

41--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. PERALTA -- 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 general business law and the penal law, in relation to preventing the sale of firearms, rifles and shotguns to criminals

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

1 Section 1. Legislative findings and declaration. The legislature here-
2 by finds and declares as follows:
3 1. Firearms, rifles and shotguns are used to kill nearly 30,000 indi-
4 viduals in the United States every year, including 1,000 individuals in
5 New York state alone. Additionally, there are 100,000 non-fatal injuries
6 across the country. The federal government has largely ignored this
7 public health crisis and has left it up to state and local governments
8 to protect its citizens. Firearm violence also costs millions of dollars
9 and causes incalculable emotional damage, devastating families and
10 communities throughout the country. Therefore, the state of New York
11 has a strong interest in reducing violence and crimes that involve the
12 use of firearms and the illegal trafficking of firearms. Illegal guns
13 obtained throughout the state end up in the hands of criminals, youth
14 and violent individuals who use them to threaten, maim and kill.
15 2. There is a thriving underground market for illegal firearms, large-
16 ly driven by demand from drug gangs and other criminals. A highly effi-
17 cient and continuous business practice exists in which firearms are
18 moved from legal manufacture and sale to prohibited purchasers, making
19 them illegal firearms. In 2001, approximately 12,000 illegal firearms,
20 rifles and shotguns were seized in New York state. From November 2000
21 to April 2002, 2,700 crime guns were entered into the state crime gun

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

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1 database. In 2008, according to a review by the federal bureau of alco-
2 hol, tobacco, firearms, and explosives (ATF) of trace data compiled for
3 several regions in the state, including Albany, Buffalo, Rochester,
4 Syracuse, Long Island and New York City that calendar year, 9,558
5 firearms were submitted to be traced, 2,659 of which were long guns.
6 Outside New York City, long guns are sold without a permit. Forty-six
7 percent of the firearms recovered in 2008 were found outside New York
8 City. A significant portion of guns involved in crimes upstate origi-
9 nate within the state. In fact, youth data reveals that in 2000, 40% of
10 the crime guns in Buffalo originated within a five-mile radius of that
11 city.

12 3. A substantial portion of illegal firearms are diverted to the ille-
13 gal market through licensed gun dealers. Rogue gun dealers play a key
14 role in this market. These rogue dealers funnel guns to the illegal
15 market through a variety of channels. One of the most common means is to
16 allow "straw purchases". A straw purchase occurs when a person purchases
17 a gun on behalf of a prohibited person. The ATF conducted an investi-
18 gation of gun trafficking from July 1996 to December 1998 and found that
19 almost 26,000 trafficked firearms were associated with investigations in
20 which there was a straw purchaser. Almost 50% of all trafficking inves-
21 tigation involved straw purchasers, with an average of 37 firearms
22 trafficked per investigation. Another issue, according to a 2008 report
23 by Mayors Against Illegal Guns, Inside Straw Purchasing: How Criminals
24 Get Guns Illegally, is that many traffickers return to the same store
25 again and again once they have identified it as one in which they can
26 make straw purchases easily. Although most gun dealers operate their
27 businesses legally and responsibly, some gun dealers who are corrupt or
28 maintain shoddy recordkeeping practices flood the streets with illegal
29 weapons as a result of their unrestricted access to new gun inventory
30 and the unwillingness of gun manufacturers to terminate their supply to
31 these rogue dealers. Current federal and state regulation has not curbed
32 the business practice of illegal gun dealers. According to a 2004 study
33 by Americans for Gun Safety, of the 120 worst gun dealers in the coun-
34 try, namely those dealers with an average of 500 crime guns traced to
35 them, 96 were still in operation.

36 4. Moreover, this problem is not limited to unlicensed sellers, and
37 clearly includes federal firearms licensees (FFLs). Indeed, although
38 FFLs were involved in under 10% of the trafficking investigations under-
39 taken by ATF, they were associated with the largest number of diverted
40 firearms--over 40,000 guns, which is nearly half of the total number of
41 trafficked firearms documented during the two-year period of ATF's
42 investigation. Additionally, a 2008 report by Mayors Against Illegal
43 Guns indicated that several states which allow state authorities to
44 supplement the federal ATF inspections with routine inspections provide
45 law enforcement with more opportunities to uncover dealers in violation
46 of the law. These inspections also help identify dealers who exercise
47 lax oversight over their inventory and may lead to improved compliance
48 with federal, state and local laws.

