

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:

1 Section 1. Paragraph (a) of subdivision 3 and subdivision 4 of section
2 400.00 of the penal law, as amended by chapter 1 of the laws of 2013,
3 are amended to read as follows:
4 (a) Applications shall be made and renewed, in the case of a license
5 to carry or possess a pistol or revolver, to the licensing officer in
6 the city or county, as the case may be, where the applicant resides, is
7 principally employed or has his or her principal place of business as
8 merchant or storekeeper; and, in the case of a license as gunsmith or
9 dealer in firearms, to the licensing officer where such place of busi-
10 ness is located. Blank applications shall, except in the city of New
11 York, be approved as to form by the superintendent of state police. An
12 application shall state the full name, date of birth, residence, present
13 occupation of each person or individual signing the same, whether or not
14 he or she is a citizen of the United States, whether or not he or she
15 complies with each requirement for eligibility specified in subdivision
16 one of this section, consent to have his or her social media accounts
17 reviewed and investigated pursuant to subdivision four of this section,
18 and such other facts as may be required to show the good character,
19 competency and integrity of each person or individual signing the appli-
20 cation. The social media account consent required pursuant to this
21 subdivision shall include two check boxes as part of the application
22 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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1 "I consent to making my social media page public for a period of sixty
2 days."; and

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

7 Failure to check such box shall result in denial of an application. An
8 application shall be signed and verified by the applicant. Such appli-
9 cation shall inform the applicant that he or she signs such application
10 under the penalties of perjury. Each individual signing an application
11 shall submit one photograph of himself or herself and a duplicate for
12 each required copy of the application. Such photographs shall have been
13 taken within thirty days prior to filing the application. In case of a
14 license as gunsmith or dealer in firearms, the photographs submitted
15 shall be two inches square, and the application shall also state the
16 previous occupation of each individual signing the same and the location
17 of the place of such business, or of the bureau, agency, subagency,
18 office or branch office for which the license is sought, specifying the
19 name of the city, town or village, indicating the street and number and
20 otherwise giving such apt description as to point out reasonably the
21 location thereof. In such case, if the applicant is a firm, partnership
22 or corporation, its name, date and place of formation, and principal
23 place of business shall be stated. For such firm or partnership, the
24 application shall be signed and verified by each individual composing or
25 intending to compose the same, and for such corporation, by each officer
26 thereof.

27 4. Investigation. Before a license is issued or renewed, there shall
28 be an investigation of all statements required in the application by the
29 duly constituted police authorities of the locality where such applica-
30 tion is made, including but not limited to such records as may be acces-
31 sible to the division of state police or division of criminal justice
32 services pursuant to section 400.02 of this article. For that purpose,
33 the records of the appropriate office of the department of mental
34 hygiene concerning previous or present mental illness of the applicant
35 shall be available for inspection by the investigating officer of the
36 police authority. In order to ascertain any previous criminal record,
37 the investigating officer shall take the fingerprints and physical
38 descriptive data in quadruplicate of each individual by whom the appli-
39 cation is signed and verified. Two copies of such fingerprints shall be
40 taken on standard fingerprint cards eight inches square, and one copy
41 may be taken on a card supplied for that purpose by the federal bureau
42 of investigation; provided, however, that in the case of a corporate
43 applicant that has already been issued a dealer in firearms license and
44 seeks to operate a firearm dealership at a second or subsequent
45 location, the original fingerprints on file may be used to ascertain any
46 criminal record in the second or subsequent application unless any of
47 the corporate officers have changed since the prior application, in
48 which case the new corporate officer shall comply with procedures
49 governing an initial application for such license. When completed, one
50 standard card shall be forwarded to and retained by the division of
51 criminal justice services in the executive department, at Albany. A
52 search of the files of such division and written notification of the
53 results of the search to the investigating officer shall be made without
54 unnecessary delay. Thereafter, such division shall notify the licensing
55 officer and the executive department, division of state police, Albany,
56 of any criminal record of the applicant filed therein subsequent to the

1 search of its files. A second standard card, or the one supplied by the
2 federal bureau of investigation, as the case may be, shall be forwarded
3 to that bureau at Washington with a request that the files of the bureau
4 be searched and notification of the results of the search be made to the
5 investigating police authority. Of the remaining two fingerprint cards,
6 one shall be filed with the executive department, division of state
7 police, Albany, within ten days after issuance of the license, and the
8 other remain on file with the investigating police authority. No such
9 fingerprints may be inspected by any person other than a peace officer,
10 who is acting pursuant to his special duties, or a police officer,
11 except on order of a judge or justice of a court of record either upon
12 notice to the licensee or without notice, as the judge or justice may
13 deem appropriate. In order to ascertain whether any social media
14 account of an applicant presents any good cause for the denial of a
15 license, the investigating officer shall, after obtaining the appli-
16 cant's consent pursuant to subdivision three of this section, review an
17 applicant's social media accounts for the previous three years and
18 investigate an applicant's posts related to (i) excessive discriminatory
19 content; or (ii) content that is likely to incite or produce a violent
20 action in or towards others. For the purposes of this subdivision,
21 "social media accounts" shall only include Facebook, Youtube, Gab, Twit-
22 ter and Instagram and "excessive" shall mean more than one hundred
23 posts. Upon completion of the investigation, the police authority shall
24 report the results to the licensing officer without unnecessary delay.

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

27 § 400.20 Social media account review prior to the delivery of a rifle or
28 shotgun.

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

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

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

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

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

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

5 § 3. This act shall take effect on the ninetieth day after it shall
6 have become a law. Effective immediately the addition, amendment and/or
7 repeal of any rule or regulation necessary for the implementation of
8 this act on its effective date are authorized to be made and completed
9 on or before such effective date.