made any statements that suggest they are likely to engage in conduct
14 that would result in harm to themselves or others; (iii) certification
15 of completion of the training required in subdivision nineteen of this
16 section; (iv) a list of former and current social media accounts of
17 the applicant from the past three years to confirm the information
18 regarding the applicants character and conduct as required in subpara-
19 graph (ii) of this paragraph; and (v) such other information required by
20 the licensing officer that is reasonably necessary and related to the
21 review of the licensing application.

22 1-a. No person shall engage in the business of gunsmith or dealer in
23 firearms unless licensed pursuant to this section. An applicant to
24 engage in such business shall also be a citizen of the United States,
25 more than twenty-one years of age and shall be required to maintain a
26 place of business in the city or county where the license is issued. For
27 such business, if the applicant is a firm or partnership, each member
28 thereof shall comply with all of the requirements set forth in this

07/01/22

6

12053-04-2

1 subdivision and if the applicant is a corporation, each officer thereof
2 shall so comply.

3 [1-a.] 1-b. For purposes of subdivision one of this section, serious
4 offense shall include an offense in any jurisdiction or the former penal
5 law that includes all of the essential elements of a serious offense as
6 defined by subdivision seventeen of section 265.00 of this chapter.
7 Nothing in this subdivision shall preclude the denial of a license based
8 on the commission of, arrest for or conviction of an offense in any
9 other jurisdiction which does not include all of the essential elements
10 of a serious offense.

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

07/01/22

7

12053-04-2

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

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

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

19 4. Investigation. Before a license is issued or renewed, there shall
20 be an investigation of all statements required in the application by the
21 duly constituted police authorities of the locality where such applica-
22 tion is made, including but not limited to such records as may be acces-
23 sible to the division of state police or division of criminal justice
24 services pursuant to section 400.02 of this article. For that purpose,
25 the records of the appropriate office of the department of mental
26 hygiene concerning previous or present mental illness of the applicant
27 shall be available for inspection by the investigating officer of the
28 police authority. Where the applicant is domiciled in a foreign state,

07/01/22

8

12053-04-2

1 the investigation shall include inquiry of the foreign state for records
2 concerning the previous or present mental illness of the applicant, and,
3 to the extent necessary for inspection by the investigating officer, the
4 applicant shall execute a waiver of confidentiality of such record in
5 such form as may be required by the foreign state. In order to ascertain
6 any previous criminal record, the investigating officer shall take the
7 fingerprints and physical descriptive data in quadruplicate of each
8 individual by whom the application is signed and verified. Two copies of
9 such fingerprints shall be taken on standard fingerprint cards eight
10 inches square, and one copy may be taken on a card supplied for that
11 purpose by the federal bureau of investigation; provided, however, that
12 in the case of a corporate applicant that has already been issued a
13 dealer in firearms license and seeks to operate a firearm dealership at
14 a second or subsequent location, the original fingerprints on file may
15 be used to ascertain any criminal record in the second or subsequent
16 application unless any of the corporate officers have changed since the
17 prior application, in which case the new corporate officer shall comply
18 with procedures governing an initial application for such license. When
19 completed, one standard card shall be forwarded to and retained by the
20 division of criminal justice services in the executive department, at
21 Albany. A search of the files of such division and written notification
22 of the results of the search shall be forwarded to the investigating
23 officer and shall be made without unnecessary delay. Thereafter, such
24 division shall notify the licensing officer and the executive depart-
25 ment, division of state police, Albany, of any criminal record of the
26 applicant filed therein subsequent to the search of its files. A second
27 standard card, or the one supplied by the federal bureau of investi-
28 gation, as the case may be, shall be forwarded to that bureau at Wash-

07/01/22

9

12053-04-2

1 ington with a request that the files of the bureau be searched and
2 notification of the results of the search be made to the investigating
3 police authority. Of the remaining two fingerprint cards, one shall be
4 filed with the executive department, division of state police, Albany,
5 within ten days after issuance of the license, and the other shall
6 remain on file with the investigating police authority. No such finger-
7 prints may be inspected by any person other than a peace officer, who is
8 acting pursuant to his or her special duties, or a police officer,
9 except on order of a judge or justice of a court of record either upon
10 notice to the licensee or without notice, as the judge or justice may
11 deem appropriate. Upon completion of the investigation, the police
12 authority shall report the results to the licensing officer without
13 unnecessary delay.

14 4-a. Appeals from denial of an application, renewal, recertification
15 or license revocation. If an application for a license is denied, not
16 renewed, not recertified, or revoked, the licensing officer shall issue
17 a written notice to the applicant setting forth the reasons for such
18 denial. An applicant may, within ninety days of receipt of such notice,
19 request a hearing to appeal the denial to the appeals board created by
20 the division of criminal justice services and the superintendent of
21 state police. An individual may be represented by counsel at any appear-
22 ance before the appeals board and shall be afforded an opportunity to
23 present additional evidence in support of their application. The
24 commissioner of criminal justice services and the superintendent of
25 state police shall promulgate rules and regulations governing such
26 appeals process.

27 4-b. Processing of license applications. Applications for licenses
28 shall be accepted for processing by the licensing officer at the time of

07/01/22

10

12053-04-2

1 presentment. Except upon written notice to the applicant specifically
2 stating the reasons for any delay, in each case the licensing officer
3 shall act upon any application for a license pursuant to this section
4 within six months of the date of presentment of such an application to
5 the appropriate authority. Such delay may only be for good cause and
6 with respect to the applicant. In acting upon an application, the
7 licensing officer shall either deny the application for reasons specif-
8 ically and concisely stated in writing or grant the application and
9 issue the license applied for.

