

1093

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PAULIN, RAMOS, KOON, LIFTON, ENGLEBRIGHT, KAVANAGH, ROSENTHAL, WRIGHT, SCHIMEL, PHEFFER, LANCMAN -- Multi-Sponsored by -- M. of A. BING, BOYLAND, CARROZZA, GOTTFRIED, HOOPER, MAGNARELLI, TOWNS, WEINSTEIN -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

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, 2700 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.

1 database. One thousand of these were long guns which, outside of New
 2 York City, are sold without a permit. A significant portion of guns
 3 involved in crimes upstate originate within the state. In fact, youth
 4 data reveals that in 2000, 40% of the crime guns in Buffalo originated
 5 within a five-mile radius of that city.

6 3. A substantial portion of illegal firearms are diverted to the ille-
 7 gal market through licensed gun dealers. Rogue gun dealers play a key
 8 role in this market. These rogue dealers funnel guns to the illegal
 9 market through a variety of channels. One of the most common means is to
 10 allow "straw purchases". A straw purchase occurs when a person purchases
 11 a gun on behalf of a prohibited person. The federal bureau of alcohol,
 12 tobacco and firearms (ATF) conducted an investigation of gun trafficking
 13 from July 1996 to December 1998 and found that almost 26,000 trafficked
 14 firearms were associated with investigations in which there was a straw
 15 purchaser. Almost 50% of all trafficking investigations involved straw
 16 purchasers, with an average of 37 firearms trafficked per investigation.
 17 Although most gun dealers operate their businesses legally and responsi-
 18 bly, some gun dealers who are corrupt or maintain shoddy recordkeeping
 19 practices flood the streets with illegal weapons as a result of their
 20 unrestricted access to new gun inventory and the unwillingness of gun
 21 manufacturers to terminate their supply to these rogue dealers. Current
 22 federal and state regulation has not curbed the business practice of
 23 illegal gun dealers. According to a 2004 study by Americans for Gun
 24 Safety, of the 120 worst gun dealers in the country, namely those deal-
 25 ers with an average of 500 crime guns traced to them, 96 were still in
 26 operation.

27 4. Moreover, this problem is not limited to unlicensed sellers, and
 28 clearly includes federal firearms licensees (FFLs). Indeed, although
 29 FFLs were involved in under 10% of the trafficking investigations under-
 30 taken by ATF, they were associated with the largest number of diverted
 31 firearms--over 40,000 guns, which is nearly half of the total number of
 32 trafficked firearms documented during the two-year period of ATF's
 33 investigation.

34 5. Current New York state laws governing firearm dealers are inade-
 35 quate to prevent the diversion of firearms to the illegal marketplace.
 36 Additional protections that are needed include, but are not limited to,
 37 better gun dealer internal compliance procedures, programs to eliminate
 38 straw purchases, increased liability insurance, improved security meas-
 39 ures, reducing youth access, mandatory training for gun dealer employ-
 40 ees, and improved recordkeeping requirements. The additional protections
 41 set forth in this act will greatly enhance the state's efforts to reduce
 42 criminal activity in the state.

43 S 2. Article 40 and sections 900 and 901 of the general business law,
 44 as renumbered by chapter 407 of the laws of 1973, are renumbered article
 45 50 and sections 1001 and 1002 and a new article 40 is added to read as
 46 follows:

ARTICLE 40

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

50 SECTION 900. DEFINITIONS.

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

53 902. INSURANCE.

54 903. SECURITY.

55 904. ACCESS TO FIREARMS, RIFLES, AND SHOTGUNS.

56 905. LOCATION OF FIREARM, RIFLE, AND SHOTGUN SALES.

- 1 906. EMPLOYEE TRAINING.
- 2 907. RETAIL SALES OF FIREARMS, RIFLES, AND SHOTGUNS.
- 3 908. MAINTENANCE OF RECORDS.
- 4 909. COOPERATION WITH LAW ENFORCEMENT.
- 5 910. INTERNAL COMPLIANCE AND CERTIFICATION.
- 6 911. RULES AND REGULATIONS.
- 7 912. VIOLATIONS.

