

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, GUN OWNERS OF)
AMERICA, INC., GUN OWNERS)
FOUNDATION, and GUN OWNERS OF)
AMERICA NEW YORK, INC.,)

Plaintiffs,)

v.)

KEVIN P. BRUEN, in his Official)
Capacity as Superintendent of the New)
York State Police,)

Defendant.)
_____)

Civil Action No. 1:22-cv-734 (GTS/CFH)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COME NOW Plaintiffs, Ivan Antonyuk, Gun Owners of America, Inc., Gun Owners Foundation, and Gun Owners of America New York, Inc. (“Plaintiffs”), by and through undersigned counsel, and allege as follows:

I. PARTIES

1. Plaintiff Ivan Antonyuk is a natural person, a citizen of the United States and of the State of New York, resides in Schenectady County, New York, and is a member of Gun Owners of America, Inc. He is a law-abiding person, who currently possesses and has maintained an unrestricted New York carry permit since 2009, and who is eligible to possess and carry firearms in the State of New York. Plaintiff Antonyuk is the kind of person discussed by the United States Supreme Court in its recent opinion in *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. ____ (2022)

– that is, he is a typical, law-abiding citizen with ordinary self-defense needs, who cannot be dispossessed of his right to bear arms in public for self-defense.

2. Plaintiff Gun Owners of America, Inc. (“GOA”) is a California non-stock corporation with its principal place of business at 8001 Forbes Place, Springfield, VA 22151. GOA is organized and operated as a non-profit membership organization that is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. GOA was formed in 1976 to preserve and defend the Second Amendment rights of gun owners. GOA has more than 2 million members and supporters across the country, including residents of the Northern District of New York, and throughout the state of New York. Many of these gun owners, like the individual plaintiff, will be irreparably harmed by New York’s sweeping and unconstitutional changes to its concealed carry law recently passed in the Extraordinary Session and signed into law by New York Governor Hochul, and colloquially called the Concealed Carry Improvement Act (“CCIA”), which is scheduled to take effect on September 1, 2022.

3. Gun Owners Foundation (“GOF”) is a Virginia non-stock corporation with its principal place of business at 8001 Forbes Place, Springfield, VA 22151. GOF was formed in 1983, and is organized and operated as a nonprofit legal defense and educational foundation that is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. GOF is supported by gun owners across the country and within this district who, like the individual plaintiff, will be irreparably harmed by implementation of the CCIA.

4. Plaintiff Gun Owners of America New York, Inc. (“GOA-NY”) is a New York corporation registered with the State of New York. GOA-NY is organized and operated as a non-profit organization that is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. GOA-NY was formed in 2017 to preserve and defend the Second

Amendment rights of gun owners. GOA-NY has more than four hundred supporters in New York, some of whom reside in this district. Many of these gun owners, like the individual plaintiff, will be irreparably harmed by the CCIA.

5. Many of the irreparable harms to GOA, GOF, and GOA-NY's members and supporters, which will be caused by implementation of the CCIA, are alleged herein by GOA, GOF, and GOA-NY in a representational capacity on behalf of the interests of their members and supporters. Each of these persons would have standing to challenge the CCIA in their own right. Protection of these persons' rights and interests is germane to GOA, GOF, and GOA-NY's mission, which is to preserve and protect the Second Amendment and the rights of Americans to keep and bear arms, including against overreach by anti-gun politicians. Litigation of the challenges raised herein does not require participation of each of GOA, GOF, and GOA-NY's individual members and supporters, and GOA, GOF, and GOA-NY are capable of fully and faithfully representing the interests of their members and supporters without participation by each of these individuals and entities. Indeed, GOA and GOF routinely litigate cases throughout the country on behalf of their members and supporters. *See e.g., Gun Owners of America, Inc., et al. v. Merrick B. Garland*, U.S. Supreme Court, No. 21-1215 (petition for certiorari pending).

6. The members and supporters of GOA, GOF, and GOA-NY represent a diverse group of individuals across New York, including those who currently possess unrestricted New York state permits to carry firearms, those who possess restricted permits, and those individuals who, previously unable to demonstrate "proper cause" beyond ordinary self-defense needs, have not yet applied to receive permits since the Supreme Court's recent decision in *Bruen*. That case bears the name of the same Defendant, and found that the state's prior requirement that a person

demonstrate “proper cause” as a condition of being issued a permit to carry a firearm to be blatantly unconstitutional.

7. Defendant Kevin P. Bruen is sued in his official capacity as the Superintendent of the New York State Police. As Superintendent, he exercises, delegates, or supervises all the powers and duties of the New York Division of State Police, which is responsible for executing and enforcing New York’s laws and regulations governing the carrying of firearms in public, including prescribing the form for Handgun Carry License applications. Defendant Bruen may be served at the New York State Police, Building 22, 1220 Washington Avenue, Albany, NY, 12226.

II. JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 1651, 2201, 2202 and 42 U.S.C. §§ 1983 and 1988.

9. Venue lies in this Court pursuant to 28 U.S.C. § 1391.

III. STATEMENT OF FACTS

a. The Second Amendment.

10. The Second Amendment to the United States Constitution provides: “A well regulated Militia being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.”

11. In its landmark 2008 decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court rejected the nearly-uniform opinions reached by the courts of appeals, which for years had claimed that the Second Amendment protects only a communal right of a state to maintain an organized militia. *Heller*, 554 U.S. at 581. Setting the record straight, the *Heller* Court explained that the Second Amendment recognizes, enumerates, and guarantees to

individuals the preexisting right to keep and carry arms for self-defense and defense of others in the event of a violent confrontation. *Id.* at 592.

12. Then, in *McDonald v. Chicago*, 561 U.S. 742 (2010), the Court explained that the Second Amendment is fully applicable to the states through operation of the Fourteenth Amendment. *Id.* at 791.

13. In *Caetano v. Massachusetts*, 577 U.S. 411 (2016), the Court reaffirmed its conclusion in *Heller* that “the Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding ...” and that this “Second Amendment right is fully applicable to the States[.]” *Id.* at 411, 416.

14. As the Supreme Court has now explained in *Bruen*, the Second and Fourteenth Amendments together guarantee individual Americans not only the right to “keep” firearms in their homes, but also the right to “bear arms,” meaning “to carry a handgun for self-defense outside the home,” free from infringement by either federal or state governments. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. ____ (2022) Slip Op. at 1.

15. Importantly, in addition to clearly recognizing the right of “‘law-abiding, responsible citizens’ ... to public carry” (Slip Op. at 29, fn 9), *Bruen* also rejected outright the methodology used within this Circuit and other circuits to judge Second Amendment challenges.

16. Prior to *Bruen*, the Second Circuit had adopted a two-part test for analyzing Second Amendment cases: “First, we ‘determine whether the challenged legislation impinges upon conduct protected by the Second Amendment,’ and second, if we ‘conclude[] that the statute[] impinge[s] upon Second Amendment rights, we must next determine and apply the appropriate level of scrutiny.’” *N.Y. State Rifle & Pistol Ass’n v. City of N.Y.*, 883 F.3d 45, 55 (2d Cir. 2018). *See also Bruen*, Slip Op. at 10 fn. 4 (collecting cases using two-part test). Other circuit courts also

had adopted and used a substantially similar formula, which invariably utilized the very same “judge-empowering ‘interest-balancing inquiry’” that *Heller* had rejected. *See Heller* at 634; *see also Duncan v. Becerra*, 265 F. Supp. 3d 1106, 1117 (S.D. Cal. 2017), *aff’d* 742 Fed. Appx. 218 (9th Cir. 2018) (“the Ninth Circuit uses what might be called a tripartite binary test with a sliding scale and a reasonable fit.”).

17. Rejecting this widespread atextual, “judge empowering” (*Bruen*, Slip Op. at 13) interest-balancing approach, *Bruen* directed (again) the federal courts back to first principles, to assess the text of the Second Amendment, informed by the historical tradition. *Bruen*, Slip Op. at 10.

18. First, the Supreme Court “decline[d] to adopt that two-part approach” used in this and other circuits, and reiterated that, “[i]n keeping with *Heller*, we hold that when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” *Bruen*, Slip Op. at 8.

19. Second, the Supreme Court held that, “[t]o justify [a] regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’” *Bruen*, Slip Op. at 8. (citation omitted).

20. Third, in reviewing the historical evidence, the *Bruen* Court cabined review of relevant history to a narrow time period, because “not all history is created equal,” focusing on the period around the ratification of the Second Amendment, and *perhaps* the Fourteenth Amendment (but noted that “post-ratification” interpretations “cannot overcome or alter that text,” and “we

have generally assumed that the scope of the protection applicable to the Federal Government and States is pegged to the public understanding of the right when the Bill of Rights was adopted in 1791.”). *See Bruen*, Slip Op. at 30-51 (discussing the lack of relevant historical prohibitions on concealed carry in public).

21. In other words, according to the Second Amendment’s text, and as elucidated by the Court in *Bruen*, if a member of “the people” wishes to “keep” or “bear” a protected “arm,” then the ability to do so “shall not be infringed.” Period. There are no “ifs, ands or buts,” and it does not matter (even a little bit) how important, significant, compelling, or overriding the government’s justification for or interest in infringing the right. It does not matter whether a government restriction “minimally” versus “severely” burdens (infringes) the Second Amendment. There are no relevant statistical studies to be consulted. There are no sociological arguments to be considered. The ubiquitous problems of crime or the density of population do not affect the equation. The only appropriate inquiry then, according to *Bruen*, is what the “public understanding of the right to keep and bear arms” was during the ratification of the Second Amendment in 1791, and perhaps during ratification of the Fourteenth Amendment in 1868. *Bruen*, Slip Op. at 29.

22. Lest there be any doubt, the Supreme Court has also instructed as to the scope of the protected persons, arms, and activities covered by the Second Amendment.

23. First, *Heller* explained that “in all six other provisions of the Constitution that mention ‘the people,’ the term unambiguously refers to all members of the political community, not an unspecified subset.” *Heller*, at 580. *Heller* cited to *United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990), which held that “[T]he people’ ... refers to a class of persons who are

part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community.” *Id.*

24. Second, *Heller* then turned to the “substance of the right: ‘to keep and bear Arms.’” *Id.* at 581. The Court explained that “[k]eep arms” was simply a common way of referring to possessing arms, for militiamen *and everyone else.*” *Id.* at 583. Next, the Court instructed that the “natural meaning” of “bear arms” was “wear, bear, or carry ... upon the person or in the clothing or in a pocket, for the purpose ... of being armed and ready for offensive or defensive action in a case of conflict with another person.” *Id.* at 584. And “[a]t the time of the founding, as now, to ‘bear’ meant to ‘carry.’” *Id.* *Bruen*, in fact, was more explicit, explaining that the “definition of ‘bear’ naturally encompasses public carry.” *Bruen*, Slip Op. at 23.

25. Third, with respect to the term “arms,” the Court explained that “the Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *Heller* at 582. Indeed, the “arms” protected by the Second Amendment include “weapons of offence, or armour of defence... Arms are any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.” *Heller*, at 581 (punctuation omitted).

26. Finally, it is worth noting that, in addition to clearly establishing the framework by which lower courts are to analyze Second Amendment challenges, *Bruen* also provided several additional guideposts which are relevant to New York’s CCIA challenged here.

27. First, the Court rejected the statutory schemes of “may issue” states such as New York, whereby “authorities have discretion to deny concealed-carry licenses even when the applicant satisfies the statutory criteria,” such as when “the applicant has not demonstrated ... suitability for the relevant license.” *Bruen*, Slip Op. at 5. Rather, the Court pointed to “shall

issue’ jurisdictions” wherein licenses are issued “whenever applicants satisfy certain threshold requirements, without granting licensing officials discretion to deny licenses based on a perceived lack of need or suitability.” *Bruen*, Slip Op. at 4.

28. Second, the Court explained that states have extremely narrow latitude to limit the places where firearms may be carried in public, mentioning only “sensitive places such as schools and government buildings.” *Bruen*, Slip Op. at 21. Although the Court acknowledged that other “new and analogous sensitive places” may exist, such potential locations would be highly limited, and certainly cannot be defined so broadly as to “include all ‘places where people typically congregate’” or for New York to “effectively declare the island of Manhattan a ‘sensitive place’” by claiming nearly every category of place to be a sensitive one. *Bruen*, Slip Op. at 22.

29. Third, the *Bruen* court acknowledged the inherent risk in *all* permitting schemes, “because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry.” *Bruen*, Slip Op. at 30 n.9.