10 [4-b.] 4-c. Westchester county firearms safety course certificate. In
11 the county of Westchester, at the time of application, the licensing
12 officer to which the license application is made shall provide a copy of
13 the safety course booklet to each license applicant. Before such license
14 is issued, such licensing officer shall require that the applicant
15 submit a certificate of successful completion of a firearms safety
16 course and test issued in his or her name and endorsed and affirmed
17 under the penalties of perjury by a duly authorized instructor.

18 10. License: expiration, certification and renewal. (a) Any license
19 for gunsmith or dealer in firearms and, in the city of New York, any
20 license to carry or possess a pistol or revolver, issued at any time
21 pursuant to this section or prior to the first day of July, nineteen
22 hundred sixty-three and not limited to expire on an earlier date fixed
23 in the license, shall, except as otherwise provided in paragraph (d) of
24 this subdivision, expire not more than three years after the date of
25 issuance. In the counties of Nassau, Suffolk and Westchester, any
26 license to carry or possess a pistol or revolver, issued at any time
27 pursuant to this section or prior to the first day of July, nineteen
28 hundred sixty-three and not limited to expire on an earlier date fixed

07/01/22

11

12053-04-2

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

07/01/22

12

12053-04-2

1 from the possession of the licensee and upon application containing an
2 additional photograph of the licensee, the licensing officer shall issue
3 a duplicate license.

4 (b) All licensees shall be recertified to the division of state police
5 every five years thereafter, except as otherwise provided in paragraph
6 (d) of this subdivision. Any license issued before the effective date of
7 the chapter of the laws of two thousand thirteen which added this para-
8 graph shall be recertified by the licensee on or before January thirty-
9 first, two thousand eighteen, and not less than one year prior to such
10 date, the state police shall send a notice to all license holders who
11 have not recertified by such time. Such recertification shall be in a
12 form as approved by the superintendent of state police, which shall
13 request the license holder's name, date of birth, gender, race, residen-
14 tial address, social security number, firearms possessed by such license
15 holder, email address at the option of the license holder and an affir-
16 mation that such license holder is not prohibited from possessing
17 firearms. The form may be in an electronic form if so designated by the
18 superintendent of state police. Failure to recertify shall act as a
19 revocation of such license. If the New York state police discover as a
20 result of the recertification process that a licensee failed to provide
21 a change of address, the New York state police shall not require the
22 licensing officer to revoke such license.

23 (c) A license to purchase or take possession of a semiautomatic rifle
24 as defined in subdivision two of this section shall be recertified to
25 the applicable licensing officer every five years following the issuance
26 of such license. Failure to renew such a license shall be a violation
27 punishable by a fine not to exceed two hundred fifty dollars, and such
28 failure to renew shall be considered by the licensing officer when

07/01/22

13

12053-04-2

1 reviewing future license applications by the license holder pursuant to
2 this chapter.

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

11 11. License: revocation and suspension. (a) The conviction of a licen-
12 see anywhere of a felony or serious offense or a licensee at any time
13 becoming ineligible to obtain a license [under this section shall oper-
14 ate as], including engaging in conduct that would have resulted in the
15 denial of a license, under this section shall operate as or be grounds
16 for, a revocation of the license. A license may be revoked or suspended
17 as provided for in section 530.14 of the criminal procedure law or
18 section eight hundred forty-two-a of the family court act. Except for a
19 license issued pursuant to section 400.01 of this article, a license may
20 be revoked and cancelled at any time in the city of New York, and in the
21 counties of Nassau and Suffolk, by the licensing officer, and elsewhere
22 than in the city of New York by any judge or justice of a court of
23 record; a license issued pursuant to section 400.01 of this article may
24 be revoked and cancelled at any time by the licensing officer or any
25 judge or justice of a court of record. A license to engage in the busi-
26 ness of dealer may be revoked or suspended for any violation of the
27 provisions of article thirty-nine-BB of the general business law. The
28 official revoking a license shall give written notice thereof without

07/01/22

14

12053-04-2

1 unnecessary delay to the executive department, division of state police,
2 Albany, and shall also notify immediately the duly constituted police
3 authorities of the locality. The licensing officer shall revoke any
4 license issued in which an applicant knowingly made a material false
5 statement on the application. Notice of a revocation under this subdi-
6 vision shall be issued in writing and shall include the basis for the
7 determination, which shall be supported by a preponderance of the
8 evidence. Such notice shall also include information regarding the abil-
9 ity to appeal such decision in accordance with subdivision four-a of
10 this section.

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

17 (c) In any instance in which a person's license is suspended or
18 revoked under paragraph (a) or (b) of this subdivision, such person
19 shall surrender such license to the appropriate licensing official and
20 any and all firearms, rifles, or shotguns owned or possessed by such
21 person shall be surrendered to an appropriate law enforcement agency as
22 provided in subparagraph (f) of paragraph one of subdivision a of
23 section 265.20 of this chapter. In the event such license, firearm,
24 shotgun, or rifle is not surrendered, such items shall be removed and
25 declared a nuisance and any police officer or peace officer acting
26 pursuant to his or her special duties is authorized to remove any and
27 all such weapons.

07/01/22

15

12053-04-2

1 § 2. Section 837 of the executive law is amended by adding a new
2 subdivision 23 to read as follows:

3 23. (a) In conjunction with the superintendent of the state police,
4 promulgate policies and procedures with regard to standardization of
5 firearms safety training required under subdivision nineteen of section
6 400.00 of the penal law, which shall include the approval of course
7 materials and promulgation of proficiency standards for live fire train-
8 ing; and

9 (b) In conjunction with the superintendent of state police, create an
10 appeals board for the purpose of hearing appeals as provided in subdivi-
11 sion four-a of section 400.00 of the penal law and promulgate rules and
12 regulations governing such appeals.

13 § 3. The executive law is amended by adding a new section 235 to read
14 as follows:

15 § 235. Firearms safety training, and licensing appeals. 1. The super-
16 intendent shall, in conjunction with the commissioner of the division of
17 criminal justice services, promulgate policies and procedures with
18 regard to standardization of firearms safety training required under
19 subdivision nineteen of section 400.00 of the penal law, which shall
20 include the approval of course materials and the promulgation of profi-
21 ciency standards for live fire training.

