

# STATE OF NEW YORK

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7873

2023-2024 Regular Sessions

## IN ASSEMBLY

July 7, 2023

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

AN ACT to amend the penal law, in relation to prohibiting persons named on the No Fly List maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation from obtaining or renewing a license to carry, possess, repair and dispose of firearms

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

1 Section 1. Subdivision 1 of section 400.00 of the penal law, as separately amended by chapters 371 and 669 of the laws of 2022, is amended  
2 to read as follows:

3  
4 1. Eligibility. No license shall be issued or renewed pursuant to this  
5 section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a  
6 license are true. No license shall be issued or renewed except for an  
7 applicant (a) twenty-one years of age or older, provided, however, that  
8 where such applicant has been honorably discharged from the United  
9 States army, navy, marine corps, air force or coast guard, or the  
10 national guard of the state of New York, no such age restriction shall  
11 apply; (b) of good moral character, which, for the purposes of this  
12 article, shall mean having the essential character, temperament and  
13 judgement necessary to be entrusted with a weapon and to use it only in  
14 a manner that does not endanger oneself or others; (c) who has not been  
15 convicted anywhere of a felony or a serious offense or who is not the  
16 subject of an outstanding warrant of arrest issued upon the alleged  
17 commission of a felony or serious offense; (d) who is not a fugitive  
18 from justice; (e) who is not an unlawful user of or addicted to any  
19 controlled substance as defined in section 21 U.S.C. 802; (f) who being  
20 a noncitizen (i) is not illegally or unlawfully in the United States or  
21 (ii) has not been admitted to the United States under a nonimmigrant  
22 visa subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not  
23

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

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1 been discharged from the Armed Forces under dishonorable conditions; (h)  
2 who, having been a citizen of the United States, has not renounced his  
3 or her citizenship; (i) who has stated whether he or she has ever  
4 suffered any mental illness; (j) who has not been involuntarily commit-  
5 ted to a facility under the jurisdiction of an office of the department  
6 of mental hygiene pursuant to article nine or fifteen of the mental  
7 hygiene law, article seven hundred thirty or section 330.20 of the crim-  
8 inal procedure law or substantially similar laws of any other state,  
9 section four hundred two or five hundred eight of the correction law,  
10 section 322.2 or 353.4 of the family court act, has not been civilly  
11 confined in a secure treatment facility pursuant to article ten of the  
12 mental hygiene law, or has not been the subject of a report made pursu-  
13 ant to section 9.46 of the mental hygiene law; (k) who has not had a  
14 license revoked or who is not under a suspension or ineligibility order  
15 issued pursuant to the provisions of section 530.14 of the criminal  
16 procedure law or section eight hundred forty-two-a of the family court  
17 act; (l) in the county of Westchester, who has successfully completed a  
18 firearms safety course and test as evidenced by a certificate of  
19 completion issued in his or her name and endorsed and affirmed under the  
20 penalties of perjury by a duly authorized instructor, except that: (i)  
21 persons who are honorably discharged from the United States army, navy,  
22 marine corps or coast guard, or of the national guard of the state of  
23 New York, and produce evidence of official qualification in firearms  
24 during the term of service are not required to have completed those  
25 hours of a firearms safety course pertaining to the safe use, carrying,  
26 possession, maintenance and storage of a firearm; (ii) persons who were  
27 licensed to possess a pistol or revolver prior to the effective date of  
28 this paragraph are not required to have completed a firearms safety  
29 course and test, provided, however, persons with a license issued under  
30 paragraph (f) of subdivision two of this section prior to the effective  
31 date of the laws of two thousand twenty-two which amended this paragraph  
32 shall be required to complete the training required by subdivision nine-  
33 teen of this section prior to the recertification of such license; and  
34 (iii) persons applying for a license under paragraph (f) of subdivision  
35 two of this section on or after the effective date of the chapter of the  
36 laws of two thousand twenty-two which amended this paragraph who shall  
37 be required to complete the training required under subdivision nineteen  
38 of this section for such license; (m) who has not had a guardian  
39 appointed for him or her pursuant to any provision of state law, based  
40 on a determination that as a result of marked subnormal intelligence,  
41 mental illness, incompetency, incapacity, condition or disease, he or  
42 she lacks the mental capacity to contract or manage his or her own  
43 affairs; (n) who is not named on the No Fly List maintained by the  
44 Terrorist Screening Center administered by the Federal Bureau of Inves-  
45 tigation; (o) for a license issued under paragraph (f) of subdivision  
46 two of this section, that the applicant has not been convicted within  
47 five years of the date of the application of any of the following: (i)  
48 assault in the third degree, as defined in section 120.00 of this chap-  
49 ter; (ii) misdemeanor driving while intoxicated, as defined in section  
50 eleven hundred ninety-two of the vehicle and traffic law; or (iii)  
51 menacing, as defined in section 120.15 of this chapter; and ~~(+e)~~ (p)  
52 for a license issued under paragraph (f) of subdivision two of this  
53 section, the applicant shall meet in person with the licensing officer  
54 for an interview and shall, in addition to any other information or  
55 forms required by the license application submit to the licensing offi-  
56 cer the following information: (i) names and contact information for the