30. But in spite of the Supreme Court’s clear pronouncements in *Bruen*, New York apparently did not ‘get the memo.’ On the contrary, rather than representing a good-faith attempt to bring New York law into compliance with the Second Amendment and the *Bruen* decision, the CCIA instead doubles down, flouting the people’s right to keep and bear arms, and in fact creating a far more onerous and restrictive concealed carry scheme even than that which existed prior to the *Bruen* decision (if such thing is possible).

31. This Court’s intervention is therefore necessary, to again make it clear to New York that it is not free to thumb its nose at the text of the Second Amendment and the opinions of the

Supreme Court, and that the Second Amendment is neither a “constitutional orphan” or a “second-class right.” *See Silvester v. Becerra*, 138 S. Ct. 945 (2018) (Thomas, J., dissenting from denial of certiorari); *McDonald*, at 780; *Bruen*, Slip Op. at 62.

b. New York’s Gun Control Regime.

32. New York represents an extreme outlier among the states, imposing all manner of severe infringements on the constitutional right to keep and bear arms.

33. For example, New York requires a permit simply to purchase and possess any handgun. Every handgun is thus registered with the state, and the serial number is affixed to the permit. *See* N.Y. Penal Law § 400.00(3).

34. This requirement creates a de facto waiting period, due to the significant delay in issuance of such a permit, which New York estimates applicants “should expect [] to take a minimum of four months from the time of application until a license is either granted or denied.”¹

35. Next, the 2013 New York “Safe Act” banned newly acquired so-called “assault weapons,” while requiring registration of existing firearms for those individuals who had them.²

36. So-called ‘large capacity’ magazines (which are really standard capacity magazines commonly sold in almost every other state) are generally banned in New York, subject to some exemptions. *See* NY Pen. Law § 265.00(23); NY Pen. Law § 265.02(8).

37. New York Requires background check for every firearm transfer,^{3,4} including private sales, and requires a non-licensee to first notify the state that they are disposing (*i.e.*, selling) a firearm (N.Y. Penal Law § 265.10(7)).

¹ *See* <https://www.ny.gov/services/how-obtain-firearms-license>

² *See* <https://safeact.ny.gov/resources-gun-owners>.

³ Transfers between immediate family members are exempt. *See* <https://safeact.ny.gov/resources-gun-dealers>.

⁴ *See* <https://safeact.ny.gov/resources-gun-dealers>.

38. In order to simply possess a handgun, a person must obtain a premise permit, which permits one only to possess a handgun within the home or place of business, but does not permit the person to take the handgun outside of the home, subject to few exceptions, such as traveling to a shooting range, shooting competition, or another dwelling where the licensee is authorized to take the firearm. *See* N.Y. Penal Law § 400.00(6).

39. In order to carry a firearm outside the home, a person must obtain a carry permit, which could be “restricted” to allow carry only in certain places specifically identified on the license itself. *Id.* Indeed, a New York state carry license does not apply in New York City, which has its own permitting scheme. *See* N.Y. Penal Law § 400.00(6) (discussing New York City’s application process).⁵

40. Moreover, refusing to participate in the “reciprocity” agreements that are common between states across the country, New York does not honor the concealed permits of any other state.

41. The difference between “restricted” and “unrestricted” permits was created not by the legislature, but rather by the judiciary, with judges adding various restrictions to licenses to carry. *See O'Brien v Keegan*, 87 N.Y.2d 436, 639 N.Y.S.2d 1004, 663 N.E.2d 316, 1996 N.Y. LEXIS 69 (N.Y. 1996) (“It was not unreasonable for licensing officer to restrict petitioner’s unrestricted carry concealed license to hunting and target shooting in view of petitioner’s inability to show need for unrestricted license, which would permit him to carry several concealed firearms.”).

⁵ *See also* <https://www1.nyc.gov/site/nypd/services/law-enforcement/permits-licenses-firearms.page>, and <https://licensing.nypdonline.org/new-app-instruction/>.

42. “Open carry,” meaning the unconcealed carry of a firearm, although legal in most states even without a permit, is entirely illegal in New York, as a carry license (authorizing only concealed carry) is the only way to carry a firearm outside the home.

43. Finally, Prior to *Bruen*, New York law required that a person demonstrate a “proper cause” as a condition necessary to obtain a license to carry a firearm in public. Proper cause has been interpreted to mean “a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession.” *Kaplan v. Bratton*, 249 A.D.2d 199, 201, 673 N.Y.S.2d 66, 68 (App. Div. 1st Dept. 1998).

44. In practice, then, ordinary persons with typical self-defense needs were found not to have “proper cause,” and few New York residents were able to obtain a permit. *See Kaplan, supra*; *see also Klenosky v. N.Y.C. Police Dep't*, 53 N.Y.2d 685 (1981); *see also Matter of Agro v. Shea*, 2022 NY Slip Op 30816(U) (Sup. Ct.). The end result was a statutory scheme that wholly deprived ordinary citizens of the ability to armed self-defense outside the home.

45. Yet although this nation’s highest court recently rejected the New York statutory scheme, the recently enacted CCIA largely ignores the Court’s decision, acting as if it is business as usual in the state.

c. New York’s Most Recent Attempt at Gun Control – the CCIA.

46. After the Supreme Court’s complete rejection of New York’s restrictive “may issue” carry scheme, the state legislature immediately went to work to craft new and improved ways to infringe on New Yorker’s Second Amendment rights, seemingly to impose retribution on New York gun owners for successfully challenging its prior statute.

47. Unhappy with the Supreme Court’s opinion, and searching for ways to continue to restrict the ordinary New Yorker’s ability to armed self-defense outside the home, the new

Governor of New York, Kathy Hochul, who took the place of Governor Andrew Cuomo, called an extraordinary session of the New York State Legislature for the purpose of enacting a new statutory scheme (the CCIA), designed to give the appearance of compliance with *Bruen*, but in reality thwarting and bypassing the Supreme Court’s decision.

48. The Governor herself issued several statements critical and disrespectful of the Supreme Court’s ruling: “[t]he Supreme Court’s reckless and reprehensible decision to strike down New York’s century-old concealed carry law puts lives at risk here in New York,”⁶ and “[a] week ago, the Supreme Court issued a reckless decision removing century-old limitations on who is allowed to carry concealed weapons in our state — senselessly sending us backward and putting the safety of our residents in jeopardy[.]”⁷ In other words, the Governor appears to have no desire to comply with the Supreme Court’s *Bruen* decision, and every intention to thwart and undermine it through signing the CCIA into law, as a sort of guerrilla warfare against the Supreme Court, the rule of law, and the Second Amendment.

49. This new bill, rushed through the extraordinary session and passed without the required public posting, comment and debate, has now introduced a slew of new, unprecedented, and blatantly unconstitutional impediments to New Yorkers in their attempt to exercise their constitutional right to armed self-defense outside the home.

50. The bill, ironically called the Concealed Carry *Improvement* Act, is instead New York’s attempt to flout the Supreme Court’s holding in *Bruen*. Instead of complying with that decision, the Assembly and Senate, with the Governor’s glowing approval, have promulgated

⁶ <https://www.governor.ny.gov/news/governor-hochul-announces-extraordinary-session-new-york-state-legislature-begin-june-30>.

⁷ <https://www.governor.ny.gov/news/governor-hochul-signs-landmark-legislation-strengthen-gun-laws-and-bolster-restrictions>.

several blatantly unconstitutional new infringements of the enumerated right to keep and bear arms.

51. A true and correct copy of the Bill is attached as Exhibit “1” to the Complaint. A true and correct copy of the “Gun Control Bill Memo,” summarizing the provisions of SB51001, is attached hereto as Exhibit “2.” For ease of viewing the changes in the Bill, a “redlined” version of the Bill is attached as Exhibit “3” to the Complaint.

i. Good Moral Character.

52. To be sure, the CCIA removes the now-unconstitutional “proper cause” requirement from the prior statute. In its place, the CCIA defines the malleable term “good moral character” to now mean “having the essential character, temperament and judgement necessary to be entrusted with a weapon and to use it only in a manner that does not endanger oneself or others....” Exhibit “1” at 2.

53. However, the Second Amendment does not leave it up to the state of New York to decide whether to “entrust[]” its citizens with arms. Rather, the right of all “the people” (not just the government’s chosen favorites) “shall not be infringed.”

54. The concept of “good moral character” is a standardless notion, inevitably open to subjective interpretations by licensing individuals across the state who, based on history, may wish to continue to deny the law-abiding citizens of New York the ability to defend themselves in public. A “I’ll know it when I see it” standard for bestowing the privilege of licensure is a concept entirely foreign to the Second Amendment.

55. As recently interpreted by a New York federal district court, “[g]ood moral character is more than having an unblemished criminal record. A person of good moral character behaves in an ethical manner and provides the Court, and ultimately society, reassurance that he

can be trusted to make good decisions.” *Sibley v. Watches*, 501 F. Supp. 3d 210, 219 (W.D.N.Y. 2020)

56. Yet, as noted above, the *Bruen* Court expressly rejected such a statutory scheme, which “grant[s] licensing officials discretion to deny licenses based on a perceived lack of need *or suitability*.” *Bruen*, Slip Op. at 4-5 (emphasis added). If a decision whether a person has “good moral character” is not a judgment about his “suitability” to carry firearms, it is hard to see what would be.

57. Likewise, writing in concurrence in *Bruen*, Justice Kavanaugh rejected a “feature[] of New York’s regime — the unchanneled discretion for licensing officials ... in effect deny the right to carry handguns for self-defense to many ‘ordinary, law-abiding citizens.’” (Kavanaugh, J., concurring, Slip Op. at 2).

58. Yet that is precisely what the CCIA permits, allowing licensing officials unbridled discretion to decide whether to “entrust[]” a person with constitutional rights, and to “require ... such other information ... that is reasonably necessary” to making that determination, another open-ended grant of authority, thus opening the door to a host of abuses, unequal enforcement, arbitrary and capricious, actions and the further erosion of the Second Amendment through the exercise of unbridled power and “unchanneled discretion.”

ii. In Person Meetings, Social Media, and “Character References”

59. In addition to requiring an applicant to demonstrate “good moral character,” the CCIA imposes a litany of demands on those seeking a New York carry permit, including a requirement that the applicant “shall meet in person with the licensing officer for an interview and shall, in addition to any other information or forms required by the license application submit to the licensing officer the following information:

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

See Exhibit "1" at 4-5.

60. In addition to constituting blatant infringements of the Second Amendment right to keep and bear arms, several of these demands (conditions of qualifying for a carry license) also represent gross infringements of applicants' First Amendment rights.

61. For example, demanding the names and contact information (presumably for interrogation by licensing authorities) of relatives and co-habitants violates the First Amendment

right of association, along with anonymity rights of those who do not want to be contacted by government officials, or have their information entered into a government database.

62. Demanding a list of and potentially access to some vague class of “social media accounts of the applicant” in order to issue a permit to carry a concealed weapon requires disclosure of protected First Amendment speech and press as a condition of exercising another protected constitutional right.

63. Next, applicants must provide four character references to the government as a condition of exercising Second Amendment rights. Unsurprisingly, other constitutional rights are not predicated upon what others think about you, or conditioned on having friends who will agree to stand up to government interrogation and scrutiny (or retaliation) in order to help another person obtain a carry license. Notwithstanding that, those who do not have four “character references” presumably will be unable to exercise their Second Amendment rights. Exhibit “1” at 5.

64. Making matters worse, the CCIA demands that “character references” attest that the applicant “has not engaged in any acts, or made any statements that suggest they are likely to engage in conduct that would result in harm to themselves or others.” *Id.* at 5. Of course, how someone would be in the omniscient position to attest that another person has not engaged in “*any act*” or made “*any statements*” of a certain nature seems a tall order indeed.

65. Next, the requirement that nothing “suggest [an applicant is] likely to engage in conduct that would result in harm [justified or not] to themselves or others” is an open-ended and vague standard, as one hundred percent of those applying for a permit to carry a handgun in public, by definition, could be said to be “likely” to “harm” a carjacker through the morally legitimate and entirely lawful act of self-defense.

66. It is axiomatic that the exercise of one constitutional right cannot be conditioned on the forfeiture or violation of another. *See, e.g., Simmons v. United States*, 390 U.S. 377 (1968) (rejecting a situation where a defendant was forced to forfeit his Fifth Amendment right to keep silent in order to assert his Fourth Amendment right, calling that a “condition of a kind to which this Court has always been peculiarly sensitive,” and concluding it to be “intolerable that one constitutional right should have to be surrendered in order to assert another.”) *Id.* at 393-94. *See also Perry v. Sindermann*, 408 U.S. 593 (1972) (the government may not deny a person a benefit “on a basis that infringes his constitutionally protected interests ... For if the government could deny a benefit to a person because of his constitutionally protected [rights], his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to ‘produce a result which [it] could not command directly ... Such interference with constitutional rights is impermissible.’”) *Id.* at 597. (punctuation omitted).

iii. Sensitive Locations.