49 5. Current New York state laws governing firearm dealers are inade-
50 quate to prevent the diversion of firearms to the illegal marketplace.
51 Additional protections that are needed include, but are not limited to,
52 better gun dealer internal compliance procedures, programs to eliminate
53 straw purchases, increased liability insurance, improved security meas-
54 ures, reducing youth access, mandatory training for gun dealer employ-
55 ees, and improved recordkeeping requirements. The additional protections

set forth in this act will greatly enhance the state's efforts to reduce criminal activity in the state.

S 2. Article 40 and sections 900 and 901 of the general business law, as renumbered by chapter 407 of the laws of 1973, are renumbered article 50 and sections 1001 and 1002 and a new article 40 is added to read as follows:

ARTICLE 40

PREVENTING THE SALE OF FIREARMS, RIFLES, AND SHOTGUNS TO CRIMINALS

SECTION 900. DEFINITIONS.

901. REASONABLE MEASURES TO PREVENT SALES AND TRANSFERS TO CRIMINALS.

902. SECURITY.

903. ACCESS TO FIREARMS, RIFLES AND SHOTGUNS.

904. LOCATION OF FIREARM, RIFLE AND SHOTGUN SALES.

905. EMPLOYEE TRAINING.

906. RETAIL SALES OF FIREARMS, RIFLES AND SHOTGUNS.

907. MAINTENANCE OF RECORDS.

908. COOPERATION WITH LAW ENFORCEMENT.

909. INTERNAL COMPLIANCE AND CERTIFICATION.

910. RULES AND REGULATIONS.

911. VIOLATIONS.

S 900. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "DEALER" MEANS ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION OR COMPANY WHICH ENGAGES IN THE BUSINESS OF PURCHASING, SELLING, KEEPING FOR SALE, LENDING, LEASING OR IN ANY MANNER DISPOSING OF ANY FIREARM, RIFLE OR SHOTGUN.

2. "DISPOSE OF" MEANS TO DISPOSE OF, GIVE, GIVE AWAY, LEASE, LEND, KEEP FOR SALE, OFFER, OFFER FOR SALE, SELL, TRANSFER OR OTHERWISE DISPOSE OF.

3. "FIREARM" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVISION THREE OF SECTION 265.00 OF THE PENAL LAW.

4. "FIREARM EXHIBITOR" MEANS ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION OR COMPANY THAT EXHIBITS, SELLS, OFFERS FOR SALE, TRANSFERS OR EXCHANGES FIREARMS, RIFLES OR SHOTGUNS AT A GUN SHOW.

5. "GUN SHOW" MEANS AN EVENT SPONSORED, WHETHER FOR PROFIT OR NOT, BY AN INDIVIDUAL, NATIONAL, STATE OR LOCAL ORGANIZATION, ASSOCIATION, OR OTHER ENTITY DEVOTED TO THE COLLECTION, COMPETITIVE USE, SPORTING USE OR ANY OTHER LEGAL USE OF FIREARMS, RIFLES OR SHOTGUNS, OR AN EVENT AT WHICH: (A) TWENTY PERCENT OR MORE OF THE TOTAL NUMBER OF EXHIBITORS ARE FIREARM EXHIBITORS; (B) TEN OR MORE FIREARM EXHIBITORS ARE PARTICIPATING; (C) A TOTAL OF TWENTY-FIVE OR MORE PISTOLS OR REVOLVERS ARE OFFERED FOR SALE OR TRANSFER; OR (D) A TOTAL OF FIFTY OR MORE FIREARMS, RIFLES OR SHOTGUNS ARE OFFERED FOR SALE OR TRANSFER. THE TERM "GUN SHOW" SHALL INCLUDE ANY BUILDING, STRUCTURE OR FACILITY WHERE FIREARMS, RIFLES OR SHOTGUNS ARE OFFERED FOR SALE OR TRANSFER, AND ANY GROUNDS USED IN CONNECTION WITH THE EVENT.

6. "RETAIL DEALER" MEANS ANY DEALER ENGAGED IN THE RETAIL BUSINESS OF SELLING FIREARMS, RIFLES OR SHOTGUNS.

7. "RIFLE" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVISION ELEVEN OF SECTION 265.00 OF THE PENAL LAW.

8. "SHOTGUN" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVISION TWELVE OF SECTION 265.00 OF THE PENAL LAW.

9. "STRAW PURCHASE" MEANS THE PURCHASE OR ATTEMPT TO PURCHASE BY A PERSON OF A FIREARM, RIFLE OR SHOTGUN FOR, ON BEHALF OF OR FOR THE USE

1 OF ANOTHER PERSON, KNOWING THAT IT WOULD BE UNLAWFUL FOR SUCH OTHER
2 PERSON TO POSSESS SUCH FIREARM, RIFLE OR SHOTGUN, OR AN ATTEMPT TO MAKE
3 SUCH A PURCHASE.

