

6279

I N S E N A T E

(PREFILED)

January 6, 2016

Introduced by Sen. KLEIN -- 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 the provision of licenses for firearms to persons on the federal no-fly list or terrorist screening database; to amend the criminal procedure law, in relation to revoking or suspending firearms licenses of persons on the federal no-fly list or terrorist screening database; and to amend the executive law, in relation to requiring the superintendent of state police to search the federal no-fly list or terrorist screening database and report findings to appropriate enforcement agencies

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

1 Section 1. This act shall be known and may be cited as the "Deny
2 Firearms to Dangerous Terrorists Act".
3 S 2. Subdivision 1 of section 400.00 of the penal law, as amended by
4 chapter 1 of the laws of 2013, is amended to read as follows:
5 1. Eligibility. No license shall be issued or renewed pursuant to this
6 section except by the licensing officer, and then only after investi-
7 gation and finding that all statements in a proper application for a
8 license are true. No license shall be issued or renewed except for an
9 applicant (a) twenty-one years of age or older, provided, however, that
10 where such applicant has been honorably discharged from the United
11 States army, navy, marine corps, air force or coast guard, or the
12 national guard of the state of New York, no such age restriction shall
13 apply; (b) of good moral character; (c) who has not been convicted
14 anywhere of a felony or a serious offense; (d) who is not a fugitive
15 from justice; (e) who is not an unlawful user of or addicted to any
16 controlled substance as defined in section 21 U.S.C. 802; (f) who being
17 an alien (i) is not illegally or unlawfully in the United States or (ii)
18 has not been admitted to the United States under a nonimmigrant visa
19 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
20 discharged from the Armed Forces under dishonorable conditions; (h) who,
21 having been a citizen of the United States, has not renounced his or her

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

LBD13346-01-5

1 citizenship; (i) who has stated whether he or she has ever suffered any
2 mental illness; (j) who has not been involuntarily committed to a facil-
3 ity under the jurisdiction of an office of the department of mental
4 hygiene pursuant to article nine or fifteen of the mental hygiene law,
5 article seven hundred thirty or section 330.20 of the criminal procedure
6 law, section four hundred two or five hundred eight of the correction
7 law, section 322.2 or 353.4 of the family court act, or has not been
8 civilly confined in a secure treatment facility pursuant to article ten
9 of the mental hygiene law; (k) who has not had a license revoked or who
10 is not under a suspension or ineligibility order issued pursuant to the
11 provisions of section 530.14 of the criminal procedure law or section
12 eight hundred forty-two-a of the family court act; (l) in the county of
13 Westchester, who has successfully completed a firearms safety course and
14 test as evidenced by a certificate of completion issued in his or her
15 name and endorsed and affirmed under the penalties of perjury by a duly
16 authorized instructor, except that: (i) persons who are honorably
17 discharged from the United States army, navy, marine corps or coast
18 guard, or of the national guard of the state of New York, and produce
19 evidence of official qualification in firearms during the term of
20 service are not required to have completed those hours of a firearms
21 safety course pertaining to the safe use, carrying, possession, mainte-
22 nance and storage of a firearm; and (ii) persons who were licensed to
23 possess a pistol or revolver prior to the effective date of this para-
24 graph are not required to have completed a firearms safety course and
25 test; (m) who has not had a guardian appointed for him or her pursuant
26 to any provision of state law, based on a determination that as a result
27 of marked subnormal intelligence, mental illness, incapacity, condition
28 or disease, he or she lacks the mental capacity to contract or manage
29 his or her own affairs; [and] (n) concerning whom no good cause exists
30 for the denial of the license; AND (O) WHO HAS NOT BEEN LISTED ON THE
31 FEDERAL NO-FLY LIST OR TERRORIST SCREENING DATABASE OPERATED BY THE
32 FEDERAL BUREAU OF INVESTIGATION. No person shall engage in the business
33 of gunsmith or dealer in firearms unless licensed pursuant to this
34 section. An applicant to engage in such business shall also be a citizen
35 of the United States, more than twenty-one years of age and maintain a
36 place of business in the city or county where the license is issued. For
37 such business, if the applicant is a firm or partnership, each member
38 thereof shall comply with all of the requirements set forth in this
39 subdivision and if the applicant is a corporation, each officer thereof
40 shall so comply.

