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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.

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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.