4 10. "STRAW PURCHASER" MEANS A PERSON WHO, KNOWING THAT IT WOULD BE
5 UNLAWFUL FOR ANOTHER PERSON TO POSSESS A FIREARM, RIFLE OR SHOTGUN,
6 PURCHASES OR ATTEMPTS TO PURCHASE A FIREARM, RIFLE OR SHOTGUN FOR, ON
7 BEHALF OF OR FOR THE USE OF SUCH OTHER PERSON.

8 11. "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF STATE POLICE.

9 S 901. REASONABLE MEASURES TO PREVENT SALES AND TRANSFERS TO CRIMI-
10 NALS. EVERY DEALER SHALL ADOPT REASONABLE MEASURES TO PREVENT FIREARMS,
11 RIFLES AND SHOTGUNS FROM BEING DIVERTED FROM THE LEGAL STREAM OF
12 COMMERCE, INTENTIONALLY OR OTHERWISE, FOR LATER SALE, TRANSFER OR
13 DISPOSAL TO INDIVIDUALS NOT LEGALLY ENTITLED TO PURCHASE OR POSSESS SUCH
14 WEAPONS. SUCH MEASURES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,
15 PROGRAMS TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART
16 ILLEGAL GUN TRAFFICKING. THE SUPERINTENDENT SHALL DEVELOP PROGRAMS
17 DESIGNED TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART
18 ILLEGAL GUN TRAFFICKING. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS
19 ARTICLE, THE SUPERINTENDENT SHALL SUBMIT A REPORT TO THE LEGISLATURE
20 DETAILING SUCH PROGRAMS, INCLUDING ESTABLISHING MINIMUM REQUIREMENTS FOR
21 SUCH PROGRAMS.

22 S 902. SECURITY. EVERY DEALER SHALL IMPLEMENT A SECURITY PLAN FOR
23 SECURING FIREARMS, RIFLES AND SHOTGUNS, INCLUDING FIREARMS, RIFLES AND
24 SHOTGUNS IN SHIPMENT. EACH SUCH PLAN MUST SATISFY AT LEAST THE FOLLOWING
25 REQUIREMENTS:

26 1. DISPLAY CASES SHALL BE LOCKED AT ALL TIMES EXCEPT WHEN REMOVING A
27 SINGLE FIREARM, RIFLE OR SHOTGUN TO SHOW A CUSTOMER, AND CUSTOMERS SHALL
28 HANDLE FIREARMS, RIFLES OR SHOTGUNS ONLY UNDER THE DIRECT SUPERVISION OF
29 AN EMPLOYEE;

30 2. ALL FIREARMS, RIFLES AND SHOTGUNS SHALL BE SECURED, OTHER THAN
31 DURING BUSINESS HOURS, IN A LOCKED FIREPROOF SAFE OR VAULT IN THE
32 LICENSEE'S BUSINESS PREMISES OR IN A SIMILAR SECURED AND LOCKED AREA;
33 AND

34 3. AMMUNITION SHALL BE STORED SEPARATELY FROM THE FIREARMS, RIFLES AND
35 SHOTGUNS AND OUT OF REACH OF THE CUSTOMERS.

36 S 903. ACCESS TO FIREARMS, RIFLES AND SHOTGUNS. EVERY RETAIL DEALER
37 SHALL EXCLUDE ALL PERSONS UNDER EIGHTEEN YEARS OF AGE FROM THOSE
38 PORTIONS OF ITS PREMISES WHERE FIREARMS, RIFLES, SHOTGUNS OR AMMUNITION
39 ARE STOCKED OR SOLD, UNLESS SUCH PERSON IS ACCOMPANIED BY A PARENT OR
40 GUARDIAN.

41 S 904. LOCATION OF FIREARM, RIFLE AND SHOTGUN SALES. EVERY DEALER
42 SHALL SELL OR OTHERWISE DISPOSE OF FIREARMS, RIFLES AND SHOTGUNS ONLY AT
43 THE LOCATION LISTED ON THE DEALER'S FEDERAL FIREARMS LICENSE OR AT GUN
44 SHOWS.