22 2. The superintendent, in conjunction with the commissioner of the
23 division of criminal justice services, shall create an appeals board for
24 the purpose of hearing appeals as provided in subdivision four-a of
25 section 400.00 of the penal law and promulgate rules and regulations
26 governing such appeals.

27 § 4. The penal law is amended by adding a new section 265.01-e to read
28 as follows:

07/01/22

16

12053-04-2

1 § 265.01-e Criminal possession of a firearm, rifle or shotgun in a
2 sensitive location.

3 1. A person is guilty of criminal possession of a firearm, rifle or
4 shotgun in a sensitive location when such person possesses a firearm,
5 rifle or shotgun in or upon a sensitive location, and such person knows
6 or reasonably should know such location is a sensitive location.

7 2. For the purposes of this section, a sensitive location shall mean:

8 (a) any place owned or under the control of federal, state or local
9 government, for the purpose of government administration, including
10 courts;

11 (b) any location providing health, behavioral health, or chemical
12 dependance care or services;

13 (c) any place of worship or religious observation;

14 (d) libraries, public playgrounds, public parks, and zoos;

15 (e) the location of any program licensed, regulated, certified, fund-
16 ed, or approved by the office of children and family services that
17 provides services to children, youth, or young adults, any legally
18 exempt childcare provider; a childcare program for which a permit to
19 operate such program has been issued by the department of health and
20 mental hygiene pursuant to the health code of the city of New York;

21 (f) nursery schools, preschools, and summer camps;

22 (g) the location of any program licensed, regulated, certified, oper-
23 ated, or funded by the office for people with developmental disabili-
24 ties;

25 (h) the location of any program licensed, regulated, certified, oper-
26 ated, or funded by office of addiction services and supports;

27 (i) the location of any program licensed, regulated, certified, oper-
28 ated, or funded by the office of mental health;

07/01/22

17

12053-04-2

1 (j) the location of any program licensed, regulated, certified, oper-
2 ated, or funded by the office of temporary and disability assistance;

3 (k) homeless shelters, runaway homeless youth shelters, family shel-
4 ters, shelters for adults, domestic violence shelters, and emergency
5 shelters, and residential programs for victims of domestic violence;

6 (l) residential settings licensed, certified, regulated, funded, or
7 operated by the department of health;

8 (m) in or upon any building or grounds, owned or leased, of any educa-
9 tional institutions, colleges and universities, licensed private career
10 schools, school districts, public schools, private schools licensed
11 under article one hundred one of the education law, charter schools,
12 non-public schools, board of cooperative educational services, special
13 act schools, preschool special education programs, private residential
14 or non-residential schools for the education of students with disabili-
15 ties, and any state-operated or state-supported schools;

16 (n) any place, conveyance, or vehicle used for public transportation
17 or public transit, subway cars, train cars, buses, ferries, railroad,
18 omnibus, marine or aviation transportation; or any facility used for or
19 in connection with service in the transportation of passengers,
20 airports, train stations, subway and rail stations, and bus terminals;

21 (o) any establishment issued a license for on-premise consumption
22 pursuant to article four, four-A, five, or six of the alcoholic beverage
23 control law where alcohol is consumed and any establishment licensed
24 under article four of the cannabis law for on-premise consumption;

25 (p) any place used for the performance, art entertainment, gaming, or
26 sporting events such as theaters, stadiums, racetracks, museums, amuse-
27 ment parks, performance venues, concerts, exhibits, conference centers,

07/01/22

18

12053-04-2

1 banquet halls, and gaming facilities and video lottery terminal facili-
2 ties as licensed by the gaming commission;

3 (q) any location being used as a polling place;

4 (r) any public sidewalk or other public area restricted from general
5 public access for a limited time or special event that has been issued a
6 permit for such time or event by a governmental entity, or subject to
7 specific, heightened law enforcement protection, or has otherwise had
8 such access restricted by a governmental entity, provided such location
9 is identified as such by clear and conspicuous signage;

10 (s) any gathering of individuals to collectively express their consti-
11 tutional rights to protest or assemble;

12 (t) the area commonly known as Times Square, as such area is deter-
13 mined and identified by the city of New York; provided such area shall
14 be clearly and conspicuously identified with signage.

15 3. This section shall not apply to:

16 (a) consistent with federal law, law enforcement who qualify to carry
17 under the federal law enforcement officers safety act, 18 U.S.C. 926C;

18 (b) persons who are police officers as defined in subdivision thirty-
19 four of section 1.20 of the criminal procedure law;

20 (c) persons who are designated peace officers by section 2.10 of the
21 criminal procedure law;

22 (d) persons who were employed as police officers as defined in subdi-
23 vision thirty-four of section 1.20 of the criminal procedure law but are
24 retired;

25 (e) security guards as defined by and registered under article seven-A
26 of the general business law, who have been granted a special armed
27 registration card, while at the location of their employment and during
28 their work hours as such a security guard;

07/01/22

19

12053-04-2

1 (f) active-duty military personnel;

2 (g) persons licensed under paragraph (c), (d) or (e) of subdivision
3 two of section 400.00 of this chapter while in the course of his or her
4 official duties;

5 (h) a government employee under the express written consent of such
6 employee's supervising government entity for the purposes of natural
7 resource protection and management;

8 (i) persons lawfully engaged in hunting activity, including hunter
9 education training; or

10 (j) persons operating a program in a sensitive location out of their
11 residence, as defined by this section, which is licensed, certified,
12 authorized, or funded by the state or a municipality, so long as such
13 possession is in compliance with any rules or regulations applicable to
14 the operation of such program and use or storage of firearms.