67. The CCIA next creates a new Section 265.01-e entitled “Criminal Possession of a firearm, rifle or shotgun in a sensitive location.” Exhibit “1” at 16.

68. The list of “sensitive locations” contained in this section is extensive, and serves to bar the carry of firearms in most public places.

69. “Sensitive location” is defined as:

- (a) any place owned or under the control of federal, state or local *government*, for the purpose of government administration, including courts;
- (b) any location providing *health*, behavioral health, or chemical dependance *care* or services;
- (c) any place of *worship* or religious observation;

- (d) libraries, public *playgrounds*, public *parks*, and *zoos*;
- (e) the location of any program licensed, regulated, certified, funded, or approved by the office of *children and family services* that provides services to children, youth, or young adults, any legally exempt *childcare provider*; a childcare program for which a permit to operate such program has been issued by the department of health and mental hygiene pursuant to the health code of the city of New York;
- (f) nursery *schools*, *preschools*, and summer *camps*;
- (g) the location of any program licensed, regulated, certified, operated, or funded by the office for people with *developmental disabilities*;
- (h) the location of any program licensed, regulated, certified, operated, or funded by office of *addiction* services and supports;
- (i) the location of any program licensed, regulated, certified, operated, or funded by the office of *mental health*;
- (j) the location of any program licensed, regulated, certified, operated, or funded by the office of temporary and *disability* assistance;
- (k) homeless shelters, runaway homeless youth *shelters*, family shelters, shelters for adults, domestic violence shelters, and emergency shelters, and residential programs for victims of domestic violence;
- (l) *residential settings* licensed, certified, regulated, funded, or operated by the department of health;
- (m) in or upon any building or grounds, owned or leased, of any *educational institutions, colleges and universities*, licensed private career *schools*, school districts, public schools, private schools licensed under article one hundred

one of the education law, charter schools, non-public schools, board of cooperative educational services, special act schools, preschool special education programs, private residential or non-residential schools for the education of students with disabilities, and any state-operated or state-supported schools;

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

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

(p) any place used for the *performance, art* entertainment, gaming, or sporting events such as theaters, stadiums, racetracks, museums, amusement parks, performance venues, concerts, exhibits, conference centers, banquet halls, and gaming facilities and video lottery terminal facilities as licensed by the gaming commission;

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

(r) any *public sidewalk* or other public area *restricted from general public access* for a limited time or special event that has been issued a permit for such time or event by a governmental entity, or subject to specific, heightened law enforcement

protection, or has otherwise had such access restricted by a governmental entity, provided such location is identified as such by clear and conspicuous signage;

(s) *any gathering of individuals to collectively express their constitutional rights to protest or assemble;*

(t) the area commonly known as *Times Square*, as such area is determined and identified by the city of New York; provided such area shall be clearly and conspicuously identified with signage.

See Exhibit “1” at pp. 16-18.

70. The CCIA has certain exemptions, including for police, certain government employees engaged in the course of their duties, persons engaged in hunting, and persons operating a program in a “sensitive location out of their residence.”

71. Unlawful carry in any of these 20 categories of “sensitive locations” is a Class E Felony, conviction of which leads to the loss of Second Amendment rights.

72. Although some of these “sensitive locations” must be marked conspicuously with signage, many are not required to be so marked, leaving carry license holders in peril of unintentionally violating the statute in a place they have no idea constitutes a “sensitive location” in the massive list above.

73. Rather than concocting this extensive list of so-called “sensitive locations,” it would probably have been easier for the legislature to list the places that New York, in its grace, *does allow* ordinary law-abiding citizens to exercise their rights.

74. In addition to these numerous “sensitive locations,” the CCIA also bans the carry of firearms in what it calls “a restricted location,” defined in “§ 265.01-d Criminal possession of a weapon in a restricted location”:

A person is guilty of criminal possession of a weapon in a restricted location when such person possesses a firearm, rifle, or shotgun and enters into or remains on or in private property where such person knows or reasonably should know that the owner or lessee of such property *has not permitted such possession by clear and conspicuous signage* indicating that the carrying of firearms, rifles, or shotguns on their property is permitted *or has otherwise given express consent*. [Exhibit 1, p19 (emphasis added).]

75. Violation of this prohibition, like the prohibition on “sensitive locations,” is a “class E felony” conviction of which leads to the loss of Second Amendment rights for life. Exhibit 1 at 20.⁸

76. In other words, the CCIA makes all private property in New York state a “restricted location” by default, with a property owner (such as a storekeeper) required to “conspicuously” post signage indicating that concealed carry is allowed.

77. *Bruen* has expressly foreclosed the ability of New York to paint with such broad strokes, labeling vast swaths of the state to be “sensitive places” (or “sensitive locations” or “restricted locations”), explaining that:

expanding the category of “sensitive places” simply to all places of public congregation that are not isolated from law enforcement defines the category of “sensitive places” far too broadly. Respondents’ argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below.... Put simply, there is no historical basis for New York to effectively declare the island of

⁸ Not content with banning licensed carriers from carrying in most of New York, the CCIA now mandates that individuals who are otherwise licensed to carry, but who are entering a “no carry” zone, must remove the ammunition from their firearm and secure the firearm in an “appropriate safe storage depository out of sight from outside of the vehicle.” Exhibit “1” at 25. Mandating the removal of magazines and unloading firearms will unnecessarily introduce the possibility for accidental discharges. Mandating that individuals unload their lawfully carried firearms each time they leave their vehicle to enter a no carry zone will do nothing to ensure the safety of the firearm, will provide opportunities for the vehicle to be vandalized and the firearm stolen (by definition, by someone who is *not* law-abiding and, most likely by someone who is *not* a carry license holder), and can potentially cause injuries or, at a minimum, “man with a gun” calls to police when passers by witness a gun owner unloading, storing, or reloading his firearm. Indeed, New York affirmatively stated that a glove box or glove compartment “shall not be considered an appropriate safe storage depository,” meaning something less discrete will be required. *Id.* at 25.

Manhattan a “sensitive place” simply because it is crowded and protected generally by the New York City Police Department. [*Bruen*, Slip Op. at 22.]

78. Disregarding the Court’s warning not to turn the entire state into a “sensitive place,” New York has essentially told the Court “challenge accepted,” with the CCIA effecting virtually that result.

79. With “sensitive locations” covering most public locations and locations that have some tie to or involvement with state government, and “restricted location” covering all private property by default, it is hard to imagine how a carry license holder could so much as leave home without running afoul of the CCIA. That is precisely the result that *Bruen* warned against.

80. New York’s new “sensitive locations” and “restricted locations” provisions are unconstitutional on their face, serve only to “eviscerate the general right to publicly carry arms for self-defense,” and create a situation that is even more onerous and restrictive than that which existed prior to the *Bruen* decision.

81. Additionally, by listing as a “sensitive location” any location where individuals exercise their First Amendment rights to association and protest (subsection s), the CCIA takes away Second Amendment rights for those who exercise their First Amendment rights.

iv. New York’s Second Amendment Tax.

82. The CCIA’s licensing scheme adds a slew of new requirements to the demands placed on a carry license applicant, which will disproportionately affect individuals who cannot devote the new “minimum of sixteen hours of in-person live curriculum” that New York demands all permittees acquire. *Id.* at 39. This course also requires two hours of live-fire training, apparently resulting in a total training demand of 18 hours. *Id.*

83. Prior to this new law, only a four-hour course was required, with many trainers offering the course for approximately \$75.00^{9,10} and some offering it for \$50.00.¹¹

84. The new 16-hour course, with an additional two hours live-fire, is estimated to run in approximately the \$400 dollar range, plus the cost of ammunition for “live fire” (perhaps \$50 or more), not to mention the significant time investment required for individuals to take off potentially three days of work to complete a training requirement that is now four and half times what was previously required.

85. Adding further draconian layers to the application process, those who already possess a valid carry license will be required to complete this 18-hour training process upon renewal of their license, meaning such persons now have a total training requirement of 22 hours (versus 18 hours for new applicants). *Id.* at 40. In other words, those who have already possessed licenses without incident are put to a higher standard than are new applicants, essentially creating two classes of license holders within the state.

86. The CCIA’s new training requirement and associated costs, which is obviously designed with the intent to increase the cost associated with exercising an enumerated right, ignores *Bruen*’s footnote 9 which stated that “we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry.” Slip Op. at 30.

87. Prior to losing *Bruen*, New York did not require such an extensive and expensive training requirement. Rather, for many years, New York has deemed four hours sufficient to train

⁹ <https://ftwny.com/coursedetails/>.

¹⁰ <https://theindoorgunrange.com/basic-pistol-safety-1>.

¹¹ <https://www.donssecurityservices.com/product/nys-pistol-permit-safety-course/>.

individuals to carry firearms in public. The mere fact that Bruen now requires the state to recognize the rights of its citizens does not justify a 4.5-fold increase in training.

d. The CCIA Has Been Condemned by the State’s Law Enforcement Officials.

88. Though it was only recently enacted, the CCIA has received significant, well-deserved criticism, including from the New York State Sheriff’s Association (“NYSSA”), which represents the chief law enforcement officers across the state whose duty it is to decide whether the CCIA can be constitutionally enforced, or whether their oath to the Constitution demands otherwise.

89. In fact, the NYSSA issued a public statement on July 6, 2022, critical not only of the CCIA, but also the way it was enacted. Specifically, the NYSSA stated, “Once again the New York State Legislature has seen fit to pass sweeping new criminal justice laws that affect the rights of millions of New York citizens, and which impose burdensome new duties on local government officials, without any consultation with the people who will be responsible for carrying out the provisions of those new laws.”¹²

90. The NYSSA went on to state, “The new firearms law language first saw the light of day on a Friday morning and was signed into law Friday afternoon. A parliamentary ruse was used to circumvent the requirement in our State Constitution that Legislators — and the public — must have three days to study and discuss proposed legislation before it can be taken up for a vote. The Legislature’s leadership claimed, and the Governor agreed, that it was a ‘necessity’ to pass the Bill immediately, without waiting the Constitutionally required three days, even though the law would not take effect for two full months. Consequently, law enforcement agencies and the courts, which bear most of the responsibility for implementing the new licensing laws, were

¹² <https://nysheriffs.org/statement-concerning-new-yorks-new-firearms-licensing-laws/>

deprived of any opportunity to point out to Legislators the burdensome, costly, and unworkable nature of many of the new laws' provisions. And, of course, our citizens, whose rights are once again being circumscribed, probably again in unconstitutional ways, had no opportunity to communicate their concerns to their legislative representatives."

91. Finally, the NYSSA disclaimed support for "punitive licensing requirements that aim only to restrain and punish law-abiding citizens who wish to exercise their Second Amendment rights."

92. Peter Kehoe, the executive director of the New York State Sheriff's Association, "which represents all 58 sheriffs across New York state," was interviewed by CBS 6 (WRGB), and claimed that this new law infringes on the Second Amendment by "creating a rule [citizens] can't abide by."¹³

93. Indeed, the Sheriffs and their deputies will be responsible for enforcing the draconian new restrictions in the CCIA, and also responding to the inevitable "man with a gun" calls about citizens who are complying with CCIA by removing their firearms from their person, separating the magazine and ammunition from the handgun, and then storing the firearm in an approved container, all in public view.

e. Plaintiff Ivan Antonyuk

94. Plaintiff Ivan Antonyuk is an adult male citizen of the State of New York, residing in Schenectady County within this district, and is a citizen of the United States. He is a law-abiding person, and has no disqualification under state or federal law which would prohibit him from possessing a firearm. *See* Declaration of Ivan Antonyuk, Exhibit "6."

¹³ <https://cbs6albany.com/news/local/nys-sheriffs-new-gun-laws-unconstitutional-by-creating-rules-impossible-to-follow>.

95. In addition to the fact that the CCIA on its face violates Mr. Antonyuk's First and Second Amendment rights, there is another, more personal reason that Mr. Antonyuk is unwilling to submit to New York's new and unconstitutional demands.

96. Plaintiff Antonyuk is originally from Ukraine. *See* Exhibit "6" at ¶ 4.

97. In early 1990's Ukraine, crime was rampant. The country was run by mafia and criminals, while ordinary citizens were not allowed to own firearms to protect themselves. Indeed, only the government and their chosen protectors had access to arms. *Id.* at ¶ 4

98. This left the Ukrainian people with no means to defend themselves from crime, whether committed by petty criminals or the government itself. The police were often hours away when called, if they came at all, and the Ukrainian people had no right to free speech and no right to protest. *Id.* at ¶ 6.

