

# STATE OF NEW YORK

9338

## IN SENATE

March 3, 2026

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the general business law, in relation to establishing a waiting period before a firearm, shotgun or rifle may be delivered to a person

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

1 Section 1. Subdivision 12 of section 400.00 of the penal law, as  
2 amended by chapter 207 of the laws of 2022, is amended to read as  
3 follows:  
4 12. Records required of gunsmiths and dealers in firearms. In addition  
5 to the requirements set forth in article thirty-nine-BB of the general  
6 business law, any person licensed as gunsmith or dealer in firearms  
7 shall keep a record book approved as to form, except in the city of New  
8 York, by the superintendent of state police. In the record book shall be  
9 entered at the time of every transaction involving a firearm the date,  
10 name, age, occupation and residence of any person from whom a firearm is  
11 received or to whom a firearm is delivered, and the calibre, make,  
12 model, manufacturer's name and serial number, or if none, any other  
13 distinguishing number or identification mark on such firearm. Before  
14 delivering a firearm to any person, the licensee shall require [~~him~~]  
15 such licensee to produce either a license valid under this section to  
16 carry or possess the same, or proof of lawful authority as an exempt  
17 person pursuant to section 265.20 of this chapter and [~~either~~] (a) [~~the~~  
18 ~~National Instant Criminal Background Check System (NICS) or its succes-~~  
19 ~~sor has issued a "proceed" response to the licensee, or (b) thirty~~  
20 ~~calendar~~] ten business days have elapsed since the date the licensee  
21 contacted [~~NICS~~] the New York State National Instant Background Check  
22 System ("NYS NICS") or its successor to initiate a national instant  
23 criminal background check and (b) NYS NICS has [~~not notified~~] issued a  
24 "proceed" response to the licensee [~~that~~]. If, after thirty calendar  
25 days, NYS NICS has not issued a response to the licensee for the person  
26 requesting transfer of the firearm, the licensee may transfer the  
27 firearm to such person [~~should be denied~~] at the licensee's discretion.  
28 In addition, before delivering a firearm to a peace officer, the licen-  
29 see shall verify that person's status as a peace officer with the divi-  
30 sion of state police. After completing the foregoing, the licensee shall

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

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1 remove and retain the attached coupon and enter in the record book the  
2 date of such license, number, if any, and name of the licensing officer,  
3 in the case of the holder of a license to carry or possess, or the  
4 shield or other number, if any, assignment and department, unit or agen-  
5 cy, in the case of an exempt person. The original transaction report  
6 shall be forwarded to the division of state police within ten days of  
7 delivering a firearm to any person, and a duplicate copy shall be kept  
8 by the licensee. The superintendent of state police may designate that  
9 such record shall be completed and transmitted in electronic form. A  
10 dealer may be granted a waiver from transmitting such records in elec-  
11 tronic form if the superintendent determines that such dealer is incapa-  
12 ble of such transmission due to technological limitations that are not  
13 reasonably within the control of the dealer, or other exceptional  
14 circumstances demonstrated by the dealer, pursuant to a process estab-  
15 lished in regulation, and at the discretion of the superintendent.  
16 Records assembled or collected for purposes of inclusion in the database  
17 created pursuant to section 400.02 of this article shall not be subject  
18 to disclosure pursuant to article six of the public officers law. The  
19 record book shall be maintained on the premises mentioned and described  
20 in the license and shall be open at all reasonable hours for inspection  
21 by any peace officer, acting pursuant to ~~[his]~~ such peace officer's  
22 special duties, or police officer. In the event of cancellation or revo-  
23 cation of the license for gunsmith or dealer in firearms, or discontin-  
24 uance of business by a licensee, such record book shall be immediately  
25 surrendered to the licensing officer in the city of New York, and in the  
26 counties of Nassau and Suffolk, and elsewhere in the state to the execu-  
27 tive department, division of state police.

28 § 2. Section 400.20 of the penal law, as added by chapter 129 of the  
29 laws of 2019, is amended to read as follows:

30 § 400.20 Waiting period in connection with the sale or transfer of a  
31 rifle or shotgun.

32 When a national instant criminal background check is required pursuant  
33 to state or federal law to be conducted through the New York State  
34 National Instant ~~[Criminal]~~ Background Check System ~~[(NICS)]~~ (NYS NICS)  
35 or its successor in connection with the sale or transfer of a rifle or  
36 shotgun to any person, before delivering a rifle or shotgun to such  
37 person, ~~[either]~~ (a) ~~[NICS has issued a "proceed" response to the seller~~  
38 ~~or transferor, or (b) thirty calendar]~~ ten business days shall have  
39 elapsed since the date the seller or transferor contacted ~~[NICS]~~ NYS  
40 NICS to initiate a national instant criminal background check and (b)  
41 NYS NICS has [not notified] issued a "proceed" response to the seller or  
42 transferor ~~[that].~~ If, after thirty calendar days, NYS NICS has not  
43 issued a response to the seller or transferor for the person requesting  
44 transfer of the rifle or shotgun, the seller or transferor may transfer  
45 the rifle or shotgun to such person [should be denied] at the seller or  
46 transferor's discretion.