15 Criminal possession of a firearm, rifle or shotgun in a sensitive
16 location is a class E felony.

17 § 5. The penal law is amended by adding a new section 265.01-d to read
18 as follows:

19 § 265.01-d Criminal possession of a weapon in a restricted location.

20 1. A person is guilty of criminal possession of a weapon in a
21 restricted location when such person possesses a firearm, rifle, or
22 shotgun and enters into or remains on or in private property where such
23 person knows or reasonably should know that the owner or lessee of such
24 property has not permitted such possession by clear and conspicuous
25 signage indicating that the carrying of firearms, rifles, or shotguns on
26 their property is permitted or has otherwise given express consent.

27 2. This section shall not apply to:

07/01/22

20

12053-04-2

1 (a) police officers as defined in section 1.20 of the criminal proce-
2 dure law;

3 (b) persons who are designated peace officers as defined in section
4 2.10 of the criminal procedure law;

5 (c) persons who were employed as police officers as defined in section
6 1.20 of the criminal procedure law, but are retired;

7 (d) security guards as defined by and registered under article seven-A
8 of the general business law who has been granted a special armed regis-
9 tration card, while at the location of their employment and during their
10 work hours as such a security guard;

11 (e) active-duty military personnel;

12 (f) persons licensed under paragraph (c), (d) or (e) of subdivision
13 two of section 400.00 of this chapter while in the course of his or her
14 official duties; or

15 (g) persons lawfully engaged in hunting activity.

16 Criminal possession of a weapon in a restricted location is a class E
17 felony.

18 § 6. Subdivision a of section 265.20 of the penal law is amended by
19 adding a new paragraph 3-a to read as follows:

20 3-a. Possession of a pistol or revolver by a person undergoing live-
21 fire range training pursuant to section 400.00 of this chapter while
22 such person is undergoing such training and is supervised by a duly
23 authorized instructor.

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

26 § 400.02 Statewide license and record database.

27 1. There shall be a statewide license and record database which shall
28 be created and maintained by the division of state police the cost of

07/01/22

21

12053-04-2

1 which shall not be borne by any municipality. Records assembled or
2 collected for purposes of inclusion in such database shall not be
3 subject to disclosure pursuant to article six of the public officers
4 law. [Records] All records containing granted license applications from
5 all licensing authorities shall be [periodically] monthly checked by the
6 division of criminal justice services in conjunction with the division
7 of state police against criminal conviction, criminal indictment, mental
8 health, extreme risk protection orders, orders of protection, and all
9 other records as are necessary to determine their continued accuracy as
10 well as whether an individual is no longer a valid license holder. The
11 division of criminal justice services shall also check pending applica-
12 tions made pursuant to this article against such records to determine
13 whether a license may be granted. All state and local agencies shall
14 cooperate with the division of criminal justice services, as otherwise
15 authorized by law, in making their records available for such checks.
16 The division of criminal justice services, upon determining that an
17 individual is ineligible to possess a license, or is no longer a valid
18 license holder, shall notify the applicable licensing official of such
19 determination and such licensing official shall not issue a license or
20 shall revoke such license and any weapons owned or possessed by such
21 individual shall be removed consistent with the provisions of subdivi-
22 sion eleven of section 400.00 of this article. Local and state law
23 enforcement shall have access to such database in the performance of
24 their duties. Records assembled or collected for purposes of inclusion
25 in the database established by this section shall be released pursuant
26 to a court order.

27 2. There shall be a statewide license and record database specific for
28 ammunition sales which shall be created and maintained by the division

07/01/22

22

12053-04-2

1 of state police the cost of which shall not be borne by any municipality
2 no later than thirty days upon designating the division of state police
3 as the point of contact to perform both firearm and ammunition back-
4 ground checks under federal and state law. Records assembled or
5 collected for purposes of inclusion in such database shall not be
6 subject to disclosure pursuant to article six of the public officers
7 law. All records containing granted license applications from all
8 licensing authorities shall be monthly checked by the division of crimi-
9 nal justice services in conjunction with the division of state police
10 against criminal conviction, criminal indictments, mental health,
11 extreme risk protection orders, orders of protection, and all other
12 records as are necessary to determine their continued accuracy as well
13 as whether an individual is no longer a valid license holder. The divi-
14 sion of criminal justice services shall also check pending applications
15 made pursuant to this article against such records to determine whether
16 a license may be granted. All state and local agencies shall cooperate
17 with the division of criminal justice services, as otherwise authorized
18 by law, in making their records available for such checks. No later than
19 thirty days after the superintendent of the state police certifies that
20 the statewide license and record database established pursuant to this
21 section and the statewide license and record database established for
22 ammunition sales are operational for the purposes of this section, a
23 dealer in firearms licensed pursuant to section 400.00 of this article,
24 a seller of ammunition as defined in subdivision twenty-four of section
25 265.00 of this chapter shall not transfer any ammunition to any other
26 person who is not a dealer in firearms as defined in subdivision nine of
27 such section 265.00 or a seller of ammunition as defined in subdivision
28 twenty-four of section 265.00 of this chapter, unless:

07/01/22

23

12053-04-2

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

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

10 (c) the transferor has verified the identity of the transferee by
11 examining a valid state identification document of the transferee issued
12 by the department of motor vehicles or if the transferee is not a resi-
13 dent of the state of New York, a valid identification document issued by
14 the transferee's state or country of residence containing a photograph
15 of the transferee.

