STATE OF NEW YORK

10045

IN ASSEMBLY

March 8, 2018

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, the general business law and the penal law, in relation to the point of contact for conducting national instant criminal background checks

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is amended by adding a new section 228 to read as follows:

§ 228. National instant criminal background checks. The division is hereby authorized and directed to serve as a state point of contact for implementation of 18 U.S.C. sec. 922 (t), all federal regulations and applicable guidelines adopted pursuant thereto, and the national instant criminal background check system.

1. The division shall report the name, date of birth and physical description of any person prohibited from possessing a firearm pursuant to 18 USC 922(g) or (n) to the national instant criminal background check system index, denied persons files.

2. The superintendent shall promulgate a plan to coordinate background checks for purchases, including NICS, in New York state. Such plan may include, but is not limited to, recruiting and training personnel, setting up an instantaneous electronic database, and selecting hours of operation.

(a) Following implementation of such plan, no application or record of sale shall be completed for the purchase or transfer of a firearm by a licensed dealer without first contacting the division.

(b) Upon establishment of such plan, the superintendent shall notify each person, firm or corporation holding a permit to sell firearms of the existence and purpose of the system and the means to be used to apply for background checks.

3. Any applicant shall have thirty days to appeal the denial of a background check, using a form established by the superintendent. The division shall research the background check and provide such applicant

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

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a reason for a denial. Upon receipt of the reason for denial, the appellant may appeal to the attorney general.

§ 2. Subdivision 2 of section 898 of the general business law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

2. Before any sale, exchange or disposal pursuant to this article, a national instant criminal background check must be completed by a dealer who [~~consents~~] shall contact the division of state police to conduct such check[~~, and upon completion of such background check, shall complete a document, the form of which shall be approved by the superintendent of state police, that identifies and confirms that such check was performed~~].

§ 3. Paragraph (c) of subdivision 1 of section 896 of the general business law, as added by chapter 189 of the laws of 2000, is amended to read as follows:

(c) coordinate with the division of state police to provide access at the gun show to [~~a firearm dealer licensed under federal law who is authorized to~~] perform a national instant criminal background check [~~where the seller or transferor of a firearm, rifle or shotgun is not authorized to conduct such a check by (i) requiring firearm exhibitors who are firearm dealers licensed under federal law and who are authorized to conduct a national instant criminal background check to provide such a check at cost or (ii) designating a specific location at the gun show where a firearm dealer licensed under federal law who is authorized to conduct a national instant criminal background check will be present to perform such a check at cost~~] prior to any firearm sale or transfer. Any firearm dealer licensed under federal law who [~~performs~~] contacts the division of state police to perform a national instant criminal background check pursuant to this paragraph shall provide the seller or transferor of the firearm, rifle or shotgun with a copy of the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms Form ATF F 4473 and such dealer shall maintain such form and make such form available for inspection by law enforcement agencies for a period of ten years thereafter.

§ 4. Subdivision 6 of section 400.03 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

6. If the superintendent of state police certifies that background checks of ammunition purchasers may be conducted through the national instant criminal background check system, [~~use of that system by~~] a dealer or seller shall contact the division of state police to conduct such check which shall be sufficient to satisfy subdivisions four and five of this section [~~and such checks shall be conducted through such system, provided that a record of such transaction shall be forwarded to the state police in a form determined by the superintendent~~].

§ 5. The penal law is amended by adding a new section 400.06 to read as follows:

§ 400.06 National instant criminal background checks.

1. Any dealer in firearms that delivers or otherwise transfers any firearm shall contact the division of state police to conduct a national instant criminal background check.

2. Failure to comply with the requirements of this section is a class A misdemeanor.

§ 6. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.