STATE OF NEW YORK

9191

IN SENATE

November 14, 2018

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to requiring social media and search engine reviews prior to the approval of an application or renewal of a license to carry or possess a pistol or revolver

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

Section 1. Paragraph (a) of subdivision 3, subdivision 4, and paragraph (b) of subdivision 10 of section 400.00 of the penal law, paragraph (a) of subdivision 3 and subdivision 4 as amended and paragraph (b) of subdivision 10 as added by chapter 1 of the laws of 2013, are amended to read as follows:

(a) Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his or her principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the superintendent of state police. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he or she is a citizen of the United States, whether or not he or she complies with each requirement for eligibility specified in subdivision one of this section**, consent to have his or her social media accounts and search engine history reviewed and investigated pursuant to subdivision four of this section,** and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application shall submit one photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be

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

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two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof.

4. Investigation. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made, including but not limited to such records as may be accessible to the division of state police or division of criminal justice services pursuant to section 400.02 of this article. For that purpose, the records of the appropriate office of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police authority. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search to the investigating officer shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, who is acting pursuant to his special duties, or a police officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. **In order to ascertain whether any social media account or search engine history of an applicant presents any good cause for the denial of a license, the investigating officer shall, after**

obtaining the applicant's consent pursuant to subdivision three of this section, and obtaining any log-in name, password or other means for accessing a personal account, service, or electronic communications device necessary to review such applicant's social media accounts and search engine history, review an applicant's social media accounts for the previous three years and search engine history for the previous year and investigate an applicant's posts or searches related to (i) commonly known profane slurs or biased language used to describe the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person; (ii) threatening the health or safety of another person; (iii) an act of terrorism; or (iv) any other issue deemed necessary by the investigating officer. For the purposes of this subdivision, "social media accounts" shall only include Facebook, Snapchat, Twitter and Instagram, and "search engine" shall only include Google, Yahoo and Bing. Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay.

(b) All licensees shall be recertified to the division of state police every five years thereafter. Any license issued before the effective date of [~~the~~] chapter one of the laws of two thousand thirteen [~~which added this paragraph~~] shall be recertified by the licensee on or before January thirty-first, two thousand eighteen, and not less than one year prior to such date, the state police shall send a notice to all license holders who have not recertified by such time. Such recertification shall be in a form as approved by the superintendent of state police, which shall request the license holder's name, date of birth, gender, race, residential address, social security number, consent to have his or her social media accounts and search engine history reviewed and investigated, firearms possessed by such license holder, email address at the option of the license holder and an affirmation that such license holder is not prohibited from possessing firearms. The form may be in an electronic form if so designated by the superintendent of state police. Failure to recertify shall act as a revocation of such license. If the New York state police discover as a result of the recertification process that a licensee failed to provide a change of address, the New York state police shall not require the licensing officer to revoke such license. In order to ascertain whether any social media account or search engine history of a licensee presents any good cause for the revocation of a license, the New York state police shall, after obtaining the licensee's consent pursuant to this subdivision, and obtaining any log-in name, password or other means for accessing a personal account, service, or electronic communications device necessary to review such licensee's social media accounts and search engine history, review a licensee's social media accounts for the previous three years and search engine history for the previous year and investigate posts or searches related to (i) commonly known profane slurs or biased language used to describe the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person; (ii) threatening the health or safety of another person; (iii) an act of terrorism; or (iv) any other issue deemed necessary by the New York state police. For the purposes of this subdivision, "social media accounts" shall only include Facebook, Snapchat, Twitter and Instagram, and "search engine" shall only include Google, Yahoo and Bing. Upon completion of the investigation, the New York state police shall report the results to the licensee without unnecessary delay.

§ 2. 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 to be made and completed on or before such effective date.