16 § 8. Subdivisions 2 and 6 of section 400.03 of the penal law, as added
17 by chapter 1 of the laws of 2013, are amended to read as follows:

18 2. Any seller of ammunition or dealer in firearms shall keep [a record
19 book] either an electronic record, or dataset, or an organized
20 collection of structured information, or data, typically stored elec-
21 tronically in a computer system approved as to form by the superinten-
22 dent of state police. In the record [book] shall be entered at the time
23 of every transaction involving ammunition the date, name, age, occupa-
24 tion and residence of any person from whom ammunition is received or to
25 whom ammunition is delivered, and the amount, calibre, manufacturer's
26 name and serial number, or if none, any other distinguishing number or
27 identification mark on such ammunition. [The record book shall be main-
28 tained on the premises mentioned and described in the license and shall

07/01/22

24

12053-04-2

1 be open at all reasonable hours for inspection by any peace officer,
2 acting pursuant to his or her special duties, or police officer. Any
3 record produced pursuant to this section and any transmission thereof to
4 any government agency shall not be considered a public record for
5 purposes of article six of the public officers law.]

6 6. If the superintendent of state police certifies that background
7 checks of ammunition purchasers may be conducted through the national
8 instant criminal background check system or through the division of
9 state police once the division has been designated point of contact, use
10 of that system by a dealer or seller shall be sufficient to satisfy
11 subdivisions four and five of this section and such checks shall be
12 conducted through such system, provided that a record of such trans-
13 action shall be forwarded to the state police in a form determined by
14 the superintendent.

15 § 9. Section 265.45 of the penal law, as amended by chapter 133 of the
16 laws of 2019, is amended to read as follows:

17 § 265.45 Failure to safely store rifles, shotguns, and firearms in the
18 first degree.

19 1. No person who owns or is custodian of a rifle, shotgun or firearm
20 who resides with an individual who: (i) is under [sixteen] eighteen
21 years of age; (ii) such person knows or has reason to know is prohibited
22 from possessing a rifle, shotgun or firearm pursuant to a temporary or
23 final extreme risk protection order issued under article sixty-three-A
24 of the civil practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8)
25 or (9); or (iii) such person knows or has reason to know is prohibited
26 from possessing a rifle, shotgun or firearm based on a conviction for a
27 felony or a serious offense, shall store or otherwise leave such rifle,
28 shotgun or firearm out of his or her immediate possession or control

07/01/22

25

12053-04-2

1 without having first securely locked such rifle, shotgun or firearm in
2 an appropriate safe storage depository or rendered it incapable of being
3 fired by use of a gun locking device appropriate to that weapon.

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

9 3. For purposes of this section "safe storage depository" shall mean a
10 safe or other secure container which, when locked, is incapable of being
11 opened without the key, keypad, combination or other unlocking mechanism
12 and is capable of preventing an unauthorized person from obtaining
13 access to and possession of the weapon contained therein and shall be
14 fire, impact, and tamper resistant. Nothing in this section shall be
15 deemed to affect, impair or supersede any special or local act relating
16 to the safe storage of rifles, shotguns or firearms which impose addi-
17 tional requirements on the owner or custodian of such weapons. For the
18 purposes of subdivision two of this section, a glove compartment or
19 glove box shall not be considered an appropriate safe storage deposito-
20 ry.

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

07/01/22

26

12053-04-2

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

3 § 10. The penal law is amended by adding a new section 400.30 to read
4 as follows:

5 § 400.30 Application.

6 Nothing in this article shall be construed to impair or in any way
7 prevent the enactment or application of any local law, code, ordinance,
8 rule or regulation that is more restrictive than any requirement set
9 forth in or established by this article.

10 § 11. Section 270.20 of the penal law, as added by chapter 56 of the
11 laws of 1984, and subdivision 1 as amended by chapter 317 of the laws of
12 2001, is amended to read as follows:

13 § 270.20 Unlawful wearing of [a] body [vest] armor.

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

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

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

07/01/22

27

12053-04-2

1 § 12. Section 270.21 of the penal law, as added by chapter 210 of the
2 laws of 2022, is amended to read as follows:

3 § 270.21 Unlawful purchase of [a] body [vest] armor.

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

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

18 § 13. Section 270.22 of the penal law, as added by chapter 210 of the
19 laws of 2022, is amended to read as follows:

20 § 270.22 Unlawful sale of [a] body [vest] armor.

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

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

07/01/22

28

12053-04-2

1 § 14. Section 396-eee of the general business law, as added by chapter
2 210 of the laws of 2022, is amended to read as follows:

3 § 396-eee. Unlawful sale or delivery of body [vests] armor. 1. No
4 person, firm or corporation shall sell or deliver body [vests] armor to
5 any individual or entity not engaged or employed in an eligible profes-
6 sion, and except as provided in subdivision [three] two of this section,
7 no such sale or delivery shall be permitted unless the transferee meets
8 in person with the transferor to accomplish such sale or delivery.

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

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

16 4. Any person, firm or corporation that violate the provisions of this
17 section shall be guilty of a violation punishable by a fine in an amount
18 not to exceed five thousand dollars for the first offense and in an
19 amount not to exceed ten thousand dollars for any subsequent offense.

20 § 15. Section 144-a of the executive law, as added by chapter 210 of
21 the laws of 2022, is amended to read as follows:

22 § 144-a. Eligible professions for the purchase, sale, and use of body
23 [vests] armor. The secretary of state in consultation with the division
24 of criminal justice services, the division of homeland security and
25 emergency services, the department of corrections and community super-
26 vision, the division of the state police, and the office of general
27 services shall promulgate rules and regulations to establish criteria
28 for eligible professions requiring the use of [a] body [vest] armor, as

07/01/22

29

12053-04-2

1 such term is defined in subdivision two of section 270.20 of the penal
2 law. Such professions shall include those in which the duties may expose
3 the individual to serious physical injury that may be prevented or miti-
4 gated by the wearing of [a] body [vest] armor. Such rules and regu-
5 lations shall also include a process by which an individual or entity
6 may request that the profession in which they engage be added to the
7 list of eligible professions, a process by which the department shall
8 approve such professions, and a process by which individuals and enti-
9 ties may present proof of engagement in eligible professions when
10 purchasing [a] body [vest] armor.

