

# STATE OF NEW YORK

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3855

2023-2024 Regular Sessions

## IN ASSEMBLY

February 8, 2023

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Introduced by M. of A. JACKSON -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the environmental conservation law, in relation to establishing additional requirements to purchase a firearm, shotgun or rifle

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

1 Section 1. Subdivisions 1 and 4-c of section 400.00 of the penal law,  
2 subdivision 1 as separately amended by chapters 371 and 669 of the laws  
3 of 2022, and subdivision 4-c as amended by chapter 371 of the laws of  
4 2022, are amended to read as follows:

5 1. Eligibility. No license shall be issued or renewed pursuant to this  
6 section except by the licensing officer, and then only after investi-  
7 gation and finding that all statements in a proper application for a  
8 license are true. No license shall be issued or renewed except for an  
9 applicant (a) twenty-one years of age or older, provided, however, that  
10 where such applicant has been honorably discharged from the United  
11 States army, navy, marine corps, air force or coast guard, or the  
12 national guard of the state of New York, no such age restriction shall  
13 apply; (b) of good moral character, which, for the purposes of this  
14 article, shall mean having the essential character, temperament and  
15 judgement necessary to be entrusted with a weapon and to use it only in  
16 a manner that does not endanger oneself or others; (c) who has not been  
17 convicted anywhere of a felony or a serious offense or who is not the  
18 subject of an outstanding warrant of arrest issued upon the alleged  
19 commission of a felony or serious offense; (d) who is not a fugitive  
20 from justice; (e) who is not an unlawful user of or addicted to any  
21 controlled substance as defined in section 21 U.S.C. 802 and has  
22 provided notarized proof of a passed drug test by a licensed physician;  
23 (f) who being a noncitizen (i) is not illegally or unlawfully in the  
24 United States or (ii) has not been admitted to the United States under a

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

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1 nonimmigrant visa subject to the exception in 18 U.S.C. 922(y)(2); (g)  
2 who has not been discharged from the Armed Forces under dishonorable  
3 conditions; (h) who, having been a citizen of the United States, has not  
4 renounced his or her citizenship; (i) who has stated whether he or she  
5 has ever suffered any mental illness and has provided notarized proof of  
6 a passed mental health evaluation by a licensed physician; (j) who has  
7 not been involuntarily committed to a facility under the jurisdiction of  
8 an office of the department of mental hygiene pursuant to article nine  
9 or fifteen of the mental hygiene law, article seven hundred thirty or  
10 section 330.20 of the criminal procedure law or substantially similar  
11 laws of any other state, section four hundred two or five hundred eight  
12 of the correction law, section 322.2 or 353.4 of the family court act,  
13 has not been civilly confined in a secure treatment facility pursuant to  
14 article ten of the mental hygiene law, or has not been the subject of a  
15 report made pursuant to section 9.46 of the mental hygiene law; (k) who  
16 has not had a license revoked or who is not under a suspension or inel-  
17 igibility order issued pursuant to the provisions of section 530.14 of  
18 the criminal procedure law or section eight hundred forty-two-a of the  
19 family court act; (l) in the county of Westchester, who has successfully  
20 completed a firearms safety course and test as evidenced by a certifi-  
21 cate of completion issued in his or her name and endorsed and affirmed  
22 under the penalties of perjury by a duly authorized instructor, except  
23 that: (i) persons who are honorably discharged from the United States  
24 army, navy, marine corps or coast guard, or of the national guard of the  
25 state of New York, and produce evidence of official qualification in  
26 firearms during the term of service are not required to have completed  
27 those hours of a firearms safety course pertaining to the safe use,  
28 carrying, possession, maintenance and storage of a firearm; (ii) persons  
29 who were licensed to possess a pistol or revolver prior to ~~[the effec-~~  
30 ~~tive date of this paragraph]~~ July first, two thousand twenty-two are not  
31 required to have completed a firearms safety course and test, provided,  
32 however, persons with a license issued under paragraph (f) of subdivi-  
33 sion two of this section prior to ~~[the effective date of the laws of two~~  
34 ~~thousand twenty-two which amended this paragraph]~~ July first, two thou-  
35 sand twenty-two shall be required to complete the training required by  
36 subdivision nineteen of this section prior to the recertification of  
37 such license; and (iii) persons applying for a license under paragraph  
38 (f) of subdivision two of this section on or after ~~[the effective date~~  
39 ~~of the chapter of the laws of two thousand twenty-two which amended this~~  
40 ~~paragraph]~~ July first, two thousand twenty-two who shall be required to  
41 complete the training required under subdivision nineteen of this  
42 section for such license; (m) who has not had a guardian appointed for  
43 him or her pursuant to any provision of state law, based on a determi-  
44 nation that as a result of marked subnormal intelligence, mental  
45 illness, incompetency, incapacity, condition or disease, he or she lacks  
46 the mental capacity to contract or manage his or her own affairs; (n)  
47 for a license issued under paragraph (f) of subdivision two of this  
48 section, that the applicant has not been convicted within five years of  
49 the date of the application of any of the following: (i) assault in the  
50 third degree, as defined in section 120.00 of this chapter; (ii) misde-  
51 meanor driving while intoxicated, as defined in section eleven hundred  
52 ninety-two of the vehicle and traffic law; or (iii) menacing, as defined  
53 in section 120.15 of this chapter; ~~[and]~~ (o) for a license issued under  
54 paragraph (f) of subdivision two of this section, the applicant shall  
55 meet in person with the licensing officer for an interview and shall, in  
56 addition to any other information or forms required by the license

