

# STATE OF NEW YORK

---

5872

2021-2022 Regular Sessions

## IN SENATE

March 19, 2021

---

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the penal law, in relation to the exchange or transfer of firearms, rifles and shotguns pursuant to a decedent's will and/or probate order

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

1 Section 1. Subdivision 1 of section 898 of the general business law,  
2 as amended by chapter 129 of the laws of 2019, is amended to read as  
3 follows:

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

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

LBD10432-01-1

1 § 2. Paragraph (h) of subdivision 22 of section 265.00 of the penal  
2 law, as added by chapter 1 of the laws of 2013, is amended to read as  
3 follows:

4 (h) Any weapon defined in paragraph (e) or (f) of this subdivision and  
5 any large capacity ammunition feeding device that was legally possessed  
6 by an individual prior to the enactment of the chapter of the laws of  
7 two thousand thirteen which added this paragraph, may only be sold to,  
8 exchanged with or disposed of to a purchaser authorized to possess such  
9 weapons or to an individual or entity outside of the state provided that  
10 any such transfer to an individual or entity outside of the state must  
11 be reported to the entity wherein the weapon is registered within seven-  
12 ty-two hours of such transfer. Such permissible sale, exchange or  
13 disposal of any weapon defined in paragraph (e) or (f) of this subdivi-  
14 sion that was legally possessed by an individual prior to the enactment  
15 of chapter one of the laws of two thousand thirteen which added this  
16 paragraph shall also include a member of the transferor's immediate  
17 family, who resides either within or outside the state of New York, and  
18 shall include transfers made pursuant to a decedent's will and/or  
19 probate order, directing such exchange or transfer to a person who qual-  
20 ifies under this section, whether that person resides inside or outside  
21 the state of New York. Such permissible sale, exchange or disposal of  
22 any weapon defined in paragraph (e) or (f) of this subdivision, to an  
23 immediate family member as defined in section eight hundred ninety-eight  
24 of the general business law, and such permissible transfers made pursu-  
25 ant to a decedent's will and/or probate order, directing such exchange  
26 or transfer to a person who qualifies under this section, shall not  
27 include transfers of large capacity ammunition feeding devices as the  
28 expression, 'large capacity ammunition feeding device' is defined in  
29 subdivision twenty-three of this section. An individual who transfers  
30 any such weapon or large capacity ammunition device to an individual  
31 inside New York state or without complying with the provisions of this  
32 paragraph shall be guilty of a class A misdemeanor unless such large  
33 capacity ammunition feeding device, the possession of which is made  
34 illegal by the chapter of the laws of two thousand thirteen which added  
35 this paragraph, is transferred within one year of the effective date of  
36 the chapter of the laws of two thousand thirteen which added this para-  
37 graph.

38 § 3. This act shall take effect immediately.