

1302

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

Introduced by Sen. PERALTA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the penal law, in relation to preventing the sale of firearms, rifles and shotguns to criminals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and declaration. The legislature here-  
2 by finds and declares as follows:

3 1. Firearms, rifles and shotguns are used to kill nearly 30,000 indi-  
4 viduals in the United States every year, including 1,000 individuals in  
5 New York state alone. Additionally, there are 100,000 non-fatal injuries  
6 across the country. The federal government has largely ignored this  
7 public health crisis and has left it up to state and local governments  
8 to protect its citizens. Firearm violence also costs millions of dollars  
9 and causes incalculable emotional damage, devastating families and  
10 communities throughout the country. Therefore, the state of New York  
11 has a strong interest in reducing violence and crimes that involve the  
12 use of firearms and the illegal trafficking of firearms. Illegal guns  
13 obtained throughout the state end up in the hands of criminals, youth  
14 and violent individuals who use them to threaten, maim and kill.

15 2. There is a thriving underground market for illegal firearms, large-  
16 ly driven by demand from drug gangs and other criminals. A highly effi-  
17 cient and continuous business practice exists in which firearms are  
18 moved from legal manufacture and sale to prohibited purchasers, making  
19 them illegal firearms. In 2001, approximately 12,000 illegal firearms,  
20 rifles and shotguns were seized in New York state. From November 2000  
21 to April 2002, 2,700 crime guns were entered into the state crime gun  
22 database. In 2008, according to a review by the federal bureau of alco-  
23 hol, tobacco, firearms, and explosives (ATF) of trace data compiled for  
24 several regions in the state, including Albany, Buffalo, Rochester,  
25 Syracuse, Long Island and New York City that calendar year, 9,558

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

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1 firearms were submitted to be traced, 2,659 of which were long guns.  
2 Outside New York City, long guns are sold without a permit. Forty-six  
3 percent of the firearms recovered in 2008 were found outside New York  
4 City. A significant portion of guns involved in crimes upstate origi-  
5 nate within the state. In fact, youth data reveals that in 2000, 40% of  
6 the crime guns in Buffalo originated within a five-mile radius of that  
7 city.

8 3. A substantial portion of illegal firearms are diverted to the ille-  
9 gal market through licensed gun dealers. Rogue gun dealers play a key  
10 role in this market. These rogue dealers funnel guns to the illegal  
11 market through a variety of channels. One of the most common means is to  
12 allow "straw purchases". A straw purchase occurs when a person purchases  
13 a gun on behalf of a prohibited person. The ATF conducted an investi-  
14 gation of gun trafficking from July 1996 to December 1998 and found that  
15 almost 26,000 trafficked firearms were associated with investigations in  
16 which there was a straw purchaser. Almost 50% of all trafficking inves-  
17 tigation involved straw purchasers, with an average of 37 firearms  
18 trafficked per investigation. Another issue, according to a 2008 report  
19 by Mayors Against Illegal Guns, Inside Straw Purchasing: How Criminals  
20 Get Guns Illegally, is that many traffickers return to the same store  
21 again and again once they have identified it as one in which they can  
22 make straw purchases easily. Although most gun dealers operate their  
23 businesses legally and responsibly, some gun dealers who are corrupt or  
24 maintain shoddy recordkeeping practices flood the streets with illegal  
25 weapons as a result of their unrestricted access to new gun inventory  
26 and the unwillingness of gun manufacturers to terminate their supply to  
27 these rogue dealers. Current federal and state regulation has not curbed  
28 the business practice of illegal gun dealers. According to a 2004 study  
29 by Americans for Gun Safety, of the 120 worst gun dealers in the coun-  
30 try, namely those dealers with an average of 500 crime guns traced to  
31 them, 96 were still in operation.

32 4. Moreover, this problem is not limited to unlicensed sellers, and  
33 clearly includes federal firearms licensees (FFLs). Indeed, although  
34 FFLs were involved in under 10% of the trafficking investigations under-  
35 taken by ATF, they were associated with the largest number of diverted  
36 firearms--over 40,000 guns, which is nearly half of the total number of  
37 trafficked firearms documented during the two-year period of ATF's  
38 investigation. Additionally, a 2008 report by Mayors Against Illegal  
39 Guns indicated that several states which allow state authorities to  
40 supplement the federal ATF inspections with routine inspections provide  
41 law enforcement with more opportunities to uncover dealers in violation  
42 of the law. These inspections also help identify dealers who exercise  
43 lax oversight over their inventory and may lead to improved compliance  
44 with federal, state and local laws.

45 5. Current New York state laws governing firearm dealers are inade-  
46 quate to prevent the diversion of firearms to the illegal marketplace.  
47 Additional protections that are needed include, but are not limited to,  
48 better gun dealer internal compliance procedures, programs to eliminate  
49 straw purchases, increased liability insurance, improved security meas-  
50 ures, reducing youth access, mandatory training for gun dealer employ-  
51 ees, and improved recordkeeping requirements. The additional protections  
52 set forth in this act will greatly enhance the state's efforts to reduce  
53 criminal activity in the state.

