

3268

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 24, 2011

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Introduced by M. of A. SCHIMMINGER, SCHROEDER, LUPARDO, CORWIN --  
Multi-Sponsored by -- M. of A. GIGLIO, HAWLEY, HAYES -- read once and  
referred to the Committee on Codes

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (f) of subdivision 2 and subdivision 4 of section  
2     400.00 of the penal law, paragraph (f) of subdivision 2 as amended by  
3     chapter 189 of the laws of 2000 and subdivision 4 as amended by chapter  
4     331 of the laws of 2005, are amended to read as follows:  
5     (f) have and carry concealed, without regard to employment or place of  
6     possession[, by any person when proper cause exists for the issuance  
7     thereof]; and  
8     4. Investigation. Before a license is issued or renewed, there shall  
9     be an investigation of all statements required in the application by the  
10    duly constituted police authorities of the locality where such applica-  
11    tion is made. For that purpose, the records of the appropriate office of  
12    the department of mental hygiene concerning previous or present mental  
13    illness of the applicant shall be available for inspection by the inves-  
14    tigating officer of the police authority. THE POLICE AUTHORITY IN THE  
15    LOCALITY WHERE THE APPLICATION IS MADE SHALL CONDUCT A SEARCH OF THE  
16    NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS). In order to  
17    ascertain any previous criminal record, the investigating officer shall  
18    take the fingerprints and physical descriptive data in quadruplicate of  
19    each individual by whom the application is signed and verified. Two  
20    copies of such fingerprints shall be taken on standard fingerprint cards  
21    eight inches square, and one copy may be taken on a card supplied for  
22    that purpose by the federal bureau of investigation; provided, however,  
23    that in the case of a corporate applicant that has already been issued a  
24    dealer in firearms license and seeks to operate a firearm dealership at

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

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

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