

1863--A

2011-2012 Regular Sessions

I N S E N A T E

January 13, 2011

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to licenses to carry, possess, repair and dispose of firearms

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 4 of section 400.00 of the penal law, as
2 amended by chapter 331 of the laws of 2005, is amended to read as
3 follows:
4 4. Investigation. Before a license is issued or renewed, there shall
5 be an investigation of all statements required in the application by the
6 duly constituted police authorities of the locality where such applica-
7 tion is made. For that purpose, the records of the appropriate office of
8 the department of mental hygiene concerning previous or present mental
9 illness of the applicant shall be available for inspection by the inves-
10 tigating officer of the police authority. THE POLICE AUTHORITY IN THE
11 LOCALITY WHERE THE APPLICATION IS MADE SHALL CONDUCT A SEARCH OF THE
12 NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS). In order to
13 ascertain any previous criminal record, the investigating officer shall
14 take the fingerprints and physical descriptive data in quadruplicate of
15 each individual by whom the application is signed and verified. Two
16 copies of such fingerprints shall be taken on standard fingerprint cards
17 eight inches square, and one copy may be taken on a card supplied for
18 that purpose by the federal bureau of investigation; provided, however,
19 that in the case of a corporate applicant that has already been issued a
20 dealer in firearms license and seeks to operate a firearm dealership at
21 a second or subsequent location, the original fingerprints on file may
22 be used to ascertain any criminal record in the second or subsequent

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

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1 application unless any of the corporate officers have changed since the
2 prior application, in which case the new corporate officer shall comply
3 with procedures governing an initial application for such license. When
4 completed, one standard card shall be forwarded to and retained by the
5 division of criminal justice services in the executive department, at
6 Albany. A search of the files of such division and written notification
7 of the results of the search to the investigating officer shall be made
8 without unnecessary delay. Thereafter, such division shall notify the
9 licensing officer and the executive department, division of state
10 police, Albany, of any criminal record of the applicant filed therein
11 subsequent to the search of its files. A second standard card, or the
12 one supplied by the federal bureau of investigation, as the case may be,
13 shall be forwarded to that bureau at Washington with a request that the
14 files of the bureau be searched and notification of the results of the
15 search be made to the investigating police authority. The failure or
16 refusal of the federal bureau of investigation to make the fingerprint
17 check provided for in this section shall not constitute the sole basis
18 for refusal to issue a permit pursuant to the provisions of this
19 section. Of the remaining two fingerprint cards, one shall be filed with
20 the executive department, division of state police, Albany, within ten
21 days after issuance of the license, and the other remain on file with
22 the investigating police authority. No such fingerprints may be
23 inspected by any person other than a peace officer, who is acting pursu-
24 ant to his special duties, or a police officer, except on order of a
25 judge or justice of a court of record either upon notice to the licensee
26 or without notice, as the judge or justice may deem appropriate. Upon
27 completion of the investigation, the police authority shall report the
28 results to the licensing officer without unnecessary delay.

29 S 2. This act shall take effect on the ninetieth day after it shall
30 have become a law.