

STATE OF NEW YORK

5145

2021-2022 Regular Sessions

IN ASSEMBLY

February 11, 2021

Introduced by M. of A. BENEDETTO, AUBRY, JACKSON, STERN, GRIFFIN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to prohibiting the provision of licenses for firearms to persons on the federal no-fly list or terrorist screening database; to amend the criminal procedure law, in relation to revoking or suspending firearms licenses of persons on the federal no-fly list or terrorist screening database; and to amend the executive law, in relation to requiring the superintendent of state police to search the federal no-fly list or terrorist screening database and report findings to appropriate enforcement agencies

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

1 Section 1. This act shall be known and may be cited as the "Deny
2 Firearms to Dangerous Terrorists Act".

3 § 2. Subdivision 1 of section 400.00 of the penal law, as amended by
4 chapter 1 of the laws of 2013, paragraph (c) as amended by chapter 60 of
5 the laws of 2018, is amended to read as follows:

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

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

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1 illegally or unlawfully in the United States or (ii) has not been admit-
2 ted to the United States under a nonimmigrant visa subject to the excep-
3 tion in 18 U.S.C. 922(y)(2); (g) who has not been discharged from the
4 Armed Forces under dishonorable conditions; (h) who, having been a citi-
5 zen of the United States, has not renounced his or her citizenship; (i)
6 who has stated whether he or she has ever suffered any mental illness;
7 (j) who has not been involuntarily committed to a facility under the
8 jurisdiction of an office of the department of mental hygiene pursuant
9 to article nine or fifteen of the mental hygiene law, article seven
10 hundred thirty or section 330.20 of the criminal procedure law, section
11 four hundred two or five hundred eight of the correction law, section
12 322.2 or 353.4 of the family court act, or has not been civilly confined
13 in a secure treatment facility pursuant to article ten of the mental
14 hygiene law; (k) who has not had a license revoked or who is not under a
15 suspension or ineligibility order issued pursuant to the provisions of
16 section 530.14 of the criminal procedure law or section eight hundred
17 forty-two-a of the family court act; (l) in the county of Westchester,
18 who has successfully completed a firearms safety course and test as
19 evidenced by a certificate of completion issued in his or her name and
20 endorsed and affirmed under the penalties of perjury by a duly author-
21 ized instructor, except that: (i) persons who are honorably discharged
22 from the United States army, navy, marine corps or coast guard, or of
23 the national guard of the state of New York, and produce evidence of
24 official qualification in firearms during the term of service are not
25 required to have completed those hours of a firearms safety course
26 pertaining to the safe use, carrying, possession, maintenance and stor-
27 age of a firearm; and (ii) persons who were licensed to possess a pistol
28 or revolver prior to the effective date of this paragraph are not
29 required to have completed a firearms safety course and test; (m) who
30 has not had a guardian appointed for him or her pursuant to any
31 provision of state law, based on a determination that as a result of
32 marked subnormal intelligence, mental illness, incapacity, condition or
33 disease, he or she lacks the mental capacity to contract or manage his
34 or her own affairs; ~~and~~ (n) concerning whom no good cause exists for
35 the denial of the license; and (o) who has not been listed on the federal
36 no-fly list or terrorist screening database operated by the federal
37 bureau of investigation. No person shall engage in the business of
38 gunsmith or dealer in firearms unless licensed pursuant to this section.
39 An applicant to engage in such business shall also be a citizen of the
40 United States, more than twenty-one years of age and maintain a place of
41 business in the city or county where the license is issued. For such
42 business, if the applicant is a firm or partnership, each member thereof
43 shall comply with all of the requirements set forth in this subdivision
44 and if the applicant is a corporation, each officer thereof shall so
45 comply.