54 S 2. Article 40 and sections 900 and 901 of the general business law,  
55 as renumbered by chapter 407 of the laws of 1973, are renumbered article

1 50 and sections 1001 and 1002 and a new article 40 is added to read as  
2 follows:

3 ARTICLE 40  
4 PREVENTING THE SALE OF FIREARMS,  
5 RIFLES, AND SHOTGUNS TO CRIMINALS

6 SECTION 900. DEFINITIONS.

7 901. REASONABLE MEASURES TO PREVENT SALES AND  
8 TRANSFERS TO CRIMINALS.

9 902. SECURITY.

10 903. ACCESS TO FIREARMS, RIFLES AND SHOTGUNS.

11 904. LOCATION OF FIREARM, RIFLE AND SHOTGUN SALES.

12 905. EMPLOYEE TRAINING.

13 906. RETAIL SALES OF FIREARMS, RIFLES AND SHOTGUNS.

14 907. MAINTENANCE OF RECORDS.

15 908. COOPERATION WITH LAW ENFORCEMENT.

16 909. INTERNAL COMPLIANCE AND CERTIFICATION.

17 910. RULES AND REGULATIONS.

18 911. VIOLATIONS.

19 S 900. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

20 1. "DEALER" MEANS ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY  
21 COMPANY, CORPORATION OR COMPANY WHICH ENGAGES IN THE BUSINESS OF  
22 PURCHASING, SELLING, KEEPING FOR SALE, LENDING, LEASING OR IN ANY MANNER  
23 DISPOSING OF ANY FIREARM, RIFLE OR SHOTGUN.

24 2. "DISPOSE OF" MEANS TO DISPOSE OF, GIVE, GIVE AWAY, LEASE, LEND,  
25 KEEP FOR SALE, OFFER, OFFER FOR SALE, SELL, TRANSFER OR OTHERWISE  
26 DISPOSE OF.

27 3. "FIREARM" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVI-  
28 SION THREE OF SECTION 265.00 OF THE PENAL LAW.

29 4. "FIREARM EXHIBITOR" MEANS ANY PERSON, FIRM, PARTNERSHIP, LIMITED  
30 LIABILITY COMPANY, CORPORATION OR COMPANY THAT EXHIBITS, SELLS, OFFERS  
31 FOR SALE, TRANSFERS OR EXCHANGES FIREARMS, RIFLES OR SHOTGUNS AT A GUN  
32 SHOW.

33 5. "GUN SHOW" MEANS AN EVENT SPONSORED, WHETHER FOR PROFIT OR NOT, BY  
34 AN INDIVIDUAL, NATIONAL, STATE OR LOCAL ORGANIZATION, ASSOCIATION, OR  
35 OTHER ENTITY DEVOTED TO THE COLLECTION, COMPETITIVE USE, SPORTING USE OR  
36 ANY OTHER LEGAL USE OF FIREARMS, RIFLES OR SHOTGUNS, OR AN EVENT AT  
37 WHICH: (A) TWENTY PERCENT OR MORE OF THE TOTAL NUMBER OF EXHIBITORS ARE  
38 FIREARM EXHIBITORS; (B) TEN OR MORE FIREARM EXHIBITORS ARE PARTICIPAT-  
39 ING; (C) A TOTAL OF TWENTY-FIVE OR MORE PISTOLS OR REVOLVERS ARE OFFERED  
40 FOR SALE OR TRANSFER; OR (D) A TOTAL OF FIFTY OR MORE FIREARMS, RIFLES  
41 OR SHOTGUNS ARE OFFERED FOR SALE OR TRANSFER. THE TERM "GUN SHOW" SHALL  
42 INCLUDE ANY BUILDING, STRUCTURE OR FACILITY WHERE FIREARMS, RIFLES OR  
43 SHOTGUNS ARE OFFERED FOR SALE OR TRANSFER, AND ANY GROUNDS USED IN  
44 CONNECTION WITH THE EVENT.

45 6. "RETAIL DEALER" MEANS ANY DEALER ENGAGED IN THE RETAIL BUSINESS OF  
46 SELLING FIREARMS, RIFLES OR SHOTGUNS.

47 7. "RIFLE" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVISION  
48 ELEVEN OF SECTION 265.00 OF THE PENAL LAW.

49 8. "SHOTGUN" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVI-  
50 SION TWELVE OF SECTION 265.00 OF THE PENAL LAW.

51 9. "STRAW PURCHASE" MEANS THE PURCHASE OR ATTEMPT TO PURCHASE BY A  
52 PERSON OF A FIREARM, RIFLE OR SHOTGUN FOR, ON BEHALF OF OR FOR THE USE  
53 OF ANOTHER PERSON, KNOWING THAT IT WOULD BE UNLAWFUL FOR SUCH OTHER  
54 PERSON TO POSSESS SUCH FIREARM, RIFLE OR SHOTGUN, OR AN ATTEMPT TO MAKE  
55 SUCH A PURCHASE.