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

9 1. "DEALER" MEANS ANY PERSON, FIRM, PARTNERSHIP, CORPORATION, OR
10 COMPANY WHO ENGAGES IN THE BUSINESS OF PURCHASING, SELLING, KEEPING FOR
11 SALE, LENDING, LEASING, OR IN ANY MANNER DISPOSING OF, ANY FIREARM,
12 RIFLE, OR SHOTGUN.

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

16 3. "FIREARM" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVI-
17 SION THREE OF SECTION 265.00 OF THE PENAL LAW.

18 4. "FIREARM EXHIBITOR" MEANS ANY PERSON, FIRM, PARTNERSHIP, CORPO-
19 RATION, OR COMPANY THAT EXHIBITS, SELLS, OFFERS FOR SALE, TRANSFERS, OR
20 EXCHANGES FIREARMS, RIFLES, OR SHOTGUNS AT A GUN SHOW.

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

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

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

37 8. "SHOTGUN" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVI-
38 SION TWELVE OF SECTION 265.00 OF THE PENAL LAW.

39 9. "STRAW PURCHASE" MEANS THE PURCHASE, OR ATTEMPT TO PURCHASE, BY A
40 PERSON OF A FIREARM, RIFLE, OR SHOTGUN FOR, ON BEHALF OF, OR FOR THE USE
41 OF ANOTHER PERSON, KNOWING THAT IT WOULD BE UNLAWFUL FOR SUCH OTHER
42 PERSON TO POSSESS SUCH FIREARM, RIFLE, OR SHOTGUN, OR AN ATTEMPT TO MAKE
43 SUCH A PURCHASE.

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

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

49 S 901. REASONABLE MEASURES TO PREVENT SALES AND TRANSFERS TO CRIMI-
50 NALS. EVERY DEALER SHALL ADOPT REASONABLE MEASURES TO PREVENT FIREARMS,
51 RIFLES, AND SHOTGUNS FROM BEING DIVERTED FROM THE LEGAL STREAM OF
52 COMMERCE, INTENTIONALLY OR OTHERWISE, FOR LATER SALE, TRANSFER, OR
53 DISPOSAL TO INDIVIDUALS NOT LEGALLY ENTITLED TO PURCHASE OR POSSESS SUCH
54 WEAPONS. SUCH MEASURES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,
55 PROGRAMS TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART
56 ILLEGAL GUN TRAFFICKING. THE SUPERINTENDENT SHALL DEVELOP PROGRAMS

1 DESIGNED TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART
2 ILLEGAL GUN TRAFFICKING. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS
3 ARTICLE, THE SUPERINTENDENT SHALL SUBMIT A REPORT TO THE LEGISLATURE
4 DETAILING SUCH PROGRAMS, INCLUDING ESTABLISHING MINIMUM REQUIREMENTS FOR
5 SUCH PROGRAMS.

6 S 902. INSURANCE. EVERY DEALER SHALL CARRY INSURANCE COVERAGE AGAINST
7 LIABILITY FOR DAMAGE TO PROPERTY AND FOR INJURY TO OR DEATH OF ANY
8 PERSON AS A RESULT OF THE SALE, DELIVERY, LEASE, OR TRANSFER OF A
9 FIREARM, RIFLE, OR SHOTGUN IN AMOUNTS APPROPRIATE TO ITS LEVEL OF SALES,
10 BUT NO LESS THAN ONE MILLION DOLLARS FOR EACH INCIDENT OF DAMAGE, INJU-
11 RY, OR DEATH.

