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I N A S S E M B L Y

March 3, 2016

Introduced by M. of A. PAULIN, DINOWITZ, GALEF, GOTTFRIED, MOSLEY,
ROBINSON, SIMON, JAFFEE, BLAKE, LINARES -- Multi-Sponsored by -- M. of
A. BRENNAN -- read once and referred 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 12 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 12. Records required of gunsmiths and dealers in firearms. Any person
4 licensed as gunsmith or dealer in firearms shall keep a record book
5 approved as to form, except in the city of New York, by the superinten-
6 dent of state police. In the record book shall be entered at the time of
7 every transaction involving a firearm the date, name, age, occupation
8 and residence of any person from whom a firearm is received or to whom a
9 firearm is delivered, and the calibre, make, model, manufacturer's name
10 and serial number, or if none, any other distinguishing number or iden-
11 tification mark on such firearm. Before delivering a firearm to any
12 person, the licensee shall require him to produce either a license valid
13 under this section to carry or possess the same, or proof of lawful
14 authority as an exempt person pursuant to section 265.20 OF THIS CHAPTER
15 AND EITHER (A) THREE BUSINESS DAYS HAVE ELAPSED SINCE THE DATE THE
16 LICENSEE CONTACTED THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM
17 (NICS) OR ITS SUCCESSOR TO INITIATE A NATIONAL INSTATE CRIMINAL BACK-
18 GROUND CHECK AND NICS HAS ISSUED A "PROCEED" RESPONSE TO THE LICENSEE,
19 OR (B) TEN BUSINESS DAYS HAVE ELAPSED SINCE THE DATE THE LICENSEE
20 CONTACTED NICS TO INITIATE A NATIONAL INSTATE CRIMINAL BACKGROUND CHECK
21 AND NICS HAS NOT NOTIFIED THE LICENSEE THAT THE TRANSFER OF THE FIREARM
22 TO SUCH PERSON SHOULD BE DENIED. In addition, before delivering a
23 firearm to a peace officer, the licensee shall verify that person's
24 status as a peace officer with the division of state police. After
25 completing the foregoing, the licensee shall remove and retain the
26 attached coupon and enter in the record book the date of such license,

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

LBD13653-04-6

1 number, if any, and name of the licensing officer, in the case of the
2 holder of a license to carry or possess, or the shield or other number,
3 if any, assignment and department, unit or agency, in the case of an
4 exempt person. The original transaction report shall be forwarded to the
5 division of state police within ten days of delivering a firearm to any
6 person, and a duplicate copy shall be kept by the licensee. The super-
7 intendent of state police may designate that such record shall be
8 completed and transmitted in electronic form. A dealer may be granted a
9 waiver from transmitting such records in electronic form if the super-
10 intendent determines that such dealer is incapable of such transmission
11 due to technological limitations that are not reasonably within the
12 control of the dealer, or other exceptional circumstances demonstrated
13 by the dealer, pursuant to a process established in regulation, and at
14 the discretion of the superintendent. Records assembled or collected for
15 purposes of inclusion in the database created pursuant to section 400.02
16 of this article shall not be subject to disclosure pursuant to article
17 six of the public officers law. The record book shall be maintained on
18 the premises mentioned and described in the license and shall be open at
19 all reasonable hours for inspection by any peace officer, acting pursu-
20 ant to his special duties, or police officer. In the event of cancella-
21 tion or revocation of the license for gunsmith or dealer in firearms, or
22 discontinuance of business by a licensee, such record book shall be
23 immediately surrendered to the licensing officer in the city of New
24 York, and in the counties of Nassau and Suffolk, and elsewhere in the
25 state to the executive department, division of state police.

26 S 2. The penal law is amended by adding a new section 400.20 to read
27 as follows:

28 S 400.20 WAITING PERIOD IN CONNECTION WITH THE SALE OR TRANSFER OF A
29 RIFLE OR SHOTGUN.

30 WHEN A NATIONAL INSTANT CRIMINAL BACKGROUND CHECK IS REQUIRED PURSUANT
31 TO STATE OR FEDERAL LAW TO BE CONDUCTED THROUGH THE NATIONAL INSTANT
32 CRIMINAL BACKGROUND CHECK SYSTEM (NICS) OR ITS SUCCESSOR IN CONNECTION
33 WITH THE SALE OR TRANSFER OF A RIFLE OR SHOTGUN TO ANY PERSON, BEFORE
34 DELIVERING A RIFLE OR SHOTGUN TO SUCH PERSON, EITHER (A) THREE BUSINESS
35 DAYS SHALL HAVE ELAPSED SINCE THE DATE THE SELLER OR TRANSFEROR
36 CONTACTED NICS TO INITIATE A NATIONAL INSTANT CRIMINAL BACKGROUND CHECK
37 AND NICS HAS ISSUED A "PROCEED" RESPONSE TO THE SELLER OR TRANSFEROR, OR
38 (B) TEN BUSINESS DAYS SHALL HAVE ELAPSED SINCE THE DATE THE SELLER OR
39 TRANSFEROR CONTACTED NICS TO INITIATE A NATIONAL INSTANT CRIMINAL BACK-
40 GROUND CHECK AND NICS HAS NOT NOTIFIED THE SELLER OR TRANSFEROR THAT THE
41 TRANSFER OF THE RIFLE OR SHOTGUN TO SUCH PERSON SHOULD BE DENIED.