1 10. "STRAW PURCHASER" MEANS A PERSON WHO, KNOWING THAT IT WOULD BE  
2 UNLAWFUL FOR ANOTHER PERSON TO POSSESS A FIREARM, RIFLE OR SHOTGUN,  
3 PURCHASES OR ATTEMPTS TO PURCHASE A FIREARM, RIFLE OR SHOTGUN FOR, ON  
4 BEHALF OF OR FOR THE USE OF SUCH OTHER PERSON.

5 11. "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF STATE POLICE.

6 S 901. REASONABLE MEASURES TO PREVENT SALES AND TRANSFERS TO CRIMI-  
7 NALS. EVERY DEALER SHALL ADOPT REASONABLE MEASURES TO PREVENT FIREARMS,  
8 RIFLES AND SHOTGUNS FROM BEING DIVERTED FROM THE LEGAL STREAM OF  
9 COMMERCE, INTENTIONALLY OR OTHERWISE, FOR LATER SALE, TRANSFER OR  
10 DISPOSAL TO INDIVIDUALS NOT LEGALLY ENTITLED TO PURCHASE OR POSSESS SUCH  
11 WEAPONS. SUCH MEASURES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,  
12 PROGRAMS TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART  
13 ILLEGAL GUN TRAFFICKING. THE SUPERINTENDENT SHALL DEVELOP PROGRAMS  
14 DESIGNED TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART  
15 ILLEGAL GUN TRAFFICKING. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS  
16 ARTICLE, THE SUPERINTENDENT SHALL SUBMIT A REPORT TO THE LEGISLATURE  
17 DETAILING SUCH PROGRAMS, INCLUDING ESTABLISHING MINIMUM REQUIREMENTS FOR  
18 SUCH PROGRAMS.

19 S 902. SECURITY. EVERY DEALER SHALL IMPLEMENT A SECURITY PLAN FOR  
20 SECURING FIREARMS, RIFLES AND SHOTGUNS, INCLUDING FIREARMS, RIFLES AND  
21 SHOTGUNS IN SHIPMENT. EACH SUCH PLAN MUST SATISFY AT LEAST THE FOLLOWING  
22 REQUIREMENTS:

23 1. DISPLAY CASES SHALL BE LOCKED AT ALL TIMES EXCEPT WHEN REMOVING A  
24 SINGLE FIREARM, RIFLE OR SHOTGUN TO SHOW A CUSTOMER, AND CUSTOMERS SHALL  
25 HANDLE FIREARMS, RIFLES OR SHOTGUNS ONLY UNDER THE DIRECT SUPERVISION OF  
26 AN EMPLOYEE;

27 2. ALL FIREARMS, RIFLES AND SHOTGUNS SHALL BE SECURED, OTHER THAN  
28 DURING BUSINESS HOURS, IN A LOCKED FIREPROOF SAFE OR VAULT IN THE  
29 LICENSEE'S BUSINESS PREMISES OR IN A SIMILAR SECURED AND LOCKED AREA;  
30 AND

31 3. AMMUNITION SHALL BE STORED SEPARATELY FROM THE FIREARMS, RIFLES AND  
32 SHOTGUNS AND OUT OF REACH OF THE CUSTOMERS.

33 S 903. ACCESS TO FIREARMS, RIFLES AND SHOTGUNS. EVERY RETAIL DEALER  
34 SHALL EXCLUDE ALL PERSONS UNDER EIGHTEEN YEARS OF AGE FROM THOSE  
35 PORTIONS OF ITS PREMISES WHERE FIREARMS, RIFLES, SHOTGUNS OR AMMUNITION  
36 ARE STOCKED OR SOLD, UNLESS SUCH PERSON IS ACCOMPANIED BY A PARENT OR  
37 GUARDIAN.

38 S 904. LOCATION OF FIREARM, RIFLE AND SHOTGUN SALES. EVERY DEALER  
39 SHALL SELL OR OTHERWISE DISPOSE OF FIREARMS, RIFLES AND SHOTGUNS ONLY AT  
40 THE LOCATION LISTED ON THE DEALER'S FEDERAL FIREARMS LICENSE OR AT GUN  
41 SHOWS.