45 S 905. EMPLOYEE TRAINING. EVERY RETAIL DEALER SHALL PROVIDE TRAINING
46 TO ALL EMPLOYEES AND OTHER PERSONNEL ENGAGED IN THE RETAIL SALE OF
47 FIREARMS, RIFLES AND SHOTGUNS RELATING TO:

48 1. THE LAW GOVERNING FIREARM, RIFLE AND SHOTGUN TRANSFERS BY FEDERAL
49 FIREARMS LICENSEES AND INDIVIDUALS;

50 2. HOW TO RECOGNIZE STRAW PURCHASES AND OTHER ATTEMPTS TO PURCHASE
51 FIREARMS, RIFLES OR SHOTGUNS ILLEGALLY;

52 3. HOW TO TEACH CONSUMERS RULES OF GUN SAFETY, INCLUDING BUT NOT
53 LIMITED TO THE SAFE HANDLING AND STORAGE OF FIREARMS, RIFLES AND SHOT-
54 GUNS; AND

55 4. HOW TO COMPLY WITH PROVISIONS OF SECTION NINE HUNDRED SIX OF THIS
56 ARTICLE.

1 NO EMPLOYEE OR AGENT OF ANY RETAIL DEALER SHALL PARTICIPATE IN THE
2 SALE OR DISPOSITION OF FIREARMS, RIFLES OR SHOTGUNS UNLESS SUCH PERSON
3 IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS FIRST RECEIVED THE TRAINING
4 REQUIRED BY THIS SECTION. THE SUPERINTENDENT SHALL PROMULGATE REGU-
5 LATIONS SETTING FORTH MINIMUM REQUIREMENTS FOR THE MAINTENANCE OF
6 RECORDS OF SUCH TRAINING.

7 S 906. RETAIL SALES OF FIREARMS, RIFLES AND SHOTGUNS. 1. NO RETAIL
8 DEALER SHALL SELL, DELIVER, LEASE OR TRANSFER ANY FIREARM, RIFLE OR
9 SHOTGUN TO ANY RETAIL CUSTOMER UNLESS SUCH RETAIL DEALER HAS: (A)
10 CONDUCTED THE REQUIRED NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND
11 COMPLIED WITH THE PROVISIONS OF 18 U.S.C. 922(T); (B) SHOWN THE TRANS-
12 FEREES HOW TO LOAD AND UNLOAD THE FIREARM, RIFLE OR SHOTGUN, HOW TO
13 ENGAGE AND DISENGAGE ALL SAFETY DEVICES, AND HOW TO SAFELY STORE THE
14 WEAPON; (C) PROVIDED THE TRANSFEREE WITH A GUN LOCKING DEVICE AS
15 REQUIRED BY SECTION THREE HUNDRED NINETY-SIX-EE OF THIS CHAPTER; (D)
16 PROVIDED THE TRANSFEREE WITH A COPY OF THE SAFE STORAGE WARNING NOTICE
17 SET FORTH IN SUBDIVISION TWO OF THIS SECTION AND A COPY OF THE FEDERAL
18 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES DISPOSITION OF
19 FIREARMS NOTICE; (E) OBTAINED THE TRANSFEREE'S SIGNATURE ON A FORM
20 PROMULGATED BY THE SUPERINTENDENT CERTIFYING THAT THE TRANSFEREE HAS
21 RECEIVED THE INSTRUCTION AND NOTICE REQUIRED BY THIS SECTION; AND (F)
22 PROVIDED THE TRANSFEREE WITH A WRITTEN RECORD OF THE MAKE, MODEL, CALI-
23 BER OR GAUGE, AND SERIAL NUMBER OF EACH FIREARM, RIFLE OR SHOTGUN TRANS-
24 FERRED TO ENABLE THE TRANSFEREE TO ACCURATELY DESCRIBE THE WEAPON TO LAW
25 ENFORCEMENT IN THE EVENT THAT IT IS SUBSEQUENTLY LOST OR STOLEN.

