

STATE OF NEW YORK

3841--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. ABINANTI, GOTTFRIED, DICKENS, DINOWITZ, FERNANDEZ, McDONOUGH, FAHY, PICHARDO, SAYEGH, STIRPE, LAVINE, COLTON, GALEF, WILLIAMS, HYNDMAN, TAYLOR, FALL, GRIFFIN, DAVILA, STECK, SMULLEN -- Multi-Sponsored by -- M. of A. NOLAN -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to prohibiting persons named on the No Fly List maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation from obtaining or renewing a license to carry, possess, repair and dispose of firearms

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

1 Section 1. Subdivision 1 of section 400.00 of the penal law, as
2 amended by chapter 1 of the laws of 2013, paragraph (c) as amended by
3 chapter 60 of the laws of 2018, is amended to read as follows:
4 1. Eligibility. No license shall be issued or renewed pursuant to this
5 section except by the licensing officer, and then only after investi-
6 gation and finding that all statements in a proper application for a
7 license are true. No license shall be issued or renewed except for an
8 applicant (a) twenty-one years of age or older, provided, however, that
9 where such applicant has been honorably discharged from the United
10 States army, navy, marine corps, air force or coast guard, or the
11 national guard of the state of New York, no such age restriction shall
12 apply; (b) of good moral character; (c) who has not been convicted
13 anywhere of a felony or a serious offense or who is not the subject of
14 an outstanding warrant of arrest issued upon the alleged commission of a
15 felony or serious offense; (d) who is not a fugitive from justice; (e)
16 who is not an unlawful user of or addicted to any controlled substance
17 as defined in section 21 U.S.C. 802; (f) who being an alien (i) is not
18 illegally or unlawfully in the United States or (ii) has not been admit-
19 ted to the United States under a nonimmigrant visa subject to the excep-

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

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tion 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 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; (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 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 manage his or her own affairs; ~~and~~ (n) who is not named on the No Fly List maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation; and (o) 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.

§ 2. Subdivision 4 of section 400.00 of the penal law, as amended by chapter 242 of the laws of 2019, is amended to read as follows:

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. Where the applicant is domiciled in a foreign state, the investigation shall include inquiry of the foreign state for records

1 concerning the previous or present mental illness of the applicant, and,
2 to the extent necessary for inspection by the investigating officer, the
3 applicant shall execute a waiver of confidentiality of such record in
4 such form as may be required by the foreign state. In order to ascertain
5 any previous criminal record, the investigating officer shall take the
6 fingerprints and physical descriptive data in quadruplicate of each
7 individual by whom the application is signed and verified. Two copies of
8 such fingerprints shall be taken on standard fingerprint cards eight
9 inches square, and one copy may be taken on a card supplied for that
10 purpose by the federal bureau of investigation; provided, however, that
11 in the case of a corporate applicant that has already been issued a
12 dealer in firearms license and seeks to operate a firearm dealership at
13 a second or subsequent location, the original fingerprints on file may
14 be used to ascertain any criminal record in the second or subsequent
15 application unless any of the corporate officers have changed since the
16 prior application, in which case the new corporate officer shall comply
17 with procedures governing an initial application for such license. When
18 completed, one standard card shall be forwarded to and retained by the
19 division of criminal justice services in the executive department, at
20 Albany. A search of the files of such division and written notification
21 of the results of the search to the investigating officer shall be made
22 without unnecessary delay. Thereafter, such division shall notify the
23 licensing officer and the executive department, division of state
24 police, Albany, of any criminal record of the applicant filed therein
25 subsequent to the search of its files. A second standard card, or the
26 one supplied by the federal bureau of investigation, as the case may be,
27 shall be forwarded to that bureau at Washington with a request that the
28 files of the bureau, including the No Fly List maintained by the Terror-
29 ist Screening Center, be searched and notification of the results of the
30 search be made to the investigating police authority. Of the remaining
31 two fingerprint cards, one shall be filed with the executive department,
32 division of state police, Albany, within ten days after issuance of the
33 license, and the other remain on file with the investigating police
34 authority. No such fingerprints may be inspected by any person other
35 than a peace officer, who is acting pursuant to his or her special
36 duties, or a police officer, except on order of a judge or justice of a
37 court of record either upon notice to the licensee or without notice, as
38 the judge or justice may deem appropriate. Upon completion of the inves-
39 tigation, the police authority shall report the results to the licensing
40 officer without unnecessary delay.

41 § 3. This act shall take effect immediately.