42 S 3. Subdivision 1 of section 897 of the general business law, as
43 added by chapter 189 of the laws of 2000, is amended to read as follows:

44 1. A national instant criminal background check shall be conducted and
45 no person shall sell or transfer a firearm, rifle or shotgun at a gun
46 show, except in accordance with the provisions of 18 U.S.C. 922(t),
47 PROVIDED THAT BEFORE DELIVERING A FIREARM, RIFLE OR SHOTGUN TO ANY
48 PERSON, EITHER (A) THREE BUSINESS DAYS SHALL HAVE ELAPSED SINCE THE DATE
49 THE SELLER OR TRANSFEROR CONTACTED THE NATIONAL INSTANT CRIMINAL BACK-
50 GROUND CHECK SYSTEM (NICS) OR ITS SUCCESSOR TO INITIATE A NATIONAL
51 INSTANT CRIMINAL BACKGROUND CHECK AND NICS HAS ISSUED A "PROCEED"
52 RESPONSE TO THE SELLER OR TRANSFEROR, OR (B) TEN BUSINESS DAYS SHALL
53 HAVE ELAPSED SINCE THE DATE THE SELLER OR TRANSFEROR CONTACTED NICS TO
54 INITIATE A NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND NICS HAS NOT
55 NOTIFIED THE SELLER OR TRANSFEROR THAT THE TRANSFER OF THE FIREARM,
56 RIFLE OR SHOTGUN TO SUCH PERSON SHOULD BE DENIED.

1 S 4. Subdivisions 1 and 2 of section 898 of the general business law,
2 as added by chapter 1 of the laws of 2013, are amended to read as
3 follows:

4 1. In addition to any other requirements pursuant to state and feder-
5 al law, all sales, exchanges or disposals of firearms, rifles or shot-
6 guns shall be conducted in accordance with this section unless such
7 sale, exchange or disposal is conducted by a licensed importer, licensed
8 manufacturer or licensed dealer, as those terms are defined in 18 USC S
9 922, when such sale, exchange or disposal is conducted pursuant to that
10 person's federal firearms license or such sale, exchange or disposal is
11 between members of an immediate family. WHEN A SALE, EXCHANGE OR
12 DISPOSAL IS CONDUCTED PURSUANT TO A PERSON'S FEDERAL FIREARMS LICENSE,
13 BEFORE DELIVERING A FIREARM, RIFLE OR SHOTGUN TO ANY PERSON, EITHER (A)
14 THREE BUSINESS DAYS SHALL HAVE ELAPSED SINCE THE DATE THE FEDERAL
15 FIREARMS LICENSEE CONTACTED THE NATIONAL INSTANT CRIMINAL BACKGROUND
16 CHECK SYSTEM (NICS) OR ITS SUCCESSOR TO INITIATE A NATIONAL INSTANT
17 CRIMINAL BACKGROUND CHECK AND NICS HAS ISSUED A "PROCEED" RESPONSE TO
18 THE FEDERAL FIREARMS LICENSEE, OR (B) TEN BUSINESS DAYS SHALL HAVE
19 ELAPSED SINCE THE DATE THE FEDERAL FIREARMS LICENSEE CONTACTED NICS TO
20 INITIATE A NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND NICS HAS NOT
21 NOTIFIED THE FEDERAL FIREARMS LICENSEE THAT THE TRANSFER OF THE FIREARM,
22 RIFLE OR SHOTGUN TO SUCH PERSON SHOULD BE DENIED. For purposes of this
23 section, "immediate family" shall mean spouses, domestic partners, chil-
24 dren and step-children.

25 2. Before any sale, exchange or disposal pursuant to this article, a
26 national instant criminal background check must be completed by a dealer
27 who consents to conduct such check, and upon completion of such back-
28 ground check, shall complete a document, the form of which shall be
29 approved by the superintendent of state police, that identifies and
30 confirms that such check was performed. BEFORE A DEALER WHO CONSENTS TO
31 CONDUCT A NATIONAL INSTANT CRIMINAL BACKGROUND CHECK DELIVERS A FIREARM,
32 RIFLE OR SHOTGUN TO ANY PERSON, EITHER (A) THREE BUSINESS DAYS SHALL
33 HAVE ELAPSED SINCE THE DATE THE DEALER CONTACTED NICS TO INITIATE A
34 NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND NICS HAS ISSUED A
35 "PROCEED" RESPONSE TO THE DEALER, OR (B) TEN BUSINESS DAYS SHALL HAVE
36 ELAPSED SINCE THE DATE THE DEALER CONTACTED NICS TO INITIATE A NATIONAL
37 INSTANT CRIMINAL BACKGROUND CHECK AND NICS HAS NOT NOTIFIED THE DEALER
38 THAT THE TRANSFER OF THE FIREARM, RIFLE OR SHOTGUN TO SUCH PERSON SHOULD
39 BE DENIED.

40 S 5. This act shall take effect on the sixtieth day after it shall
41 have become a law.