26 2. NO RETAIL DEALER SHALL SELL, DELIVER, LEASE OR TRANSFER ANY
27 FIREARM, RIFLE OR SHOTGUN TO ANY PERSON UNLESS AT THE TIME OF SALE,
28 DELIVERY, LEASE OR TRANSFER SUCH FIREARM, RIFLE OR SHOTGUN IS ACCOMPA-
29 NIED BY THE FOLLOWING WARNING, WHICH SHALL APPEAR IN CONSPICUOUS AND
30 LEGIBLE TYPE IN CAPITAL LETTERS, AND WHICH SHALL BE PRINTED ON A LABEL
31 AFFIXED TO SUCH FIREARM, RIFLE OR SHOTGUN AND PLACED IN THE CONTAINER IN
32 WHICH SUCH FIREARM, RIFLE OR SHOTGUN IS SOLD, DELIVERED, LEASED OR
33 TRANSFERRED: "THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE
34 ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED AND
35 LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND
36 INACCESSIBLE TO CHILDREN AND OTHER UNAUTHORIZED PERSONS. MORE THAN
37 200,000 FIREARMS LIKE THIS ONE ARE STOLEN FROM THEIR OWNERS EVERY YEAR
38 IN THE UNITED STATES. IN ADDITION, THERE ARE MORE THAN A THOUSAND
39 SUICIDES EACH YEAR BY YOUNGER CHILDREN AND TEENAGERS WHO GET ACCESS TO
40 FIREARMS. HUNDREDS MORE DIE FROM ACCIDENTAL DISCHARGE. IT IS LIKELY THAT
41 MANY MORE CHILDREN SUSTAIN SERIOUS WOUNDS, OR INFLICT SUCH WOUNDS ACCI-
42 DENTALLY ON OTHERS. IN ORDER TO LIMIT THE CHANCE OF SUCH MISUSE, IT IS
43 IMPERATIVE THAT YOU KEEP THIS WEAPON LOCKED IN A SECURE PLACE AND TAKE
44 OTHER STEPS NECESSARY TO LIMIT THE POSSIBILITY OF THEFT OR ACCIDENT.
45 FAILURE TO TAKE REASONABLE PREVENTIVE STEPS MAY RESULT IN INNOCENT LIVES
46 BEING LOST, AND IN SOME CIRCUMSTANCES MAY RESULT IN YOUR LIABILITY."

47 S 907. MAINTENANCE OF RECORDS. EVERY DEALER SHALL ESTABLISH AND MAIN-
48 TAIN SUCH PURCHASE, SALE, INVENTORY AND OTHER RECORDS AT THE DEALER'S
49 PLACE OF BUSINESS IN SUCH FORM AND FOR SUCH PERIOD AS THE SUPERINTENDENT
50 SHALL REQUIRE, AND SHALL AT A MINIMUM INCLUDE THE FOLLOWING:

51 1. EVERY DEALER SHALL RECORD THE MAKE, MODEL, CALIBER OR GAUGE, AND
52 SERIAL NUMBER OF ALL FIREARMS, RIFLES AND SHOTGUNS THAT ARE ACQUIRED OR
53 DISPOSED OF NOT LATER THAN ONE BUSINESS DAY AFTER THEIR ACQUISITION OR
54 DISPOSITION. MONTHLY BACKUPS OF THESE RECORDS SHALL BE MAINTAINED IN A
55 SECURE CONTAINER DESIGNED TO PREVENT LOSS BY FIRE, THEFT OR OTHER MISH-
56 AP;

2. ALL FIREARMS, RIFLES AND SHOTGUNS ACQUIRED BUT NOT YET DISPOSED OF MUST BE ACCOUNTED FOR THROUGH AN INVENTORY CHECK PREPARED ONCE EACH MONTH AND MAINTAINED IN A SECURE LOCATION;

3. FIREARM, RIFLE AND SHOTGUN SALES INFORMATION, INCLUDING THE SERIAL NUMBERS OF FIREARMS, RIFLES AND SHOTGUNS SOLD, DATES OF SALE AND IDENTITY OF PURCHASERS, SHALL BE MAINTAINED AND MADE AVAILABLE TO GOVERNMENT LAW ENFORCEMENT AGENCIES AND TO THE MANUFACTURER OF THE WEAPON OR ITS DESIGNEE; AND

4. EVERY DEALER SHALL MAINTAIN RECORDS OF CRIMINAL FIREARM, RIFLE AND SHOTGUN TRACES INITIATED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES ("ATF"). ALL ATF FORM 4473 TRANSACTION RECORDS SHALL BE RETAINED ON THE DEALER'S BUSINESS PREMISES IN A SECURE CONTAINER DESIGNED TO PREVENT LOSS BY FIRE, THEFT, OR OTHER MISHAP.

S 908. COOPERATION WITH LAW ENFORCEMENT. EVERY DEALER SHALL:

1. PROVIDE GOVERNMENT LAW ENFORCEMENT AGENCIES WITH FULL ACCESS TO ANY DOCUMENTS RELATED TO THE ACQUISITION AND DISPOSITION OF FIREARMS OR EMPLOYEE TRAINING DEEMED NECESSARY BY SUCH AGENCY;

2. PARTICIPATE IN AND COMPLY WITH ALL MONITORING OF FIREARM, RIFLE AND SHOTGUN DISTRIBUTION BY MANUFACTURERS OR GOVERNMENT LAW ENFORCEMENT AGENCIES;

