

STATE OF NEW YORK

449

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. PAULIN, DINOWITZ, GALEF, DICKENS, ABINANTI, SEAWRIGHT, GOTTFRIED, L. ROSENTHAL, ENGLEBRIGHT -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the general business law, in relation to establishing a waiting period before a firearm, shotgun or rifle may be delivered to a person

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

1 Section 1. Subdivision 12 of section 400.00 of the penal law, as
2 amended by chapter 129 of the laws of 2019, is amended to read as
3 follows:
4 12. Records required of gunsmiths and dealers in firearms. Any person
5 licensed as gunsmith or dealer in firearms shall keep a record book
6 approved as to form, except in the city of New York, by the superinten-
7 dent of state police. In the record book shall be entered at the time of
8 every transaction involving a firearm the date, name, age, occupation
9 and residence of any person from whom a firearm is received or to whom a
10 firearm is delivered, and the calibre, make, model, manufacturer's name
11 and serial number, or if none, any other distinguishing number or iden-
12 tification mark on such firearm. Before delivering a firearm to any
13 person, the licensee shall require him to produce either a license valid
14 under this section to carry or possess the same, or proof of lawful
15 authority as an exempt person pursuant to section 265.20 of this chapter
16 and [~~either (a) the National Instant Criminal Background Check System~~
17 ~~(NICS) or its successor has issued a "proceed" response to the licensee,~~
18 ~~or (b) thirty~~] ten calendar days have elapsed since the date the licen-
19 see contacted [NICS] the National Instant Criminal Background Check
20 System (NICS) or its successor to initiate a national instant criminal
21 background check [~~and NICS has not notified the licensee that the trans-~~
22 ~~fer of the firearm to such person should be denied~~]. In addition, before

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

LBD01959-01-1

1 delivering a firearm to a peace officer, the licensee shall verify that
2 person's status as a peace officer with the division of state police.
3 After completing the foregoing, the licensee shall remove and retain the
4 attached coupon and enter in the record book the date of such license,
5 number, if any, and name of the licensing officer, in the case of the
6 holder of a license to carry or possess, or the shield or other number,
7 if any, assignment and department, unit or agency, in the case of an
8 exempt person. The original transaction report shall be forwarded to the
9 division of state police within ten days of delivering a firearm to any
10 person, and a duplicate copy shall be kept by the licensee. The super-
11 intendent of state police may designate that such record shall be
12 completed and transmitted in electronic form. A dealer may be granted a
13 waiver from transmitting such records in electronic form if the super-
14 intendent determines that such dealer is incapable of such transmission
15 due to technological limitations that are not reasonably within the
16 control of the dealer, or other exceptional circumstances demonstrated
17 by the dealer, pursuant to a process established in regulation, and at
18 the discretion of the superintendent. Records assembled or collected
19 for purposes of inclusion in the database created pursuant to section
20 400.02 of this article shall not be subject to disclosure pursuant to
21 article six of the public officers law. The record book shall be main-
22 tained on the premises mentioned and described in the license and shall
23 be open at all reasonable hours for inspection by any peace officer,
24 acting pursuant to his special duties, or police officer. In the event
25 of cancellation or revocation of the license for gunsmith or dealer in
26 firearms, or discontinuance of business by a licensee, such record book
27 shall be immediately surrendered to the licensing officer in the city of
28 New York, and in the counties of Nassau and Suffolk, and elsewhere in
29 the state to the executive department, division of state police.

30 § 2. Section 400.20 of the penal law, as added by chapter 129 of the
31 laws of 2019, is amended to read as follows:

32 § 400.20 Waiting period in connection with the sale or transfer of a
33 rifle or shotgun.

34 When a national instant criminal background check is required pursuant
35 to state or federal law to be conducted through the National Instant
36 Criminal Background Check System (NICS) or its successor in connection
37 with the sale or transfer of a rifle or shotgun to any person, before
38 delivering a rifle or shotgun to such person, [~~either (a) NICS has
39 issued a "proceed" response to the seller or transferor, or (b) thirty
40 calendar~~] ten business days shall have elapsed since the date the seller
41 or transferor contacted NICS to initiate a national instant criminal
42 background check [~~and NICS has not notified the seller or transferor
43 that the transfer of the rifle or shotgun to such person should be
44 denied~~].

45 § 3. Subdivision 1 of section 897 of the general business law, as
46 amended by chapter 129 of the laws of 2019, is amended to read as
47 follows:

48 1. A national instant criminal background check shall be conducted and
49 no person shall sell or transfer a firearm, rifle or shotgun at a gun
50 show, except in accordance with the provisions of 18 U.S.C. 922(t),
51 provided that before delivering a firearm, rifle or shotgun to any
52 person, [~~either (a) the National Instant Criminal Background Check
53 System (NICS) or its successor has issued a "proceed" response to the
54 seller or transferor, or (b) thirty calendar~~] ten business days shall
55 have elapsed since the date the seller or transferor contacted [~~NICS~~]
56 the National Instant Criminal Background Check System (NICS) or its

1 successor to initiate a national instant criminal background check [~~and~~
2 ~~NICS has not notified the seller or transferor that the transfer of the~~
3 ~~firearm, rifle or shotgun to such person should be denied~~].

4 § 4. Subdivisions 1 and 2 of section 898 of the general business law,
5 as amended by chapter 129 of the laws of 2019, are amended to read as
6 follows:

7 1. In addition to any other requirements pursuant to state and federal
8 law, all sales, exchanges or disposals of firearms, rifles or shotguns
9 shall be conducted in accordance with this section unless such sale,
10 exchange or disposal is conducted by a licensed importer, licensed
11 manufacturer or licensed dealer, as those terms are defined in 18 USC §
12 922, when such sale, exchange or disposal is conducted pursuant to that
13 person's federal firearms license or such sale, exchange or disposal is
14 between members of an immediate family. When a sale, exchange or
15 disposal is conducted pursuant to a person's federal firearms license,
16 before delivering a firearm, rifle or shotgun to any person, [~~either (a)~~
17 ~~the National Instant Criminal Background Check System (NICS) or its~~
18 ~~successor has issued a "proceed" response to the federal firearms licen-~~
19 ~~see, or (b) thirty calendar~~] ten business days shall have elapsed since
20 the date the federal firearms licensee contacted [~~NICS~~] the National
21 Instant Criminal Background Check System (NICS) or its successor to
22 initiate a national instant criminal background check [~~and NICS has not~~
23 ~~notified the federal firearms licensee that the transfer of the firearm,~~
24 ~~rifle or shotgun to such person should be denied~~]. For purposes of this
25 section, "immediate family" shall mean spouses, domestic partners, chil-
26 dren and step-children.

27 2. Before any sale, exchange or disposal pursuant to this article, a
28 national instant criminal background check must be completed by a dealer
29 who consents to conduct such check, and upon completion of such back-
30 ground check, shall complete a document, the form of which shall be
31 approved by the superintendent of state police, that identifies and
32 confirms that such check was performed. Before a dealer who consents to
33 conduct a national instant criminal background check delivers a firearm,
34 rifle or shotgun to any person, [~~either (a) NICS issued a "proceed"~~
35 ~~response to the dealer, or (b) thirty calendar~~] ten business days shall
36 have elapsed since the date the dealer contacted [~~NICS~~] the National
37 Instant Criminal Background Check System (NICS) or its successor to
38 initiate a national instant criminal background check [~~and NICS has not~~
39 ~~notified the dealer that the transfer of the firearm, rifle or shotgun~~
40 ~~to such person should be denied~~].

41 § 5. This act shall take effect on the sixtieth day after it shall
42 have become a law.