42 S 905. EMPLOYEE TRAINING. EVERY RETAIL DEALER SHALL PROVIDE TRAINING  
43 TO ALL EMPLOYEES AND OTHER PERSONNEL ENGAGED IN THE RETAIL SALE OF  
44 FIREARMS, RIFLES AND SHOTGUNS RELATING TO:

45 1. THE LAW GOVERNING FIREARM, RIFLE AND SHOTGUN TRANSFERS BY FEDERAL  
46 FIREARMS LICENSEES AND INDIVIDUALS;

47 2. HOW TO RECOGNIZE STRAW PURCHASES AND OTHER ATTEMPTS TO PURCHASE  
48 FIREARMS, RIFLES OR SHOTGUNS ILLEGALLY;

49 3. HOW TO TEACH CONSUMERS RULES OF GUN SAFETY, INCLUDING BUT NOT  
50 LIMITED TO THE SAFE HANDLING AND STORAGE OF FIREARMS, RIFLES AND SHOT-  
51 GUNS; AND

52 4. HOW TO COMPLY WITH PROVISIONS OF SECTION NINE HUNDRED SIX OF THIS  
53 ARTICLE.

54 NO EMPLOYEE OR AGENT OF ANY RETAIL DEALER SHALL PARTICIPATE IN THE  
55 SALE OR DISPOSITION OF FIREARMS, RIFLES OR SHOTGUNS UNLESS SUCH PERSON  
56 IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS FIRST RECEIVED THE TRAINING

1 REQUIRED BY THIS SECTION. THE SUPERINTENDENT SHALL PROMULGATE REGU-  
2 LATIONS SETTING FORTH MINIMUM REQUIREMENTS FOR THE MAINTENANCE OF  
3 RECORDS OF SUCH TRAINING.

4 S 906. RETAIL SALES OF FIREARMS, RIFLES AND SHOTGUNS. 1. NO RETAIL  
5 DEALER SHALL SELL, DELIVER, LEASE OR TRANSFER ANY FIREARM, RIFLE OR  
6 SHOTGUN TO ANY RETAIL CUSTOMER UNLESS SUCH RETAIL DEALER HAS: (A)  
7 CONDUCTED THE REQUIRED NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND  
8 COMPLIED WITH THE PROVISIONS OF 18 U.S.C. 922(T); (B) SHOWN THE TRANS-  
9 FEREE HOW TO LOAD AND UNLOAD THE FIREARM, RIFLE OR SHOTGUN, HOW TO  
10 ENGAGE AND DISENGAGE ALL SAFETY DEVICES, AND HOW TO SAFELY STORE THE  
11 WEAPON; (C) PROVIDED THE TRANSFEREE WITH A GUN LOCKING DEVICE AS  
12 REQUIRED BY SECTION THREE HUNDRED NINETY-SIX-EE OF THIS CHAPTER; (D)  
13 PROVIDED THE TRANSFEREE WITH A COPY OF THE SAFE STORAGE WARNING NOTICE  
14 SET FORTH IN SUBDIVISION TWO OF THIS SECTION AND A COPY OF THE FEDERAL  
15 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES DISPOSITION OF  
16 FIREARMS NOTICE; (E) OBTAINED THE TRANSFEREE'S SIGNATURE ON A FORM  
17 PROMULGATED BY THE SUPERINTENDENT CERTIFYING THAT THE TRANSFEREE HAS  
18 RECEIVED THE INSTRUCTION AND NOTICE REQUIRED BY THIS SECTION; AND (F)  
19 PROVIDED THE TRANSFEREE WITH A WRITTEN RECORD OF THE MAKE, MODEL, CALI-  
20 BER OR GAUGE, AND SERIAL NUMBER OF EACH FIREARM, RIFLE OR SHOTGUN TRANS-  
21 FERRED TO ENABLE THE TRANSFEREE TO ACCURATELY DESCRIBE THE WEAPON TO LAW  
22 ENFORCEMENT IN THE EVENT THAT IT IS SUBSEQUENTLY LOST OR STOLEN.

23 2. NO RETAIL DEALER SHALL SELL, DELIVER, LEASE OR TRANSFER ANY  
24 FIREARM, RIFLE OR SHOTGUN TO ANY PERSON UNLESS AT THE TIME OF SALE,  
25 DELIVERY, LEASE OR TRANSFER SUCH FIREARM, RIFLE OR SHOTGUN IS ACCOMPA-  
26 NIED BY THE FOLLOWING WARNING, WHICH SHALL APPEAR IN CONSPICUOUS AND  
27 LEGIBLE TYPE IN CAPITAL LETTERS, AND WHICH SHALL BE PRINTED ON A LABEL  
28 AFFIXED TO SUCH FIREARM, RIFLE OR SHOTGUN AND PLACED IN THE CONTAINER IN  
29 WHICH SUCH FIREARM, RIFLE OR SHOTGUN IS SOLD, DELIVERED, LEASED OR  
30 TRANSFERRED: "THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE  
31 ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED AND  
32 LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND  
33 INACCESSIBLE TO CHILDREN AND OTHER UNAUTHORIZED PERSONS. MORE THAN  
34 200,000 FIREARMS LIKE THIS ONE ARE STOLEN FROM THEIR OWNERS EVERY YEAR  
35 IN THE UNITED STATES. IN ADDITION, THERE ARE MORE THAN A THOUSAND  
36 SUICIDES EACH YEAR BY YOUNGER CHILDREN AND TEENAGERS WHO GET ACCESS TO  
37 FIREARMS. HUNDREDS MORE DIE FROM ACCIDENTAL DISCHARGE. IT IS LIKELY THAT  
38 MANY MORE CHILDREN SUSTAIN SERIOUS WOUNDS, OR INFLICT SUCH WOUNDS ACCI-  
39 DENTALLY ON OTHERS. IN ORDER TO LIMIT THE CHANCE OF SUCH MISUSE, IT IS  
40 IMPERATIVE THAT YOU KEEP THIS WEAPON LOCKED IN A SECURE PLACE AND TAKE  
41 OTHER STEPS NECESSARY TO LIMIT THE POSSIBILITY OF THEFT OR ACCIDENT.  
42 FAILURE TO TAKE REASONABLE PREVENTIVE STEPS MAY RESULT IN INNOCENT LIVES  
43 BEING LOST, AND IN SOME CIRCUMSTANCES MAY RESULT IN YOUR LIABILITY."

