STATE OF NEW YORK

1412

2019-2020 Regular Sessions

IN SENATE

January 14, 2019

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

AN ACT to amend the penal law and the environmental conservation law, in relation to establishing additional requirements to purchase a firearm, shotgun or rifle

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

Section 1. Subdivision 1 and subdivision 4-b of section 400.00 of the penal law, subdivision 1 as amended by chapter 1 of the laws of 2013, paragraph (c) of subdivision 1 as amended by chapter 60 of the laws of 2018, and subdivision 4-b as added by chapter 446 of the laws of 1997, are amended to read as follows:

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character; (c) who has not been convicted anywhere of a felony or a serious offense or who is not the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense; (d) who is not a fugitive from justice; (e) who is not an unlawful user of or addicted to any controlled substance as defined in section 21 U.S.C. 802 **and has provided notarized proof of a passed drug test by a licensed physician**; (f) who being an alien (i) is not illegally or unlawfully in the United States or (ii) has not been admitted to the United States under a nonimmigrant visa subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been discharged from the Armed Forces under dishonorable conditions; (h) who, having been a

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

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citizen of the United States, has not renounced his or her citizenship; (i) who has stated whether he or she has ever suffered any mental illness **and has provided notarized proof of a passed mental health evaluation by a licensed physician**; (j) who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article nine or fifteen of the mental hygiene law, article seven hundred thirty or section 330.20 of the criminal procedure law, section four hundred two or five hundred eight of the correction law, section 322.2 or 353.4 of the family court act, or has not been civilly confined in a secure treatment facility pursuant to article ten of the mental hygiene law; (k) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; (l) [~~in the county of Westchester,~~] who has successfully completed a **five hour** firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that[~~: (i)~~] persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm[~~; and (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test~~]; (m) who has not had a guardian appointed for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease, he or she lacks the mental capacity to contract or or manage his or her own affairs; **(n) who has successfully completed live firing instruction and a test with at least ninety percent accuracy at a shooting range using the type of firearm he or she anticipates purchasing, possessing or acquiring; (o) has purchased a safe storage depository for his or her firearms and ammunition as evidenced by a receipt of such purchase;** and [~~(n)~~] **(p)** concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply. **For the purposes of this subdivision, "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon or ammunition contained therein.**

4-b. [~~Westchester county firearms~~] **Firearms** safety course certificate. [~~In the county of Westchester, at~~] **At** the time of application, the licensing officer to which the license application is made shall provide a copy of the **five hour** safety course booklet to each license applicant. Before such license is issued, such licensing officer shall require that the applicant submit a certificate of successful completion of a **five**

hour firearms safety course and test issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor.

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

§ 400.20 Purchase of rifles and shotguns.

1. Prior to the purchase of any rifle or shotgun, a person shall apply for a hunting license pursuant to article eleven of the environmental conservation law.

2. In addition to the requirements required by article eleven of the environmental conservation law, no hunting license for the purchase of a rifle or shotgun shall be issued except for an applicant: (a) who is not an unlawful user of or addicted to any controlled substance as defined in section 21 U.S.C. 802 and has provided notarized proof of a passed drug test by a licensed physician; (b) who has stated whether he or she has ever suffered any mental illness and has provided notarized proof of a passed mental health evaluation by a licensed physician; (c) who has successfully completed a five hour firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of firearms, shotguns and rifles; (d) who has successfully completed live firing instruction and a test with at least ninety percent accuracy at a shooting range using the type of rifle or shotgun he or she anticipates purchasing, possessing or acquiring; (e) who does not have a criminal record which would otherwise disqualify him or her from purchasing a shotgun or rifle; and (f) has purchased a safe storage depository for his or her rifle or shotgun and ammunition as evidenced by a receipt of such purchase. For the purposes of this section, "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon or ammunition contained therein.

3. Before a license is issued, there shall be an investigation of all statements related to the requirements of this section by the duly constituted police authorities of the locality where such application is made. 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 made. 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. 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. Thereaft-

er, such division shall notify the issuing 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. Upon completion of the investigation, the police authority shall report the results to the issuing officer without unnecessary delay.

4. In acting upon an application, the issuing officer shall either deny the application for reasons specifically and concisely stated in writing or grant the application and issue the license applied for.

§ 3. Subdivision 1 of section 11-0701 of the environmental conservation law is amended by adding a new paragraph c to read as follows:

c. entitles the holder to purchase a rifle or shotgun provided such holder meets the requirements of section 400.20 of the penal law or any other related provision of law.

§ 4. Subdivision 3 of section 11-0713 of the environmental conservation law is amended by adding a new paragraph a-1 to read as follows:

a-1. The issuing officer shall not issue a hunting license for the purchase of a rifle or shotgun to any person unless the applicant presents proof that he or she meets the requirements of section 400.20 of the penal law.

§ 5. This act shall take effect on the one hundred eightieth 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 is authorized to be made and completed on or before such effective date.