

# STATE OF NEW YORK

3829

2021-2022 Regular Sessions

## IN ASSEMBLY

January 28, 2021

Introduced by M. of A. ABINANTI, TAYLOR, PAULIN, BENEDETTO, SEAWRIGHT,  
DARLING -- Multi-Sponsored by -- M. of A. COOK -- read once and  
referred to the Committee on Codes

AN ACT to amend the general business law, the mental hygiene law and the  
penal law, in relation to requiring a mental health evaluation prior  
to the purchase of any firearm, rifle or shotgun

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

Section 1. Section 897 of the general business law is amended by  
adding a new subdivision 1-a to read as follows:

1-a. Before any sale, exchange, or disposal pursuant to this article,  
a purchaser of any firearm, rifle or shotgun shall submit to a mental  
health evaluation and provide the seller with proof of his or her  
approval to purchase such firearm, rifle or shotgun pursuant to subdivi-  
sion (m) of section 7.09 of the mental hygiene law.

§ 2. Subdivision 1 of section 898 of the general business law, as  
amended by chapter 129 of the laws of 2019, is amended and a new subdivi-  
sion 2-a is added to read as follows:

1. In addition to any other requirements pursuant to state and federal  
law, all sales, exchanges or disposals of firearms, rifles or shotguns  
shall be conducted in accordance with this section unless such sale,  
exchange or disposal is conducted by a licensed importer~~[7]~~ or licensed  
manufacturer ~~[or licensed dealer]~~, as those terms are defined in 18 USC  
§ 922, when such sale, exchange or disposal is conducted pursuant to  
that person's federal firearms license ~~[or such sale, exchange or  
disposal is between members of an immediate family]~~. When a sale,  
exchange or disposal is conducted pursuant to a person's federal  
firearms license, before delivering a firearm, rifle or shotgun to any  
person, either (a) the National Instant Criminal Background Check System  
(NICS) or its successor has issued a "proceed" response to the federal  
firearms licensee, or (b) thirty calendar days shall have elapsed since

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

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1 the date the federal firearms licensee contacted NICS to initiate a  
2 national instant criminal background check and NICS has not notified the  
3 federal firearms licensee that the transfer of the firearm, rifle or  
4 shotgun to such person should be denied. [~~For purposes of this section,~~  
5 ~~"immediate family" shall mean spouses, domestic partners, children and~~  
6 ~~step-children.~~]

7 2-a. Before any sale, exchange, or disposal pursuant to this article,  
8 a purchaser of any firearm, rifle or shotgun shall submit to a mental  
9 health evaluation and provide the seller with proof of his or her  
10 approval to purchase such firearm, rifle or shotgun pursuant to subdivi-  
11 sion (m) of section 7.09 of the mental hygiene law.

12 § 3. Section 7.09 of the mental hygiene law is amended by adding a new  
13 subdivision (m) to read as follows:

14 (m) The commissioner shall establish within the office of mental  
15 health an administrative process for the mental health evaluation of any  
16 individual prior to such individual's purchase of any firearm, rifle or  
17 shotgun. The commissioner shall promulgate regulations to establish the  
18 mental health evaluation process, which shall include, but not be limit-  
19 ed to, provisions relating to: (1) the mental health professionals  
20 approved to perform such evaluation, (2) the process for evaluation by  
21 such mental health professionals and (3) the development of a standard-  
22 ized form to be used by the mental health professional performing such  
23 evaluation to approve or deny an individual for purchase of a firearm,  
24 rifle or shotgun. The denial of an individual for purchase of any  
25 firearm, rifle or shotgun may be reviewed de novo pursuant to the  
26 proceedings under article seventy-eight of the civil practice law and  
27 rules.

28 § 4. Subdivision 3 of section 265.17 of the penal law, as added by  
29 chapter 1 of the laws of 2013, is amended and a new subdivision 4 is  
30 added to read as follows:

31 3. Knowing that another person is prohibited by law from possessing a  
32 firearm, rifle or shotgun because of a prior conviction or because of  
33 some other disability which would render him or her ineligible to  
34 lawfully possess a firearm, rifle or shotgun in this state, a person  
35 disposes of a firearm, rifle or shotgun to such other person[~~;~~]; or

36 4. Knowing that a mental health evaluation is required pursuant to  
37 subdivision (m) of section 7.09 of the mental hygiene law, he or she  
38 either purchases or disposes of a firearm, rifle or shotgun without such  
39 mental health evaluation approval for purchase.

40 § 5. This act shall take effect on the one hundred eightieth day after  
41 it shall have become a law. Effective immediately, the addition, amend-  
42 ment and/or repeal of any rule or regulation necessary for the implemen-  
43 tation of this act on its effective date are authorized to be made and  
44 completed on or before such date.