44 S 907. MAINTENANCE OF RECORDS. EVERY DEALER SHALL ESTABLISH AND MAIN-  
45 TAIN SUCH PURCHASE, SALE, INVENTORY AND OTHER RECORDS AT THE DEALER'S  
46 PLACE OF BUSINESS IN SUCH FORM AND FOR SUCH PERIOD AS THE SUPERINTENDENT  
47 SHALL REQUIRE, AND SHALL AT A MINIMUM INCLUDE THE FOLLOWING:

48 1. EVERY DEALER SHALL RECORD THE MAKE, MODEL, CALIBER OR GAUGE, AND  
49 SERIAL NUMBER OF ALL FIREARMS, RIFLES AND SHOTGUNS THAT ARE ACQUIRED OR  
50 DISPOSED OF NOT LATER THAN ONE BUSINESS DAY AFTER THEIR ACQUISITION OR  
51 DISPOSITION. MONTHLY BACKUPS OF THESE RECORDS SHALL BE MAINTAINED IN A  
52 SECURE CONTAINER DESIGNED TO PREVENT LOSS BY FIRE, THEFT OR OTHER MISH-  
53 AP;

54 2. ALL FIREARMS, RIFLES AND SHOTGUNS ACQUIRED BUT NOT YET DISPOSED OF  
55 MUST BE ACCOUNTED FOR THROUGH AN INVENTORY CHECK PREPARED ONCE EACH  
56 MONTH AND MAINTAINED IN A SECURE LOCATION;

1 3. FIREARM, RIFLE AND SHOTGUN SALES INFORMATION, INCLUDING THE SERIAL  
2 NUMBERS OF FIREARMS, RIFLES AND SHOTGUNS SOLD, DATES OF SALE AND IDENTI-  
3 TY OF PURCHASERS, SHALL BE MAINTAINED AND MADE AVAILABLE TO GOVERNMENT  
4 LAW ENFORCEMENT AGENCIES AND TO THE MANUFACTURER OF THE WEAPON OR ITS  
5 DESIGNEE; AND

6 4. EVERY DEALER SHALL MAINTAIN RECORDS OF CRIMINAL FIREARM, RIFLE AND  
7 SHOTGUN TRACES INITIATED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO,  
8 FIREARMS AND EXPLOSIVES ("ATF"). ALL ATF FORM 4473 TRANSACTION RECORDS  
9 SHALL BE RETAINED ON THE DEALER'S BUSINESS PREMISES IN A SECURE CONTAIN-  
10 ER DESIGNED TO PREVENT LOSS BY FIRE, THEFT, OR OTHER MISHAP.

11 S 908. COOPERATION WITH LAW ENFORCEMENT. EVERY DEALER SHALL:

12 1. PROVIDE GOVERNMENT LAW ENFORCEMENT AGENCIES WITH FULL ACCESS TO ANY  
13 DOCUMENTS RELATED TO THE ACQUISITION AND DISPOSITION OF FIREARMS OR  
14 EMPLOYEE TRAINING DEEMED NECESSARY BY SUCH AGENCY;

15 2. PARTICIPATE IN AND COMPLY WITH ALL MONITORING OF FIREARM, RIFLE AND  
16 SHOTGUN DISTRIBUTION BY MANUFACTURERS OR GOVERNMENT LAW ENFORCEMENT  
17 AGENCIES;

18 3. REPORT ALL ATF TRACE REQUESTS BY MAKE, MODEL AND SERIAL NUMBER OF  
19 FIREARM, DATE OF TRACE, AND DATE OF SALE TO THE MANUFACTURER OF THE  
20 FIREARM, RIFLE OR SHOTGUN ON A MONTHLY BASIS, UNLESS THE ATF DIRECTS THE  
21 LICENSEE NOT TO REPORT CERTAIN TRACES, AND ALSO REPORT SUCH TRACES TO  
22 THE SUPERINTENDENT FOR USE IN CONJUNCTION WITH THE CRIMINAL GUN CLEAR-  
23 INGHOUSE ESTABLISHED PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE EXEC-  
24 UTIVE LAW;

