

STATE OF NEW YORK

890

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

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

AN ACT to amend the penal law and the general business law, in relation to establishing a waiting period before a firearm, shotgun or rifle may be delivered to a person

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

1 Section 1. Subdivision 12 of section 400.00 of the penal law, as
2 amended by chapter 1 of the laws of 2013, is amended to read as follows:
3 12. Records required of gunsmiths and dealers in firearms. Any person
4 licensed as gunsmith or dealer in firearms shall keep a record book
5 approved as to form, except in the city of New York, by the superinten-
6 dent of state police. In the record book shall be entered at the time of
7 every transaction involving a firearm the date, name, age, occupation
8 and residence of any person from whom a firearm is received or to whom a
9 firearm is delivered, and the calibre, make, model, manufacturer's name
10 and serial number, or if none, any other distinguishing number or iden-
11 tification mark on such firearm. Before delivering a firearm to any
12 person, the licensee shall require him to produce either a license valid
13 under this section to carry or possess the same, or proof of lawful
14 authority as an exempt person pursuant to section 265.20 of this chapter
15 and ten business days have elapsed since the date the licensee contacted
16 the National Instant Criminal Background Check System (NICS) or its
17 successor to initiate a national instate criminal background check. In
18 addition, before delivering a firearm to a peace officer, the licensee
19 shall verify that person's status as a peace officer with the division
20 of state police. After completing the foregoing, the licensee shall
21 remove and retain the attached coupon and enter in the record book the
22 date of such license, number, if any, and name of the licensing officer,
23 in the case of the holder of a license to carry or possess, or the
24 shield or other number, if any, assignment and department, unit or agen-

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

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1 cy, in the case of an exempt person. The original transaction report
2 shall be forwarded to the division of state police within ten days of
3 delivering a firearm to any person, and a duplicate copy shall be kept
4 by the licensee. The superintendent of state police may designate that
5 such record shall be completed and transmitted in electronic form. A
6 dealer may be granted a waiver from transmitting such records in elec-
7 tronic form if the superintendent determines that such dealer is incapa-
8 ble of such transmission due to technological limitations that are not
9 reasonably within the control of the dealer, or other exceptional
10 circumstances demonstrated by the dealer, pursuant to a process estab-
11 lished in regulation, and at the discretion of the superintendent.
12 Records assembled or collected for purposes of inclusion in the database
13 created pursuant to section 400.02 of this article shall not be subject
14 to disclosure pursuant to article six of the public officers law. The
15 record book shall be maintained on the premises mentioned and described
16 in the license and shall be open at all reasonable hours for inspection
17 by any peace officer, acting pursuant to his special duties, or police
18 officer. In the event of cancellation or revocation of the license for
19 gunsmith or dealer in firearms, or discontinuance of business by a
20 licensee, such record book shall be immediately surrendered to the
21 licensing officer in the city of New York, and in the counties of Nassau
22 and Suffolk, and elsewhere in the state to the executive department,
23 division of state police.

24 § 2. The penal law is amended by adding a new section 400.20 to read
25 as follows:

26 § 400.20 Waiting period in connection with the sale or transfer of a
27 rifle or shotgun.

28 When a national instant criminal background check is required pursuant
29 to state or federal law to be conducted through the National Instant
30 Criminal Background Check System (NICS) or its successor in connection
31 with the sale or transfer of a rifle or shotgun to any person, before
32 delivering a rifle or shotgun to such person, ten business days shall
33 have elapsed since the date the seller or transferor contacted NICS to
34 initiate a national instant criminal background check.

35 § 3. Subdivision 1 of section 897 of the general business law, as
36 added by chapter 189 of the laws of 2000, is amended to read as follows:

37 1. A national instant criminal background check shall be conducted and
38 no person shall sell or transfer a firearm, rifle or shotgun at a gun
39 show, except in accordance with the provisions of 18 U.S.C. 922(t),
40 provided that before delivering a firearm, rifle or shotgun to any
41 person, ten business days shall have elapsed since the date the seller
42 or transferor contacted the National Instant Criminal Background Check
43 System (NICS) or its successor to initiate a national instant criminal
44 background check.

45 § 4. Subdivisions 1 and 2 of section 898 of the general business law,
46 as added by chapter 1 of the laws of 2013, are amended to read as
47 follows:

48 1. In addition to any other requirements pursuant to state and federal
49 law, all sales, exchanges or disposals of firearms, rifles or shotguns
50 shall be conducted in accordance with this section unless such sale,
51 exchange or disposal is conducted by a licensed importer, licensed
52 manufacturer or licensed dealer, as those terms are defined in 18 USC §
53 922, when such sale, exchange or disposal is conducted pursuant to that
54 person's federal firearms license or such sale, exchange or disposal is
55 between members of an immediate family. When a sale, exchange or
56 disposal is conducted pursuant to a person's federal firearms license,

1 before delivering a firearm, rifle or shotgun to any person, ten busi-
2 ness days shall have elapsed since the date the federal firearms licen-
3 see contacted the National Instant Criminal Background Check System
4 (NICS) or its successor to initiate a national instant criminal back-
5 ground check. For purposes of this section, "immediate family" shall
6 mean spouses, domestic partners, children and step-children.

7 2. Before any sale, exchange or disposal pursuant to this article, a
8 national instant criminal background check must be completed by a dealer
9 who consents to conduct such check, and upon completion of such back-
10 ground check, shall complete a document, the form of which shall be
11 approved by the superintendent of state police, that identifies and
12 confirms that such check was performed. Before a dealer who consents to
13 conduct a national instant criminal background check delivers a firearm,
14 rifle or shotgun to any person, ten business days shall have elapsed
15 since the date the dealer contacted the National Instant Criminal Back-
16 ground Check System (NICS) or its successor to initiate a national
17 instant criminal background check.

18 § 5. This act shall take effect on the sixtieth day after it shall
19 have become a law.