99. During his childhood, Plaintiff Antonyuk witnessed attacks on the citizens of Ukraine by the government for the simple act of protesting. Indeed, he was a victim of government violence during a protest in which he was not involved, but nevertheless was beaten by the police for simply being in the general vicinity of the protest. *Id.* at ¶ 7.

100. In 1994, Mr. Antonyuk fled Ukraine in favor of the United States and its promise of freedom, moving to New York, where he became a citizen of the United States in 1999. He has lived in New York ever since. *Id.* at ¶ 9.

101. In coming to the United States, and New York in particular, Mr. Antonyuk was not seeking to exchange one totalitarian regime for another.

102. For example, Mr. Antonyuk does not wish the government to have access to his social media accounts, as that infringes and chills his right to speak without government

interference and without the government looking over his shoulder to see (and either approve or disapprove of) what he is saying. *Id.* at ¶ 19.

103. Starting in approximately 2014, Ukraine *ostensibly* liberalized its firearms ownership laws, and the Ukrainian people could possess certain firearms, but *only if – like in New York – they were deemed fit to own them by the government*. Nevertheless, in the presence of more armed civilians, crime started to decrease immediately.

104. When Russia invaded Ukraine in 2022, the Ukrainian government began to arm its civilians so they could fight against the Russians.¹⁴ And the Ukraine parliament passed a law allowing citizens to carry firearms in public.¹⁵

105. In other words, Mr. Antonyuk has firsthand experience with the dangers that inevitably occur when the government prohibits its citizens from keeping and bearing arms, and has first-hand knowledge of the results that occur when a population is disarmed. Whether from criminals, one’s own government, or foreign invaders, Mr. Antonyuk has experienced it all, and is particularly sensitive to the CCIA’s attempts to institute a whole host of new infringements of his Second Amendment rights.

106. Mr. Antonyuk is not prohibited from owning, possessing or transporting firearms in New York and, indeed, lawfully owns firearms and currently possesses an unrestricted New York carry license, which was issued in March of 2009. Mr. Antonyuk has continuously held a carry license since then and it has never been revoked or suspended. *Id.* at ¶¶ 3, 11.

107. Mr. Antonyuk wishes to continue to lawfully carry his handgun in public which, as *Heller* and *Bruen* have explained, are the “the quintessential self-defense weapon.” *Bruen*, Slip Op. at 39; *see also id.* at 23 (“weapons ‘in common use’ today for self-defense”). *Id.* at ¶ 12.

¹⁴ <https://www.washingtonpost.com/world/2022/02/26/ukraine-russia-militias/>.

¹⁵ <https://www.businessinsider.com/ukraine-parliament-passes-law-allowing-citizens-to-carry-firearms-2022-2>.

108. Because New York carry licenses must be recertified after five years (*see* NY CLS Penal § 400.00(10), Plaintiff Antonyuk will be required to renew or recertify his permit in January 2023, shortly after the CCIA takes effect in September 2022. *Id.* at ¶ 13.

109. However, Mr. Antonyuk does not wish to provide his protected First Amendment communications to the government of New York for scrutiny, and does not want to provide a list of his friends and their whereabouts to the government for interrogation, as conditions precedent to his being permitted to continue to exercise his Second Amendment right to carry a firearm in public. It is axiomatic that the government may not condition the exercise of one right on the forfeiture of another.¹⁶ *Id.* at ¶ 19.

110. These demands in the CCIA are far too reminiscent of the regime that Mr. Antonyuk fled decades ago, and violate this country's promises of a free society that Mr. Antonyuk was seeking, as enshrined in our founding documents and guaranteed by the Bill of Rights.

111. As a current carry license holder, Plaintiff Antonyuk has already met all existing statutory requirements in order to obtain and maintain an unrestricted permit to carry. *See* N.Y. Penal Law § 400.00. Mr. Antonyuk does not wish to complete an additional 16-hour course, plus a two-hour live fire course (at the cost of hundreds of dollars), as now mandated by the CCIA (Exhibit "1" at p. 39), simply to continue exercising the same right to carry that he has exercised, without incident, since 2009. *See* Exhibit "6."

¹⁶ *See State v. Irving*, 114 N.J. 427, 456-57, 555 A.2d 575, 590-91 (1989) (Handler, J., dissenting) "The right to an alibi defense and the right to remain silent are two separate constitutional rights. Exercise of one should not be conditioned on waiver of the other. Just as in *Simmons v. United States*, *supra*, 390 U.S. at 377, 88 S.Ct. at 967, 19 L.Ed.2d at 1247, where exercise of the fourth amendment cannot be conditioned on waiver of the fifth; *Lefkowitz v. Cunningham*, *supra*, 431 U.S. at 801, 97 S.Ct. at 2132, 53 L.Ed.2d at 1, where the first amendment right to hold political office cannot be conditioned on waiver of the fifth; and *Brooks v. Tennessee*, *supra*, 406 U.S. at 605, 92 S.Ct. at 1891, 32 L.Ed.2d at 358, where waiver of the privilege cannot be conditioned on giving up the right to have the prosecutor bear the burden of proof first, we should not allow such a choice between constitutional rights."

112. Mr. Antonyuk will also now be barred from lawfully carrying his firearm in places where he previously has been permitted to carry. For instance, when Plaintiff is lawfully carrying his firearm, now he will have to store it in his vehicle if he were to go into a gas station that has not affirmatively announced that it permits concealed carry within the premises. *See* Exhibit “1” at p. 19.

113. This CCIA’s prohibition on carry in “restricted locations” infringes on Plaintiff Antonyuk’s right to bear arms in public, because it commandeers all private property in New York state, declares it to be a gun-free zone, and then allows a limited right for property owners to opt out of the state’s no gun scheme, but only after they engage in compelled speech (the placement of a clear statement that guns are permitted on the premises).

114. If Plaintiff Antonyuk visits a store that is not posted to permit him to carry, he will be required to disarm himself, remove the ammunition and magazine from the firearm, and store the firearm separately from the ammunition, an inherently risky activity when done inside a vehicle while in public view. *Id.* at ¶¶14-17.

115. Plaintiff Antonyuk believes that these requirements increase the risk that law abiding gun owners could experience an accidental discharge, because they will be forced to unnecessarily remove their firearm, empty the round from the chamber, and then separate the ammunition. Conversely, when they return to their vehicle, they will be doing this process in reverse, again increasing the risk of an accidental discharge for no reason.

116. Plaintiff Antonyuk’s Second Amendment rights are unconstitutionally infringed by the State of New York and the CCIA’s new licensing scheme, which leaves him with less of a constitutional right to bear arms in public than he had before the law was passed and even before the Supreme Court’s opinion in *Bruen* was handed down.

f. Plaintiffs Gun Owners of America, Inc., Gun Owners Foundation, and Gun Owners of America New York, Inc.

117. Plaintiffs GOA, GOF, and GOA-NY together have tens of thousands of members and supporters within the state of New York, many of whom, like Plaintiff Antonyuk, reside within this district, and will be irreparably harmed by implementation of the CCIA. *See* Declaration of Erich Pratt, Exhibit “4;” Declaration of William Robinson, Exhibit “5.”

118. GOA, GOF, and GOA-NY’s members and supporters within New York represent a wide variety of those who will be detrimentally affected (and irreparably harmed) by the CCIA.

119. GOA, GOF, and GOA-NY’s members and supporters include those individuals with unrestricted carry permits will no longer be allowed to carry in New York in the same manner and to the same extent as they have been before this new law went into effect, because of the CCIA’s ban on carry in what it defines as “sensitive places” and “restricted locations.”

120. GOA, GOF, and GOA-NY’s members and supporters include those who currently possess valid permits, but will be required to recertify or renew their permits after the CCIA takes effect, thereby subjecting themselves to invasive First Amendment audits by the government as a condition to being “permitted” to exercise their Second Amendment right to carry a firearm in public. Additionally, GOA, GOF, and GOA-NY’s members and supporters will also have to expend significant sums of money and devote substantial time to complete a new, yet to be defined, training course.

121. GOA, GOF, and GOA-NY’s members and supporters include those who will seek to apply for new carry licenses after the effective date of CCIA, and will be irreparably harmed by this new law because they will be subjected to invasive First Amendment audits, expend significant sums of money to take training classes, *still* will not be able to carry in a majority of places due to

New York’s “sensitive places” and “restricted location” definitions, and will be required to disarm themselves when entering any private property that is not marked with signage allowing carry.

122. GOA, GOF, and GOA-NY’s members and supporters include those individuals without permits who are ordinary law-abiding people with typical self-defense needs (as discussed in *Bruen*, Slip Op. at 63), but who will not be able to acquire carry licenses because they will not be able to meet the “good character” showing, as it is vague and ambiguous and leaves it entirely open to the unchanneled discretion of licensing officials.

123. Moreover, for those without a wide social network or who are recent transplants to the state, and who are unable to provide “no less¹⁷ [sic] than four character references,” such persons will not be able to meet the new requirements of the CCIA, and will be unable to exercise their Second Amendment right to bear arms.

124. The CCIA is the Governor’s and the Legislature’s attempt at evade binding Supreme Court precedent, making it more difficult for the average New Yorker to exercise Second Amendment rights than before *Bruen*.

125. GOA, GOF, and GOA-NY’s members and supporters, including those who have not yet applied for a carry permit, will be irreparably harmed by the CCIA, which exists only to continue the state’s infringements on New York’s citizens’ rights.

COUNT I

U.S. CONST., AMEND. II

126. The foregoing allegations are repeated and realleged as if fully set forth herein.

127. The CCIA infringes Plaintiffs’ Second Amendment rights that “shall not be infringed.”

¹⁷ Apparently the legislature doesn’t know the distinction between less and fewer.

128. First, Plaintiff Antonyuk (not to mention the thousands of members and supporters of the organizational plaintiffs) is a member of “the people” who desire to “bear” a quintessential protected “arm” (a handgun) in public.

129. Under *Bruen*, “when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must “demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Bruen*, Slip Op. at 8.

130. Thus, the burden is on the government to justify the CCIA based on the historical tradition of the activity that it is now attempting to regulate and ban.

131. However, there is no historical analogue for any of the new and onerous requirements in the CCIA. The exorbitant fees, slew of non-sensitive “sensitive locations” and “restricted locations” which include very public places (like parks and sidewalks), and incredulous demands for carry license applicants, all are entirely without historical example, and thus violate the Second Amendment. Indeed, the Defendant must historically justify *each* of its “sensitive locations” defined in the CCIA. *See* Exhibit “1”, pp. 16-18.

132. Thus, CCIA violates the Second Amendment.

133. Not to mention failing the *Bruen* framework, the CCIA expressly violates the Supreme Court’s explicit instructions (and binding holdings) in *Bruen*.

134. First, *Bruen* disapproved of discretion during the permitting process, instead making clear that governments may rely only rigid statutory criteria. *Bruen*, Slip Op. at 4-5. The CCIA, however, includes a malleable “good moral character,” which is inherently a judgment call and invites discretion and the abuses that stem from unbridled discretion.

135. Second, New York has abused the narrow exception for “sensitive places” to include innumerable places that clearly do not fall under that doctrine, doing precisely what the Supreme Court found unavailing in *Bruen*: “effectively declare the island of Manhattan a ‘sensitive place’” *Bruen*, Slip Op. at 22.

136. Indeed, the CCIA has wandered far afield, coopting and declaring all private property to be a “restricted location,” and requiring that property owners affirmatively allow firearms on the premises.

COUNT II

U.S. CONST., AMEND. II, 42 U.S.C. § 1983 AGAINST DEFENDANT

137. The foregoing allegations are repeated and realleged as if fully set forth herein.

138. As such, Defendant’s laws, customs, practices, and policies, reducing the Second Amendment’s protection of the right to “bear arms” in public to an inkblot, damages Plaintiffs in violation of 42 U.S.C. § 1983. Plaintiffs are therefore entitled to preliminary and permanent injunctive relief against such laws, customs, policies, and practices.

139. By infringing the Second Amendment right to bear arms in public in these ways, the New York laws and regulations discussed in the foregoing allegations violate the Second Amendment, which applies to Defendant by operation of the Fourteenth Amendment, both facially and as applied to Plaintiff Antonyuk and members and supporters of GOA, GOF, and Gun Owners of America New York, and they are therefore invalid.