25 4. ANALYZE ALL ATF TRACE REQUESTS TO DETERMINE WHETHER THERE IS A  
26 PATTERN OF FIREARMS, RIFLES OR SHOTGUNS SOLD BY THE DEALER BEING USED  
27 FOR CRIMINAL PURPOSES, AND, IF SUCH PATTERN EXISTS, TAKE CORRECTIVE  
28 ACTION AND REPORT SUCH FINDINGS AND SUCH CORRECTIVE ACTION TO THE SUPER-  
29 INTENDENT; AND

30 5. REPORT ANY FIREARM, RIFLE OR SHOTGUN SALES THAT APPEAR TO BE STRAW  
31 PURCHASES OR OTHERWISE CREATE A REASONABLE SUSPICION THAT THE FIREARM,  
32 RIFLE OR SHOTGUN MAY BE DIVERTED FROM THE LEGAL STREAM OF COMMERCE.

33 S 909. INTERNAL COMPLIANCE AND CERTIFICATION. 1. EVERY DEALER SHALL:

34 (A) IMPLEMENT AND MAINTAIN SUFFICIENT INTERNAL COMPLIANCE PROCEDURES  
35 TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND ALL  
36 APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS GOVERNING THE  
37 SALE, TRANSFER AND DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS; AND

38 (B) ANNUALLY CERTIFY TO THE SUPERINTENDENT THAT SUCH DEALER HAS  
39 COMPLIED WITH ALL OF THE REQUIREMENTS OF THIS ARTICLE. THE SUPERINTEN-  
40 DENT SHALL BY REGULATION DETERMINE THE FORM AND CONTENT OF SUCH ANNUAL  
41 CERTIFICATION.

42 2. THE SUPERINTENDENT SHALL PROMULGATE REGULATIONS ESTABLISHING PERI-  
43 ODIC INSPECTIONS, DURING REGULAR AND USUAL BUSINESS HOURS, BY THE DIVI-  
44 SION OF STATE POLICE OF THE PREMISES OF EVERY DEALER TO DETERMINE  
45 COMPLIANCE BY SUCH DEALER WITH THE REQUIREMENTS OF THIS ARTICLE. EVERY  
46 DEALER SHALL PROVIDE THE DIVISION OF STATE POLICE WITH FULL ACCESS TO  
47 SUCH DEALER'S PREMISES FOR SUCH INSPECTIONS.

48 S 910. RULES AND REGULATIONS. THE SUPERINTENDENT MAY PROMULGATE SUCH  
49 ADDITIONAL RULES AND REGULATIONS AS THE SUPERINTENDENT SHALL DEEM NECES-  
50 SARY TO PREVENT FIREARMS, RIFLES AND SHOTGUNS FROM BEING DIVERTED FROM  
51 THE LEGAL STREAM OF COMMERCE.

52 S 911. VIOLATIONS. ANY PERSON, FIRM OR CORPORATION WHICH KNOWINGLY  
53 VIOLATES ANY PROVISION OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A  
54 MISDEMEANOR PUNISHABLE AS PROVIDED FOR IN THE PENAL LAW, AND SHALL BE  
55 GUILTY OF A CLASS E FELONY FOR A SECOND VIOLATION OCCURRING WITHIN FIVE

1 YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF ANY PROVISION OF THIS  
2 ARTICLE.

3 S 3. Subdivision 1 of section 396-ee of the general business law, as  
4 added by chapter 189 of the laws of 2000, is amended to read as follows:

5 (1) No person, firm or corporation engaged in the retail business of  
6 selling rifles, shotguns or firearms, as such terms are defined in  
7 section 265.00 of the penal law, shall sell, deliver or transfer any  
8 such rifle, shotgun or firearm to another person unless the transferee  
9 is provided at the time of sale, delivery or transfer with a gun locking  
10 device and a label containing the quoted language specified in subdivi-  
11 sion two of [this] section [is either] NINE HUNDRED SIX OF THIS CHAPTER,  
12 WHICH SHALL APPEAR IN CONSPICUOUS AND LEGIBLE TYPE IN CAPITAL LETTERS,  
13 AND SHALL BE affixed to such rifle, shotgun or firearm [or] AND placed  
14 in the container in which such rifle, shotgun or firearm is sold, deliv-  
15 ered or transferred. For the purposes of this section, the term "gun  
16 locking device" shall mean an integrated design feature or an attachable  
17 accessory that is resistant to tampering and is effective in preventing  
18 the discharge of such rifle, shotgun or firearm by a person who does not  
19 have access to the key, combination or other mechanism used to disengage  
20 the device. The division of state police shall develop and promulgate  
21 rules and regulations setting forth the specific devices or the minimum  
22 standards and criteria therefor which constitute an effective gun lock-  
23 ing device.