12 S 903. SECURITY. EVERY DEALER SHALL IMPLEMENT A SECURITY PLAN FOR
13 SECURING FIREARMS, RIFLES AND SHOTGUNS, INCLUDING FIREARMS, RIFLES AND
14 SHOTGUNS IN SHIPMENT. THE PLAN MUST SATISFY AT LEAST THE FOLLOWING
15 REQUIREMENTS:

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

20 2. ALL FIREARMS, RIFLES AND SHOTGUNS SHALL BE SECURED, OTHER THAN
21 DURING BUSINESS HOURS, IN A LOCKED FIREPROOF SAFE OR VAULT IN THE
22 LICENSEE'S BUSINESS PREMISES OR IN A SIMILAR SECURED AND LOCKED AREA;
23 AND

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

26 S 904. ACCESS TO FIREARMS, RIFLES, AND SHOTGUNS. EVERY RETAIL DEALER
27 SHALL EXCLUDE ALL PERSONS UNDER EIGHTEEN YEARS OF AGE FROM THOSE
28 PORTIONS OF ITS PREMISES WHERE FIREARMS, RIFLES, SHOTGUNS, OR AMMUNITION
29 ARE STOCKED OR SOLD, UNLESS SUCH PERSON IS ACCOMPANIED BY A PARENT OR
30 GUARDIAN.

31 S 905. LOCATION OF FIREARM, RIFLE, AND SHOTGUN SALES. EVERY DEALER
32 SHALL SELL OR OTHERWISE DISPOSE OF FIREARMS, RIFLES, AND SHOTGUNS ONLY
33 AT THE LOCATION LISTED ON THE DEALER'S FEDERAL FIREARMS LICENSE OR AT
34 GUN SHOWS.

35 S 906. EMPLOYEE TRAINING. EVERY RETAIL DEALER SHALL PROVIDE TRAINING
36 TO ALL EMPLOYEES AND OTHER PERSONNEL ENGAGED IN THE RETAIL SALE OF
37 FIREARMS, RIFLES, AND SHOTGUNS RELATING TO:

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

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

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

45 4. HOW TO COMPLY WITH PROVISIONS OF SECTION NINE HUNDRED SEVEN OF THIS
46 ARTICLE.

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

53 S 907. RETAIL SALES OF FIREARMS, RIFLES, AND SHOTGUNS. 1. NO RETAIL
54 DEALER SHALL SELL, DELIVER, LEASE, OR TRANSFER ANY FIREARM, RIFLE, OR
55 SHOTGUN TO ANY RETAIL CUSTOMER UNLESS SUCH RETAIL DEALER HAS: (A)
56 CONDUCTED THE REQUIRED NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND

1 COMPLIED WITH THE PROVISIONS OF 18 U.S.C. 922(T); (B) SHOWN THE TRANS-
2 FEREЕ HOW TO LOAD AND UNLOAD THE FIREARM, RIFLE, OR SHOTGUN, HOW TO
3 ENGAGE AND DISENGAGE ALL SAFETY DEVICES, AND HOW TO SAFELY STORE THE
4 WEAPON; (C) PROVIDED THE TRANSFEREE WITH A GUN LOCKING DEVICE AS
5 REQUIRED BY SECTION THREE HUNDRED NINETY-SIX-EE OF THIS CHAPTER; (D)
6 PROVIDED THE TRANSFEREE WITH A COPY OF THE SAFE STORAGE WARNING NOTICE
7 SET FORTH IN SUBDIVISION TWO OF THIS SECTION AND A COPY OF THE FEDERAL
8 BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS DISPOSITION OF FIREARMS NOTICE;
9 (E) OBTAINED THE TRANSFEREE'S SIGNATURE ON A FORM PROMULGATED BY THE
10 SUPERINTENDENT CERTIFYING THAT THE TRANSFEREE HAS RECEIVED THE INSTRUC-
11 TION AND NOTICE REQUIRED BY THIS SECTION; AND (F) PROVIDED THE TRANSFER-
12 EE WITH A WRITTEN RECORD OF THE MAKE, MODEL, CALIBER OR GAUGE, AND SERI-
13 AL NUMBER OF EACH FIREARM, RIFLE, OR SHOTGUN TRANSFERRED TO ENABLE THE
14 TRANSFEREE TO ACCURATELY DESCRIBE THE WEAPON TO LAW ENFORCEMENT IN THE
15 EVENT THAT IT IS SUBSEQUENTLY LOST OR STOLEN.

