

STATE OF NEW YORK

8223

IN SENATE

April 19, 2018

Introduced by Sen. ALCANTARA -- 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, the mental hygiene law and the penal law, in relation to requiring a mental health evaluation prior to the purchase of any firearm, rifle or shotgun

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

1 Section 1. Section 897 of the general business law is amended by
2 adding a new subdivision 1-a to read as follows:

3 1-a. Before any sale, exchange, or disposal pursuant to this article,
4 a purchaser of any firearm, rifle or shotgun shall submit to a mental
5 health evaluation and provide the seller with proof of his or her
6 approval to purchase such firearm, rifle or shotgun pursuant to subdivi-
7 sion (1) of section 7.09 of the mental hygiene law.

8 § 2. Subdivision 1 of section 898 of the general business law, as
9 added by chapter 1 of the laws of 2013, is amended and a new subdivision
10 2-a is added to read as follows:

11 1. In addition to any other requirements pursuant to state and federal
12 law, all sales, exchanges or disposals of firearms, rifles or shotguns
13 shall be conducted in accordance with this section unless such sale,
14 exchange or disposal is conducted by a licensed importer^[7] or licensed
15 manufacturer [~~or licensed dealer~~], as those terms are defined in 18 USC
16 § 922, when such sale, exchange or disposal is conducted pursuant to
17 that person's federal firearms license [~~or such sale, exchange or~~
18 ~~disposal is between members of an immediate family. For purposes of this~~
19 ~~section, "immediate family" shall mean spouses, domestic partners, chil-~~
20 ~~dren and step-children~~].

21 2-a. Before any sale, exchange, or disposal pursuant to this article,
22 a purchaser of any firearm, rifle or shotgun shall submit to a mental
23 health evaluation and provide the seller with proof of his or her
24 approval to purchase such firearm, rifle or shotgun pursuant to subdivi-
25 sion (1) of section 7.09 of the mental hygiene law.

26 § 3. Section 7.09 of the mental hygiene law is amended by adding a new
27 subdivision (1) to read as follows:

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

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1 (1) The commissioner shall establish within the office of mental
2 health an administrative process for the mental health evaluation of any
3 individual prior to such individual's purchase of any firearm, rifle or
4 shotgun. The commissioner shall promulgate regulations to establish the
5 mental health evaluation process, which shall include, but not be limit-
6 ed to, provisions relating to: (1) the mental health professionals
7 approved to perform such evaluation, (2) the process for evaluation by
8 such mental health professionals and (3) the development of a standard-
9 ized form to be used by the mental health professional performing such
10 evaluation to approve or deny an individual for purchase of a firearm,
11 rifle or shotgun. The denial of an individual for purchase of any
12 firearm, rifle or shotgun may be reviewed de novo pursuant to the
13 proceedings under article seventy-eight of the civil practice law and
14 rules.

15 § 4. Subdivision 3 of section 265.17 of the penal law, as added by
16 chapter 1 of the laws of 2013, is amended and a new subdivision 4 is
17 added to read as follows:

18 3. Knowing that another person is prohibited by law from possessing a
19 firearm, rifle or shotgun because of a prior conviction or because of
20 some other disability which would render him or her ineligible to
21 lawfully possess a firearm, rifle or shotgun in this state, a person
22 disposes of a firearm, rifle or shotgun to such other person[-]; or

23 4. Knowing that a mental health evaluation is required pursuant to
24 subdivision (1) of section 7.09 of the mental hygiene law, he or she
25 either purchases or disposes of a firearm, rifle or shotgun without such
26 mental health evaluation approval for purchase.

27 § 5. This act shall take effect on the one hundred eightieth day after
28 it shall have become a law. Effective immediately, the addition, amend-
29 ment and/or repeal of any rule or regulation necessary for the implemen-
30 tation of this act on its effective date are authorized to be made and
31 completed on or before such date.