COUNT III

U.S. CONST., AMEND. I

140. The foregoing allegations are repeated and realleged as if fully set forth herein.

141. The CCIA unlawfully requires the Plaintiffs to provide “social media” accounts to the government, along with a list of names and contact information of their family and friends. This blatantly unconstitutional demand to exercise a constitutionally protected right cannot stand.

142. The CCIA will chill the protected speech of Plaintiffs, including members and supporters of GOA, GOF and GOA-NY, will not know what they can and cannot say in their private lives and in their private social media, and whether their exercise of protected speech and press rights may one day give a licensing officer pause in issuing a license to exercise an entirely different constitutionally protected right.

143. As such, Plaintiffs, including members and supporters of GOA, GOF and GOA-NY, will self-censor, knowing that government agents will have access to and be required to scrutinize Plaintiffs’ social media in the future.

144. Entirely legitimate First Amendment speech can theoretically form the basis for denial of good moral character, such as (for example) from sovereign citizens who do not recognize and reject government authority, those who engage in antigovernment rhetoric, or those who exaggerate and use hyperbole in their social media posts.

145. Justice Thomas, in a dissent to denial of certiorari in a previous Second Amendment challenge, listed various cases where the First Amendment has been held to protect speech that would likely run afoul of New York’s social media censors, leading to a denial on the basis that the applicant is not of “good moral character:” *see Silvester v. Becerra*, 138 S. Ct. 945, 951 (2018) (Thomas, J., dissenting from denial of certiorari) “*Forsyth County v. Nationalist Movement*, 505 U. S. 123 (1992) (holding that the First Amendment forbids a county from charging even a small permitting fee to offset the costs of providing security for a white-nationalist rally); *Virginia v. Black*, 538 U. S. 343 (2003) (holding that the First Amendment protects the burning of a 25-foot

cross at a Ku Klux Klan rally); *Brandenburg v. Ohio*, 395 U. S. 444, 446, n. 1 (1969) (per curiam) (holding that the First Amendment protects a film featuring Klan members wielding firearms, burning a cross, and chanting “‘Bury the n*****s’”).”

146. If the above is protected speech under the First Amendment, then New York may not use protected First Amendment activity to deny the exercise of another right simply based upon content or opinions of which the State of New York does not approve.

COUNT IV

U.S. CONST., AMEND. I, 42 U.S.C. § 1983 AGAINST DEFENDANT

147. The foregoing allegations are repeated and realleged as if fully set forth herein.

148. The New York laws and regulations discussed in the foregoing allegations violate the First Amendment, which applies to Defendant by operation of the Fourteenth Amendment, both facially and as applied to Plaintiff Antonyuk and members and supporters of GOA, GOF, and Gun Owners of America New York and they are therefore invalid.

149. Because Defendant’s laws, customs, practices, and policies, reducing the First Amendment’s guarantee of freedom of speech to New York approved speech, it damages Plaintiffs in violation of 42 U.S.C. § 1983. Plaintiffs are therefore entitled to preliminary and permanent injunctive relief against such laws, customs, policies, and practices.

150. By infringing the First Amendment’s protections in these ways, the New York laws and regulations discussed in the foregoing allegations violate the First Amendment, which applies to Defendant by operation of the Fourteenth Amendment, both facially and as applied to Plaintiff Antonyuk and members and supporters of GOA, GOF, and Gun Owners of America New York, and they are therefore invalid.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant as follows:

1. An order preliminarily and permanently enjoining Defendant, its officers, agents, servants, employees, and all persons in active concert or participation with him who receive actual notice of the injunction, from enforcing the challenged sections of SB51001;
2. An order declaring that the challenged sections of SB51001 are unconstitutional and violate the First, Second, and Fourteenth Amendments to the United States Constitution;
3. An order declaring the challenged sections of SB51001 unenforceable;
4. Costs of suit, including attorney fees and costs pursuant to 42 U.S.C. §1988;
5. Such other Declaratory relief consistent with the injunction as appropriate; and
6. Such other further relief as the Court deems just and appropriate.

Dated: July 11, 2022.

Respectfully submitted,

/s/ Stephen D. Stamboulieh
Stephen D. Stamboulieh
Stamboulieh Law, PLLC
P.O. Box 428
Olive Branch, MS 38654
(601) 852-3440
stephen@sdslaw.us
NDNY Bar Roll# 520383

Robert J. Olson (VA # 82488)
William J. Olson, PC
370 Maple Ave. West, Suite 4
Vienna, VA 22180-5615
703-356-5070 (T)
703-356-5085 (F)
wjo@mindspring.com
**Pro Hac Vice paperwork forthcoming*

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 Mikulin	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.

BILL NUMBER: S51001

SPONSOR: STEWART-COUSINS

TITLE OF BILL:

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

PURPOSE:

The United States Supreme Court's decision in *New York State Rifle & Pistol Association, Inc., v. Bruen, et al.* struck down a 100-year law requiring applicants for conceal carry gun permits to show "proper cause". It deemed New York State's existing law unconstitutional because the law afforded too much discretion to the State and its licensing officers in determining "proper cause." As a result of this decision, the State must amend the State's laws on concealed carry permits and take other steps to address the consequences of the Supreme Court decision and the resulting increase in licenses and in the number of individuals who will likely purchase and carry weapons in New York State.

The proposed legislation changes the concealed carry permitting process and adds specific eligibility requirements, including the taking and passing of firearm training courses for permit applicants. It will enable the State to regulate and standardize training for license applicants. The legislation also identifies sensitive locations where it is prohibited to carry a concealed weapon and establishes that private property owners must expressly allow a person to possess a firearm, rifle, or shotgun on their property. Individuals who carry concealed weapons in sensitive locations or in contravention of the authority of an owner of private property will face criminal penalties. The State will have oversight over background checks for firearms, run regular checks on license holders for criminal convictions, and create a state-wide license and ammunition database. The legislation also strengthens and clarifies the law relating to the sale of body armor and the safe storage of firearms. The bill will take effect on September 1, 2022. An appeals board will be created for those applicants whose license is denied, which will take effect on April 1, 2023.

SUMMARY OF PROVISIONS:

Section 1 of this bill amends section 400.00 of the penal law: to define good moral character, provide new eligibility requirements, which include passing a firearms safety course; to create a new concealed carry license under 400.00 2(f) with additional disqualifying offenses and eligibility requirements; to create an appeals process for applicants who are denied, or licenses which are revoked; to require concealed carry 2(f) licenses to recertify and renew their license after three years; to provide that conduct that would result in a denial of a license would also operate as a ground for revocation of a license, and a material false statement would result in revocation of a license, issued to a licensee in writing.

Section 2 amends section 837 of the executive law, giving the Division of Criminal Justice Services (DCJS) the new duty and function of collaborating with the Division of State Police to certify instructors and create course and training standards for a firearms safety course and

live-fire range training. DCJS will work with the State Police to create an appeals board.

Section 3 amends the executive law by adding a new section 235, giving the State Police the responsibility of collaborating with DCJS to promulgate the policies and procedures for firearms safety and training. It also requires the State Police to work with DCJS in creating an appeals board.

Section 4 amends the penal law by adding a new section 265.01-e, making a comprehensive list of all the sensitive places where the possession and carrying of firearms, rifles, or shotguns are prohibited. This section makes it a class E felony to possess a firearm, rifle, or shotgun in an enumerated prohibited sensitive place. It also specifies the people who are exempt from this prohibition.

Section 5 amends the penal law by adding a new section 265.01-d, making it a class E felony to possess a firearm, rifle, or shotgun on private property where a property owner has not given an indication or expressly allowed a person to possess. It also specifies the people who are exempt from this prohibition.

Section 6 amends penal law section 265.20 by allowing a person to possess a pistol or revolver while undergoing live-fire range training with a qualified instructor.

Section 7 amends penal law section 400.02 by requiring DCJS to conduct a monthly check of licensees' records for criminal conviction, criminal indictment, mental health, extreme risk protection orders, orders of protection, and other records. This section also creates a statewide license and records database for the sales of ammunition.

Section 8 amends penal law section 400.03, providing that people who sell firearms or ammunition shall keep records of their sales in way approved by State Police.

Section 9 amends penal law section 265.45, promulgating new safe storage laws for rifles, shotguns, and firearms in vehicles.

Section 10 adds a new section 400.30 to the penal law, to specify that the enactment of this bill and its application will not prevent local law to be more restrictive.

Section 11 amends penal law section 270.20, replacing the former defined term "body vest" with a new definition of the term "body armor," which includes any product that is a personal protective body covering intended to protect against gunfire, and would include hard body armor.

Section 12 amends penal law section 270.21, changing the term "body vest" to "body armor" and prohibiting the purchase of body armor by individuals not engaged or employed in an eligible profession.

Section 13 amends penal law section 270.22, changing the term "body vest" to "body armor" and prohibiting the sale of body armor to individuals not engaged or employed in an eligible profession.

Section 14 amends section 396-eee of general business law, changing the term "body vest" to "body armor," and prohibiting the sale of body armor to individuals not engaged or employed in an eligible profession.

Section 15 amends section 144-a of the executive law, changing the term "body vest" to "body armor."

Section 16 amends the executive law to add a new section 228, authorizing State police to run national instant criminal background checks and serve as a State point of contact.

Section 17 amends section 898 of the general business law to require dealers to submit a request to State police before receiving a background check.

Section 18 amends section 896 of the general business law to require firearm dealers to submit a request to State police before any firearm sale or transfer.

Section 19 amends section 400.03 of the penal law, requiring dealers and sellers to go through the State police to conduct background checks.

Section 20 adds a new section 400.06, requiring dealers to contact State police to conduct a national instant criminal background check. Failure to comply is a class A misdemeanor.

Section 21 adds a new section 99-pp to the finance law to create a "background check fund". This fund will be used to cover the costs associated with performing background checks.

Section 22 amends section 265.00 of the penal law to redefine "duly authorized instructor" as including people certified by DCJS.

Section 23 amends section 400.00 of the penal law to require licensing officials to notify licensees regarding important information concerning their responsibilities as a license holder. Licensees must receive a notification regarding the requirements for the safe storage of their firearm, rifle, or shotgun.

Section 24 amends section 265.00, to modify the definition for a rifle and shotgun.

Section 25, the severability clause, provides that if any part of this Act be adjudged by any court of competent jurisdiction to be invalid, such judgment would not invalidate the remainder of the Act.

Section 26 provides that the bill takes effect on the first day of September next succeeding the date on which it shall have become a law.

EXISTING LAW:

1. PL § 400.00 establishes the requirements for licenses to carry, possess, repair, and dispose of firearms.
2. PL § 265 establish the penalties of unlawful possession of firearms and other dangerous weapons.
3. PL § 400.02 establishes the creation of a statewide license and record database.
4. PL § 400.03 requires every "commercial transfer" of ammunition, including sales by firearms dealers and other ammunition vendors, to be preceded by a background check through a statewide license and record

database.

5. PL § 270.20 establishes the penalties for unlawful wearing of a body vest.

6. PL § 270.21 establishes the penalties for unlawful purchase of a body vest.

7. PL § 270.22 establishes the penalties for unlawful sale of a body vest.

8. Gen Bus. L § 896 establishes the regulations concerning the operation of a gun show.

9. Gen Bus. L § 898 establishes the requirements for the private sale or disposal of firearms, rifles and shotguns.

10. Gen Bus. L § 396-eee establishes the penalties for unlawful sale or delivery of body vests.

11. Executive law § 144-a establishing the criteria for eligible professions for the purchase, sale, and use of body vests.

12. Executive law § 837 establishes the functions, powers, and duties of the division.

JUSTIFICATION

Modifying NYS Conceal Carry Application Process and Criteria

The proposed legislation creates a new licensing procedure that satisfies the requirements set forth by the United States Supreme Court decision in *New York State Rifle & Pistol Association, Inc., v. Bruen, et al.* Notably, this replaces the "proper cause" requirements of New York's current conceal carry law, with a new set of requirements that protects individuals' Second Amendment rights as determined by the Supreme Court. Under this bill, applicants who successfully meet New York's conceal carry license applications requirements will receive their license. The bill furthers the State's compelling interest in preventing death and injury by firearms. It addresses who may lawfully possess a firearm, the requirements for purchasing guns and ammunition, and the restrictions that may be imposed on the possession or carrying of guns. It contains enhanced screening of conceal carry license applicants (including in-person interviews, reviews of social media and other information necessary to evaluate the application). The bill includes a robust appeals process to ensure the system is administered consistently and fairly across the State, including a new requirement for written notices to applicant licensees for all denials and revocations. It provides recurring monthly checks of licenses statewide to identify those who become prohibited from possessing firearms and expands secure storage to prevent thefts of guns from cars.

