

STATE OF NEW YORK

5443

2023-2024 Regular Sessions

IN SENATE

March 6, 2023

Introduced by Sen. SCARCELLA-SPANTON -- 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 Assem-
bly, 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 a 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,

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

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1 "immediate family" shall mean spouses, domestic partners, children and
2 step-children.

3 § 2. Paragraph (h) of subdivision 22 of section 265.00 of the penal
4 law, as amended by chapter 209 of the laws of 2022, is amended to read
5 as follows:

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

32 § 3. This act shall take effect immediately.