1 application submit to the licensing officer the following information:  
2 (i) names and contact information for the applicant's current spouse, or  
3 domestic partner, any other adults residing in the applicant's home,  
4 including any adult children of the applicant, and whether or not there  
5 are minors residing, full time or part time, in the applicant's home;  
6 (ii) names and contact information of no less than four character refer-  
7 ences who can attest to the applicant's good moral character and that  
8 such applicant has not engaged in any acts, or made any statements that  
9 suggest they are likely to engage in conduct that would result in harm  
10 to themselves or others; (iii) certification of completion of the train-  
11 ing required in subdivision nineteen of this section; (iv) a list of  
12 former and current social media accounts of the applicant from the past  
13 three years to confirm the information regarding the applicants charac-  
14 ter and conduct as required in subparagraph (ii) of this paragraph; and  
15 (v) such other information required by the licensing officer that is  
16 reasonably necessary and related to the review of the licensing applica-  
17 tion; (p) who has successfully completed live firing instruction and a  
18 test with at least ninety percent accuracy at a shooting range using the  
19 type of firearm he or she anticipates purchasing, possessing or acquir-  
20 ing; and (q) has purchased a safe storage depository for his or her  
21 firearms and ammunition as evidenced by a receipt of such purchase. For  
22 the purposes of this subdivision, "safe storage depository" shall mean a  
23 safe or other secure container which, when locked, is incapable of being  
24 opened without the key, combination or other unlocking mechanism and is  
25 capable of preventing an unauthorized person from obtaining access to  
26 and possession of the weapon or ammunition contained therein.

27 4-c. [~~Westchester county firearms~~] Firearms safety course certificate.  
28 [~~In the county of Westchester, at~~] At the time of application, the  
29 licensing officer to which the license application is made shall provide  
30 a copy of the five hour safety course booklet to each license applicant.  
31 Before such license is issued, such licensing officer shall require that  
32 the applicant submit a certificate of successful completion of a five  
33 hour firearms safety course and test issued in his or her name and  
34 endorsed and affirmed under the penalties of perjury by a duly author-  
35 ized instructor.

36 § 2. The penal law is amended by adding a new section 400.25 to read  
37 as follows:

38 § 400.25 Purchase of rifles and shotguns.

39 1. Prior to the purchase of any rifle or shotgun, a person shall apply  
40 for a hunting license pursuant to article eleven of the environmental  
41 conservation law.

42 2. In addition to the requirements required by article eleven of the  
43 environmental conservation law, no hunting license for the purchase of a  
44 rifle or shotgun shall be issued except for an applicant: (a) who is not  
45 an unlawful user of or addicted to any controlled substance as defined  
46 in section 21 U.S.C. 802 and has provided notarized proof of a passed  
47 drug test by a licensed physician; (b) who has stated whether he or she  
48 has ever suffered any mental illness and has provided notarized proof of  
49 a passed mental health evaluation by a licensed physician; (c) who has  
50 successfully completed a five hour firearms safety course and test as  
51 evidenced by a certificate of completion issued in his or her name and  
52 endorsed and affirmed under the penalties of perjury by a duly author-  
53 ized instructor, except that persons who are honorably discharged from  
54 the United States army, navy, marine corps or coast guard, or of the  
55 national guard of the state of New York, and produce evidence of offi-  
56 cial qualification in firearms during the term of service are not