Point of Contact: State-run Background Checks for Firearms

Efficient, effective, and thorough background checks are a vital component of ensuring public safety and guaranteeing that individuals can purchase guns without unreasonable delay. Background checks undertaken by states are typically more thorough than those conducted by the Federal Bureau of Investigation ("FBI"), which lacks access to crucial state-owned and local-owned records and databases that provide a fuller, more

accurate assessment of an applicant's background. This legislation makes the State responsible for the administration of background checks relating to gun purchases, establishing New York as a "Point of Contact" state. State background checks can integrate additional essential information into the licensing process, including outstanding felony warrants, mental health records, domestic violence restraining orders, and more updated criminal and disposition records. Research and institutional data shows that the practice of conducting firearm purchaser background checks through state or local agencies, as opposed to through the FBI, is associated with reduced firearm death rates. Thirteen states use a state or local point of contact for all firearm transfers. Other states use a state or local point of contact for handgun background checks only, using the FBI for background checks on long gun transfers.

Body Armor

Under existing Penal Law section 270.20, a "body vest" is defined as a bullet-resistant soft body armor. This bill changes "body vest" to "body armor" in order to apply to a broader array of protective equipment that is bullet resistant. During the mass shooting in Buffalo, the shooter was wearing a steel-plated vest which would not have been captured under the existing body vest definition.

Ammunition Background Checks

In practice, in most states, individuals can purchase ammunition without any background check or other restriction, often over the Internet. Thirteen states restrict access to ammunition by most or all people who cannot possess firearms (although the eligibility criteria for firearm possession is stronger than for ammunition possession in 3 states). Ammunition background checks and other regulations on the sale and transfer of ammunition are important ways to keep the public safe.

LEGISLATIVE HISTORY:

This legislation is new law. It also modifies provisions of law concerning body armor, enacted by chapter 210 of the laws of 2022.

BUDGET IMPLICATIONS:

State agencies can begin to implement changes with existing resources.

EFFECTIVE DATE:

This bill shall take effect September 1, 2022, provided to allow DCJS additional time for implementation, some sections will go into effect April 1, 2023.

STATE OF NEW YORK

1

Extraordinary Session

IN SENATE

July 1, 2022

Introduced by Sens. STEWART-COUSINS, MYRIE, KAVANAGH -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

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

LBD12053-04-2

S. 1

2

1 apply; (b) of good moral character, which, for the purposes of this
2 article, shall mean having the essential character, temperament and
3 judgement necessary to be entrusted with a weapon and to use it only in
4 a manner that does not endanger oneself or others; (c) who has not been
5 convicted anywhere of a felony or a serious offense or who is not the
6 subject of an outstanding warrant of arrest issued upon the alleged
7 commission of a felony or serious offense; (d) who is not a fugitive
8 from justice; (e) who is not an unlawful user of or addicted to any
9 controlled substance as defined in section 21 U.S.C. 802; (f) who being
10 an alien (i) is not illegally or unlawfully in the United States or (ii)
11 has not been admitted to the United States under a nonimmigrant visa
12 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
13 discharged from the Armed Forces under dishonorable conditions; (h) who,
14 having been a citizen of the United States, has not renounced his or her
15 citizenship; (i) who has stated whether he or she has ever suffered any
16 mental illness; (j) who has not been involuntarily committed to a facil-
17 ity under the jurisdiction of an office of the department of mental
18 hygiene pursuant to article nine or fifteen of the mental hygiene law,
19 article seven hundred thirty or section 330.20 of the criminal procedure
20 law or substantially similar laws of any other state, section four
21 hundred two or five hundred eight of the correction law, section 322.2
22 or 353.4 of the family court act, has not been civilly confined in a
23 secure treatment facility pursuant to article ten of the mental hygiene
24 law, or has not been the subject of a report made pursuant to section
25 9.46 of the mental hygiene law; (k) who has not had a license revoked or
26 who is not under a suspension or ineligibility order issued pursuant to
27 the provisions of section 530.14 of the criminal procedure law or
28 section eight hundred forty-two-a of the family court act; (l) in the
29 county of Westchester, who has successfully completed a firearms safety
30 course and test as evidenced by a certificate of completion issued in
31 his or her name and endorsed and affirmed under the penalties of perjury
32 by a duly authorized instructor, except that: (i) persons who are honor-
33 ably discharged from the United States army, navy, marine corps or coast
34 guard, or of the national guard of the state of New York, and produce
35 evidence of official qualification in firearms during the term of
36 service are not required to have completed those hours of a firearms
37 safety course pertaining to the safe use, carrying, possession, mainte-
38 nance and storage of a firearm; ~~and~~ (ii) persons who were licensed to
39 possess a pistol or revolver prior to the effective date of this para-
40 graph are not required to have completed a firearms safety course and
41 test, provided, however, persons with a license issued under paragraph
42 (f) of subdivision two of this section prior to the effective date of
43 the laws of two thousand twenty-two which amended this paragraph shall
44 be required to complete the training required by subdivision nineteen of
45 this section prior to the recertification of such license; and (iii)
46 persons applying for a license under paragraph (f) of subdivision two of
47 this section on or after the effective date of the chapter of the laws
48 of two thousand twenty-two which amended this paragraph who shall be
49 required to complete the training required under subdivision nineteen of
50 this section for such license; (m) who has not had a guardian appointed
51 for him or her pursuant to any provision of state law, based on a deter-
52 mination that as a result of marked subnormal intelligence, mental
53 illness, incompetency, incapacity, condition or disease, he or she lacks
54 the mental capacity to contract or manage his or her own affairs; ~~and~~
55 ~~(n) concerning whom no good cause exists for the denial of the license.]~~
56 (n) for a license issued under paragraph (f) of subdivision two of this

section, that the applicant has not been convicted within five years of the date of the application of any of the following: (i) assault in the third degree, as defined in section 120.00 of this chapter; (ii) misdemeanor driving while intoxicated, as defined in section eleven hundred ninety-two of the vehicle and traffic law; or (iii) menacing, as defined in section 120.15 of this chapter; and (o) for a license issued under paragraph (f) of subdivision two of this section, the applicant shall meet in person with the licensing officer for an interview and shall, in addition to any other information or forms required by the license application submit to the licensing officer the following information: (i) names and contact information for the applicant's current spouse, or domestic partner, any other adults residing in the applicant's home, including any adult children of the applicant, and whether or not there are minors residing, full time or part time, in the applicant's home; (ii) names and contact information of no less than four character references who can attest to the applicant's good moral character and that such applicant has not engaged in any acts, or made any statements that suggest they are likely to engage in conduct that would result in harm to themselves or others; (iii) certification of completion of the training required in subdivision nineteen of this section; (iv) a list of former and current social media accounts of the applicant from the past three years to confirm the information regarding the applicants character and conduct as required in subparagraph (ii) of this paragraph; and (v) such other information required by the licensing officer that is reasonably necessary and related to the review of the licensing application.

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

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

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a semiautomatic rifle, other than an assault weapon or disguised gun, shall be issued to purchase or take possession of such a ~~[firearm]~~ semiautomatic rifle when such transfer of ownership occurs on or after the effective date of ~~[the]~~ chapter two hundred twelve of the laws of two thousand twenty-two that amended this subdivision. A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a

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

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

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

24 4. Investigation. Before a license is issued or renewed, there shall
25 be an investigation of all statements required in the application by the
26 duly constituted police authorities of the locality where such applica-
27 tion is made, including but not limited to such records as may be acces-
28 sible to the division of state police or division of criminal justice
29 services pursuant to section 400.02 of this article. For that purpose,
30 the records of the appropriate office of the department of mental
31 hygiene concerning previous or present mental illness of the applicant
32 shall be available for inspection by the investigating officer of the
33 police authority. Where the applicant is domiciled in a foreign state,
34 the investigation shall include inquiry of the foreign state for records
35 concerning the previous or present mental illness of the applicant, and,
36 to the extent necessary for inspection by the investigating officer, the
37 applicant shall execute a waiver of confidentiality of such record in
38 such form as may be required by the foreign state. In order to ascertain
39 any previous criminal record, the investigating officer shall take the
40 fingerprints and physical descriptive data in quadruplicate of each
41 individual by whom the application is signed and verified. Two copies of
42 such fingerprints shall be taken on standard fingerprint cards eight
43 inches square, and one copy may be taken on a card supplied for that
44 purpose by the federal bureau of investigation; provided, however, that
45 in the case of a corporate applicant that has already been issued a
46 dealer in firearms license and seeks to operate a firearm dealership at
47 a second or subsequent location, the original fingerprints on file may
48 be used to ascertain any criminal record in the second or subsequent
49 application unless any of the corporate officers have changed since the
50 prior application, in which case the new corporate officer shall comply
51 with procedures governing an initial application for such license. When
52 completed, one standard card shall be forwarded to and retained by the
53 division of criminal justice services in the executive department, at
54 Albany. A search of the files of such division and written notification
55 of the results of the search shall be forwarded to the investigating
56 officer and shall be made without unnecessary delay. Thereafter, such

S. 1

5

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

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

32 4-b. Processing of license applications. Applications for licenses
33 shall be accepted for processing by the licensing officer at the time of
34 presentment. Except upon written notice to the applicant specifically
35 stating the reasons for any delay, in each case the licensing officer
36 shall act upon any application for a license pursuant to this section
37 within six months of the date of presentment of such an application to
38 the appropriate authority. Such delay may only be for good cause and
39 with respect to the applicant. In acting upon an application, the
40 licensing officer shall either deny the application for reasons specif-
41 ically and concisely stated in writing or grant the application and
42 issue the license applied for.

43 ~~[4-b.]~~ 4-c. Westchester county firearms safety course certificate. In
44 the county of Westchester, at the time of application, the licensing
45 officer to which the license application is made shall provide a copy of
46 the safety course booklet to each license applicant. Before such license
47 is issued, such licensing officer shall require that the applicant
48 submit a certificate of successful completion of a firearms safety
49 course and test issued in his or her name and endorsed and affirmed
50 under the penalties of perjury by a duly authorized instructor.

51 10. License: expiration, certification and renewal. (a) Any license
52 for gunsmith or dealer in firearms and, in the city of New York, any
53 license to carry or possess a pistol or revolver, issued at any time
54 pursuant to this section or prior to the first day of July, nineteen
55 hundred sixty-three and not limited to expire on an earlier date fixed
56 in the license, shall, except as otherwise provided in paragraph (d) of

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

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

S. 1

7

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

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

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

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

(c) In any instance in which a person's license is suspended or revoked under paragraph (a) or (b) of this subdivision, such person shall surrender such license to the appropriate licensing official and any and all firearms, rifles, or shotguns owned or possessed by such person shall be surrendered to an appropriate law enforcement agency as provided in subparagraph (f) of paragraph one of subdivision a of

S. 1

8

1 section 265.20 of this chapter. In the event such license, firearm,
2 shotgun, or rifle is not surrendered, such items shall be removed and
3 declared a nuisance and any police officer or peace officer acting
4 pursuant to his or her special duties is authorized to remove any and
5 all such weapons.

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

8 23. (a) In conjunction with the superintendent of the state police,
9 promulgate policies and procedures with regard to standardization of
10 firearms safety training required under subdivision nineteen of section
11 400.00 of the penal law, which shall include the approval of course
12 materials and promulgation of proficiency standards for live fire train-
13 ing; and

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

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

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

27 2. The superintendent, in conjunction with the commissioner of the
28 division of criminal justice services, shall create an appeals board for
29 the purpose of hearing appeals as provided in subdivision four-a of
30 section 400.00 of the penal law and promulgate rules and regulations
31 governing such appeals.

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

34 § 265.01-e Criminal possession of a firearm, rifle or shotgun in a
35 sensitive location.

36 1. A person is guilty of criminal possession of a firearm, rifle or
37 shotgun in a sensitive location when such person possesses a firearm,
38 rifle or shotgun in or upon a sensitive location, and such person knows
39 or reasonably should know such location is a sensitive location.