46 § 3. Section 530.14 of the criminal procedure law is amended by adding
47 a new subdivision 3-a to read as follows:

48 3-a. Revocation or suspension of license upon a finding that the hold-
49 er of the firearm license is a suspected terrorist. Where the division
50 of state police finds that a holder of a firearm license is listed on
51 the federal no-fly list or terrorist screening database operated by the
52 federal bureau of investigation, the division of state police shall
53 immediately revoke the holder's license. The individual shall be noti-
54 fied in writing within thirty days of the revocation.

55 § 4. Section 223 of the executive law is amended by adding a new
56 subdivision 3 to read as follows:

1 3. The superintendent shall search the federal no-fly list or terror-
2 ist screening database at least once each year and upon a finding that a
3 firearm license holder is on such a list, the superintendent shall imme-
4 diately notify all appropriate law enforcement agencies and shall direct
5 the state police to remove any and all such firearms until such time
6 that the individual is no longer on the federal no-fly list or terrorist
7 screening database.

8 § 5. Section 223 of the executive law, as amended by section 3-b of
9 part MM of chapter 54 of the laws of 2016, is amended to read as
10 follows:

11 § 223. Duties and powers of the superintendent of state police and of
12 members of the state police. 1. It shall be the duty of the superinten-
13 dent of the state police and of members of the state police to prevent
14 and detect crime and apprehend criminals. They shall also be subject to
15 the call of the governor and are empowered to co-operate with any other
16 department of the state or with local authorities. They shall also
17 collect and analyze information relating to prevention and detection of
18 terrorist threats and terrorist activities throughout the state and
19 share all such information subject to paragraph (g) of subdivision two
20 of section seven hundred nine of this chapter among the division of
21 homeland security and emergency services and local, state, and federal
22 law enforcement agencies to ensure the coordination of appropriate
23 intelligence to assist in the early identification of and response to
24 potential terrorist threats and terrorist activities. They shall have
25 power to arrest, without a warrant, any person committing or attempting
26 to commit within their presence or view a breach of the peace or other
27 violation of law, to serve and execute warrants of arrest or search
28 issued by proper authority and to exercise all other powers of police
29 officers of the state of New York. Any such warrants issued by any
30 magistrate of the state may be executed by them in any part of the state
31 according to the tenor thereof without [~~indorsement~~] endorsement. But
32 they shall not exercise their powers within the limits of any city to
33 suppress rioting and disorder except by direction of the governor or
34 upon the request of the mayor of the city with the approval of the
35 governor. Any member of the rank of sergeant or above may take pre-ar-
36 raignment bail from any defendant in the amounts and under the circum-
37 stances and conditions that police may take bail.

38 2. The superintendent shall search the federal no-fly list or terror-
39 ist screening database at least once each year and upon a finding that a
40 firearm license holder is on such a list, the superintendent shall imme-
41 diately notify all appropriate law enforcement agencies and shall direct
42 the state police to remove any and all such firearms until such time
43 that the individual is no longer on the federal no-fly list or terrorist
44 screening database.

45 § 6. The superintendent of state police and the commissioner of crimi-
46 nal justice services shall promulgate any regulations necessary for the
47 provisions of this act to take effect.

48 § 7. This act shall take effect immediately; provided however, the
49 provisions of this act shall not take effect until the superintendent of
50 state police receives approval to access the information on the federal
51 no-fly list or terrorist screening database from the relevant federal
52 agencies; provided further that the amendments to section 223 of the
53 executive law made by section four of this act shall be subject to the
54 expiration and reversion of such section pursuant to section 3 of chap-
55 ter 428 of the laws of 1999, as amended, when upon such date the
56 provisions of section five of this act shall take effect; provided that

1 the superintendent of state police shall notify the legislative bill
2 drafting commission upon the occurrence of the enactment of the legis-
3 lation provided for in this act in order that the commission may main-
4 tain an accurate and timely effective database of the official text of
5 the laws of the state of New York in furtherance of effectuating the
6 provisions of section 44 of the legislative law and section 70-b of the
7 public officers law.