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

26 1. Eligibility. No license shall be issued or renewed pursuant to this  
27 section except by the licensing officer, and then only after investi-  
28 gation and finding that all statements in a proper application for a  
29 license are true. No license shall be issued or renewed except for an  
30 applicant (a) twenty-one years of age or older, provided, however, that  
31 where such applicant has been honorably discharged from the United  
32 States army, navy, marine corps, air force or coast guard, or the  
33 national guard of the state of New York, no such age restriction shall  
34 apply; (b) of good moral character; (c) who has not been convicted  
35 anywhere of a felony or a serious offense; (d) who is not a fugitive  
36 from justice; (e) who is not an unlawful user of or addicted to any  
37 controlled substance as defined in section 21 U.S.C. 802; (f) who being  
38 an alien (i) is not illegally or unlawfully in the United States or (ii)  
39 has not been admitted to the United States under a nonimmigrant visa  
40 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been  
41 discharged from the Armed Forces under dishonorable conditions; (h) who,  
42 having been a citizen of the United States, has not renounced his or her  
43 citizenship; (i) who has stated whether he or she has ever suffered any  
44 mental illness; (j) who has not been involuntarily committed to a facil-  
45 ity under the jurisdiction of an office of the department of mental  
46 hygiene pursuant to article nine or fifteen of the mental hygiene law,  
47 article seven hundred thirty or section 330.20 of the criminal procedure  
48 law, section four hundred two or five hundred eight of the correction  
49 law, section 322.2 or 353.4 of the family court act, or has not been  
50 civilly confined in a secure treatment facility pursuant to article ten  
51 of the mental hygiene law; (k) who has not had a license revoked or who  
52 is not under a suspension or ineligibility order issued pursuant to the  
53 provisions of section 530.14 of the criminal procedure law or section  
54 eight hundred forty-two-a of the family court act; (l) in the county of  
55 Westchester, who has successfully completed a firearms safety course and  
56 test as evidenced by a certificate of completion issued in his or her

1 name and endorsed and affirmed under the penalties of perjury by a duly  
2 authorized instructor, except that: (i) persons who are honorably  
3 discharged from the United States army, navy, marine corps or coast  
4 guard, or of the national guard of the state of New York, and produce  
5 evidence of official qualification in firearms during the term of  
6 service are not required to have completed those hours of a firearms  
7 safety course pertaining to the safe use, carrying, possession, mainte-  
8 nance and storage of a firearm; and (ii) persons who were licensed to  
9 possess a pistol or revolver prior to the effective date of this para-  
10 graph are not required to have completed a firearms safety course and  
11 test; (m) who has not had a guardian appointed for him or her pursuant  
12 to any provision of state law, based on a determination that as a result  
13 of marked subnormal intelligence, mental illness, incapacity, condition  
14 or disease, he or she lacks the mental capacity to contract or manage  
15 his or her own affairs; and (n) concerning whom no good cause exists for  
16 the denial of the license. No person shall engage in the business of  
17 gunsmith or dealer in firearms unless licensed pursuant to this section,  
18 AND NO PERSON SHALL ENGAGE IN THE BUSINESS OF DEALER IN FIREARMS UNLESS  
19 SUCH PERSON COMPLIES WITH THE PROVISIONS OF ARTICLES THIRTY-NINE-DD AND  
20 FORTY OF THE GENERAL BUSINESS LAW. An applicant to engage in such busi-  
21 ness shall also be a citizen of the United States, more than twenty-one  
22 years of age and maintain a place of business in the city or county  
23 where the license is issued. For such business, if the applicant is a  
24 firm or partnership, each member thereof shall comply with all of the  
25 requirements set forth in this subdivision and if the applicant is a  
26 corporation, each officer thereof shall so comply.

27 S 5. Subdivisions 11 and 12 of section 400.00 of the penal law, as  
28 amended by chapter 1 of the laws of 2013, are amended to read as  
29 follows:

30 11. License: revocation and suspension. (a) The conviction of a licen-  
31 see anywhere of a felony or serious offense or a licensee at any time  
32 becoming ineligible to obtain a license under this section shall operate  
33 as a revocation of the license. A license may be revoked or suspended as  
34 provided for in section 530.14 of the criminal procedure law or section  
35 eight hundred forty-two-a of the family court act. Except for a license  
36 issued pursuant to section 400.01 of this article, a license may be  
37 revoked and cancelled at any time in the city of New York, and in the  
38 counties of Nassau and Suffolk, by the licensing officer, and elsewhere  
39 than in the city of New York by any judge or justice of a court of  
40 record; a license issued pursuant to section 400.01 of this article may  
41 be revoked and cancelled at any time by the licensing officer or any  
42 judge or justice of a court of record. A LICENSE TO ENGAGE IN THE BUSI-  
43 NESS OF DEALER MAY BE REVOKED OR SUSPENDED FOR ANY VIOLATION OF THE  
44 PROVISIONS OF ARTICLE THIRTY-NINE-DD OR FORTY OF THE GENERAL BUSINESS  
45 LAW. The official revoking a license shall give written notice thereof  
46 without unnecessary delay to the executive department, division of state  
47 police, Albany, and shall also notify immediately the duly constituted  
48 police authorities of the locality.