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

41 (a) any place owned or under the control of federal, state or local
42 government, for the purpose of government administration, including
43 courts;

44 (b) any location providing health, behavioral health, or chemical
45 dependance care or services;

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

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

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

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

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

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

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

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

10 (k) homeless shelters, runaway homeless youth shelters, family shel-
11 ters, shelters for adults, domestic violence shelters, and emergency
12 shelters, and residential programs for victims of domestic violence;

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

15 (m) in or upon any building or grounds, owned or leased, of any educa-
16 tional institutions, colleges and universities, licensed private career
17 schools, school districts, public schools, private schools licensed
18 under article one hundred one of the education law, charter schools,
19 non-public schools, board of cooperative educational services, special
20 act schools, preschool special education programs, private residential
21 or non-residential schools for the education of students with disabili-
22 ties, and any state-operated or state-supported schools;

23 (n) any place, conveyance, or vehicle used for public transportation
24 or public transit, subway cars, train cars, buses, ferries, railroad,
25 omnibus, marine or aviation transportation; or any facility used for or
26 in connection with service in the transportation of passengers,
27 airports, train stations, subway and rail stations, and bus terminals;

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

32 (p) any place used for the performance, art entertainment, gaming, or
33 sporting events such as theaters, stadiums, racetracks, museums, amuse-
34 ment parks, performance venues, concerts, exhibits, conference centers,
35 banquet halls, and gaming facilities and video lottery terminal facili-
36 ties as licensed by the gaming commission;

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

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

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

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

49 3. This section shall not apply to:

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

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

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

S. 1

10

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

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

(f) active-duty military personnel;

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

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

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

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

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

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

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

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

2. This section shall not apply to:

(a) police officers as defined in section 1.20 of the criminal procedure law;

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

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

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

(e) active-duty military personnel;

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

(g) persons lawfully engaged in hunting activity.

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

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

3-a. Possession of a pistol or revolver by a person undergoing live-fire range training pursuant to section 400.00 of this chapter while

1 such person is undergoing such training and is supervised by a duly
2 authorized instructor.

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

5 § 400.02 Statewide license and record database.

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

34 2. There shall be a statewide license and record database specific for
35 ammunition sales which shall be created and maintained by the division
36 of state police the cost of which shall not be borne by any municipality
37 no later than thirty days upon designating the division of state police
38 as the point of contact to perform both firearm and ammunition back-
39 ground checks under federal and state law. Records assembled or
40 collected for purposes of inclusion in such database shall not be
41 subject to disclosure pursuant to article six of the public officers
42 law. All records containing granted license applications from all
43 licensing authorities shall be monthly checked by the division of crimi-
44 nal justice services in conjunction with the division of state police
45 against criminal conviction, criminal indictments, mental health,
46 extreme risk protection orders, orders of protection, and all other
47 records as are necessary to determine their continued accuracy as well
48 as whether an individual is no longer a valid license holder. The divi-
49 sion of criminal justice services shall also check pending applications
50 made pursuant to this article against such records to determine whether
51 a license may be granted. All state and local agencies shall cooperate
52 with the division of criminal justice services, as otherwise authorized
53 by law, in making their records available for such checks. No later than
54 thirty days after the superintendent of the state police certifies that
55 the statewide license and record database established pursuant to this
56 section and the statewide license and record database established for

S. 1

12

ammunition sales are operational for the purposes of this section, a dealer in firearms licensed pursuant to section 400.00 of this article, a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter shall not transfer any ammunition to any other person who is not a dealer in firearms as defined in subdivision nine of such section 265.00 or a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter, unless:

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

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

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

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

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

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

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

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

1. No person who owns or is custodian of a rifle, shotgun or firearm who resides with an individual who: (i) is under [~~sixteen~~] eighteen years of age; (ii) such person knows or has reason to know is prohibited

S. 1

13

1 from possessing a rifle, shotgun or firearm pursuant to a temporary or
 2 final extreme risk protection order issued under article sixty-three-A
 3 of the civil practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8)
 4 or (9); or (iii) such person knows or has reason to know is prohibited
 5 from possessing a rifle, shotgun or firearm based on a conviction for a
 6 felony or a serious offense, shall store or otherwise leave such rifle,
 7 shotgun or firearm out of his or her immediate possession or control
 8 without having first securely locked such rifle, shotgun or firearm in
 9 an appropriate safe storage depository or rendered it incapable of being
 10 fired by use of a gun locking device appropriate to that weapon.

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

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

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

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

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

40 § 400.30 Application.

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

45 § 11. Section 270.20 of the penal law, as added by chapter 56 of the
 46 laws of 1984, and subdivision 1 as amended by chapter 317 of the laws of
 47 2001, is amended to read as follows:

48 § 270.20 Unlawful wearing of [a] body [~~vest~~] armor.

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

54 2. For the purposes of this section [a] "body [~~vest~~] armor" means [~~a~~
 55 ~~bullet-resistant soft body armor providing, as a minimum standard, the~~
 56 ~~level of protection known as threat level I which shall mean at least~~

~~seven layers of bullet-resistant material providing protection from three shots of one hundred fifty eight grain lead ammunition fired from a .38 calibre handgun at a velocity of eight hundred fifty feet per second]~~ any product that is a personal protective body covering intended to protect against gunfire, regardless of whether such product is to be worn alone or is sold as a complement to another product or garment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. 1

15

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

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

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

(b) Upon receiving a request from a licensed dealer pursuant to section eight hundred ninety-six or eight hundred ninety-eight of the general business law, the division shall initiate a background check by (i) contacting the National Instant Criminal Background Check System (NICS) or its successor to initiate a national instant criminal background check, and (ii) consulting the statewide firearms license and records database established pursuant to subdivision three of this section, in order to determine if the purchaser is a person described in sections 400.00 and 400.03 of the penal law, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or ammunition.

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

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

(c) Any background check conducted by the division, or delegated authority, of any applicant for a permit, firearms identification card license, ammunition sale, or registration, in accordance with the requirements of section 400.00 of the penal law, shall not be considered a public record and shall not be disclosed to any person not authorized by law or this chapter to have access to such background check, including the applicant. Any application for a permit, firearms identification card, ammunition sale, or license, and any document reflecting the issuance or denial of such permit, firearms identification card, or license, and any permit, firearms identification card, license, certification, certificate, form of register, or registration statement, maintained by any state or municipal governmental agency, shall not be considered a

1 public record and shall not be disclosed to any person not authorized by
2 law to have access to such documentation, including the applicant,
3 except on the request of persons acting in their governmental capacities
4 for purposes of the administration of justice.

5 3. The division shall create and maintain a statewide firearms license
6 and records database which shall contain records held by the division
7 and any records that it is authorized to request from the division of
8 criminal justice services, office of court administration, New York
9 state department of health, New York state office of mental health, and
10 other local entities. Such database shall be used for the certification
11 and recertification of firearm permits under section 400.02 of the penal
12 law, assault weapon registration under subdivision sixteen-a of section
13 400.00 of the penal law, and ammunition sales under section 400.03 of
14 the penal law. Such database shall also be used to initiate a national
15 instant criminal background check pursuant to subdivision one of this
16 section upon request from a licensed dealer. The division may create and
17 maintain additional databases as needed to complete background checks
18 pursuant to the requirements of this section.

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

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

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

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

42 5. (a) Each licensed dealer that submits a request for a national
43 instant criminal background check pursuant to this section shall pay a
44 fee imposed by the bureau for performing such background check. Such fee
45 shall be allocated to the background check fund established pursuant to
46 section ninety-nine-pp of the state finance law. The amount of the fee
47 shall not exceed the total amount of direct and indirect costs incurred
48 by the bureau in performing such background check.

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

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

S. 1

17

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

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

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

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

i. any person, firm or corporation that sells, delivers or otherwise transfers firearms shall obtain a completed ATF 4473 form from the potential buyer or transferee including name, date of birth, gender, race, social security number, or other identification numbers of such potential buyer or transferee and shall have inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

ii. it shall be unlawful for any person, in connection with the sale, acquisition or attempted acquisition of a firearm from any transferor, to willfully make any false, fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification that is intended or likely to deceive such transferor with respect to any fact material to the lawfulness of the sale or other disposition of such firearm under federal or state law. Any person who violates the provisions of this subparagraph shall be guilty of a class A misdemeanor.

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

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

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

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

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

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

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

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, ~~[use of that system by]~~ 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 ~~[and such checks shall be conducted through such system, provided that a record of such transaction shall be forwarded to the state police in a form determined by the superintendent]~~.

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

§ 400.06 National instant criminal background checks.

1. Any dealer in firearms that sells, delivers or otherwise transfers any firearm shall contact the division of state police to conduct a national instant criminal background check pursuant to section two hundred twenty-eight of the executive law.

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

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

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

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

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

4. The state comptroller may invest any moneys in the background check fund not expended for the purpose of this section as provided by law.

S. 1

19

The state comptroller shall credit any interest and income derived from the deposit and investment of moneys in the background check fund to the background check fund.

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

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

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

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

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

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

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

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

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

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

19. Prior to the issuance or renewal of a license under paragraph (f) of subdivision two of this section, issued or renewed on or after the effective date of this subdivision, an applicant shall complete an in-person live firearms safety course conducted by a duly authorized instructor with curriculum approved by the division of criminal justice services and the superintendent of state police, and meeting the following requirements: (a) a minimum of sixteen hours of in-person live curriculum approved by the division of criminal justice services and the superintendent of state police, conducted by a duly authorized instructor approved by the division of criminal justice services, and shall include but not be limited to the following topics: (i) general firearm safety; (ii) safe storage requirements and general secure storage best practices; (iii) state and federal gun laws; (iv) situational awareness; (v) conflict de-escalation; (vi) best practices when encountering law enforcement; (vii) the statutorily defined sensitive places in subdivision two of section 265.01-e of this chapter and the restrictions on possession on restricted places under section 265.01-d of this chapter; (viii) conflict management; (ix) use of deadly force; (x) suicide prevention; and (xi) the basic principles of marksmanship; and (b) a minimum of two hours of a live-fire range training course. The applicant shall be required to demonstrate proficiency by scoring a minimum of eighty percent correct answers on a written test for the curriculum under paragraph (a) of this subdivision and the proficiency level determined by the rules and regulations promulgated by the division of criminal justice services and the superintendent of state police for the live-fire range training under paragraph (b) of this subdivision. Upon demonstration of such proficiency, a certificate of completion shall be issued to such applicant in the applicant's name and endorsed and affirmed under the penalties of perjury by such duly authorized instructor. An applicant required to complete the training required herein prior to renewal of a license issued prior to the effective date of this subdivision shall only be required to complete such training for the first renewal of such license after such effective date.

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

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

12. "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive [~~in a fixed shot-gun shell~~] to fire through a smooth or rifled bore either a number of ball shot or a single projectile for each single pull of the trigger

1 using either: (a) a fixed shotgun shell; or (b) a projectile or number
2 of ball shot and explosive charge are loaded individually for each shot
3 discharged. In addition to common, modern usage, shotguns include those
4 using obsolete ammunition not commonly available in commercial trade, or
5 that load through the muzzle and fires ball shot with each discharge, or
6 loading, including muzzle loading shotguns, flintlock shotguns, and
7 black powder shotguns.

8 § 25. Severability. If any clause, sentence, paragraph or section of
9 this act shall be adjudged by any court of competent jurisdiction to be
10 invalid, the judgment shall not affect, impair or invalidate the remain-
11 der thereof, but shall be confined in its operation to the clause,
12 sentence, paragraph or section thereof directly involved in the contro-
13 versy in which the judgment shall have been rendered.

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

17 (a) the amendments to subdivision 1 and subdivision 4-b of section
18 400.00 of the penal law made by section one of this act shall apply only
19 to licenses for which an application is made on or after the effective
20 date of this act;

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

26 (c) the amendments to sections 270.20, 270.21 and 270.22 of the penal
27 law made by sections eleven, twelve and thirteen of this act, the amend-
28 ments to section 396-eee of the general business law as amended by
29 section fourteen of this act, and the amendments to section 144-a of the
30 executive law as amended by section fifteen of this act, shall take
31 effect on the same date and in the same manner as chapter 210 of the
32 laws of 2022, takes effect;

33 (d) if chapter 207 of the laws of 2022 shall not have taken effect on
34 or before such date then the amendments to subdivision 11 of section
35 400.00 of the penal law made by section one of this act shall take
36 effect on the same date and in the same manner as such chapter of the
37 laws of 2022, takes effect;

38 (e) if chapter 212 of the laws of 2022 shall not have taken effect on
39 or before such date then the amendments to subdivision 2 of section
40 400.00 of the penal law made by section one of this act shall take
41 effect on the same date and in the same manner as such chapter of the
42 laws of 2022, takes effect;

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

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

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, GUN OWNERS OF)
AMERICA, INC., GUN OWNERS)
FOUNDATION, and GUN OWNERS OF)
AMERICA NEW YORK, INC.,)

Plaintiffs,)

v.)

