STATE OF NEW YORK

8421

2023-2024 Regular Sessions

IN ASSEMBLY

December 29, 2023

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

AN ACT to amend the executive law, in relation to national instant criminal background checks; and to repeal certain provisions of the penal law, the executive law and the state finance law relating thereto

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

Section 1. Subdivision 2 of section 400.02 of the penal law is REPEALED.

§ 2. Subdivisions 1, 2, 3 and 4 of section 228 of the executive law, as added by chapter 371 of the laws of 2022, are amended to read as follows:

1. (a) The division is hereby authorized and directed to serve as a state point of contact for implementation of 18 U.S.C. sec. 922 (t), all federal regulations and applicable guidelines adopted pursuant thereto, and the national instant criminal background check system for the purchase of firearms [~~and ammunition~~].

(b) Upon receiving a request from a licensed dealer pursuant to section eight hundred ninety-six or eight hundred ninety-eight of the general business law, the division shall initiate a background check by (i) contacting the National Instant Criminal Background Check System (NICS) or its successor to initiate a national instant criminal background check, and (ii) consulting the statewide firearms license and records database established pursuant to subdivision three of this section, in order to determine if the purchaser is a person described in sections 400.00 and 400.03 of the penal law, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm [~~or ammunition~~].

2. (a) The division shall report the name, date of birth and physical description of any person prohibited from possessing a firearm pursuant

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

LBD13175-03-3

to 18 U.S.C. sec. 922(g) or (n) to the national instant criminal background check system index, denied persons files.

(b) Information provided pursuant to this section shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state law regarding the purchase of firearms [~~or ammunition~~].

(c) Any background check conducted by the division, or delegated authority, of any applicant for a permit, firearms identification card, license, [~~ammunition sale,~~] or registration, in accordance with the requirements of section 400.00 of the penal law, shall not be considered a public record and shall not be disclosed to any person not authorized by law or this chapter to have access to such background check, including the applicant. Any application for a permit, firearms identification card, [~~ammunition sale,~~] or license, and any document reflecting the issuance or denial of such permit, firearms identification card, or license, and any permit, firearms identification card, license, certification, certificate, form of register, or registration statement, maintained by any state or municipal governmental agency, shall not be considered a public record and shall not be disclosed to any person not authorized by law to have access to such documentation, including the applicant, except on the request of persons acting in their governmental capacities for purposes of the administration of justice.

3. The division shall create and maintain a statewide firearms license and records database which shall contain records held by the division and any records that it is authorized to request from the division of criminal justice services, office of court administration, New York state department of health, New York state office of mental health, and other local entities. Such database shall be used for the certification and recertification of firearm permits under section 400.02 of the penal law, **and** assault weapon registration under subdivision sixteen-a of section 400.00 of the penal law[~~, and ammunition sales under section 400.03 of the penal law~~]. Such database shall also be used to initiate a national instant criminal background check pursuant to subdivision one of this section upon request from a licensed dealer. The division may create and maintain additional databases as needed to complete background checks pursuant to the requirements of this section. **The cost of any database or databases created shall be borne entirely by the state and shall not be passed on to consumers or retailers in the form of new fees or additional taxes.**

4. The superintendent shall promulgate a plan to coordinate background checks for firearm [~~and ammunition~~] purchases pursuant to this section and to require any person, firm or corporation that sells, delivers or otherwise transfers any firearm [~~or ammunition~~] to submit a request to the division in order to complete the background checks in compliance with federal and state law, including the National Instant Criminal Background Check System (NICS), in New York state. Such plan shall include, but shall not be limited to, the following features:

(a) The creation of a centralized bureau within the division to receive and process all background check requests, which shall include a contact center unit and an appeals unit. Staff may include but is not limited to: bureau chief, supervisors, managers, different levels of administrative analysts, appeals specialists and administrative personnel. The division shall employ and train such personnel to administer the provisions of this section. **The costs of creating a centralized bureau within the division shall be borne entirely by the state and**

shall not be passed on to consumers or retailers in the form of new fees or additional taxes.

(b) Procedures for carrying out the duties under this section, including hours of operation.

(c) An automated phone system and web-based application system, including a toll-free telephone number and/or web-based application option for any licensed dealer requesting a background check in order to sell, deliver or otherwise transfer a firearm which shall be operational every day that the bureau is open for business for the purpose of responding to requests in accordance with this section.

§ 3. Subdivision 5 of section 228 of the executive law is REPEALED.

§ 4. Paragraph c of subdivision 6 of section 228 of the executive law is REPEALED.

§ 5. Section 99-pp of the state finance law, as added by chapter 371 of the laws of 2022, is REPEALED.

§ 6. This act shall take effect immediately.