49 (b) Whenever the director of community services or his or her designee  
50 makes a report pursuant to section 9.46 of the mental hygiene law, the  
51 division of criminal justice services shall convey such information,  
52 whenever it determines that the person named in the report possesses a  
53 license issued pursuant to this section, to the appropriate licensing  
54 official, who shall issue an order suspending or revoking such license.

55 (c) In any instance in which a person's license is suspended or  
56 revoked under paragraph (a) or (b) of this subdivision, such person



1 shall surrender such license to the appropriate licensing official and  
2 any and all firearms, rifles, or shotguns owned or possessed by such  
3 person shall be surrendered to an appropriate law enforcement agency as  
4 provided in subparagraph (f) of paragraph one of subdivision a of  
5 section 265.20 of this chapter. In the event such license, firearm,  
6 shotgun, or rifle is not surrendered, such items shall be removed and  
7 declared a nuisance and any police officer or peace officer acting  
8 pursuant to his or her special duties is authorized to remove any and  
9 all such weapons.

10 12. Records required of gunsmiths and dealers in firearms. [Any] IN  
11 ADDITION TO THE REQUIREMENTS SET FORTH IN ARTICLES THIRTY-NINE-DD AND  
12 FORTY OF THE GENERAL BUSINESS LAW, ANY person licensed as gunsmith or  
13 dealer in firearms shall keep a record book approved as to form, except  
14 in the city of New York, by the superintendent of state police. In the  
15 record book shall be entered at the time of every transaction involving  
16 a firearm the date, name, age, occupation and residence of any person  
17 from whom a firearm is received or to whom a firearm is delivered, and  
18 the calibre, make, model, manufacturer's name and serial number, or if  
19 none, any other distinguishing number or identification mark on such  
20 firearm. Before delivering a firearm to any person, the licensee shall  
21 require him to produce either a license valid under this section to  
22 carry or possess the same, or proof of lawful authority as an exempt  
23 person pursuant to section 265.20 OF THIS CHAPTER. In addition, before  
24 delivering a firearm to a peace officer, the licensee shall verify that  
25 person's status as a peace officer with the division of state police.  
26 After completing the foregoing, the licensee shall remove and retain the  
27 attached coupon and enter in the record book the date of such license,  
28 number, if any, and name of the licensing officer, in the case of the  
29 holder of a license to carry or possess, or the shield or other number,  
30 if any, assignment and department, unit or agency, in the case of an  
31 exempt person. The original transaction report shall be forwarded to the  
32 division of state police within ten days of delivering a firearm to any  
33 person, and a duplicate copy shall be kept by the licensee. The super-  
34 intendent of state police may designate that such record shall be  
35 completed and transmitted in electronic form. A dealer may be granted a  
36 waiver from transmitting such records in electronic form if the super-  
37 intendent determines that such dealer is incapable of such transmission  
38 due to technological limitations that are not reasonably within the  
39 control of the dealer, or other exceptional circumstances demonstrated  
40 by the dealer, pursuant to a process established in regulation, and at  
41 the discretion of the superintendent. Records assembled or collected for  
42 purposes of inclusion in the database created pursuant to section 400.02  
43 of this article shall not be subject to disclosure pursuant to article  
44 six of the public officers law. The record book shall be maintained on  
45 the premises mentioned and described in the license and shall be open at  
46 all reasonable hours for inspection by any peace officer, acting pursu-  
47 ant to his special duties, or police officer. In the event of cancella-  
48 tion or revocation of the license for gunsmith or dealer in firearms, or  
49 discontinuance of business by a licensee, such record book shall be  
50 immediately surrendered to the licensing officer in the city of New  
51 York, and in the counties of Nassau and Suffolk, and elsewhere in the  
52 state to the executive department, division of state police.

53 S 6. Severability. If any clause, sentence, paragraph, section or part  
54 of this act shall be adjudged by any court of competent jurisdiction to  
55 be invalid, such judgment shall not affect, impair or invalidate the  
56 remainder thereof, but shall be confined in its operation to the clause,

1 sentence, paragraph, section or part thereof directly involved in the  
2 controversy in which such judgment shall have been rendered.

3 S 7. This act shall take effect on the ninetieth day after it shall  
4 have become a law; provided that the superintendent of state police is  
5 authorized and directed to immediately adopt, amend and promulgate such  
6 rules and regulations as may be necessary and desirable to effectuate  
7 the purposes of section two of this act.