41 S 3. Section 530.14 of the criminal procedure law is amended by adding
42 a new subdivision 3-a to read as follows:

43 3-A. REVOCATION OR SUSPENSION OF LICENSE UPON A FINDING THAT THE HOLD-
44 ER OF THE FIREARM LICENSE IS A SUSPECTED TERRORIST. WHERE THE DIVISION
45 OF STATE POLICE FINDS THAT A HOLDER OF A FIREARM LICENSE IS LISTED ON
46 THE FEDERAL NO-FLY LIST OR TERRORIST SCREENING DATABASE OPERATED BY THE
47 FEDERAL BUREAU OF INVESTIGATION, THE DIVISION OF STATE POLICE SHALL
48 IMMEDIATELY REVOKE THE HOLDER'S LICENSE. THE INDIVIDUAL SHALL BE NOTI-
49 FIED IN WRITING WITHIN THIRTY DAYS OF THE REVOCATION.

50 S 4. Section 223 of the executive law is amended by adding a new
51 subdivision 3 to read as follows:

52 3. THE SUPERINTENDENT SHALL SEARCH THE FEDERAL NO-FLY LIST OR TERROR-
53 IST SCREENING DATABASE AT LEAST ONCE EACH YEAR AND UPON A FINDING THAT A
54 FIREARM LICENSE HOLDER IS ON SUCH A LIST, THE SUPERINTENDENT SHALL IMME-
55 DIATELY NOTIFY ALL APPROPRIATE LAW ENFORCEMENT AGENCIES AND SHALL DIRECT
56 THE STATE POLICE TO REMOVE ANY AND ALL SUCH FIREARMS UNTIL SUCH TIME

1 THAT THE INDIVIDUAL IS NO LONGER ON THE FEDERAL NO-FLY LIST OR TERRORIST
2 SCREENING DATABASE.

3 S 5. Section 223 of the executive law, as amended by chapter 843 of
4 the laws of 1980, is amended to read as follows:

5 S 223. Duties and powers of the superintendent of state police and of
6 members of the state police. 1. It shall be the duty of the superinten-
7 dent of the state police and of members of the state police to prevent
8 and detect crime and apprehend criminals. They shall also be subject to
9 the call of the governor and are empowered to co-operate with any other
10 department of the state or with local authorities. They shall have power
11 to arrest, without a warrant, any person committing or attempting to
12 commit within their presence or view a breach of the peace or other
13 violation of law, to serve and execute warrants of arrest or search
14 issued by proper authority and to exercise all other powers of police
15 officers of the state of New York. Any such warrants issued by any
16 magistrate of the state may be executed by them in any part of the state
17 according to the tenor thereof without [indorsement] ENDORSEMENT. But
18 they shall not exercise their powers within the limits of any city to
19 suppress rioting and disorder except by direction of the governor or
20 upon the request of the mayor of the city with the approval of the
21 governor. Any member of the rank of sergeant or above may take pre-arr-
22 aignment bail from any defendant in the amounts and under the circum-
23 stances and conditions that police may take bail.

24 2. THE SUPERINTENDENT SHALL SEARCH THE FEDERAL NO-FLY LIST OR TERROR-
25 IST SCREENING DATABASE AT LEAST ONCE EACH YEAR AND UPON A FINDING THAT A
26 FIREARM LICENSE HOLDER IS ON SUCH A LIST, THE SUPERINTENDENT SHALL IMME-
27 DIATELY NOTIFY ALL APPROPRIATE LAW ENFORCEMENT AGENCIES AND SHALL DIRECT
28 THE STATE POLICE TO REMOVE ANY AND ALL SUCH FIREARMS UNTIL SUCH TIME
29 THAT THE INDIVIDUAL IS NO LONGER ON THE FEDERAL NO-FLY LIST OR TERRORIST
30 SCREENING DATABASE.

31 S 6. The superintendent of state police and the commissioner of crimi-
32 nal justice services shall promulgate any regulations necessary for the
33 provisions of this act to take effect.

34 S 7. This act shall take effect immediately; provided however, the
35 provisions of this act shall not take effect until the superintendent of
36 state police receives approval to access the information on the federal
37 no-fly list or terrorist screening database from the relevant federal
38 agencies; provided further that the amendments to section 223 of the
39 executive law made by section four of this act shall be subject to the
40 expiration and reversion of such section pursuant to section 3 of chap-
41 ter 428 of the laws of 1999, as amended, when upon such date the
42 provisions of section five of this act shall take effect; provided that
43 the superintendent of state police shall notify the legislative bill
44 drafting commission upon the occurrence of the enactment of the legis-
45 lation provided for in this act in order that the commission may main-
46 tain an accurate and timely effective database of the official text of
47 the laws of the state of New York in furtherance of effectuating the
48 provisions of section 44 of the legislative law and section 70-b of the
49 public officers law.