1 applicant's current spouse, or domestic partner, any other adults resid-  
2 ing in the applicant's home, including any adult children of the appli-  
3 cant, and whether or not there are minors residing, full time or part  
4 time, in the applicant's home; (ii) names and contact information of no  
5 less than four character references who can attest to the applicant's  
6 good moral character and that such applicant has not engaged in any  
7 acts, or made any statements that suggest they are likely to engage in  
8 conduct that would result in harm to themselves or others; (iii) certif-  
9 ication of completion of the training required in subdivision nineteen  
10 of this section; (iv) a list of former and current social media accounts  
11 of the applicant from the past three years to confirm the information  
12 regarding the applicants character and conduct as required in subpara-  
13 graph (ii) of this paragraph; and (v) such other information required by  
14 the licensing officer that is reasonably necessary and related to the  
15 review of the licensing application.

16 § 2. Subdivision 4 of section 400.00 of the penal law, as amended by  
17 chapter 371 of the laws of 2022, is amended to read as follows:

18 4. Investigation. Before a license is issued or renewed, there shall  
19 be an investigation of all statements required in the application by the  
20 duly constituted police authorities of the locality where such applica-  
21 tion is made, including but not limited to such records as may be acces-  
22 sible to the division of state police or division of criminal justice  
23 services pursuant to section 400.02 of this article. For that purpose,  
24 the records of the appropriate office of the department of mental  
25 hygiene concerning previous or present mental illness of the applicant  
26 shall be available for inspection by the investigating officer of the  
27 police authority. Where the applicant is domiciled in a foreign state,  
28 the investigation shall include inquiry of the foreign state for records  
29 concerning the previous or present mental illness of the applicant, and,  
30 to the extent necessary for inspection by the investigating officer, the  
31 applicant shall execute a waiver of confidentiality of such record in  
32 such form as may be required by the foreign state. In order to ascertain  
33 any previous criminal record, the investigating officer shall take the  
34 fingerprints and physical descriptive data in quadruplicate of each  
35 individual by whom the application is signed and verified. Two copies of  
36 such fingerprints shall be taken on standard fingerprint cards eight  
37 inches square, and one copy may be taken on a card supplied for that  
38 purpose by the federal bureau of investigation; provided, however, that  
39 in the case of a corporate applicant that has already been issued a  
40 dealer in firearms license and seeks to operate a firearm dealership at  
41 a second or subsequent location, the original fingerprints on file may  
42 be used to ascertain any criminal record in the second or subsequent  
43 application unless any of the corporate officers have changed since the  
44 prior application, in which case the new corporate officer shall comply  
45 with procedures governing an initial application for such license. When  
46 completed, one standard card shall be forwarded to and retained by the  
47 division of criminal justice services in the executive department, at  
48 Albany. A search of the files of such division and written notification  
49 of the results of the search shall be forwarded to the investigating  
50 officer and shall be made without unnecessary delay. Thereafter, such  
51 division shall notify the licensing officer and the executive depart-  
52 ment, division of state police, Albany, of any criminal record of the  
53 applicant filed therein subsequent to the search of its files. A second  
54 standard card, or the one supplied by the federal bureau of investi-  
55 gation, as the case may be, shall be forwarded to that bureau at Wash-  
56 ington with a request that the files of the bureau be searched and

1 notification of the results of the search be made to the investigating  
2 police authority, including the No Fly List maintained by the Terrorist  
3 Screening Center. Of the remaining two fingerprint cards, one shall be  
4 filed with the executive department, division of state police, Albany,  
5 within ten days after issuance of the license, and the other shall  
6 remain on file with the investigating police authority. No such finger-  
7 prints may be inspected by any person other than a peace officer, who is  
8 acting pursuant to his or her special duties, or a police officer,  
9 except on order of a judge or justice of a court of record either upon  
10 notice to the licensee or without notice, as the judge or justice may  
11 deem appropriate. Upon completion of the investigation, the police  
12 authority shall report the results to the licensing officer without  
13 unnecessary delay.

14 § 3. This act shall take effect immediately.