# 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:**

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

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

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character; (c) who has not been convicted anywhere of a felony or a serious offense or who is not the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense; (d) who is not a fugitive from justice; (e) who is not an unlawful user of or addicted to any controlled substance 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.

LBD08466-01-1

illegally or unlawfully in the United States or (ii) has not been admitted to the United States under a nonimmigrant visa subject to the exception 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) concerning whom no good cause exists for the denial of the license**; and (o) who has not been listed on the federal no-fly list or terrorist screening database operated by the federal bureau of investigation**. 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.

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

**3-a. Revocation or suspension of license upon a finding that the holder of the firearm license is a suspected terrorist. Where the division of state police finds that a holder of a firearm license is listed on the federal no-fly list or terrorist screening database operated by the federal bureau of investigation, the division of state police shall immediately revoke the holder's license. The individual shall be notified in writing within thirty days of the revocation.**

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

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

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

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

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

§ 6. The superintendent of state police and the commissioner of criminal justice services shall promulgate any regulations necessary for the provisions of this act to take effect.

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

the superintendent of state police shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in this act in order that the commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.