STATE OF NEW YORK

1413

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, in relation to requiring social media reviews prior to the approval of an application of a license to carry or possess a pistol or revolver; and to amend the penal law, in relation to requiring social media reviews prior to the delivery of a rifle or shotgun

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

Section 1. Paragraph (a) of subdivision 3 and subdivision 4 of section 400.00 of the penal law, as amended 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 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. **The social media account consent required pursuant to this subdivision shall include two check boxes as part of the application with the following typed in clear and conspicuous type:**

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

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"I consent to making my social media page public for a period of sixty days."; and

"I certify that no content on my social media page has been altered or removed sixty days prior to my application date and such content shall not be altered or removed until the investigation required to approve this application has been completed."

Failure to check such box shall result in denial of an application. An application shall be signed and verified by the applicant. Such application shall inform the applicant that he or she signs such application under the penalties of perjury. 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 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 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, review an applicant's social media accounts for the previous three years and investigate an applicant's posts related to (i) excessive discriminatory content; or (ii) content that is likely to incite or produce a violent action in or towards others. For the purposes of this subdivision, "social media accounts" shall only include Facebook, Youtube, Gab, Twitter and Instagram and "excessive" shall mean more than one hundred posts.** Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay.

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

§ 400.20 Social media account review prior to the delivery of a rifle or shotgun.

1. Prior to the delivery of any rifle or shotgun sold by a licensed dealer to any person, the purchaser shall consent to have his or her social media accounts reviewed and investigated by the police authority of the locality where such sale is made. A form providing consent pursuant to this subdivision shall include two check boxes with the following typed in clear and conspicuous type:

"I consent to making my social media page public for a period of sixty days."; and

"I certify that no content on my social media page has been altered or removed sixty days prior to my application date and such content shall not be altered or removed until the investigation required to approve this application has been completed."

Failure to check such box shall result in denial of an application. Such form shall be signed and verified by the purchaser and shall inform the purchaser that he or she signs such form under the penalties of perjury. After completion of the review pursuant to subdivision two of this section, the purchaser shall provide the licensed dealer with proof of his or her approval to purchase such rifle or shotgun.

2. In order to ascertain whether any social media account of a purchaser of a rifle or shotgun presents any good cause for the denial of such purchase, the police authority of the locality where such sale is made shall, after obtaining the purchaser's consent pursuant to subdivision one of this section review a purchaser's social media accounts for the previous three years and investigate posts related to (i) excessive discriminatory content; or (ii) content that is likely to incite or produce a violent action in or towards others. For the purposes of this section, "social media accounts" shall only include Facebook, Youtube, Gab, Twitter and Instagram and "excessive" shall mean

more than one hundred posts. Upon completion of the investigation, the police authority shall report the results to the purchaser without unnecessary delay and, if appropriate, provide the purchaser with proof of approval to purchase such rifle or shotgun.

§ 3. 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.