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

37 S 908. MAINTENANCE OF RECORDS. EVERY DEALER SHALL ESTABLISH AND MAIN-
38 TAIN SUCH PURCHASE, SALE, INVENTORY, AND OTHER RECORDS AT THE DEALER'S
39 PLACE OF BUSINESS IN SUCH FORM AND FOR SUCH PERIOD AS THE SUPERINTENDENT
40 SHALL REQUIRE, AND SHALL AT A MINIMUM INCLUDE THE FOLLOWING:

41 1. EVERY DEALER SHALL RECORD THE MAKE, MODEL, CALIBER OR GAUGE, AND
42 SERIAL NUMBER OF ALL FIREARMS, RIFLES, AND SHOTGUNS THAT ARE ACQUIRED OR
43 DISPOSED OF NOT LATER THAN ONE BUSINESS DAY AFTER THEIR ACQUISITION OR
44 DISPOSITION. MONTHLY BACKUPS OF THESE RECORDS SHALL BE MAINTAINED IN A
45 SECURE CONTAINER DESIGNED TO PREVENT LOSS BY FIRE, THEFT, OR OTHER
46 MISHAP;

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

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

55 4. EVERY DEALER SHALL MAINTAIN RECORDS OF CRIMINAL FIREARM, RIFLE, AND
56 SHOTGUN TRACES INITIATED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO,

1 FIREARMS AND EXPLOSIVES ("ATF"). ALL ATF FORM 4473 TRANSACTION RECORDS
2 SHALL BE RETAINED ON THE DEALER'S BUSINESS PREMISES IN A SECURE CONTAIN-
3 ER DESIGNED TO PREVENT LOSS BY FIRE, THEFT, OR OTHER MISHAP.

4 S 909. COOPERATION WITH LAW ENFORCEMENT. EVERY DEALER SHALL:

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

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

11 3. REPORT ALL ATF TRACE REQUESTS BY MAKE, MODEL, AND SERIAL NUMBER OF
12 FIREARM, DATE OF TRACE, AND DATE OF SALE TO THE MANUFACTURER OF THE
13 FIREARM, RIFLE, OR SHOTGUN ON A MONTHLY BASIS, UNLESS ATF DIRECTS THE
14 LICENSEE NOT TO REPORT CERTAIN TRACES, AND ALSO REPORT SUCH TRACES TO
15 THE SUPERINTENDENT FOR USE IN CONJUNCTION WITH THE CRIMINAL GUN CLEAR-
16 INGHOUSE ESTABLISHED PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE EXEC-
17 UTIVE LAW;

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

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

26 S 910. INTERNAL COMPLIANCE AND CERTIFICATION. 1. EVERY DEALER SHALL:

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

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

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

41 S 911. RULES AND REGULATIONS. THE SUPERINTENDENT MAY PROMULGATE SUCH
42 ADDITIONAL RULES AND REGULATIONS AS THE SUPERINTENDENT SHALL DEEM NECES-
43 SARY TO PREVENT FIREARMS, RIFLES, AND SHOTGUNS FROM BEING DIVERTED FROM
44 THE LEGAL STREAM OF COMMERCE.

45 S 912. VIOLATIONS. ANY PERSON, FIRM, OR CORPORATION WHO KNOWINGLY
46 VIOLATES ANY PROVISION OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A
47 MISDEMEANOR PUNISHABLE AS PROVIDED FOR IN THE PENAL LAW, AND SHALL BE
48 GUILTY OF A CLASS E FELONY FOR A SECOND VIOLATION OCCURRING WITHIN FIVE
49 YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF ANY PROVISION OF THIS
50 ARTICLE.