1 required to have completed those hours of a firearms safety course  
2 pertaining to the safe use, carrying, possession, maintenance and stor-  
3 age of firearms, shotguns and rifles; (d) who has successfully completed  
4 live firing instruction and a test with at least ninety percent accuracy  
5 at a shooting range using the type of rifle or shotgun he or she antic-  
6 ipates purchasing, possessing or acquiring; (e) who does not have a  
7 criminal record which would otherwise disqualify him or her from  
8 purchasing a shotgun or rifle; and (f) has purchased a safe storage  
9 depository for his or her rifle or shotgun and ammunition as evidenced  
10 by a receipt of such purchase. For the purposes of this section, "safe  
11 storage depository" shall mean a safe or other secure container which,  
12 when locked, is incapable of being opened without the key, combination  
13 or other unlocking mechanism and is capable of preventing an unauthor-  
14 ized person from obtaining access to and possession of the weapon or  
15 ammunition contained therein.

16 3. Before a license is issued, there shall be an investigation of all  
17 statements related to the requirements of this section by the duly  
18 constituted police authorities of the locality where such application is  
19 made. For that purpose, the records of the appropriate office of the  
20 department of mental hygiene concerning previous or present mental  
21 illness of the applicant shall be available for inspection by the inves-  
22 tigating officer of the police authority. In order to ascertain any  
23 previous criminal record, the investigating officer shall take the fing-  
24 erprints and physical descriptive data in quadruplicate of each individ-  
25 ual by whom the application is made. Two copies of such fingerprints  
26 shall be taken on standard fingerprint cards eight inches square, and  
27 one copy may be taken on a card supplied for that purpose by the federal  
28 bureau of investigation. When completed, one standard card shall be  
29 forwarded to and retained by the division of criminal justice services  
30 in the executive department, at Albany. A search of the files of such  
31 division and written notification of the results of the search to the  
32 investigating officer shall be made without unnecessary delay. Thereaft-  
33 er, such division shall notify the issuing officer and the executive  
34 department, division of state police, Albany, of any criminal record of  
35 the applicant filed therein subsequent to the search of its files. A  
36 second standard card, or the one supplied by the federal bureau of  
37 investigation, as the case may be, shall be forwarded to that bureau at  
38 Washington with a request that the files of the bureau be searched and  
39 notification of the results of the search be made to the investigating  
40 police authority. Of the remaining two fingerprint cards, one shall be  
41 filed with the executive department, division of state police, Albany,  
42 within ten days after issuance of the license, and the other remain on  
43 file with the investigating police authority. No such fingerprints may  
44 be inspected by any person other than a peace officer, who is acting  
45 pursuant to his special duties, or a police officer, except on order of  
46 a judge or justice of a court of record either upon notice to the licen-  
47 see or without notice, as the judge or justice may deem appropriate.  
48 Upon completion of the investigation, the police authority shall report  
49 the results to the issuing officer without unnecessary delay.

50 4. In acting upon an application, the issuing officer shall either  
51 deny the application for reasons specifically and concisely stated in  
52 writing or grant the application and issue the license applied for.

53 § 3. Subdivision 1 of section 11-0701 of the environmental conserva-  
54 tion law is amended by adding a new paragraph c to read as follows:

1 c. entitles the holder to purchase a rifle or shotgun provided such  
2 holder meets the requirements of section 400.25 of the penal law or any  
3 other related provision of law.

4 § 4. Subdivision 3 of section 11-0713 of the environmental conserva-  
5 tion law is amended by adding a new paragraph a-1 to read as follows:

6 a-1. The issuing officer shall not issue a hunting license for the  
7 purchase of a rifle or shotgun to any person unless the applicant  
8 presents proof that he or she meets the requirements of section 400.25  
9 of the penal law.

10 § 5. This act shall take effect on the one hundred eightieth day after  
11 it shall have become a law. Effective immediately the addition, amend-  
12 ment and/or repeal of any rule or regulation necessary for the implemen-  
13 tation of this act on its effective date is authorized to be made and  
14 completed on or before such effective date.