3. REPORT ALL ATF TRACE REQUESTS BY MAKE, MODEL AND SERIAL NUMBER OF FIREARM, DATE OF TRACE, AND DATE OF SALE TO THE MANUFACTURER OF THE FIREARM, RIFLE OR SHOTGUN ON A MONTHLY BASIS, UNLESS THE ATF DIRECTS THE LICENSEE NOT TO REPORT CERTAIN TRACES, AND ALSO REPORT SUCH TRACES TO THE SUPERINTENDENT FOR USE IN CONJUNCTION WITH THE CRIMINAL GUN CLEARINGHOUSE ESTABLISHED PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE EXECUTIVE LAW;

4. ANALYZE ALL ATF TRACE REQUESTS TO DETERMINE WHETHER THERE IS A PATTERN OF FIREARMS, RIFLES OR SHOTGUNS SOLD BY THE DEALER BEING USED FOR CRIMINAL PURPOSES, AND, IF SUCH PATTERN EXISTS, TAKE CORRECTIVE ACTION AND REPORT SUCH FINDINGS AND SUCH CORRECTIVE ACTION TO THE SUPERINTENDENT; AND

5. REPORT ANY FIREARM, RIFLE OR SHOTGUN SALES THAT APPEAR TO BE STRAW PURCHASES OR OTHERWISE CREATE A REASONABLE SUSPICION THAT THE FIREARM, RIFLE OR SHOTGUN MAY BE DIVERTED FROM THE LEGAL STREAM OF COMMERCE.

S 909. INTERNAL COMPLIANCE AND CERTIFICATION. 1. EVERY DEALER SHALL:

(A) IMPLEMENT AND MAINTAIN SUFFICIENT INTERNAL COMPLIANCE PROCEDURES TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS GOVERNING THE SALE, TRANSFER AND DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS; AND

(B) ANNUALLY CERTIFY TO THE SUPERINTENDENT THAT SUCH DEALER HAS COMPLIED WITH ALL OF THE REQUIREMENTS OF THIS ARTICLE. THE SUPERINTENDENT SHALL BY REGULATION DETERMINE THE FORM AND CONTENT OF SUCH ANNUAL CERTIFICATION.

2. THE SUPERINTENDENT SHALL PROMULGATE REGULATIONS ESTABLISHING PERIODIC INSPECTIONS, DURING REGULAR AND USUAL BUSINESS HOURS, BY THE DIVISION OF STATE POLICE OF THE PREMISES OF EVERY DEALER TO DETERMINE COMPLIANCE BY SUCH DEALER WITH THE REQUIREMENTS OF THIS ARTICLE. EVERY DEALER SHALL PROVIDE THE DIVISION OF STATE POLICE WITH FULL ACCESS TO SUCH DEALER'S PREMISES FOR SUCH INSPECTIONS.

S 910. RULES AND REGULATIONS. THE SUPERINTENDENT MAY PROMULGATE SUCH ADDITIONAL RULES AND REGULATIONS AS THE SUPERINTENDENT SHALL DEEM NECESSARY TO PREVENT FIREARMS, RIFLES AND SHOTGUNS FROM BEING DIVERTED FROM THE LEGAL STREAM OF COMMERCE.

S 911. VIOLATIONS. ANY PERSON, FIRM OR CORPORATION WHICH KNOWINGLY VIOLATES ANY PROVISION OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A

1 MISDEMEANOR PUNISHABLE AS PROVIDED FOR IN THE PENAL LAW, AND SHALL BE
2 GUILTY OF A CLASS E FELONY FOR A SECOND VIOLATION OCCURRING WITHIN FIVE
3 YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF ANY PROVISION OF THIS
4 ARTICLE.

5 S 3. Subdivision 1 of section 396-ee of the general business law, as
6 added by chapter 189 of the laws of 2000, is amended to read as follows:

7 (1) No person, firm or corporation engaged in the retail business of
8 selling rifles, shotguns or firearms, as such terms are defined in
9 section 265.00 of the penal law, shall sell, deliver or transfer any
10 such rifle, shotgun or firearm to another person unless the transferee
11 is provided at the time of sale, delivery or transfer with a gun locking
12 device and a label containing the quoted language specified in subdivi-
13 sion two of [this] section [is either] NINE HUNDRED SIX OF THIS CHAPTER,
14 WHICH SHALL APPEAR IN CONSPICUOUS AND LEGIBLE TYPE IN CAPITAL LETTERS,
15 AND SHALL BE affixed to such rifle, shotgun or firearm [or] AND placed
16 in the container in which such rifle, shotgun or firearm is sold, deliv-
17 ered or transferred. For the purposes of this section, the term "gun
18 locking device" shall mean an integrated design feature or an attachable
19 accessory that is resistant to tampering and is effective in preventing
20 the discharge of such rifle, shotgun or firearm by a person who does not
21 have access to the key, combination or other mechanism used to disengage
22 the device. The division of state police shall develop and promulgate
23 rules and regulations setting forth the specific devices or the minimum
24 standards and criteria therefor which constitute an effective gun lock-
25 ing device.