KEVIN P. BRUEN, in his Official)
Capacity as Superintendent of the New)
York State Police,)

Defendant.)
_____)

Civil Action No. _____

DECLARATION OF ERICH M. PRATT

1. My name is Erich M. Pratt. I am a U.S. citizen and resident of Virginia. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

2. I am the Senior Vice President of Gun Owners of America, Inc. ("GOA"), and the Senior Vice President of Gun Owners Foundation ("GOF").

3. Gun Owners of America, Inc. ("GOA") is a California non-stock corporation with its principal place of business at 8001 Forbes Place, Springfield, VA 22151. GOA is organized and operated as a non-profit membership organization that is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. GOA was formed in 1976 to preserve and

defend the Second Amendment rights of gun owners. GOA has more than 2 million members and supporters across the country, including residents of the Northern District of New York, many of whom will be irreparably harmed by this new gun control bill called the Concealed Carry Improvement Act (“CCIA”).

4. Gun Owners Foundation (“GOF”) is a Virginia non-stock corporation, with its principal place of business at 8001 Forbes Place, Springfield, VA 22151. GOF is organized and operated as a non-profit legal defense and educational foundation that is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. GOF is supported by gun owners across the country and including New York, many of whom will be irreparably harmed by this new gun control bill called the Concealed Carry Improvement Act (“CCIA”).

5. GOA’s and GOF’s members and supporters include law-abiding gun owners across New York who have permits to carry firearms and those who wish to apply to receive permits to carry firearms in light of the Supreme Court’s opinion in *New York State Rifle & Pistol Association v. Bruen*, which found New York’s “proper cause” standard to be unconstitutional. In *Bruen*, on April 1, 2022, GOA/GOF filed an amicus brief in support of the petition for certiorari urging the Supreme Court to review the New York law. Then, on July 20, 2021, GOA and GOF filed an amicus brief on the merits in the U.S. Supreme Court supporting the challengers to the New York law.

6. Some of the members and supporters of GOA and GOF have “restricted” permits, issued prior to *Bruen*. Some of our other members have “unrestricted” permits, but will be required to recertify those permits under the new licensing law passed by the Legislature and signed by the Governor.

7. GOA and GOF have heard from members and supporters in New York who do not wish to provide the State their private social media accounts, the names and contact information of their family and friends, and from others who do not wish to spend an exorbitant amount of money and time to satisfy the new training requirements which include a 16-hour course and a 2-hour live-fire course of training, as a condition of exercising their enumerated rights.

8. Additionally, these individuals have expressed concerns that the new CCIA will prevent them from carrying firearms in significantly more places than before due to the new “sensitive location” and “restricted location” definitions, and will forbid them from carrying in businesses unless those businesses affirmatively place signs stating that concealed firearms are allowed or they are told by the owner they can carry a firearm.

9. In other words, members and supporters of GOA/GOF residing in New York are adversely affected by the CCIA, and are representative of others affected by the CCIA, which has a sweeping negative and infringing effect on the individual members and supporters of GOA and GOF, and all New York gun owners.

10. Protection of the rights and interests advanced in the Complaint is germane to GOA/GOF’s mission, which is to preserve and protect the Second Amendment and the rights of Americans to keep and bear arms, including against bureaucratic overreach.

11. GOA and GOF routinely litigate cases throughout the country on behalf of their members and supporters. For example, *see Gun Owners of America, Inc., et al., v. Merrick B. Garland*, No. 21-1215 (petition for certiorari pending). GOA has filed at least 85 amicus briefs in the U.S. Supreme Court, and GOF has filed at least 90 amicus briefs in the U.S. Supreme Court.

12. If the CCIA is not enjoined, our members’ and supporters’ Second Amendment rights will be significantly curtailed despite the Supreme Court ruling in *Bruen*.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

July 11, 2022
Date

Erich Pratt
Erich M. Pratt

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, GUN OWNERS OF)
AMERICA, INC., GUN OWNERS)
FOUNDATION, and GUN OWNERS OF)
AMERICA NEW YORK, INC.,)

Plaintiffs,)

v.)

KEVIN P. BRUEN, in his Official)
Capacity as Superintendent of the New)
York State Police,)

Defendant.)
_____)

Civil Action No. _____

DECLARATION OF WILLIAM ROBINSON

1. My name is William Robinson. I am a U.S. citizen and resident of New York. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

2. I am the Director of Communications for Gun Owners of America New York, Inc. ("GOA-NY"). GOA-NY has more than 400 members and supporters in New York, with some residing and working in the Northern District of New York, many of whom will be irreparably harmed by this new gun control bill called the Concealed Carry Improvement Act ("CCIA").

3. GOA-NY is a New York corporation and is registered as a nonprofit with the State of New York. GOA-NY was formed in 2017 to preserve and defend the Second Amendment rights of New York gun owners.

4. My role is to work with members and supporters, including gun stores, shooting ranges, and other similar entities, in order to educate, empower and promote GOA-NY's mission to protect, defend, and restore the Second Amendment in New York.

5. During the regular course of business in my employment with GOA-NY, I am in routine contact with both individual gun owners and industry members within the firearms community. I have handled multiple telephone calls with many of GOA-NY's members and supporters in New York asking about the impact of the CCIA on them.

6. Our members and supporters also include law-abiding gun owners across New York who have permits to carry firearms and those who want to apply to receive permits to carry firearms in light of the Supreme Court's opinion in *New York State Rifle & Pistol Association v. Bruen*, which found New York's "proper cause" unconstitutional.

7. Some of our members and supporters have "restricted" permits, issued prior to *Bruen*. Some of our other members have "unrestricted" permits, but will have to recertify those permits under the new licensing law passed by the Legislature and signed by the Governor.

8. Our members and supporters are concerned with the new requirements to provide social media accounts to New York and they have raised additional concerns about needing additional training which is expensive. My understanding is that the new training requirements include a 16-hour classroom portion and a 2-hour live-fire portion. Currently, the training requirement in certain counties is 4 hours and has been sufficient to qualify for a permit.

9. Additionally, in speaking with these individuals, they have been extremely concerned that the new sensitive locations and restricted location laws will act as an almost complete ban on concealed carry of a firearm.

10. For instance, the law is written to make a private business a de facto “no carry zone” unless it posts a sign that says carry is allowed, or unless the business affirmatively tells someone that he or she may carry a firearm in the business.

11. This completely changes the way carry of a firearm operates here, as we can currently carry unless the store posts signage that we are not allowed to carry there. This essentially turns New York into a big “no carry zone” which is worse than before the Supreme Court ruled we have a right to carry outside the home.

12. Other requirements of the CCIA require “good moral character” and for the applicant to provide four character references. I have heard from one member that does not want to disclose to individuals that would be character references that he wants a permit to carry a firearm, and thus, he will not be able to comply with the CCIA and will not be issued a permit due to this “character reference” requirement.

13. In short, members and supporters of GOA-NY residing in New York’s are representative of those affected by the CCIA, which has a sweeping negative and infringing effect on our individual members and supporters.

14. Protection of the rights and interests advanced in the Complaint is germane to GOA-NY’s mission, which is to preserve and protect the Second Amendment and the rights of New Yorkers to keep and bear arms.

15. If the CCIA is not enjoined, our members' and supporters' Second Amendment rights will be significantly curtailed despite the Supreme Court ruling in *Bruen* and we will actually have less rights than before.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

July 10, 2022

Date

William Robinson

William Robinson

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, GUN OWNERS OF)
AMERICA, INC., GUN OWNERS)
FOUNDATION, and GUN OWNERS OF)
AMERICA NEW YORK, INC.,)

Plaintiffs,)

v.)

KEVIN P. BRUEN, in his Official)
Capacity as Superintendent of the New)
York State Police,)

Defendant.)
_____)

Civil Action No. _____

DECLARATION OF IVAN ANTONYUK

1. My name is Ivan Antonyuk. I am a U.S. citizen and resident of New York and live in Schenectady New York. I am a member of Gun Owners of America, Inc.

2. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

3. I am a law-abiding citizen who currently possesses and has maintained an unrestricted New York carry permit since 2009. I am eligible to possess and carry firearms in the State of New York and have met all the qualifications for licensure.

4. I am originally from Ukraine. In the 1990s, when I lived in Ukraine, crime was rampant and out of control, with the country being run by mafia and criminals. Ordinary citizens were not

Exhibit "6"

Page 1 of 4

allowed to own firearms to protect themselves. Instead, only the government and their guards had guns.

5. This gun control regime left the Ukrainian people with no means to defend themselves from crime, whether committed by criminals or the government.

6. In Ukraine in the 1990s, if you needed police, they were hours away when you called, if they even showed up at all. The Ukrainians also had no right to free speech and we had no right to protest.

7. I personally witnessed many attacks on Ukrainian citizens simply for protesting. Once I was passing by a protest, and the police beat me because they thought I was a part of the protest, but I was not involved.

8. I no longer felt safe in Ukraine, and it was a known fact that you should not leave your house at night due to crime.

9. In 1994, I left Ukraine for the United States and its promise of freedom. I settled in New York, where I became a United States citizen in 1999. I have lived in New York ever since.

10. I firmly believe in the Second Amendment and the right to keep and bear arms. I have seen what happens in countries when citizens are not allowed arms.

11. This is why I have had my license to carry in New York since 2009 and it has never been revoked or suspended. This is also why this new law, the Concealed Carry Improvement Act, troubles me so much.

12. I want to continue to lawfully carry my handgun in public, which I have done since 2009.

13. I know that, when I must recertify my license in January 2023, I will be subject to the additional requirements of this new Act, which requires me to take 16-hours of training and 2-hours of live fire training. I have already received training and am proficient in the handling of

my firearms. I do not wish to spend hundreds of dollars and many hours as a condition of being able to continue to exercise a right I have enjoyed since 2009 without incident.

14. Additionally, this new Act makes almost all places off limits to me while I am carrying a firearm in public. For instance, if I go to the store that is not specifically posted with a sign allowing me to carry there, I will be unable to go in with my firearm.

15. If I decide to go in, I will have to disarm myself and separate the magazine and ammunition from the firearm and store them in a safe storage box, but not in my glovebox. It is well known that when people load and unload firearms, it introduces opportunities to have accidental discharges.

16. Since I would have to unload my firearm, I would have to do this in my vehicle as it does not make sense to exit the vehicle with a holstered, concealed firearm, draw the firearm, unload and make safe, and then store the firearm in my trunk or locked safe.

17. And then when I return to my vehicle, I will have to remove the firearm from the trunk, reload it, and then reholster it. This is wholly unnecessary and dangerous, and completely changes the process of carrying a firearm in New York as it stands now. Additionally, if someone sees me with an unconcealed handgun in my hand while I am unloading and storing it to comply with this new Act, I fear that I will be reported and perhaps charged with a crime for having a firearm that is not concealed.

18. Currently, I am free to carry in all places that are not off limits, and that are not posted with signage stating I cannot carry there. When the Act goes into effect, the default position for every private business will be “no carry.” This is unacceptable.

19. I also do not want to share my “social media” accounts with the government. It is not their business what I discuss with my friends or coworkers, and I do not wish to turn over the names

and contact information of my family and friends, to be contacted, interrogated or harassed by the government so that I can obtain a permit. I have the right to freedom of speech in this country and do not need a government censor or minder looking over my shoulder at what I am doing. This is America, not Soviet Russia or 1990's Ukraine.

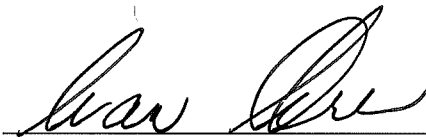
20. Due to the Act, I will actually have lesser Second Amendment rights than I had before the Supreme Court ruled in *Bruen*, which eliminated New York's "proper cause" requirement.

21. New York should not be allowed to go backwards in its law, when the Supreme Court ruled that ordinary, law-abiding people like me have a broad Second Amendment right to carry firearms in public.

22. I am hopeful that the Court enjoins the Act from taking effect, as I should not be forced to sacrifice my First Amendment rights to exercise my Second Amendment rights.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

7.11.2022
Date


Ivan Antonyuk

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ivan Antonyuk, Gun Owners of America, Inc., Gun Owners Foundation, Gun Owners of America New York

(b) County of Residence of First Listed Plaintiff Schenectady
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stamboulieh Law, PLLC
P.O. Box 428, Olive Branch, MS 38654 601-852-3440

DEFENDANTS

Kevin P. Bruen

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Section 1983/1988;
Brief description of cause:
New York's Concealed Carry Improvement Act violates the Second Amendment and NYSRPA v. Bruen

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

7/11/2022

/s/ Stephen D. Stamboulieh

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT **\$402.00** APPLYING IFP _____ JUDGE **GTS** MAG. JUDGE **CFH**

ANYNDC-5963145

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.