

6304

I N   S E N A T E

(PREFILED)

January 6, 2016

---

Introduced by Sens. HOYLMAN, DILAN, KRUEGER, SERRANO -- read twice and ordered printed, and when printed to be committed 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 investi-  
5     gation and finding that all statements in a proper application for a  
6     license are true. No license shall be issued or renewed except for an  
7     applicant (a) twenty-one years of age or older, provided, however, that  
8     where such applicant has been honorably discharged from the United  
9     States army, navy, marine corps, air force or coast guard, or the  
10    national guard of the state of New York, no such age restriction shall  
11    apply; (b) of good moral character; (c) who has not been convicted  
12    anywhere of a felony or a serious offense; (d) who is not a fugitive  
13    from justice; (e) who is not an unlawful user of or addicted to any  
14    controlled substance as defined in section 21 U.S.C. 802; (f) who being  
15    an alien (i) is not illegally or unlawfully in the United States or (ii)  
16    has not been admitted to the United States under a nonimmigrant visa  
17    subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been  
18    discharged from the Armed Forces under dishonorable conditions; (h) who,  
19    having been a citizen of the United States, has not renounced his or her  
20    citizenship; (i) who has stated whether he or she has ever suffered any  
21    mental illness; (j) who has not been involuntarily committed to a facil-  
22    ity under the jurisdiction of an office of the department of mental  
23    hygiene pursuant to article nine or fifteen of the mental hygiene law,  
24    article seven hundred thirty or section 330.20 of the criminal procedure

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

LBD13345-02-5

1 law, section four hundred two or five hundred eight of the correction  
2 law, section 322.2 or 353.4 of the family court act, or has not been  
3 civilly confined in a secure treatment facility pursuant to article ten  
4 of the mental hygiene law; (k) who has not had a license revoked or who  
5 is not under a suspension or ineligibility order issued pursuant to the  
6 provisions of section 530.14 of the criminal procedure law or section  
7 eight hundred forty-two-a of the family court act; (l) in the county of  
8 Westchester, who has successfully completed a firearms safety course and  
9 test as evidenced by a certificate of completion issued in his or her  
10 name and endorsed and affirmed under the penalties of perjury by a duly  
11 authorized instructor, except that: (i) persons who are honorably  
12 discharged from the United States army, navy, marine corps or coast  
13 guard, or of the national guard of the state of New York, and produce  
14 evidence of official qualification in firearms during the term of  
15 service are not required to have completed those hours of a firearms  
16 safety course pertaining to the safe use, carrying, possession, mainte-  
17 nance and storage of a firearm; and (ii) persons who were licensed to  
18 possess a pistol or revolver prior to the effective date of this para-  
19 graph are not required to have completed a firearms safety course and  
20 test; (m) who has not had a guardian appointed for him or her pursuant  
21 to any provision of state law, based on a determination that as a result  
22 of marked subnormal intelligence, mental illness, incapacity, condition  
23 or disease, he or she lacks the mental capacity to contract or manage  
24 his or her own affairs; [and] (n) WHO IS NOT NAMED ON THE NO FLY LIST  
25 MAINTAINED BY THE TERRORIST SCREENING CENTER ADMINISTERED BY THE FEDERAL  
26 BUREAU OF INVESTIGATION; AND (O) concerning whom no good cause exists  
27 for the denial of the license. No person shall engage in the business of  
28 gunsmith or dealer in firearms unless licensed pursuant to this section.  
29 An applicant to engage in such business shall also be a citizen of the  
30 United States, more than twenty-one years of age and maintain a place of  
31 business in the city or county where the license is issued. For such  
32 business, if the applicant is a firm or partnership, each member thereof  
33 shall comply with all of the requirements set forth in this subdivision  
34 and if the applicant is a corporation, each officer thereof shall so  
35 comply.

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

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

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

28 S 3. This act shall take effect immediately.