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

53 (1) No person, firm or corporation engaged in the retail business of
54 selling rifles, shotguns or firearms, as such terms are defined in
55 section 265.00 of the penal law, shall sell, deliver or transfer any
56 such rifle, shotgun or firearm to another person unless the transferee

1 is provided at the time of sale, delivery or transfer with a gun locking
2 device and a label containing the quoted language specified in subdivi-
3 sion two of [this] section [is either] NINE HUNDRED SEVEN OF THIS CHAP-
4 TER, WHICH SHALL APPEAR IN CONSPICUOUS AND LEGIBLE TYPE IN CAPITAL
5 LETTERS, AND SHALL BE affixed to such rifle, shotgun or firearm [or] AND
6 placed in the container in which such rifle, shotgun or firearm is sold,
7 delivered or transferred. For the purposes of this section, the term
8 "gun locking device" shall mean an integrated design feature or an
9 attachable accessory that is resistant to tampering and is effective in
10 preventing the discharge of such rifle, shotgun or firearm by a person
11 who does not have access to the key, combination or other mechanism used
12 to disengage the device. The division of state police shall develop and
13 promulgate rules and regulations setting forth the specific devices or
14 the minimum standards and criteria therefor which constitute an effec-
15 tive gun locking device.

16 S 4. Subdivision 1 of section 400.00 of the penal law, as amended by
17 chapter 189 of the laws of 2000, is amended to read as follows:

18 1. Eligibility. No license shall be issued or renewed pursuant to this
19 section except by the licensing officer, and then only after investi-
20 gation and finding that all statements in a proper application for a
21 license are true. No license shall be issued or renewed except for an
22 applicant (a) twenty-one years of age or older, provided, however, that
23 where such applicant has been honorably discharged from the United
24 States army, navy, marine corps, air force or coast guard, or the
25 national guard of the state of New York, no such age restriction shall
26 apply; (b) of good moral character; (c) who has not been convicted
27 anywhere of a felony or a serious offense; (d) who has stated whether he
28 or she has ever suffered any mental illness or been confined to any
29 hospital or institution, public or private, for mental illness; (e) who
30 has not had a license revoked or who is not under a suspension or inel-
31 igibility order issued pursuant to the provisions of section 530.14 of
32 the criminal procedure law or section eight hundred forty-two-a of the
33 family court act; (f) in the county of Westchester, who has successfully
34 completed a firearms safety course and test as evidenced by a certif-
35 icate of completion issued in his or her name and endorsed and affirmed
36 under the penalties of perjury by a duly authorized instructor, except
37 that: (i) persons who are honorably discharged from the United States
38 army, navy, marine corps or coast guard, or of the national guard of the
39 state of New York, and produce evidence of official qualification in
40 firearms during the term of service are not required to have completed
41 those hours of a firearms safety course pertaining to the safe use,
42 carrying, possession, maintenance and storage of a firearm; and (ii)
43 persons who were licensed to possess a pistol or revolver prior to the
44 effective date of this paragraph are not required to have completed a
45 firearms safety course and test; and (g) concerning whom no good cause
46 exists for the denial of the license. No person shall engage in the
47 business of gunsmith or dealer in firearms unless licensed pursuant to
48 this section, AND NO PERSON SHALL ENGAGE IN THE BUSINESS OF DEALER IN
49 FIREARMS UNLESS SUCH PERSON COMPLIES WITH THE PROVISIONS OF ARTICLES
50 THIRTY-NINE-DD AND FORTY OF THE GENERAL BUSINESS LAW. An applicant to
51 engage in such business shall also be a citizen of the United States,
52 more than twenty-one years of age and maintain a place of business in
53 the city or county where the license is issued. For such business, if
54 the applicant is a firm or partnership, each member thereof shall comply
55 with all of the requirements set forth in this subdivision and if the
56 applicant is a corporation, each officer thereof shall so comply.