47 § 3. Subdivision 1 of section 897 of the general business law, as  
48 amended by chapter 129 of the laws of 2019, is amended to read as  
49 follows:

50 1. A national instant criminal background check shall be conducted and  
51 no person shall sell or transfer a firearm, rifle or shotgun at a gun  
52 show, except in accordance with the provisions of 18 U.S.C. 922(t),  
53 provided that before delivering a firearm, rifle or shotgun to any  
54 person, ~~[either]~~ (a) ~~[the National Instant Criminal Background Check~~  
55 ~~System (NICS) or its successor has issued a "proceed" response to the~~  
56 ~~seller or transferor, or (b) thirty calendar]~~ ten business days shall

1 have elapsed since the date the seller or transferor contacted [~~NICS~~]  
2 the New York State National Instant Background Check System ("NYS NICS")  
3 or its successor to initiate a national instant criminal background  
4 check and NYS NICS has [~~not-notified~~] issued a "proceed" response to the  
5 seller or transferor [~~that~~]. If, after thirty calendar days, NYS NICS  
6 has not issued a response to the seller or transferor for the person  
7 requesting transfer of the firearm, rifle or shotgun, the seller or  
8 transferor may transfer the firearm, rifle or shotgun to such person  
9 [~~should be denied~~] at the seller or transferor's discretion.

10 § 4. Subdivisions 1 and 2 of section 898 of the general business law,  
11 subdivision 1 as amended by chapter 129 of the laws of 2019 and subdivi-  
12 sion 2 as amended by chapter 371 of the laws of 2022, are amended to  
13 read as follows:

14 1. In addition to any other requirements pursuant to state and federal  
15 law, all sales, exchanges or disposals of firearms, rifles or shotguns  
16 shall be conducted in accordance with this section unless such sale,  
17 exchange or disposal is conducted by a licensed importer, licensed  
18 manufacturer or licensed dealer, as those terms are defined in 18 USC §  
19 922, when such sale, exchange or disposal is conducted pursuant to that  
20 person's federal firearms license or such sale, exchange or disposal is  
21 between members of an immediate family. When a sale, exchange or  
22 disposal is conducted pursuant to a person's federal firearms license,  
23 before delivering a firearm, rifle or shotgun to any person, [~~either~~]  
24 (a) [~~the National Instant Criminal Background Check System (NICS) or its~~  
25 ~~successor has issued a "proceed" response to the federal firearms licen-~~  
26 ~~see, or (b) thirty calendar~~] ten business days shall have elapsed since  
27 the date the federal firearms licensee contacted [~~NICS~~] the New York  
28 State National Instant Background Check System ("NYS NICS") or its  
29 successor to initiate a national instant criminal background check and  
30 (b) NYS NICS has [~~not-notified~~] issued a "proceed" response to the  
31 federal firearms licensee [~~that~~]. If, after thirty calendar days, NYS  
32 NICS has not issued a response to the federal firearms licensee for the  
33 person requesting transfer of the firearm, rifle or shotgun, the feder-  
34 al firearm licensee may transfer the firearm, rifle or shotgun to such  
35 person [~~should be denied~~] at the federal firearm licensee's discretion.  
36 For purposes of this section, "immediate family" shall mean spouses,  
37 domestic partners, children and step-children.

38 2. Before any sale, exchange or disposal pursuant to this article, a  
39 national instant criminal background check must be completed by a dealer  
40 who shall submit a request to the division of state police pursuant to  
41 section two hundred twenty-eight of the executive law to conduct such  
42 check. Before a dealer who has submitted a request to the division of  
43 state police to conduct a national instant criminal background check  
44 delivers a firearm, rifle or shotgun to any person, [~~either~~] (a) [~~NICS~~  
45 ~~shall have issued a "proceed" response, or (b) thirty calendar~~] ten  
46 business days shall have elapsed since the date the dealer submitted a  
47 request to the division of state police to contact the [~~NICS~~] NYS NICS  
48 or its successor to initiate a national instant criminal background  
49 check and (b) NYS NICS has [~~not-notified~~] issued a "proceed" response to  
50 the [~~division of state police that~~] dealer. If, after thirty calendar  
51 days, NYS NICS has not issued a response to the dealer for the person  
52 requesting transfer of the firearm, rifle or shotgun, the dealer may  
53 transfer the firearm, rifle or shotgun to such person [~~should be denied~~]  
54 at the dealer's discretion.

55 § 5. This act shall take effect on the sixtieth day after it shall  
56 have become a law.