11 § 16. The executive law is amended by adding a new section 228 to read
12 as follows:

13 § 228. National instant criminal background checks. 1. (a) The divi-
14 sion is hereby authorized and directed to serve as a state point of
15 contact for implementation of 18 U.S.C. sec. 922 (t), all federal regu-
16 lations and applicable guidelines adopted pursuant thereto, and the
17 national instant criminal background check system for the purchase of
18 firearms and ammunition.

19 (b) Upon receiving a request from a licensed dealer pursuant to
20 section eight hundred ninety-six or eight hundred ninety-eight of the
21 general business law, the division shall initiate a background check by
22 (i) contacting the National Instant Criminal Background Check System
23 (NICS) or its successor to initiate a national instant criminal back-
24 ground check, and (ii) consulting the statewide firearms license and
25 records database established pursuant to subdivision three of this
26 section, in order to determine if the purchaser is a person described in
27 sections 400.00 and 400.03 of the penal law, or is prohibited by state

07/01/22

30

12053-04-2

1 or federal law from possessing, receiving, owning, or purchasing a
2 firearm or ammunition.

3 2. (a) The division shall report the name, date of birth and physical
4 description of any person prohibited from possessing a firearm pursuant
5 to 18 U.S.C. sec. 922(g) or (n) to the national instant criminal back-
6 ground check system index, denied persons files.

7 (b) Information provided pursuant to this section shall remain privi-
8 leged and confidential, and shall not be disclosed, except for the
9 purpose of enforcing federal or state law regarding the purchase of
10 firearms or ammunition.

11 (c) Any background check conducted by the division, or delegated
12 authority, of any applicant for a permit, firearms identification card
13 license, ammunition sale, or registration, in accordance with the
14 requirements of section 400.00 of the penal law, shall not be considered
15 a public record and shall not be disclosed to any person not authorized
16 by law or this chapter to have access to such background check, includ-
17 ing the applicant. Any application for a permit, firearms identification
18 card, ammunition sale, or license, and any document reflecting the issu-
19 ance or denial of such permit, firearms identification card, or license,
20 and any permit, firearms identification card, license, certification,
21 certificate, form of register, or registration statement, maintained by
22 any state or municipal governmental agency, shall not be considered a
23 public record and shall not be disclosed to any person not authorized by
24 law to have access to such documentation, including the applicant,
25 except on the request of persons acting in their governmental capacities
26 for purposes of the administration of justice.

27 3. The division shall create and maintain a statewide firearms license
28 and records database which shall contain records held by the division

07/01/22

31

12053-04-2

1 and any records that it is authorized to request from the division of
2 criminal justice services, office of court administration, New York
3 state department of health, New York state office of mental health, and
4 other local entities. Such database shall be used for the certification
5 and recertification of firearm permits under section 400.02 of the penal
6 law, assault weapon registration under subdivision sixteen-a of section
7 400.00 of the penal law, and ammunition sales under section 400.03 of
8 the penal law. Such database shall also be used to initiate a national
9 instant criminal background check pursuant to subdivision one of this
10 section upon request from a licensed dealer. The division may create and
11 maintain additional databases as needed to complete background checks
12 pursuant to the requirements of this section.

13 4. The superintendent shall promulgate a plan to coordinate background
14 checks for firearm and ammunition purchases pursuant to this section and
15 to require any person, firm or corporation that sells, delivers or
16 otherwise transfers any firearm or ammunition to submit a request to the
17 division in order to complete the background checks in compliance with
18 federal and state law, including the National Instant Criminal Back-
19 ground Check System (NICS), in New York state. Such plan shall include,
20 but shall not be limited to, the following features:

21 (a) The creation of a centralized bureau within the division to
22 receive and process all background check requests, which shall include a
23 contact center unit and an appeals unit. Staff may include but is not
24 limited to: bureau chief, supervisors, managers, different levels of
25 administrative analysts, appeals specialists and administrative person-
26 nel. The division shall employ and train such personnel to administer
27 the provisions of this section.

07/01/22

32

12053-04-2

1 (b) Procedures for carrying out the duties under this section, includ-
2 ing hours of operation.

3 (c) An automated phone system and web-based application system,
4 including a toll-free telephone number and/or web-based application
5 option for any licensed dealer requesting a background check in order to
6 sell, deliver or otherwise transfer a firearm which shall be operational
7 every day that the bureau is open for business for the purpose of
8 responding to requests in accordance with this section.

9 5. (a) Each licensed dealer that submits a request for a national
10 instant criminal background check pursuant to this section shall pay a
11 fee imposed by the bureau for performing such background check. Such fee
12 shall be allocated to the background check fund established pursuant to
13 section ninety-nine-pp of the state finance law. The amount of the fee
14 shall not exceed the total amount of direct and indirect costs incurred
15 by the bureau in performing such background check.

16 (b) The bureau shall transmit all moneys collected pursuant to this
17 paragraph to the state comptroller, who shall credit the same to the
18 background check fund.

19 6. On January fifteenth of each calendar year, the bureau shall submit
20 a report to the governor, the temporary president of the senate, and the
21 speaker of the assembly concerning:

22 a. the number of employees used by the bureau in the preceding year
23 for the purpose of performing background checks pursuant to this
24 section;

25 b. the number of background check requests received and processed
26 during the preceding calendar year, including the number of "proceed"
27 responses and the number and reasons for denials;

07/01/22

33

12053-04-2

1 c. the calculations used to determine the amount of the fee imposed
2 pursuant to this paragraph.

3 7. Within sixty days of the effective date of this section, the super-
4 intendent shall notify each licensed dealer holding a permit to sell
5 firearms of the requirement to submit a request to the division to
6 initiate a background check pursuant to this section as well as the
7 following means to be used to apply for background checks:

8 i. any person, firm or corporation that sells, delivers or otherwise
9 transfers firearms shall obtain a completed ATF 4473 form from the
10 potential buyer or transferee including name, date of birth, gender,
11 race, social security number, or other identification numbers of such
12 potential buyer or transferee and shall have inspected proper identifi-
13 cation including an identification containing a photograph of the poten-
14 tial buyer or transferee.