1 S 5. Subdivisions 11 and 12 of section 400.00 of the penal law, subdi-
2 vision 11 as amended by chapter 210 of the laws of 1999 and subdivision
3 12 as amended by chapter 449 of the laws of 1993, are amended to read as
4 follows:

5 11. License: revocation and suspension. The conviction of a licensee
6 anywhere of a felony or serious offense shall operate as a revocation of
7 the license. A license may be revoked or suspended as provided for in
8 section 530.14 of the criminal procedure law or section eight hundred
9 forty-two-a of the family court act. Except for a license issued pursu-
10 ant to section 400.01 of this article, a license may be revoked and
11 cancelled at any time in the city of New York, and in the counties of
12 Nassau and Suffolk, by the licensing officer, and elsewhere than in the
13 city of New York by any judge or justice of a court of record; a license
14 issued pursuant to section 400.01 of this article may be revoked and
15 cancelled at any time by the licensing officer or any judge or justice
16 of a court of record. A LICENSE TO ENGAGE IN THE BUSINESS OF DEALER MAY
17 BE REVOKED OR SUSPENDED FOR ANY VIOLATION OF THE PROVISIONS OF ARTICLE
18 THIRTY-NINE-DD OR FORTY OF THE GENERAL BUSINESS LAW. The official revok-
19 ing a license shall give written notice thereof without unnecessary
20 delay to the executive department, division of state police, Albany, and
21 shall also notify immediately the duly constituted police authorities of
22 the locality.

23 12. Records required of gunsmiths and dealers in firearms. [Any] IN
24 ADDITION TO THE REQUIREMENTS SET FORTH IN ARTICLES THIRTY-NINE-DD AND
25 FORTY OF THE GENERAL BUSINESS LAW, ANY person licensed as gunsmith or
26 dealer in firearms shall keep a record book approved as to form, except
27 in the city of New York, by the superintendent of state police. In the
28 record book shall be entered at the time of every transaction involving
29 a firearm the date, name, age, occupation and residence of any person
30 from whom a firearm is received or to whom a firearm is delivered, and
31 the calibre, make, model, manufacturer's name and serial number, or if
32 none, any other distinguishing number or identification mark on such
33 firearm. Before delivering a firearm to any person, the licensee shall
34 require him to produce either a license valid under this section to
35 carry or possess the same, or proof of lawful authority as an exempt
36 person pursuant to section 265.20 OF THIS CHAPTER. In addition, before
37 delivering a firearm to a peace officer, the licensee shall verify that
38 person's status as a peace officer with the division of state police.
39 After completing the foregoing, the licensee shall remove and retain the
40 attached coupon and enter in the record book the date of such license,
41 number, if any, and name of the licensing officer, in the case of the
42 holder of a license to carry or possess, or the shield or other number,
43 if any, assignment and department, unit or agency, in the case of an
44 exempt person. The original transaction report shall be forwarded to the
45 division of state police within ten days of delivering a firearm to any
46 person, and a duplicate copy shall be kept by the licensee. The record
47 book shall be maintained on the premises mentioned and described in the
48 license and shall be open at all reasonable hours for inspection by any
49 peace officer, acting pursuant to his special duties, or police officer.
50 In the event of cancellation or revocation of the license for gunsmith
51 or dealer in firearms, or discontinuance of business by a licensee, such
52 record book shall be immediately surrendered to the licensing officer in
53 the city of New York, and in the counties of Nassau and Suffolk, and
54 elsewhere in the state to the executive department, division of state
55 police.

1 S 6. Severability. If any clause, sentence, paragraph, section or part
2 of this act shall be adjudged by any court of competent jurisdiction to
3 be invalid, such judgment shall not affect, impair or invalidate the
4 remainder thereof, but shall be confined in its operation to the clause,
5 sentence, paragraph, section or part thereof directly involved in the
6 controversy in which such judgment shall have been rendered.

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