

8693

I N A S S E M B L Y

January 12, 2016

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to prohibiting persons named on the No Fly List maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation from obtaining or renewing a license 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 1 of section 400.00 of the penal law, as
2 amended by chapter 1 of the laws of 2013, is amended to read as follows:
3 1. Eligibility. No license shall be issued or renewed pursuant to this
4 section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a
5 license are true. No license shall be issued or renewed except for an
6 applicant (a) twenty-one years of age or older, provided, however, that
7 where such applicant has been honorably discharged from the United
8 States army, navy, marine corps, air force or coast guard, or the
9 national guard of the state of New York, no such age restriction shall
10 apply; (b) of good moral character; (c) who has not been convicted
11 anywhere of a felony or a serious offense; (d) who is not a fugitive
12 from justice; (e) who is not an unlawful user of or addicted to any
13 controlled substance as defined in section 21 U.S.C. 802; (f) who being
14 an alien (i) is not illegally or unlawfully in the United States or (ii)
15 has not been admitted to the United States under a nonimmigrant visa
16 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
17 discharged from the Armed Forces under dishonorable conditions; (h) who,
18 having been a citizen of the United States, has not renounced his or her
19 citizenship; (i) who has stated whether he or she has ever suffered any
20 mental illness; (j) who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental
21 hygiene pursuant to article nine or fifteen of the mental hygiene law,
22 article seven hundred thirty or section 330.20 of the criminal procedure
23 law, section four hundred two or five hundred eight of the correction
24 law, section 322.2 or 353.4 of the family court act, or has not been
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 civilly confined in a secure treatment facility pursuant to article ten
2 of the mental hygiene law; (k) who has not had a license revoked or who
3 is not under a suspension or ineligibility order issued pursuant to the
4 provisions of section 530.14 of the criminal procedure law or section
5 eight hundred forty-two-a of the family court act; (l) in the county of
6 Westchester, who has successfully completed a firearms safety course and
7 test as evidenced by a certificate of completion issued in his or her
8 name and endorsed and affirmed under the penalties of perjury by a duly
9 authorized instructor, except that: (i) persons who are honorably
10 discharged from the United States army, navy, marine corps or coast
11 guard, or of the national guard of the state of New York, and produce
12 evidence of official qualification in firearms during the term of
13 service are not required to have completed those hours of a firearms
14 safety course pertaining to the safe use, carrying, possession, mainte-
15 nance and storage of a firearm; and (ii) persons who were licensed to
16 possess a pistol or revolver prior to the effective date of this para-
17 graph are not required to have completed a firearms safety course and
18 test; (m) who has not had a guardian appointed for him or her pursuant
19 to any provision of state law, based on a determination that as a result
20 of marked subnormal intelligence, mental illness, incapacity, condition
21 or disease, he or she lacks the mental capacity to contract or manage
22 his or her own affairs; [and] (n) WHO IS NOT NAMED ON THE NO FLY LIST
23 MAINTAINED BY THE TERRORIST SCREENING CENTER ADMINISTERED BY THE FEDERAL
24 BUREAU OF INVESTIGATION; AND (O) concerning whom no good cause exists
25 for the denial of the license. No person shall engage in the business of
26 gunsmith or dealer in firearms unless licensed pursuant to this section.
27 An applicant to engage in such business shall also be a citizen of the
28 United States, more than twenty-one years of age and maintain a place of
29 business in the city or county where the license is issued. For such
30 business, if the applicant is a firm or partnership, each member thereof
31 shall comply with all of the requirements set forth in this subdivision
32 and if the applicant is a corporation, each officer thereof shall so
33 comply.

34 S 2. Subdivision 4 of section 400.00 of the penal law, as amended by
35 chapter 1 of the laws of 2013, is amended to read as follows:

36 4. Investigation. Before a license is issued or renewed, there shall
37 be an investigation of all statements required in the application by the
38 duly constituted police authorities of the locality where such applica-
39 tion is made, including but not limited to such records as may be acces-
40 sible to the division of state police or division of criminal justice
41 services pursuant to section 400.02 of this article. For that purpose,
42 the records of the appropriate office of the department of mental
43 hygiene concerning previous or present mental illness of the applicant
44 shall be available for inspection by the investigating officer of the
45 police authority. In order to ascertain any previous criminal record,
46 the investigating officer shall take the fingerprints and physical
47 descriptive data in quadruplicate of each individual by whom the appli-
48 cation is signed and verified. Two copies of such fingerprints shall be
49 taken on standard fingerprint cards eight inches square, and one copy
50 may be taken on a card supplied for that purpose by the federal bureau
51 of investigation; provided, however, that in the case of a corporate
52 applicant that has already been issued a dealer in firearms license and
53 seeks to operate a firearm dealership at a second or subsequent
54 location, the original fingerprints on file may be used to ascertain any
55 criminal record in the second or subsequent application unless any of
56 the corporate officers have changed since the prior application, in

1 which case the new corporate officer shall comply with procedures
2 governing an initial application for such license. When completed, one
3 standard card shall be forwarded to and retained by the division of
4 criminal justice services in the executive department, at Albany. A
5 search of the files of such division and written notification of the
6 results of the search to the investigating officer shall be made without
7 unnecessary delay. Thereafter, such division shall notify the licensing
8 officer and the executive department, division of state police, Albany,
9 of any criminal record of the applicant filed therein subsequent to the
10 search of its files. A second standard card, or the one supplied by the
11 federal bureau of investigation, as the case may be, shall be forwarded
12 to that bureau at Washington with a request that the files of the
13 bureau, INCLUDING THE NO FLY LIST MAINTAINED BY THE TERRORIST SCREENING
14 CENTER, be searched and notification of the results of the search be
15 made to the investigating police authority. Of the remaining two finger-
16 print cards, one shall be filed with the executive department, division
17 of state police, Albany, within ten days after issuance of the license,
18 and the other remain on file with the investigating police authority. No
19 such fingerprints may be inspected by any person other than a peace
20 officer, who is acting pursuant to his special duties, or a police offi-
21 cer, except on order of a judge or justice of a court of record either
22 upon notice to the licensee or without notice, as the judge or justice
23 may deem appropriate. Upon completion of the investigation, the police
24 authority shall report the results to the licensing officer without
25 unnecessary delay.

26 S 3. This act shall take effect immediately.