15 ii. it shall be unlawful for any person, in connection with the sale,
16 acquisition or attempted acquisition of a firearm from any transferor,
17 to willfully make any false, fictitious oral or written statement or to
18 furnish or exhibit any false, fictitious, or misrepresented identifica-
19 tion that is intended or likely to deceive such transferor with respect
20 to any fact material to the lawfulness of the sale or other disposition
21 of such firearm under federal or state law. Any person who violates the
22 provisions of this subparagraph shall be guilty of a class A misdemea-
23 nor.

24 8. Any potential buyer or transferee shall have thirty days to appeal
25 the denial of a background check, using a form established by the super-
26 intendent. Upon receipt of an appeal, the division shall provide such
27 applicant a reason for a denial within thirty days. Upon receipt of the
28 reason for denial, the appellant may appeal to the attorney general.

07/01/22

34

12053-04-2

1 § 17. Subdivision 2 of section 898 of the general business law, as
2 added by chapter 129 of the laws of 2019, is amended to read as follows:

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

20 § 18. Paragraph (c) of subdivision 1 of section 896 of the general
21 business law, as added by chapter 189 of the laws of 2000, is amended to
22 read as follows:

23 (c) coordinate with the division of state police to provide access at
24 the gun show to [a firearm dealer licensed under federal law who is
25 authorized to] perform a national instant criminal background check
26 [where the seller or transferor of a firearm, rifle or shotgun is not
27 authorized to conduct such a check by (i) requiring firearm exhibitors
28 who are firearm dealers licensed under federal law and who are author-

07/01/22

35

12053-04-2

1 ized to conduct a national instant criminal background check to provide
2 such a check at cost or (ii) designating a specific location at the gun
3 show where a firearm dealer licensed under federal law who is authorized
4 to conduct a national instant criminal background check will be present
5 to perform such a check at cost] prior to any firearm sale or transfer.
6 Any firearm dealer licensed under federal law who [performs] submits a
7 request to the division of state police to perform a national instant
8 criminal background check pursuant to this paragraph shall provide the
9 seller or transferor of the firearm, rifle or shotgun with a copy of the
10 United States Department of Treasury, Bureau of Alcohol, Tobacco and
11 Firearms Form ATF F 4473 and such dealer shall maintain such form and
12 make such form available for inspection by law enforcement agencies for
13 a period of ten years thereafter.

14 § 19. Subdivision 6 of section 400.03 of the penal law, as added by
15 chapter 1 of the laws of 2013, is amended to read as follows:

16 6. If the superintendent of state police certifies that background
17 checks of ammunition purchasers may be conducted through the national
18 instant criminal background check system, [use of that system by] a
19 dealer or seller shall contact the division of state police to conduct
20 such check which shall be sufficient to satisfy subdivisions four and
21 five of this section [and such checks shall be conducted through such
22 system, provided that a record of such transaction shall be forwarded to
23 the state police in a form determined by the superintendent].

24 § 20. The penal law is amended by adding a new section 400.06 to read
25 as follows:

26 § 400.06 National instant criminal background checks.

27 1. Any dealer in firearms that sells, delivers or otherwise transfers
28 any firearm shall contact the division of state police to conduct a

07/01/22

36

12053-04-2

1 national instant criminal background check pursuant to section two
2 hundred twenty-eight of the executive law.

3 2. Failure to comply with the requirements of this section is a class
4 A misdemeanor.

5 § 21. The state finance law is amended by adding a new section 99-pp
6 to read as follows:

7 § 99-pp. Background check fund. 1. There is hereby established in the
8 joint custody of the state comptroller and commissioner of taxation and
9 finance a special fund to be known as the "background check fund".

10 2. Such fund shall consist of all revenues received by the comp-
11 troller, pursuant to the provisions of section two hundred twenty-eight
12 of the executive law and all other moneys appropriated thereto from any
13 other fund or source pursuant to law. Nothing contained in this section
14 shall prevent the state from receiving grants, gifts or bequests for the
15 purposes of the fund as defined in this section and depositing them into
16 the fund according to law.

17 3. The moneys of the background check fund, following appropriation by
18 the legislature, shall be allocated for the direct costs associated with
19 performing background checks pursuant to section two hundred twenty-
20 eight of the executive law.

21 4. The state comptroller may invest any moneys in the background check
22 fund not expended for the purpose of this section as provided by law.
23 The state comptroller shall credit any interest and income derived from
24 the deposit and investment of moneys in the background check fund to the
25 background check fund.

26 5. (a) Any unexpended and unencumbered moneys remaining in the back-
27 ground check fund at the end of a fiscal year shall remain in the back-
28 ground check fund and shall not be credited to any other fund.

07/01/22

37

12053-04-2

1 (b) To the extent practicable, any such remaining funds shall be used
2 to reduce the amount of the fee described in subdivision two of section
3 two hundred twenty-eight of the executive law.