26 S 4. Subdivision 1 of section 400.00 of the penal law, as amended by
27 chapter 1 of the laws of 2013, is amended to read as follows:

28 1. Eligibility. No license shall be issued or renewed pursuant to this
29 section except by the licensing officer, and then only after investi-
30 gation and finding that all statements in a proper application for a
31 license are true. No license shall be issued or renewed except for an
32 applicant (a) twenty-one years of age or older, provided, however, that
33 where such applicant has been honorably discharged from the United
34 States army, navy, marine corps, air force or coast guard, or the
35 national guard of the state of New York, no such age restriction shall
36 apply; (b) of good moral character; (c) who has not been convicted
37 anywhere of a felony or a serious offense; (d) who is not a fugitive
38 from justice; (e) who is not an unlawful user of or addicted to any
39 controlled substance as defined in section 21 U.S.C. 802; (f) who being
40 an alien (i) is not illegally or unlawfully in the United States or (ii)
41 has not been admitted to the United States under a nonimmigrant visa
42 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
43 discharged from the Armed Forces under dishonorable conditions; (h) who,
44 having been a citizen of the United States, has not renounced his or her
45 citizenship; (i) who has stated whether he or she has ever suffered any
46 mental illness; (j) who has not been involuntarily committed to a facil-
47 ity under the jurisdiction of an office of the department of mental
48 hygiene pursuant to article nine or fifteen of the mental hygiene law,
49 article seven hundred thirty or section 330.20 of the criminal procedure
50 law, section four hundred two or five hundred eight of the correction
51 law, section 322.2 or 353.4 of the family court act, or has not been
52 civilly confined in a secure treatment facility pursuant to article ten
53 of the mental hygiene law; (k) who has not had a license revoked or who
54 is not under a suspension or ineligibility order issued pursuant to the
55 provisions of section 530.14 of the criminal procedure law or section
56 eight hundred forty-two-a of the family court act; (l) in the county of

1 Westchester, who has successfully completed a firearms safety course and
2 test as evidenced by a certificate of completion issued in his or her
3 name and endorsed and affirmed under the penalties of perjury by a duly
4 authorized instructor, except that: (i) persons who are honorably
5 discharged from the United States army, navy, marine corps or coast
6 guard, or of the national guard of the state of New York, and produce
7 evidence of official qualification in firearms during the term of
8 service are not required to have completed those hours of a firearms
9 safety course pertaining to the safe use, carrying, possession, mainte-
10 nance and storage of a firearm; and (ii) persons who were licensed to
11 possess a pistol or revolver prior to the effective date of this para-
12 graph are not required to have completed a firearms safety course and
13 test; (m) who has not had a guardian appointed for him or her pursuant
14 to any provision of state law, based on a determination that as a result
15 of marked subnormal intelligence, mental illness, incapacity, condition
16 or disease, he or she lacks the mental capacity to contract or manage
17 his or her own affairs; and (n) concerning whom no good cause exists for
18 the denial of the license. No person shall engage in the business of
19 gunsmith or dealer in firearms unless licensed pursuant to this section,
20 AND NO PERSON SHALL ENGAGE IN THE BUSINESS OF DEALER IN FIREARMS UNLESS
21 SUCH PERSON COMPLIES WITH THE PROVISIONS OF ARTICLES THIRTY-NINE-DD AND
22 FORTY OF THE GENERAL BUSINESS LAW. An applicant to engage in such busi-
23 ness shall also be a citizen of the United States, more than twenty-one
24 years of age and maintain a place of business in the city or county
25 where the license is issued. For such business, if the applicant is a
26 firm or partnership, each member thereof shall comply with all of the
27 requirements set forth in this subdivision and if the applicant is a
28 corporation, each officer thereof shall so comply.

29 S 5. Subdivisions 11 and 12 of section 400.00 of the penal law, as
30 amended by chapter 1 of the laws of 2013, are amended to read as
31 follows:

