STATE OF NEW YORK

1605

2021-2022 Regular Sessions

IN SENATE

January 14, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed 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 Assembly, 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 subdivision (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 subdivision 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[~~,~~] **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 the date the federal firearms licensee contacted NICS to initiate a

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

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

2-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 subdivision (m) of section 7.09 of the mental hygiene law.

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

(m) The commissioner shall establish within the office of mental health an administrative process for the mental health evaluation of any individual prior to such individual's purchase of any firearm, rifle or shotgun. The commissioner shall promulgate regulations to establish the mental health evaluation process, which shall include, but not be limited to, provisions relating to: (1) the mental health professionals approved to perform such evaluation, (2) the process for evaluation by such mental health professionals and (3) the development of a standardized form to be used by the mental health professional performing such evaluation to approve or deny an individual for purchase of a firearm, rifle or shotgun. The denial of an individual for purchase of any firearm, rifle or shotgun may be reviewed de novo pursuant to the proceedings under article seventy-eight of the civil practice law and rules.

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

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

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

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