4 § 22. Subdivision 19 of section 265.00 of the penal law, as amended by
5 chapter 150 of the laws of 2020, is amended to read as follows:

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

20 § 23. Subdivision 18 of section 400.00 of the penal law, as added by
21 chapter 135 of the laws of 2019, is amended and a new subdivision 19 is
22 added to read as follows:

23 18. Notice. Upon the issuance of a license, the licensing officer
24 shall issue therewith, and such licensee shall attest to the receipt of,
25 the following [notice] information and notifications: (a) the grounds
26 for which the license issued may be revoked, which shall include but not
27 be limited to the areas and locations for which the licenses issued
28 under paragraph (f) of subdivision two of this section prohibits the

07/01/22

38

12053-04-2

1 possession of firearms, rifles, and shotguns, and that a conviction
2 under sections 265.01-d and 265.01-e of this chapter are felonies for
3 which licensure will be revoked;

4 (b) a notification regarding the requirements for safe storage which
5 shall be in conspicuous and legible twenty-four point type on eight and
6 one-half inches by eleven inches paper stating in bold print the follow-
7 ing:

8 WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE.
9 WHEN STORED IN A HOME FIREARMS, RIFLES, OR SHOTGUNS MUST EITHER BE
10 STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT
11 BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR
12 OTHER LAWFUL POSSESSOR IF A CHILD UNDER THE AGE OF EIGHTEEN RESIDES IN
13 THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A
14 PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW.
15 FIREARMS SHOULD BE STORED [UNLOADED AND LOCKED] BY REMOVING THE AMMUNI-
16 TION FROM AND SECURELY LOCKING SUCH FIREARM IN A LOCATION SEPARATE FROM
17 AMMUNITION. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED
18 PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. WHEN STORED IN A
19 VEHICLE OUTSIDE THE OWNER'S IMMEDIATE POSSESSION OR CONTROL, FIREARMS,
20 RIFLES, AND SHOTGUNS MUST BE STORED IN AN APPROPRIATE SAFE STORAGE
21 DEPOSITORY AND OUT OF SIGHT FROM OUTSIDE OF THE VEHICLE.

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

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

27 19. Prior to the issuance or renewal of a license under paragraph (f)
28 of subdivision two of this section, issued or renewed on or after the

07/01/22

39

12053-04-2

1 effective date of this subdivision, an applicant shall complete an
2 in-person live firearms safety course conducted by a duly authorized
3 instructor with curriculum approved by the division of criminal justice
4 services and the superintendent of state police, and meeting the follow-
5 ing requirements: (a) a minimum of sixteen hours of in-person live
6 curriculum approved by the division of criminal justice services and the
7 superintendent of state police, conducted by a duly authorized instruc-
8 tor approved by the division of criminal justice services, and shall
9 include but not be limited to the following topics: (i) general firearm
10 safety; (ii) safe storage requirements and general secure storage best
11 practices; (iii) state and federal gun laws; (iv) situational awareness;
12 (v) conflict de-escalation; (vi) best practices when encountering law
13 enforcement; (vii) the statutorily defined sensitive places in subdivi-
14 sion two of section 265.01-e of this chapter and the restrictions on
15 possession on restricted places under section 265.01-d of this chapter;
16 (viii) conflict management; (ix) use of deadly force; (x) suicide
17 prevention; and (xi) the basic principles of marksmanship; and (b) a
18 minimum of two hours of a live-fire range training course. The applicant
19 shall be required to demonstrate proficiency by scoring a minimum of
20 eighty percent correct answers on a written test for the curriculum
21 under paragraph (a) of this subdivision and the proficiency level deter-
22 mined by the rules and regulations promulgated by the division of crimi-
23 nal justice services and the superintendent of state police for the
24 live-fire range training under paragraph (b) of this subdivision. Upon
25 demonstration of such proficiency, a certificate of completion shall be
26 issued to such applicant in the applicant's name and endorsed and
27 affirmed under the penalties of perjury by such duly authorized instruc-
28 tor. An applicant required to complete the training required herein

07/01/22

40

12053-04-2

1 prior to renewal of a license issued prior to the effective date of this
2 subdivision shall only be required to complete such training for the
3 first renewal of such license after such effective date.

4 § 24. Subdivisions 11 and 12 of section 265.00 of the penal law are
5 amended to read as follows:

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

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

07/01/22

41

12053-04-2

1 § 25. Severability. If any clause, sentence, paragraph or section of
2 this act shall be adjudged by any court of competent jurisdiction to be
3 invalid, the judgment shall not affect, impair or invalidate the remain-
4 der thereof, but shall be confined in its operation to the clause,
5 sentence, paragraph or section thereof directly involved in the contro-
6 versy in which the judgment shall have been rendered.

7 § 26. This act shall take effect on the first of September next
8 succeeding the date on which it shall have become a law; provided,
9 however:

10 (a) the amendments to subdivision 1 and subdivision 4-b of section
11 400.00 of the penal law made by section one of this act shall apply only
12 to licenses for which an application is made on or after the effective
13 date of this act;

14 (b) if chapter 208 of the laws of 2022 shall not have taken effect on
15 or before such date then the amendments made to paragraph (j) of subdi-
16 vision one of section 400.00 of the penal law made by section one of
17 this act shall take effect on the same date and in the same manner as
18 such chapter of the laws of 2022, takes effect;

19 (c) the amendments to sections 270.20, 270.21 and 270.22 of the penal
20 law made by sections eleven, twelve and thirteen of this act, the amend-
21 ments to section 396-eee of the general business law as amended by
22 section fourteen of this act, and the amendments to section 144-a of the
23 executive law as amended by section fifteen of this act, shall take
24 effect on the same date and in the same manner as chapter 210 of the
25 laws of 2022, takes effect;

26 (d) if chapter 207 of the laws of 2022 shall not have taken effect on
27 or before such date then the amendments to subdivision 11 of section
28 400.00 of the penal law made by section one of this act shall take

07/01/22

42

12053-04-2

1 effect on the same date and in the same manner as such chapter of the
2 laws of 2022, takes effect;

3 (e) if chapter 212 of the laws of 2022 shall not have taken effect on
4 or before such date then the amendments to subdivision 2 of section
5 400.00 of the penal law made by section one of this act shall take
6 effect on the same date and in the same manner as such chapter of the
7 laws of 2022, takes effect;

8 (f) sections sixteen, seventeen, eighteen, nineteen, twenty,
9 one and twenty-two shall take effect July 15, 2023; and

10 (g) subdivision 4-a of section 400.00 of the penal law, as amended by
11 section one of this act, shall take effect April 1, 2023.