32 11. License: revocation and suspension. (a) The conviction of a licen-
33 see anywhere of a felony or serious offense or a licensee at any time
34 becoming ineligible to obtain a license under this section shall operate
35 as a revocation of the license. A license may be revoked or suspended as
36 provided for in section 530.14 of the criminal procedure law or section
37 eight hundred forty-two-a of the family court act. Except for a license
38 issued pursuant to section 400.01 of this article, a license may be
39 revoked and cancelled at any time in the city of New York, and in the
40 counties of Nassau and Suffolk, by the licensing officer, and elsewhere
41 than in the city of New York by any judge or justice of a court of
42 record; a license issued pursuant to section 400.01 of this article may
43 be revoked and cancelled at any time by the licensing officer or any
44 judge or justice of a court of record. A LICENSE TO ENGAGE IN THE BUSI-
45 NESS OF DEALER MAY BE REVOKED OR SUSPENDED FOR ANY VIOLATION OF THE
46 PROVISIONS OF ARTICLE THIRTY-NINE-DD OR FORTY OF THE GENERAL BUSINESS
47 LAW. The official revoking a license shall give written notice thereof
48 without unnecessary delay to the executive department, division of state
49 police, Albany, and shall also notify immediately the duly constituted
50 police authorities of the locality.

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

1 (c) In any instance in which a person's license is suspended or
2 revoked under paragraph (a) or (b) of this subdivision, such person
3 shall surrender such license to the appropriate licensing official and
4 any and all firearms, rifles, or shotguns owned or possessed by such
5 person shall be surrendered to an appropriate law enforcement agency as
6 provided in subparagraph (f) of paragraph one of subdivision a of
7 section 265.20 of this chapter. In the event such license, firearm,
8 shotgun, or rifle is not surrendered, such items shall be removed and
9 declared a nuisance and any police officer or peace officer acting
10 pursuant to his or her special duties is authorized to remove any and
11 all such weapons.

12 12. Records required of gunsmiths and dealers in firearms. [Any] IN
13 ADDITION TO THE REQUIREMENTS SET FORTH IN ARTICLES THIRTY-NINE-DD AND
14 FORTY OF THE GENERAL BUSINESS LAW, ANY person licensed as gunsmith or
15 dealer in firearms shall keep a record book approved as to form, except
16 in the city of New York, by the superintendent of state police. In the
17 record book shall be entered at the time of every transaction involving
18 a firearm the date, name, age, occupation and residence of any person
19 from whom a firearm is received or to whom a firearm is delivered, and
20 the calibre, make, model, manufacturer's name and serial number, or if
21 none, any other distinguishing number or identification mark on such
22 firearm. Before delivering a firearm to any person, the licensee shall
23 require him to produce either a license valid under this section to
24 carry or possess the same, or proof of lawful authority as an exempt
25 person pursuant to section 265.20 OF THIS CHAPTER. In addition, before
26 delivering a firearm to a peace officer, the licensee shall verify that
27 person's status as a peace officer with the division of state police.
28 After completing the foregoing, the licensee shall remove and retain the
29 attached coupon and enter in the record book the date of such license,
30 number, if any, and name of the licensing officer, in the case of the
31 holder of a license to carry or possess, or the shield or other number,
32 if any, assignment and department, unit or agency, in the case of an
33 exempt person. The original transaction report shall be forwarded to the
34 division of state police within ten days of delivering a firearm to any
35 person, and a duplicate copy shall be kept by the licensee. The super-
36 intendent of state police may designate that such record shall be
37 completed and transmitted in electronic form. A dealer may be granted a
38 waiver from transmitting such records in electronic form if the super-
39 intendent determines that such dealer is incapable of such transmission
40 due to technological limitations that are not reasonably within the
41 control of the dealer, or other exceptional circumstances demonstrated
42 by the dealer, pursuant to a process established in regulation, and at
43 the discretion of the superintendent. Records assembled or collected for
44 purposes of inclusion in the database created pursuant to section 400.02
45 of this article shall not be subject to disclosure pursuant to article
46 six of the public officers law. The record book shall be maintained on
47 the premises mentioned and described in the license and shall be open at
48 all reasonable hours for inspection by any peace officer, acting pursu-
49 ant to his special duties, or police officer. In the event of cancella-
50 tion or revocation of the license for gunsmith or dealer in firearms, or
51 discontinuance of business by a licensee, such record book shall be
52 immediately surrendered to the licensing officer in the city of New
53 York, and in the counties of Nassau and Suffolk, and elsewhere in the
54 state to the executive department, division of state police.

55 S 6. Severability. If any clause, sentence, paragraph, section or part
56 of this act shall be adjudged by any court of competent jurisdiction to

1 be invalid, such judgment shall not affect, impair or invalidate the
2 remainder thereof, but shall be confined in its operation to the clause,
3 sentence, paragraph, section or part thereof directly involved in the
4 controversy in which such judgment shall have been rendered.

5 S 7. This act shall take effect on the ninetieth day after it shall
6 have become a law; provided that the superintendent of state police is
7 authorized and directed to immediately adopt, amend and promulgate such
8 rules and regulations as may be necessary and desirable to effectuate
9 the purposes of section two of this act.